

Attachment B. Stevens Partnership SMP – Comment Response Matrix

2019 State Public Comment Period - August 5 through September 5 2019

Comment No.	Commenter	Section No.	Page No.	Line No.	Comment (excerpt or summary, with notes in <i>bold italics</i>)	Stevens County Response	Ecology Review and Consideration
STORMWATER, IMPERVIOUS SURFACE AREA, AND LOW IMPACT DEVELOPMENT (LID)							
1	Eric Davis (Aug 26)				<p>The County did limit residential impervious surfaces to 10% in Conservancy and Rural Environments, but that does nothing to protect the ecosystems of the shorelines and waters of statewide significance. Those shorelines are already densely developed and platted into lots much smaller than R-5. The Update has no constraints on impervious surfaces (IS) on those shoreline lots despite extensive expansion and redevelopment activity that has and will continue to occur on those lots. There, the large increase in IS and reduced buffer allowed by the Update merely damages ecosystem functionality. At Loon, the key remaining lake fringe wetlands are designated as "Conservancy," despite never being disturbed or used for agriculture (too wet). It is unclear what the zoning is for property that includes these wetlands (<i>see also comments in Environment Designations below</i>), however, even if R-5, the 10% IS allowance would allow IS totaling (.10)(43,560sf/acre)(5 acres)= 21,780 sf at the buffer of those wetland. I think this would cause irreparable damage to the wetland (aka habitat), part of the eco-system the SMP is supposed to protect.</p> <p>...</p> <p>On SSWS, there is no rational excuse for not setting lot coverage limits to "assure no net loss." "Shall" means a "mandate" (WAC 173-26-020(34)).</p>	<p>The comment is internally inconsistent and presents unsupported opinions. On the one hand the comment states that a 10% limit on IS does nothing to protect shorelines. On the other hand, it asserts increases in IS damages functionality. The comment incorrectly assumes that all IS developed on a 5-acre lot occurs within shoreline jurisdiction. Finally, the comment opines as to the possibility of "irreparable damage to wetlands".</p> <p>The WAC identifies multiple ways of establishing "no net loss" and that limitations on Impervious Surfaces is only one of many steps that can be taken. The 10% IS limit is derived from WAC 173-26-211(5)(b)(ii)(D) addressing management policies for the rural conservancy environment. The WAC states that the standards for residential development within this environment should ensure no net loss of shoreline ecological functions and should preserve the existing character of the shoreline. The WAC <u>does not</u> state that limitation on impervious surfaces is the only method by which no net loss can be achieved. The WAC states in order to achieve no net loss, development standards will generally require "density, lot coverage, vegetation conservation and other provisions." Stevens County Code 3.04.010 establishes maximum densities for all unincorporated areas. The allowed densities range from 4 dwelling units per acre in urban areas up to 1 dwelling unit per 20 acres in natural resource lands. For the majority of lands within the Shoreline Conservancy and Rural Shoreline Environments, the zoning densities range from 1 dwelling unit per 5 acres to 1 dwelling unit per 20 acres. SMP 12.10.140 outlines Shoreline Vegetation Conservation standards applicable to all shoreline environments. SMP 12.10.330(A), (B) and (C) include criteria for the siting of residential development within all shoreline environments.</p> <p>The SMP cannot require existing residential properties along the shoreline to conform to the new SMP requirements. Once the SMP has been fully adopted, new proposed developments will be required to meet the provisions of the SMP.</p> <p>The provisions for impervious surface area within the Rural and Conservancy Environments found in SMP 12.10.330(G) were added in response to comments received from Futurewise in March 2019. (See SMP Index 172, Comment and Response #2). These provisions, together with those above, meet the requirements of the WAC to ensure no net loss of shoreline ecological function.</p> <p>The County's proposed SMP standards are protective of SSWS consistent with requirements of WAC 173-26-211(5)(B)(ii)(D).</p>	<p>The county correctly indicates that WAC 173-26-211(5)(b)(ii)(D), suggests that 10% impervious surface limitation as one method to consider for achieving no net loss in the Rural Conservancy Environment. The WAC states that development standards generally require a suite of approaches, that, when employed in concert, achieve no net loss of functions related to stormwater. The County successfully included a variety of measures to improve stormwater management in all environment designations that are compliant with the requirements of the SMA.</p> <p>Furthermore, the above referenced Rural Conservancy environment management policy also provides that <i>[m]aster programs may allow greater lot coverage to allow development of lots legally created prior to the adoption of a master program prepared under these guidelines...</i></p> <p>In response to the commenters concern around the 10% impervious surface limitation as it applies to small previously platted lots, Ecology would note that a 10% impervious surface limit applied to a 1/2 acre parcel would limit impervious surface to 2,178 sf. Ecology finds this limitation to be reasonable.</p> <p>The 10% calculation is based on the actual lot or parcel size not the underlying zoning designation. We should also note that this provision would be applied in concert with other avoidance and minimization measures such as wetland buffer requirements, so that the amount of impervious surface allowed would still need to be located outside the shoreline and wetland buffers and consistent with provisions for other critical areas.</p> <p>Please see responses below regarding the Partnership's approach to SSWS.</p>

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2	Jeannie Wagenman (Sept 3)		46		<p>In the current proposed Master Program, it states (page 46) <u>“When applicable, stormwater plans for shoreline development shall use the technical design standards.....”</u> There is NO commitment by the county to mandate that all shoreline development would need a evaluation for stormwater control with a requirement that the proponent to use stormwater designs to mitigate the runoff from that development. This is of course for development and re-development in wetlands and shorelines. “When applicable” is simply rather arbitrary and would be up to the whim of the planner. Regulations should be consistent and consistently applied, understood what is required by both the developer as well as the county. So when is “when applicable” ...applicable?</p> <p>...</p> <p>We are enclosing Growth Management Decision , 07-1-0013</p> <p>Fourth Order on Non-Compliance, Jeanie Wagenman (LBN) v. Stevens County. This case was brought forward by myself, in 2007, challenging the county's present development regulations that had NO provisions for stormwater runoff, for new subdivisions in or adjacent to critical areas. We have seen so many instances where the stormwater is simply running into the lake; Loon Lake now doesn't have ample dissolved oxygen below 50 feet, to sustain fish life.</p> <p>If you look at the decision <i>{included with comment letter}</i>, the Growth Board discusses the ambiguous language presented by the county: page 8 reads: <i>“Subsection A allows critical area protections to be evaded by deeming such protections as ‘infeasible’ and allows discretionary substitute approaches having no protection standard. Evading critical area protections in this manner is contrary to the GMA requirement to protect the functions and values of Critical Areas.”</i></p> <p>We don't see much difference here between <u>“if feasible”</u> and <u>“when applicable”</u>. “When applicable” is also discretionary. The county in their amended changes, also exempted those subdivisions under 10000 sq feet and 20000 sq feet. If you read the decision, the Board agreed with the county's own expert...suggestion that “all new subdivisions are required to retain and infiltrate stormwater run-off on site.” (page 10) The county refused to comply.</p> <p>...</p> <p>Please make the changes in this Master Program to require stormwater review and provision to mitigate the storm water runoff (stormwater plan) on the shorelines and wetlands, for all kinds of development and re-development. Using in part the county's own expert recommendation, (see decision 07-1-0013, page 10 <i>{included with comment letter}</i>) ...In order to protect the shorelines of the state, all development and re-developments “are required to retain and infiltrate stormwater runoff on site.” (underline AECOM letter 9/30/15 <i>{included with comment letter}</i>) WAC 173-26-221 (6) b c .. “requires that shoreline master programs shall include provisions to prevent impacts to water quality and stormwater quantity that would result in a new loss of shoreline ecological functions</p>	<p>The Commenter incorrectly assumes that the Shoreline Administrator will make arbitrary decisions. SMP Article VI sets forth Administration and Decision Criteria for all developments. SMP 12.10.610.A states that the Shoreline Administrator has the authority to interpret the SMP “consistent with the goals and policies of this SMP and SMA...” Additionally, Ecology is required to review certain shoreline development activities (i.e. substantial development, conditional use and variance permits). In some cases, Ecology is the final decision maker.</p> <p>While it is accepted that untreated stormwater can negatively affect water quality in adjacent waterbodies, the record before the County establishes no correlation between stormwater runoff and dissolved oxygen levels in Loon Lake. SMP Record #52, is the 2016 water quality monitoring report for Loon Lake. The stat chart compares data between 2007 through 2011 with 2012 through 2016. The statistics indicate a slight decline (2%) in the “habitable zone” and improvement of water clarity (+5% improvement) and phosphorus levels (+25%). The report states, “We have yet to see if this unusually cold, wet, snowy winter has any effect on the data. There may have been some dilution of the lake, as heavy rains and quick thawing produced a fast run-off into the lake, with less time for water to be cleansed by the wetlands. As evidenced by basement flooding, there was obviously a significant rise in the water table. This leads to a greater contribution of groundwater to the lake.” Regardless of the underlying cause of low DO in Loon Lake, the proposed SMP impervious surface area and new stormwater infiltration requirements are more protective of Loon Lake water quality conditions compared to the protection provisions in the current SMP.</p> <p>SMP Record #108 is a report prepared by Professional Engineer, John Knutson, regarding the protection of critical areas from stormwater runoff from subdivisions. The report states, “watershed impact studies (10%, 5% impervious surface, etc.) conducted by EPA, USGS, Universities, States and others have almost exclusively looked at stream morphology and surface water quality/habitat impacts due to uncontrolled runoff from historical stormwater development standards and practices. These studies, and their results, may reflect Best Available Science (BAS) about the negative consequences of <i>past</i> practices, but the findings do not apply when current stormwater management and critical areas management approaches (BMPs, buffers, other watershed treatments) are used to prevent stormwater impacts from new development.”</p> <p>SMP Table 12.10.110(B) indicates that stormwater management is applicable to all shoreline developments within all shoreline environments, except the aquatic environment. The table also stipulates that the latest version of Ecology's Eastern Washington</p>	<p>Protecting shorelines from adverse effects of unmanaged stormwater runoff is a core mission of the Department of Ecology. At issue in the SMP comprehensive update is whether the locally adopted SMP is compliant with the relevant provisions of the WAC and RCW. In this case, the county has clearly met the minimum standards in the WAC; specifically 173-26-211(5)(b). As stated under the new SMP, all development within shoreline jurisdiction must address stormwater runoff (SMP 12.10.150). In addition, new vegetation management standards (SMP 12.10.140), more meaningful shoreline and wetland buffer requirements (see comment 10 below), among other provisions, all contribute to increased water quality protections, and prevent net loss of those functions under the new SMP.</p>

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						<p>Stormwater Management Manual is the standard for technical design and BMPs. SMP 12.10.150 requires: "The location, design, construction, and management of all shoreline uses and activities shall protect water quality and stormwater quantity adjacent to the site".</p> <p>The SMP cannot identify every specific or potential future development scenario that could be proposed. Therefore, the term "when applicable" is used to cover the various types of possibilities that may occur. The County has established a review process for development proposals and requirements for stormwater technical design plans to be used on a case by case basis. This is not an arbitrary judgment call made by a planner, but rather a function of the permitting process. Additionally, once a development proposal within SMP jurisdiction is submitted, it may also be subject to a public review process. This process ensures that development is reviewed by Ecology for compliance with the state statues set forth by the SMA and the GMA.</p> <p>The Commenter incorrectly asserts that the Eastern Washington Hearings Board 4th Order on Compliance <i>Case 07-1-0013</i> is applicable to the SMP. The cited order pertains to the protection of the functions and values of critical areas from the effects of stormwater discharge from short subdivisions and subdivisions. As a part of the 2020 GMA Update, the County is currently in the process of updating the development regulations to address the EWGMHB order.</p>	
3	Jeannie Wagenman (Sept 3)				The less imperious surface areas there are on the shoreline, the less stormwater runoff. We were pleased to see that the SLMP does propose (but allows exemptions with conditions) (page 67) for a maximum impervious surface area of 10% but <u>only</u> within Rural and Conservancy Areas. This would mean that all shoreline residential development and re-development would not have any restrictions for impervious surfaces. This is most of the lake. Where some lot restrictions or restrictions on impervious surfaces, it is most needed is on the Shoreline Residential area. Please if there could be placed in the program, some kind of impervious surfaces/and or lot restrictions for Shoreline Residential.	The same expert report relied on by the commenter in Comment No. 2, clearly states that water quality impact is not a function of IS coverage in jurisdictions that require stormwater controls. SMP 12.10.330(B) requires all residential development in all shoreline environments to be located and designed in a manner to prevent measurable degradation of water quality from stormwater runoff. Table 12.10.110(B) stipulates that the design standards and BMPs found in Ecology's Eastern Washington Stormwater Manual must be used.	Significant restrictions on unmanaged stormwater are part of the updated SMP as detailed in Section 12.10.150 Water Quality, Stormwater, and Nonpoint Pollution.
					ENVIRONMENT DESIGNATIONS		
4	Eric Davis (Sept 4)				The designations assigned in the proposal are "conservancy" for lake fringe wetlands and "rural" for upland wetlands outside the formal shoreline jurisdiction boundary that are included in the Proposal. The appropriate designations are, respectively, "natural" and "conservancy," The terminology in both WAC 173-26-211(5)(a) and the Proposal's provision 12.00.030 for a natural environment fits the	The Environment Designation does not affect how a wetland is protected; wetlands are afforded the same protection in all shorelands and the type of protections applied are based on the intensity of the proposed use. Wetlands, wetland buffers, and wetland functions are protected to achieve no net loss of	Ecology will not recommend or require changes to these provisions. The County appropriately applied the principles under WAC 173-26-211(4)(c) to establish its Environment Designation system.

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					<p>conditions for the lake fringe portions of the Pearson Meadow wetlands, the Anderson Meadow wetlands, and the McVay Meadow wetlands. In its response to comments on the designation issue, the County claims that the upland portion of these wetlands is designated "rural" if "actively or recently used for agricultural activities, such as grazing." Neither the Pearson nor Anderson Meadows have had any agricultural activities for decades, nor none of the property codes on the parcels containing these wetlands have anything to do with "agriculture." There has been a limited amount of cattle grazing on parcel #5284860 in the McVay Meadow and that parcel is properly coded as such.</p> <p>...</p> <p>In its response to comments on wetland environment designations, the County did not directly address the "natural" versus "conservancy" issue, but implied that it wasn't important because any development proposal would require wetland delineation. However, this is misleading because, according to the proposed SMP, the environment determines the type of permit needed and delineation determines the wetland buffer width supposedly required. These are two distinctly different issues. The type of permit determines whose approval is needed. Only a CUP and a Variance require DOE approval. The others, which include SSDP and LOE require only the SLA's approval. Although the latter two types of permits may be appealed by individuals or groups effected by the development, high fees and costs for appeal as well as the appeal process purposely discourages appeals. Table 12.10.IOO(C) shows the permit differences for uses types in the different environments. The table has 41 use subtypes. There are 19 differences (46.3%) between the "natural" and "conservancy" environments, all of which are either prohibited in the natural, but not in the conservancy environment, or require a CUP in natural but only a SSDP in conservancy. ... There are also 12 differences (29.3%) between the conservancy and rural environments, still highly significant.</p>	<p>ecological functions and value, per SMP Article IV – Critical Areas, and are further protected under State and Federal clean water law.</p> <p>WAC 173-26-211 identifies six (6) basic shoreline environmental designations: High intensity, Shoreline residential, Urban conservancy, Rural conservancy, Natural and Aquatic. Under WAC 173-26-211(4)(c), "Local governments can establish a classification system different than that included in the Guidelines, or use their current environment designations. However, tailored environment designations must be consistent with the policies and purposes of the general environment designation provisions in the Guidelines and cover the breadth of the environments – the complete scheme for shoreline management – as included in the Guidelines." The County defined the following environmental classifications in SMP Section II: Aquatic, Natural, Conservancy, Recreation Conservancy, Recreation, Rural, High Intensity, Shoreline Residential, and Shoreline Residential–Low Intensity.</p> <p>The Natural designation is reserved for shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline ecological functions less tolerant of human use. According to the Cumulative Impacts Analysis Report, "Appendix C", (SMP Index 112) the wetland areas around Loon Lake are identified as Conservancy with "no new development anticipated." These areas are already used for recreational or agricultural purposes and are not identified as "pristine." The conservancy designation offers similar wetland protections as the Natural designation. Therefore, the County feels that these wetland areas will be sufficiently protected by the SMP.</p> <p>Examples of shoreline areas that are designated "Natural" are portions of the Little Pend Oreille River within the Little Pend Oreille Wildlife Refuge as development is not allowed in this area. Also see response to comment #6 regarding Conservancy designations at Loon Lake. (See Environmental Designation Maps #23 and #24.)</p> <p>Loon Lake is one of the more highly developed areas in Stevens County, which is why "Conservancy" is a better fit for the current use. Most of the area designated as "Conservancy" has had historical agricultural activities (and some of it still does). One of the areas is subject to a Conservation Easement that states "hunting, fishing and other recreational pursuits are allowed" (See SMP Index 58, Meadowcroft Wetlands Conservation Easement AFN 2005 0009066). Factors such as these make the Conservancy designation a better fit. This designation still receives a high level of protection, and wetland regulations mentioned above would</p>	<p>Wetlands are protected under a specialized set of regulations within the Critical Areas provisions (SMP Article IV – Critical Areas). These regulations and requirements are consistent with Ecology's wetlands guidance, and apply to all wetlands in shoreline jurisdiction regardless of that parcels' underlying Environment Designation. The protections are founded on the functional rating of the wetland at the time a development is proposed.</p> <p>Uses allowed on properties that contain wetlands must still meet the wetland buffer standards of the SMP; allowed uses are allowed outside the wetland and buffer. Any proposals that need to utilize the reasonable use protections to reduce the wetland buffer beyond that which is allowed within the SMP critical areas provisions must apply for and obtain a shoreline variance consistent with the approval criteria of WAC 173-27-170.</p> <p>Any project that results in wetland impacts are also reviewed and permitted by Ecology through our authorities un RCW 90.48, or our mandates under Section 401 of the federal Clean Water Act.</p>

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						<p>further protect these areas from development proposals. (See Environment Designation Map #48)</p> <p>We recognize and support the value of these wetlands to the residents of Loon Lake and support their continued protection. The conservancy designation along with the critical areas provisions under SMP Article IV, will protect the functions and values of wetlands, as noted in response to comment #4.</p> <p>WAC 173-26-211(5)(b)(i) states that the "conservancy" designation is utilized in order "to protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural flood plain processes, and provide recreational opportunities." The County took into consideration the fact that there are wetlands at Loon Lake that are in a local conservancy ownership. (See SMP Record #58). Under this ownership, development threats are not anticipated and the "Conservancy" designation was applied. Also see response to Comment #6 regarding environment designations for Loon Lake wetlands.</p> <p>Primarily uses that would be allowed in "Conservancy" environment per Table 12.10.100(C) are lower intensity, and would require going through the Shoreline Substantial Development or Conditional Use permitting process. Proposed activities would need to demonstrate they will avoid adverse impacts on wetland areas.</p>	
5	Eric Davis (Sept 4)				<p>...(T)he County appears to have confused the word "conservancy" as it pertains to a non-profit conservation organization or conservation easements versus the use permits in the SMP's "conservancy environment." The two have nothing directly to do with one another although, in general, they both involve limited, permanent development activities. The environment designations in an SMP must follow the definitions in WAC 173-26-211. Whether property in a particular environment is owned by a conservation organization or under a conservation easement is irrelevant. ... Once again, the environment designation in the SMP must be based on the SMP regulations, not name similarity.</p>	<p>The regulations and criteria described in the SMP for the Conservancy environment are consistent with the definitions in WAC 173-26-211. Designations were selected based on existing conditions analysis and designation criteria appropriate to each designation.</p> <p>Definitions in WAC 173-26-211(5)(b)(i) are a starting point for developing designations. The IAC Report (SMP Record #1) documents the existing baseline conditions of the shoreline ecological functions. Using the WAC guidance together with the IAC Report, the County applied environment designations to the shorelines. The County tailored these designations consistent with the existing conditions in Stevens County and the overarching goals of the SMP, which is to protect resources while allowing for shoreline use where appropriate. Also see the response in Comment 4.</p>	Please see response to comment 4 above.
6	Jeanie Wagenman (Sept 3)				<p>The wetlands are designated in the Stevens County's proposed Master Program as "conservancy" near the shoreline and then designated behind the shoreline as "rural" (see map) The wetlands on Loon Lake as perhaps other lakes, <u>qualify for conservancy or natural</u>. The criteria is found in WAC 173-26-211. If any of the criteria are met the shoreline can be designated as such. This is not clear in the</p>	<p>The wetland protections in the critical areas provisions apply, regardless of environment designation, to protect wetland functions and values. These associated wetlands designated as "Rural" have historical and ongoing agricultural activities occurring as</p>	<p>The commenter's concerns are noted, and it would appear that the comment regarding the Loon Lake Conservancy are based on a misunderstanding. Those parcels are indeed part of the Conservancy designation as desired.</p>

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					<p>Master Program if it is “any” or “all” . Those wetland areas that the county and the DOE has designated as Rural are inappropriate and may have detrimental future consequences. As you know, it is these designations that allow for different kinds of uses.</p> <p>...</p> <p>The Loon Lake Land Conservancy has requested that these shoreline designations, be changed especially for those wetlands they steward. Why would not the county honor the request of those who “own” by conservancy easements, and change these designations correctly? Our fear is the Rural designation is not going to protect, and would allow for uses incompatible to protect the values and functions of these areas, so very vital to the lake. They also simply qualify to be conservancy or natural.</p> <p><i>This commenter also refers to her involvement in drafting the initial SMP in the late 1990s, and refers to commitments made to the Loon Lake conservation groups by Ecology at the time, including delineation and rating of the subject wetlands, and a change to the designation to Conservancy at some point.</i></p>	<p>in them. Therefore, a rural designation reflects the existing land use better than “Conservancy.”</p> <p>Parcels owned by the Loon Lake Land Conservancy with wetland polygons are within the Conservancy Environment. According to Stevens County Assessor records accessed by County Staff on 2/2020, the Loon Lake Land Conservancy owns 6 parcels. Of these 6 parcels, two are outside of SMP jurisdiction, one does not have an associated wetland polygon, and the remaining three are all designated as Conservancy. In addition to the above two other wetland areas are within the conservancy shoreline environment. (See Environment Designations Map #48)</p> <p>The National Wetlands Inventory (NWI) maps were used as a resource in the development of the Environment Designation maps. The NWI maps are a composite of numerous sources of information including soil types and aerial imagery. As such, the NWI and Environment Designation maps are not intended to be the sole resource for identifying wetland areas. Pursuant to SMP 12.00.010, the maps are “to be used in conjunction with the most current scientific and technical information available, field investigations, and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed.”</p> <p>Comments concerning past activities and participation by the Commenter are noted. Stevens County has conducted a multi-year multi jurisdiction process to accomplish the goal of adopting the SMP. The County utilized its geographical information system (GIS) to map the current shoreline environment designation rather than rely on outdated hand-illustrated information.</p>	<p>Both the implementing rules (WAC) and the process for delineating and rating wetlands have changed dramatically since the initial SMP was drafted in the 1990s. This Comprehensive update modernizes the approach to shorelines conservation and development, and provides the most current wetland assessment and regulatory approaches.</p>
7	FutureWise (Sept 5)		Maps		<p>We appreciate the significant improvements to the natural environment designation criteria. However, the Natural shorelines remain under designated. Ecology should require that all shorelines meeting the criteria to be designated as Natural.</p>	<p>Environment Designations were determined based upon existing land use patterns and the biological and physical characteristics of the shoreline as identified in the Inventory, Analysis and Characterization Report (See SMP Record #1). The County reviewed the designation criteria for the natural environment in WAC 173-26-211(5)(a)(i) and physical characteristics noted in the IAC Report and accurately applied environment designations to the resources in the County. We are confident the protections that apply to each designation will meet the no net loss standard during the implementation of the SMP.</p>	<p>Ecology will not recommend or require changes to these provisions. The County appropriately applied the principles under WAC 173-26-211(4)(c) to establish its Environment Designation system.</p>
8	FutureWise (Sept 5)		21 and 22; Maps		<p>Amend the Conservancy designation criteria so they are consistent with the Shoreline Master Program (SMP) Guidelines, and then designate more shorelines Conservancy based on those criteria.</p>	<p>See response to Comment 4 and 6.</p> <p>The County believes that the designations and protections included in the SMP are consistent with the requirements of the</p>	<p>Ecology finds that the County appropriately applied the principles under WAC 173-26-211(4)(c) to establish its Environment Designation system.</p>

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					<p>...</p> <p>The Rural Conservancy designation criteria in WAC 173-26-211(5)(b)(iii)(A) and (B) are still not included in the SMP Update’s Conservancy designation criteria and they must be to be consistent with the Shoreline Master Program Guidelines.</p> <p>...</p> <p>There are extensive wetland areas at Loon Lake and on other shorelines that in agricultural production but are designated Rural. They qualify for a Conservancy designation under WAC 173-26-211(5)(b)(iii)(A). The Conservancy designation criteria need to include this criterion and the other criteria in the SMP Update need to be made consistent with WAC 173-26- 211(5)(b)(iii) and WAC 173-26-211(5)(e)(iii).</p> <p>After the Conservancy designation criteria are revised so they are consistent with the SMP Guidelines, the shoreline areas must be assigned environments based on the corrected criteria. This is important because the environment system is fundamental to achieving no net loss of shoreline ecological functions and systems.</p>	<p>WAC and will protect shoreline functions and values throughout implementation. We feel confident the tailored approach for environment designations will work effectively to meet the multiple goals of the SMP for Stevens County.</p> <p>The comment is inaccurate stating that rural conservancy designation criteria is not included in the SMP. WAC 173-26-211(4)(b) recommends a classification system consisting of 6 basic environments, one of which is rural conservancy. However, WAC 173-26-211(4)(c) allows local governments to establish different designation systems or retain their current classification system, provided that it is consistent with the purposes and policies of WAC 173-26-211(5). The County choose to retain the current classification system which splits the shorelines that would be designated “Rural Conservancy” into two environments, “Rural” and “Conservancy”. This better characterizes the existing shoreline use. All of the Rural Conservancy designation criteria and use regulations are covered in these two environments.</p>	
9	FutureWise (Sept 5)	Table 12.10.110(B)	43		<p><i>Internal references removed for clarity; see original letter</i></p> <p>Adopt up-to-date buffers in Table 12.10.110(B), Shoreline Development Standards Matrix, to protect riparian areas.</p> <p>...</p> <p>The SMP Guidelines, in WAC 173-26-221(3)(c), provides in part that “[i]n establishing vegetation conservation regulations, local governments must use available scientific and technical information, as described in WAC 173-26-201 (2)(a). At a minimum, local governments should consult shoreline management assistance materials provided by the department and <i>Management Recommendations for Washington’s Priority Habitats</i>, prepared by the Washington state department of fish and wildlife where applicable.”</p> <p>The State of Washington Department of Fish and Wildlife has recently updated the Priority Habitat and Species recommendations for riparian areas. The updated management recommendations document that fish and wildlife depend on protecting riparian vegetation and the functions this vegetation performs such as maintaining a complex food web that supports salmon and maintaining temperature regimes to name just a few of the functions.</p> <p>To maintain riparian functions, the updated <i>Riparian Ecosystems, Volume 1: Science synthesis and management implications</i> scientific report recommends protecting the riparian ecosystem which has a width estimated to be “one Site-Potential Tree Height (SPTH) measured from the edge of the channel, channel migration zone or active floodplain; it also includes wetlands and steep slopes associated with this area. Protecting functions within at least one SPTH is a scientifically supported approach if the goal is to protect and maintain high function of the riparian ecosystem.” The report defines site-potential tree height (SPTH) as the “average maximum height of the tallest dominant trees (200 years or more) for a given site</p>	<p>WDFW notes the draft <i>Riparian Ecosystems, Volume 2</i> guidance is not appropriate to cite in comments on SMPs. The 200-year SPTH of 155 feet is from the WDFW Volume 2 document. According to WDFW’s own caveats, the draft <i>Volume 2</i> is not Best Available Science (BAS), does not apply to lacustrine systems or upland wildlife use of riparian areas, and is not yet final. As of the date of this response, WDFW has not released a final Volume 2 management recommendations for consideration by jurisdictions updating SMPs. SMPs are more appropriately based on jurisdiction-specific characterizations that provide a more specific scientific basis to determine how use and protection should be balanced, than recommendations based on a general literature review</p> <p>Stevens County is confident that the application of BAS for riparian conditions and protections necessary for no net loss of ecological functions will be met through these buffers. Buffers in Table 12.10.110 (B) were based on a review of a number of scientific information sources, including the 1997 WDFW Riparian Management Recommendations and the Final Draft Semi-Arid Riparian Functions and Associated Regulatory Protections to Support Shoreline Master Program Updates (Anchor QEA 2013¹) and the scientific review findings were applied to Stevens County various riparian conditions</p> <p>While the commenter is correct in citing the Volume 1 statement, “<i>Protecting functions within at least one SPTH is a scientifically supported approach if the goal is to protect and maintain high function of the riparian ecosystem</i>”, the commenter fails to acknowledge that this is only one of many approaches. WDFW did</p>	<p>Ecology supports the underlying technical information found in <i>Riparian Ecosystems, Volume 1: Science synthesis and management implications</i>. The general conclusion is that the areas encompassed by the channel migration zone and one site potential tree height are ecologically important. This is entirely consistent with provisions of the SMP that establish building setbacks generally equivalent to one SPTH where appropriate, and that limit development within the generally mapped channel migration zone.</p> <p>The SMP is a multifaceted land use planning and critical areas protection document. Within this context the SMPs rely on various standards, not just riparian buffers, to achieve no net loss of shoreline ecological functions. These include:</p> <ul style="list-style-type: none"> • Completing a reach level shoreline and inventory that informs the shoreline environment designations; • Establishing appropriate shoreline environment designations with tailored use and modification allowances; • Establishing shoreline and critical areas buffers, which implement avoidance and minimization methods of mitigation sequencing prior to allowing compensatory mitigation. These buffers and setbacks are also informed by the existing conditions and designed to foster preferred and

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					<p>class.” For Stevens County, the stream length-weighted third quartile 200-year SPTH is 155 feet.</p> <p>For the Columbia Plateau ecoregion, an area dominated by shrub-steppe habitats, Fish and Wildlife recommends that “[i]f pollutant removal is a concern, then RMZ width should be based on the desired removal efficacy for pollutants created at that site. If, for instance, runoff containing excess nitrogen is a concern and a 95% removal efficacy is desired, then a 220 ft wide RMZ may be needed.”⁸ WAC 173-26-221(6)(b) and (c) require that shoreline master programs shall include provisions to “[p]revent impacts to water quality and stormwater quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.” So, pollution removal is required.</p> <p>We recommend that buffers be increased to use the newly recommended 200-year SPTH of 155 feet and that this width should be measured from the edge of the channel, channel migration zone, or active floodplain whichever is wider.⁹ This will help maintain shoreline functions. In shrub-steppe habitats, the buffer should be sufficient to remove pollutants such as nitrogen.</p>	<p>not provide comments on the riparian protection standards in the SMP, despite being involved with the SMP development throughout, and having open invitation to provide feedback for the entire 3 year update process. Shoreline setbacks in forested regions of the county are generally consistent with accepted dimensional standards, while balancing existing and expected land use as is required under the SMA. The commenter references a two-volume WDFW document on riparian habitat: the final Volume 1, which synthesizes scientific literature, as well as a preliminary public review draft of Volume 2, which provides management recommendations. Note that the results of WDFW’s recent literature review did not reveal any surprising new findings and the guide is fundamentally consistent with the previous 1997 recommendations. The draft Volume 2 is currently undergoing review and revision; therefore, it is premature to cite as state agency guidance.</p> <p>It is also important to acknowledge that scientific literature does not provide a bright line answer to the question “what is necessary to protect ecological functions.” As the Growth Management Hearings Board has affirmed (<i>Burien</i>) “the SMA process does incorporate the use of scientific information, but it does so as part of the process of balancing a range of considerations such as public access, priority uses, and the development goals and aspirations of the community.” The County’s obligation is to consider applicable scientific literature, and it has done so in the context of actual environmental conditions present in the County.</p> <p>¹Anchor QEA (Anchor QEA, LLC), 2013. <i>Final Draft Semi-Arid Riparian Functions and Associated Regulatory Protections to Support Shoreline Master Program Updates</i>. Prepared for Grant County. June 2013.</p>	<p>priority uses while protecting the existing ecological functions and values;</p> <ul style="list-style-type: none"> • The SEDs and critical areas protection standards are further bolstered by the SMP Vegetation Conservation sections and the implementation of applicable stormwater management manual requirements. <p>The SMP is also an integral part of the local governments Comprehensive Plan and Development Regulations, so the SMP is further review for internal consistency with these GMA planning and regulatory systems.</p> <p>It is also important to note that WDFW did not provide comment on the buffers established in the locally adopted SMP. Ecology coordinated closely with WDFW from the outset of developing the new riparian management documents that are referenced here and elsewhere, including managing the grant that supported its development and participating in the technical advisory team that authored them.</p>
					BUFFERS		
10	Eric Davis (Aug 26)				<p>For shoreline residential environments, the shoreline buffer is 65 feet, a reduction of 57% from the 150 foot SL buffer in the current SMP. No mitigation or other “size” limitations are required if development is 65 feet from the OHWM. Nor does the County require any certification from the site planner, the contractor, or the owner that the 65 foot buffer is actually met. The County does not inspect the property for buffer compliance. The 65 foot buffer applies to the most developed SSWS, which are most likely to incur accelerating eco-functionality deterioration and net loss in the future.</p> <p>...</p>	<p>This comment is incorrect in stating that the SMP buffers are a reduction from the current SMP. Under the existing 1999 County SMP Section 6.34, the riparian buffer is 50 feet or a common-line setback in existing residential areas. The 150 foot riparian setback is found in the County’s 2005 Critical Areas (CAO) regulations (Title 13). The CAO riparian buffers are standardized and do not reflect the actual conditions and characteristics that are found on highly developed shorelines. In actuality, the current SMP provisions are less protective than the proposed 65-foot buffer. Additionally, the</p>	<p>As the County notes, the current shoreline buffer is not 150 feet as stated, it is 50 feet, or a common line setback measured from the proposed structure to the nearest structure which could be much less than 50 feet. The proposed shoreline setback of 65 feet is actually a 15-foot increase over the current standard.</p> <p>In practice, because the Residential environment is largely occupied by nonconforming development, the actual setbacks default to the common-line. This is typically smaller than 50 feet. As detailed in the</p>

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					<p>There is no scientific or technical support for the effectiveness of a 65 foot, unmitigated buffer in preventing loss of eco-functionality, especially on a “cumulative impacts” basis. In Chapter 11 of the DOE’s own SMP Handbook, there is an extensive discussion of buffer effectiveness that cites the FEMAT “effectiveness curves” and other research on buffer effectiveness, equally applicable to “freshwater or marine water bodies.” See pages 12-15 in Ch. 11, as well as the study for the WDFW titled “Protection of Marine Riparian Functions in Puget Sound, Washington” (and particularly Appendix H—the Technical Review Workshop Proceedings) which utilize the FEMAT research. The DOE is well aware of this analysis, but has chosen to ignore it in its extensive involvement in creating the proposed SMP.</p> <p>...</p> <p>Although the WDFW recommendations are still apparently being finalized, the technical analysis has been Completed. It indicates an effective buffer width in Stevens County of 155 feet. It is important to note that these buffers (FEMAT’s and WDFW’s) are undisturbed ones. Disturbance by development would require much wider buffers to be effective. While buffers of this width are politically unrealistic, they emphasize the ineffectiveness of a 65 foot buffer at preventing eco-functionality loss. This points out the need for both lot coverage size limitations and effective vegetation mitigation on all development where a 65 foot (or less) buffer is permitted. In reality, those requirements should be required on any buffer less than 150 feet.</p>	<p>SMP includes stormwater provisions that provide for infiltration, which further strengthens water quality protections for Loon Lake.</p> <p>The Commenter fails to mention that many parcels along the Loon Lake shoreline were platted in the 1940’s and 1950’s, long before the Shoreline Management Act was enacted. Many of these parcels are <i>less than</i> 150 feet in length or have steep topography that make it impossible to adhere to the current CAO setback of 150 feet. In addition, many parcels are already developed with structures that do not meet the setbacks required by the current SMP or CAO. In these previously developed areas, there is minimal buffer function left between structures and lake. SMP 12.10.330 sets forth guidelines for residential development which include provisions for stormwater management (SMP 12.10.330.B) and vegetation management (SMP 12.10.330.F). SMP 12.10.520 sets forth the standards under which existing non-conforming residences may be maintained (SMP12.10.520.A and B), expanded (SMP 10.520.C) or reconstructed (SMP 12.10.520.D). The requirements in the new SMP will provide an increased buffer function and improved standards for stormwater infiltration.</p> <p>See also responses to Comment 9 and 11.</p>	<p>County response, new provisions in the adopted SMP add safeguards for the shoreline environment that do not currently exist, and in concert with other provisions of the SMP, ensure no net loss of ecological function in the Residential Environment.</p> <p>Ecology and the County are very familiar with, and consulted the Forest Ecosystem Management Assessment Team and subsequent riparian ecosystem studies. FEMAT and other riparian assessment studies are useful tools to consider when developing development standards. However, their focus on forestry-related impacts, and more mesic forested areas limits their utility in the context of shorelines regulations for urbanized and residential areas in Stevens County.</p> <p>In these cases, such as highly developed Loon Lake, a more granular approach was taken to account for current functions, development potential, and the rights of landowners to reasonably develop their properties. A 65-foot setback was determined to be a reasonable balance that protects the remaining riparian function based on reach-specific analysis. This combined with new stormwater provisions, vegetation management and mitigation requirements for all shoreline development, and more restrictive common-line setback standards will ensure no net loss of shoreline ecological function.</p>
11	Jeanie Wagenman (Sept 3)				<p>The new proposed SLMP, requires a 65 foot shoreline buffer, which is much smaller from the current SLMP at 150 feet. Is this based upon Best Available Science?</p> <p>...</p> <p>How can such a reduction be justified when the lake water is already impaired? In addition it appears that no mitigation is needed if the buffer applies (65 feet) as well as any supervision by the county, if this distance is met. If the 65 foot buffer is allowed where are the requirements for mitigation, limits on lot coverage and vegetation preservation.on what ever is left? This is not clear that either of these are required and limitation on impervious surfaces was addressed above.</p>	<p>See response to Comment 4, 9 and 10.</p> <p>The Commenter is incorrect in stating that the proposed SMP riparian buffers are smaller than the current SMP regulations. Under the existing 1999 County SMP Section 6.34, the riparian buffer is 50 feet or a common-line setback in existing residential areas. The 150 foot riparian setback is in the County’s 2005 Critical Areas (CAO) regulations (Title 13). The CAO riparian buffers are standardized and do not reflect the actual conditions and characteristics that are found on highly developed shorelines.</p> <p>The SMP riparian buffers were tailored to be consistent with scientific literature, existing shoreline conditions, present development and densities. The riparian buffers are designed to protect the existing shoreline functions. Where lower shoreline function exists, narrower buffers are warranted. The Loon Lake shoreline was broken into segments (reaches) to account for the variability in function as characterized in the IAC Report and</p>	<p>Please see response to comment 10 above.</p>

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						<p>environment designations were applied to reflect these functions. The shoreline areas on Loon Lake consisting of previously developed smaller parcels with narrow shoreline frontage were appropriately placed in the Shoreline Residential Environment. Other shoreline areas on Loon Lake were designated High Intensity, Rural or Conservancy. (See Environment Designation Map #48).</p> <p>Regarding mitigation outside the 65-foot buffer, all shoreline development is required to meet the NNL standard whether in the buffer or not. Additionally, stormwater protections and other provisions provide additional protection of lake water quality. Together, all of the standards and buffers represent improved protection compared to the current County SMP.</p>	
12	Jeanie Wagenman (Sept 3)		78		We understand that the proposed SLMP has a provision (page 78) for buffer increases. But it's the Administrator that determines that. We are asking that it would be required for developments and redevelopments on Loon Lake and Deer Lake. That a qualified person would review the project to determine what increase is needed to protect the resources. As of now it's "one size fits all".	<p>Buffers established for Loon and Deer Lake were tailored to existing conditions. Where higher functions exist, larger buffers were established to protect these functions. Narrower buffers are proposed to protect areas where there is lower function. Buffers in the SMP are applied to site-specific conditions.</p> <p>Loon and Deer Lake shorelines were broken into reaches to account for variability in function, and then the buffers were applied to protect the functions as characterized. Had these lakes not had such a high level of concentrated existing development or if there was more existing riparian function, these shorelines would have required higher level of protection. The buffers are protective of the remaining riparian functions, with wider buffers in higher function areas and narrower buffers for areas with more degraded functions.</p>	The shoreline administrator is tasked with the primary role in SMP implementation of every provision in the SMP. This role includes discretionary authority to interpret the code for decision making actions. According to RCW 90.58.050 , local government shall have the primary responsibility for administering the regulatory program of shoreline management consistent with the policy and provisions of the act, whereas Ecology shall act primarily in a supportive and review capacity with an emphasis on providing assistance to local government and on insuring compliance with the policies and provisions of the Shoreline Management Act. Please see response to comment 10 above.
13	Gonzaga University Legal Assistance (GULA) (Sept 4)				The Stevens County Partnership ("The Partnership") Shoreline Master Program Update ("The Proposal") maintains a decrease of more than half of the width of said buffer zones would result in no net loss of ecological function of the effected shorelines. Sections 12.10.420 (B)(4)(iii) and 12.10.420 (B)(5)(a) of The Proposal further acknowledge the significant negative impact of reducing the standard buffer by less than half, yet The Proposal simultaneously maintains that decreasing the current standard by more than half would result in no net loss of ecological function. This suggests the calculation of no net loss in The Proposal is based upon an arbitrary threshold range of percentile decrease rather than a calculation of actual loss. This ignores reason, and likely fails to incorporate the "most current, accurate, and complete scientific and technical information available" as laid out by WAC 173-26-201(2)(a).	See responses to Comments 9, 10, and 11 for a description of how the buffers were developed, applied and how they meet no net loss.	Please see response to comment 10 above.
14	Gonzaga University Legal				Both the DOE and the Washington State Department of Fish and Wildlife ("WDFW") refer to buffer effectiveness research published by the United States Forest Service ("USFS") and the Bureau of Land Management ("BLM") developed by the Forest Ecosystem Management Assessment Team ("FEMAT"). See the DOE's "SMP	See response to Comments 9 and 10. Additionally, the comment does not correctly characterize the WDFW comment. The	Please see response to comment 10 above.

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	Assistance (GULA) (Sept 4)				Handbook" (Chapter 11, pages 12-16. 11/2017 version) and the WDFW's report on "Riparian Ecosystems, Volume 1, 7 /2018 (Chapter 9) for a summary. ... Using a site-specific calculation tool, in its recent letter to the County on The Proposal, Futurewise estimated that the average width of an effective, undisturbed buffer in Stevens County should be 155 feet. This suggests that a standard 65 foot (or similar width) buffer would severely damage eco-functionality.	Commenter simply copied and pasted numbers from the Draft Vol 2, and did not run any kind of analysis; site specific or otherwise.	
15	Gonzaga University Legal Assistance (GULA) (Sept 4)				The standard of review set in section 12.10.420 (A)(3) of The Proposal creates an unnecessary burden on the shoreline ecosystem and the qualified professional tasked with reviewing a potential increase in buffer width on a site-by-site basis, although any modification should be reviewed at a minimum with the utmost of scrutiny by a qualified professional. Instead, providing a wider standard buffer would serve to alleviate the burden of possible mistake or oversight from the ecosystem and err on the side of environmental protection	Buffer modifications provide an option for exceptional site-specific circumstances identified at the time of permitting. Also, the buffer modification process is more clearly described in the new SMP, and any modifications require the No Net Loss standard to be met. Substantial development permits within shoreline areas are required to go through the SEPA process, which is reviewed by Ecology and provides an opportunity for public review and comment.	The review process set forth in the new SMP provides sufficient information, and public review to ensure projects are adequately assessed for potential adverse impacts to the shoreline environment, and are compliant with the administrative provision requirements of WAC 173-26-191
16	FutureWise (Sept 5)	12.10.420A.4.b.iii	79		Limit buffer averaging to a 25 percent reduction in buffer widths. SCC 12.10.420A.4.b.iii allows wetland and riparian buffer reductions of up to 35 percent. This is inconsistent with the scientific literature which calls for limiting buffer averaging to no more than a 25 percent reduction in the buffer in any location, that is the buffer must always be at least 75 percent, or 3/4th, of the required width. So we recommend that SCC 12.10.420A.4.b.iii limit buffer reductions through buffer averaging to a 25 percent reduction.	35% is a maximum within the buffer averaging context, and is only allowed if it can be demonstrated that there is no net loss of function. The 35% reduction is one of four standards which must be met. Under SMP 12.10.420.4.b, applicants are also required to demonstrate that the proposal does not result in a net loss of riparian or wetland function, that the total area contained within the buffer remains the same and that proper mitigation has been incorporated into the proposal. It is not expected to be used regularly. The County recognizes that there may be certain instances where strict application of the Code could create a hardship. Therefore, the County would like to maintain the flexibility to apply this provision in limited instances for both wetland and riparian buffers. A higher burden of proof will be placed on the applicant to demonstrate the No Net Loss standard has been met. This percentage is also consistent with some SMPs in other jurisdictions that have been approved by the Department of Ecology. Additionally, this provision is not applied in isolation; other provisions still have to be met such as stormwater protections. Collectively, all the standards are designed to work together to provide improved protections and meet state law and rule requirements.	The buffer averaging is a tool to avoid the burden of the variance process for minor projects when very strict criteria can be met. As described by the county, buffer averaging can only be granted under specific conditions, and only when all other provisions of the SMP are met.
17	FutureWise (Sept 5)	12.10.440	92		<i>Internal references removed for clarity; see original letter</i> Amend SCC 12.10.440B.4 to adequately protect endangered, threatened, and sensitive species. ...	WAC 365-190-130 defines, in part, fish and wildlife habitat conservation areas as "areas where endangered, threatened and sensitive species have primary association" and "habitats and species of local importance, as determined locally". SMP 12.10.440.(A)(1) and (2) correctly corresponds to those citations. The Commenter incorrectly states that "only" areas associated with ETS species and habitats of local importance are classified as Fish	Ecology has considered this comment along with the County's response and have not identified any necessary changes.

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					<p>As proposed, SMP 12.10.440 (A)(1) and (2) only designates the “priority areas” used by endangered, threatened, and sensitive species. They do not provide any sort of buffer. If only development proposals within a mapped fish and wildlife priority area designated under SMP 12.10.440(A)(1) or (2) are reviewed for adverse impacts as new SCC 12.10.440B.4 proposes, these habitats, the priority areas, will be adversely impacted. For example, the management recommendations for the common loon, a Washington State sensitive species that lives in Stevens County, 24 recommends that “[c]ampers and other visitors should be prevented from approaching within 150 m (492 ft) of nesting sites from 1 April through 15 July. But proposed SCC 12.10.440B.4 only allows the county to review developments within the nesting sites and other habitat areas. SCC 12.10.440B.4 would allow a campground to be constructed next to a common loon nesting site. This will not protect ecological functions which is a requirement for shoreline master programs.</p> <p>Proposed SCC 12.10.440B.5 does not remedy this problem because “priority areas” for endangered, threatened, and sensitive species are shown in the PHS data as points, lines, and areas. Proposed SCC 12.10.440B.5 only applies to points.</p> <p>To remedy this violation of the Shoreline Management Act, we recommend that proposed SCC 12.10.440B.4a and b be modified to read as follows with our addition double underlined.</p> <p>a. Development proposals within <u>an area needed to comply with a State of Washington Department of Fish and Wildlife management recommendation</u> or a mapped fish and wildlife habitat conservation area designated under SMP 12.10.440 (A)(1) and (2) will be subject to review by the Shoreline Administrator to determine if the development proposal will impair the functions and values of the habitat area.</p> <p style="padding-left: 40px;">i. The determination shall be based on the most current scientific information available for the development proposal site.</p> <p style="padding-left: 40px;">ii. If it is determined that the development proposal will impair the functions and values of the habitat area, subsection (b) shall apply.</p> <p>b. For each development proposal located in <u>an area needed to comply with a State of Washington Department of Fish and Wildlife management recommendation</u> or a mapped fish and wildlife habitat conservation area that is determined to have an impact on the functions and values of the habitat, the Shoreline Administrator shall require a report from a qualified professional setting forth management recommendations specific to the site and the proposed development.</p>	<p>and Wildlife Conservation Areas. When read in its entirety, SMP 12.10.440(A) classifies six areas as FWCA's.</p> <p>The Commenter correctly notes that PHS data is shown as points, lines and polygons (areas). However, the Commenter is incorrect in stating that only point data will be reviewed. SMP 12.10.400.A.1 states that “The Partnership shall regulate all uses, activities and development, within, adjacent to or likely to affect one or more critical areas. SMP Table 12.10.440 (A) identifies Fish and Wildlife Habitat Conservation Areas (FWHCA) that are shown as lines on PHS data and Section 12.10.440.B.1.b notes that the standard riparian buffer listed in Table 12.10.110(B) are required. SMP 12.10.440.A.4 identifies FWHCA that are shown as PHS polygons (areas) and outlines the review process for developments that are within the areas. SMP 12.10.440.A.d identifies FWHCA that are shown as PHS points and outlines the review process for development within 1,000 feet of a documented point. It is also noted that the National Wetland Inventory map data is shown in a polygon format. SMP Table 12.10.430.D.2 identifies the applicable wetland buffers for proposed developments.</p> <p>The Commenter incorrectly assumes that only developments <u>within</u> a mapped polygon for an ETS species will be reviewed with respect to potential impacts on habitat. Proposed developments within SMP jurisdiction must comply with the performance standards listed in SMP 12.10.200 through SMP 12.10.370, including potential impacts to habitat, for specific shoreline modifications and uses. Pursuant to SMP 12.10.420.A.1.a, buffers are required for all regulated development proposals within shoreline jurisdiction in or adjacent to designated wetlands or waterbodies. SMP 12.10.420.A.2 establishes the criteria for maintaining vegetation within buffer areas in order to assure no net loss of ecological function.</p> <p>The revisions suggested by the Commenter are overly broad and would potentially result in the entire County being designated as “an area needed” to meet a management recommendation for a fish and wildlife conservation area. This would place an undue burden and expense upon a proposed development to obtain a report(s) from a qualified professional(s) which identifies and analyzes impacts for such things as a migratory route for birds or preservation of an area because it “could be” (rather than is presently) habitat for a certain species. In a County with vast areas of open space readily available to priority species, this would be an unnecessary hardship placed upon small developments. The County notes that large scale developments which may present an impact are often subject to a public review process under SEPA.</p>	<p>As part of this review Ecology also considered the following:</p> <p>WAC 173-26-020(8) <i>Fish and wildlife habitat conservation areas</i>, as “critical area” consistent with RCW 36.70A.</p> <p>WAC 173-26-020(30) defines priority habitat as a <i>habitat type with unique or significant value to one or more species...</i></p> <p>WAC 173-26-020(31) defines “Priority species” as <i>species requiring protective measure and/or management guidelines to ensure their persistence at genetically viable population levels.</i></p> <p>Ecology finds that SMP Section 12.10.440.A.1 is consistent with the priority species criteria found in WAC 173-26-020(31)(a).</p> <p>The general provisions contained within SMP Section 12.10.400 and critical area report requirements of Section 12.100.410 apply to all critical areas including fish and wildlife habitat conservation areas.</p> <p>WAC 173-26-221 does not include requirements for prescriptive fish and wildlife habitat conservation area buffers.</p> <p>Ecology finds that the Partnership SMP requires the use of the most current scientific and technical information (Section 12.10.400.C.) and has the ability to require critical report to further identify, protect, and apply mitigation sequencing to fish and wildlife habitat conservation areas consistent with the requirement of WAC 173-26-221.</p>

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						WDFW management recommendations are not regulatory and can be changed or modified often without public process or notification. It is not within the scope of the administration of the SMP to ensure compliance with recommendations which may change without notice. The County notes that during the review of site specific proposals conditions can be imposed to mitigate potential loss of habitat functions.	
NO NET LOSS, MITIGATION, AND RESTORATION							
18	Eric Davis (Aug 26)				<p>There are no measurable loss or net loss indicators in the Proposal or reference to any elsewhere in RCW, WAC, Federal law, or other acceptable, recognized sources of such quantifiable variables. There is no baseline of the current situation. There is no process for periodically measuring key loss indicators to determine if and where loss is occurring. There is no process for analytically correlating changes in eco-functionality to development activity or development policies contained in the Proposal. In other words, there is no way to determine net loss until a tipping point or phase change has occurred.</p> <p>...</p> <p>Chapter 4 of the Handbook, which discusses NNL in depth has 8 pages of such indicators and identifies the indicators and their baseline and tracking as critical to preventing net loss. The County's proposal ignores all this—an egregious omission relative to the "optimum implementation" requirement in 90.58 for SWS. The Proposal devotes 13 lines of meaningless verbiage (provision 12.10.750) to the critical issue of cumulative impacts, proposing a vaguely defined report of selected development activity (excluding expansion and replacement—and, even, new development) which "should summarize the cumulative effects of authorized development on shoreline conditions using <u>"appropriate measures."</u> So, in 4 years, the public (and the DOE) gets to see what "appropriate measures" the County has chosen to further its objectives—maximum development--not preventing ecosystem deterioration.</p>	<p>The Inventory, Analysis and Characterization Report (IAC), (SMP Index 1), summarizes the shoreline ecological conditions for all shoreline within SMP jurisdiction. The IAC report also discusses the projected potential for future development. This report serves as a baseline from which the no net loss standard will be measured.</p> <p>The cumulative impacts evaluation within the SMP was tested in the Cumulative Impacts Analysis prepared during the development of the SMP. The program is robust enough to properly measure no net loss.</p> <p>Though the SMP requires evaluations every 4 years, this is the minimum. Evaluations may occur every 2 years, depending on the volume of permits. The County is in the design phase of implementing new permit tracking software (SmartGov). One of the benefits of this tracking system is the ability to prepared customized reports. Once fully implemented, the County envisions using the tracking software report capabilities in conjunction with the GIS mapping resources to accurately report the permit type and map the location of the approved projects. The new permit software is anticipated to be implemented in 2020. The County does note that due to the current situation with COVID-19, the full implementation of the software may be delayed.</p>	<p>Ecology concurs with this response though clarifies that the IAC was created as a necessary step for creating this SMP per WAC 173-26-201(3)(c), which did not contemplate its use as a baseline for retrospective no net loss analysis. The forward-looking cumulative impact analysis supports the conclusion that following the policies and regulations will ensure no net loss of ecological functions necessary to sustain shoreline resources. The commenter cites an Ecology SMP Handbook chapter from 2006 that includes suggestions that are not tied to explicit requirements in rule. A new edition of the Handbook is forthcoming that will reflect lessons of the past 14 years of reviewing and approving SMPs. We note that while the county's IAC provides a baseline for establishing environment designations and conducting a cumulative impact analysis, it may not provide an ecological baseline that can be used to measure No Net Loss over time. Our experience has shown that no characterization report is detailed enough to track changes at the level of detail at which the SMP applies. In addition, environmental variables vary for many reasons that are outside shoreline jurisdiction or that are not influenced by implementation of the SMP itself. The county's response properly notes that No Net Loss is assured by ensuring the provisions of the SMP are implemented carefully over time The county's new permit tracking system will help ensure the county has a robust feedback loop for implementation.</p>
19	Eric Davis (Aug 26)				<p>In the rare instances where the shoreline administrator might require mitigation, vegetation is the only mitigating "tool" identified in the Proposal. There is no specification of the type of vegetation or its density, both of which determine the effectiveness of that mitigation at preventing eco-functionality deterioration. There is no location requirements other than perhaps somewhere within the buffer. Whether that is somewhere within the standard buffer or the reduced buffer is not clear. Reductions of 25 to 35% in the standard buffer are allowed for buffer</p>	<p>The comment is inaccurate. SMP 12.10.130(B) requires applicants to apply prioritized mitigation sequencing steps to the proposed development. These steps include avoiding the impact or minimizing the impact before compensating for the impact. Restoration when done properly addresses other issues beyond vegetation.</p>	<p>Ecology will not recommend or require changes to these provisions.</p> <p>SMP Section 12.10.420.B requires mitigation sequencing consistent with WAC 173-26-201(2)(e).</p>

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					<p>averaging and for so-called “functional enhancement” with vegetation mitigation. No mitigation appears to be required for a common line buffer reduction which can be up to 50%.</p> <p>If vegetation mitigation is required, the requirement is for only two years. No certification or inspection is required during that period. There is no way to prevent the property owner from removing all the vegetation during the two years period and no restriction on removal afterward. This makes the requirement useless. No deed restriction is required.</p>	<p>SMP 12.10.420(2)(c) clearly states that “re-vegetation with plants, shrubbery or trees that will maintain the functions and values of the buffer area” are required in instances of buffer disturbance.</p> <p>Common line buffer reductions can only occur in areas where function is limited. The <i>minimum</i> acreage replacement ratio for impacts to wetlands is 1:1. Mitigation is required for both wetland and buffer function (Section 12.10.430). Disturbance to vegetation within riparian buffers also has a minimum acreage replacement ratio of 1:1 (Section 12.10.440).</p> <p>It is assumed that the Commenter is referring to SCC 12.10.420.B.2.a.iii regarding a 2-year monitoring program. This one of four requirements that must be included in a mitigation plan submitted at the time an application is made. During the project review, conditions could be developed regarding the length of time required for monitoring. The project specific conditions may indicate that a longer monitoring time is warranted due to the level of impact and success rate of the required restoration components.</p>	
20	Eric Davis (Aug 26)				<p>The Restoration Plan accompanying the proposed SMP is weak and nonactionable especially for the impaired SSWS.</p> <p>Ch 4 (page 5) of the Handbook says, “The restoration plan includes restoration opportunities, priorities, and timelines for shoreline restoration.” The County’s plan has no process for restoration—no funding, no timelines, and no one with the responsibility in County Administration for developing any such process.</p> <p>...</p> <p>Chapter 4 of the Handbook (page 2) notes that “mitigation . . . alone cannot prevent all cumulative adverse impacts, so restoration is also needed.” Chapter 3 (page 5) says, “Both protection of existing functions and restoration of impaired functions are needed to achieve no net loss.” The Restoration Plan accompanying the proposed SMP is weak and nonactionable especially for the impaired SSWS.</p>	<p>Restoration planning, per WAC 173-26-201 (2)(f) is designed to achieve overall improvements in shoreline ecological functions over time. Restoration plans vary with the size of the jurisdiction and existing conditions in the shoreline areas.</p> <p>The Restoration Plan is non-regulatory representing the best effort based on already identified projects. Throughout the SMP process, participants were encouraged to help identify restoration opportunities and potential funding sources. Table 3 of the Restoration Plan, lists and ranks potential restoration actions (See SMP Record 113). In addition, the IAC Report identifies potential restoration opportunities for each SMP reach. (See SMP Record 1). These opportunities were also included in Table 2 of the Restoration Plan. Section 3 of the plan identifies key parties which may contribute to shoreline restoration efforts. If there are additional projects members of the public would like to include, the County is open to these suggestions.</p>	Ecology finds that the Partnership’s Restoration Plan meets the requirements of WAC 173-26-201(2)(f).
FISH AND WILDLIFE HABITAT CONSERVATION AREAS							
21	Jeanie Wagenman (Sept 3)				<p>Should the Red Necked Grebe ever become “sensitive” the proposed Shoreline Program would give no recognition for buffering the nesting or habitat sites.</p> <p>...</p> <p>Presently the Master Program only allows review for developments within the nesting sites or habitat areas. It could read that if a nesting or habitat area is within (200 feet critical areas ordinance) any of those species, that a buffer would be required using Best Available Science.</p>	<p>When, and if, the species is designated as a priority species, management recommendations typically accompany the designation. Those management recommendation would be applied by Stevens County as protections.</p>	Ecology concurs with this response.

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					REQUEST: Those proposals that are located in those areas for endangered, threatened, or sensitive species, be required to comply with the State of Washington's Department of Fish and Wildlife management recommendations for endangered, threatened and sensitive species, including any necessary buffers.		
SHORELINE USE AND MODIFICATIONS							
22	Dave Harsh, DNR Aquatic Lands Manager (Pers Comm, Sept 4)	4.5.N. and 12.10.230(5.)			To prevent dock proliferation, revise policy and regulations to ensure that only one dock per waterfront SFR parcel is allowed, where joint use docks are deemed unfeasible. Also revise to clarify that when community access parcels are present in a subdivision, community docks are required, rather than multiple individual docks on the shared parcel.	<p>Piers and docks are permissible under state regulations for water dependent uses or public access. Limitations on new residential docks in SMP 12.10.230 are consistent with requirements of WAC 173-26-231(3)(iii)(B). SMP 12.10.230(A)(8) requires docks, swim floats, etc., to be spaced and oriented in a manner that minimizes hazards and public navigation rights. SMP 12.10.230(A)(7) limits the amount of moorage for new developments to the amount needed to serve the development. SMP 12.10.230(A)(5) requires new residential developments with two or more units or lots to utilize joint-use or community dock facilities</p> <p>Pursuant to SMP 12.10.230.B.8.b, only one swim float may be approved per contiguous waterfront ownership. Under 12.10.230.B.8.a, all float components are limited in size to 8 feet by 20 feet or an aggregate total of 160 square feet. Section 12.10.230.B.3.a prohibits more than one float for single-use docks. The County believes that these three sections when applied in concert reduces the potential of multiple docks per parcel.</p>	While the SMP could be clearer in its prohibition of multiple docks on a single parcel, Ecology believes the analysis presented in the response adequately explains how this will be prevented. We are confident that the County will implement these provisions as described in this response.
23	Amy Sanderson (Aug 17)	6.32			Commenter seeks clarification on the use of residential homes with dock for use as short term vacation rentals. Links to City of Seattle FAQ regarding short term rentals, emphasizing limits on short term rentals in spaces not considered dwelling units or waterfront residences. Prefers provisions of the existing SMP (Section 6.32) which does not consider overnight or transient housing to be residential development. Seeks changes to the draft SMP similar to City of Seattle relating to short term rentals to prevent overuse of shorelines.	State SMP regulations make no distinction between full-time owner occupied residential and short-term vacation uses. Piers and docks are permissible under state regulation for water dependent uses or public access. Limitations on new residential docks in SMP 12.10.230 are consistent with requirements of WAC 173-26-231(3)(iii)(B)	Ecology concurs with this response.
24	Eric Davis (Aug 26)				<p>... the County's proposed SMP has no definition of "replacement" development or "redevelopment" as well as no dimensional restrictions, leaving it up to the whim of County's "shoreline administrator" to determine what will be permitted. ...</p> <p>...Since "redevelopment" is not defined in the SMP, it's difficult to know what it includes. Logically, it should include expansion (above some de minimis amount) and replacement of previously existing structure of specified types. Perhaps, replacement is considered "new" development.</p>	<p>The Shoreline Administrator will adhere to the criteria found in SMP Article VI which sets forth Administration and Decision Criteria for all developments.</p> <p>The proposed SMP establishes more stringent criteria pertaining to the maintenance, restoration or replacement of lawful non-conforming structures. SMP 12.10.520 outlines the manner in which non-conforming structures may be maintained, expanded or redeveloped. Replacement can be considered as "normal maintenance and repair", when the replacement is "comparable to its original conditions including, but not limited to, size, location and external appearance" and provided that the level of</p>	Residential development; new or "re-development" is permissible through the Residential Development Exemption, which still requires any development undertaken comply with the policies, regulations, bulk, dimensional, and performance standards of the SMP.

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						nonconformity is not increased, (see SMP 12.10.770, Definition #84 and in SMP Table 12.10.100.A). Pursuant to SMP 12.10.520.C, expansions are encouraged first to utilize previously disturbed areas, required to be parallel or landward of the shoreline and provide offset impacts into undisturbed buffer areas.	
25	Eric Davis (Aug 26)				In the last several decades, development on these two lakes (Deer and Loon) has focused on expansion and replacement of small summer-time cottages into much larger houses capable of year-round occupancy (though many are still occupied part-time). Under the current SMP, the County has allowed this development to occur with no limits on lot coverage and no mitigation. The current Proposal will permit that behavior to continue regardless of the damage to eco-functionality that such development is known to cause over time.	SMP Policy 4.5.T.2 states that redevelopment, expansion, change of use or replacement of residential structures should be allowed within shoreline jurisdiction provided that the level of nonconformity is not increased. Replacement is considered "normal maintenance and repair" (see SCC 12.10.770 Definition #84), provided the replacement is "comparable to its original condition including, but not limited to, size, shape, configuration, location and external appearance...". SCC 12.10.520(C) includes requirements for expansion of a nonconforming structure. These requirements include not encroaching further waterward into a buffer, minimization of new impervious surfaces, etc.	Ecology offers clarification that replacement <u>may be</u> considered normal maintenance and repair. Per WAC 173-27-040(2)(b) <i>"....Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment."</i> The updated SMP, like all SMPs, must adhere to this language when analyzing any proposed development activity.
26	Jeanie Wagenman (Sept 3)				For years and years, we have seen the small non-conforming cabins be torn down and a very large cabin replace the former, even closer to the OHWM. I have seen where the "new" replacement cabin could have been placed farther back, is instead allow to be close to the water. It is not clear in the SLMP what applies when the county will permit new developments in place of the old. The county does not define "replacement" or "redevelopment". Again there would be no limitations impervious surfaces limitations only for Rural and Conservancy not Shoreline Residential) on coverage of the lot or vegetation requirements. There would be no stormwater review or stormwater plan required. It's important to define replacement or redevelopment of the lot and what specifically applies to that kind of development. Can then redevelopments use the common line set back exemption from the buffer of 65 feet? It appears that cabins cannot be allowed to expand water ward? (unless outside of 65 foot buffer) But then could any redevelopment...of the cabin allow for that? In other words, tearing down the old cabin would allow <u>for a greater privilege in building a new one</u> on the shoreline? Please have this clarified.	See Response to Comment #24 and #25. The SMP sets forth new standards for future replacement and redevelopment of existing developments. The Commenter assumes unsupported facts regarding what constitutes a non-conforming structure that are not established in the record before the County. The SMP regulations provide standards regarding allowable replacement and redevelopment. Use of a common line setback is a recognized method for allowing in-fill development and are applied on a case by case basis. The common-line setback is applicable to existing lots where there are single family residences within 150 feet of the proposed development. See SCC 12.10.420 A.6. which states that the common-line setback is required to be the <u>greater</u> of one of three options: 1) a common line between the nearest corners of the nearest residence, 2) a common line calculated by the average of the nearest residence's existing buffer or 3) a 50% reduction of the standard buffer.	It is important to note that the updated SMP curtails the linear distance used to establish a common line from 300 feet on either side of a lot, to 150 feet measured from the primary structure. Please also see response to Comment 16 above.

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27	Jeanie Wagenman (Sept 3)				<p>In Fill Development (common line set backs) We appreciate that the county has finally defined how this exemption will applied.</p> <p>...</p> <p>What is difficult to comprehend is that the common line setback just perpetuates the problem created by previous cabins, often too close to the lake. You are using this as a standard by which to draw the line (distance from water...buffer) for the new building to be placed and doing that after years of best available science, which indicates developments close to the water, (inside buffers) contribute to the water problems.</p> <p>...</p> <p>Quoting a 2001 WDFW comment letter from WDFW on the County's CAO:</p> <p>Please note the recommendations:</p> <ol style="list-style-type: none"> 1. Limitations on expansion of existing structures should be set at a specific maximum. This limitation should be consistently applied and clearly spelled out. Only allowing a small increase of the existing footprint. (landward not waterward) 2. This expansion would not allowed to be waterward but only occur landward of the existing non-conforming structure. WDFW recognizes that and developments in the buffer are occurring in sensitive areas and that moderate to large developments further encroach and greatly increase the likelihood of negative impacts to the resources being protected. (he mentions the impacts) Mr. Azerrad, comments that replacement of non-conforming structures be allowed when it was destroyed, but he does not mention that people could destroy intentionally their old cabin to build a newer bigger one. The point was made that the least impacting action should occur. Either build outside the buffer or limit the building to the previous existing foot print. He comments that the county's proposed riparian buffers are inadequate. (which were then 100 feet for riparian type 1 & 2) However what the county is now proposing is 65 feet. He compares that to the wild salmonid policy recommending 100 to 150 feet. 3. He states "the current minimum buffers in the draft are at or below the minimum to protect aquatic functions and consequently need room to provide for increased buffers." He states the county should determine if the minimum standards are insufficient or need to be increased to meet the needs of the fish and wildlife. If the buffers then were "inadequate, then what is the 65 feet now allowed in the SLMP?" <p>We request because Loon Lake is a lake of significance (as Deer) and because our water quality issues need consideration that on a individual basis that all new developments or redevelopments be assessed for a buffer increase (beyond 65 feet) by a professional qualified individual. That redevelopment and replacement</p>	<p>Rules for use of common line setbacks are addressed in response to comment 26.</p> <p>The Comments attributed to WDFW are outdated and taken out of context.</p> <p>The County's proposed SMP standards are protective of SSWS consistent with requirements of WAC 173-26-211(5)(B)(ii)(D). Shoreline master programs are required to classify shoreline areas into specific environment designations based upon the existing use pattern, the biological and physical characteristics of the shoreline (WAC 173-26-211). Loon Lake is a highly developed shoreline and meets the criteria for the Shoreline Residential Environment in SMP 12.00.090.</p>	<p>Ecology also notes that Section 12.10.420 Buffers and Mitigation Subsection A.3 already includes an allowance for buffer increases, which could be applied on a site-by-site basis, just as the other buffer modifications options are applied. Also these are not "exemptions" but modification allowances that the Shoreline Administrator as part of the required shoreline permit or review process that is otherwise required. These allowance or modifications are approvable subject to specific applicability criteria.</p> <p>Please also see response to Comment 16 above.</p>

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					development be defined and those developments limited in lot coverage (address the need for stormwater review) and required not to expand waterward but remain behind the assessed buffer requirements by the professional.		
28	FutureWise (Sept 5)	12.10.270B			<p>Clarify proposed Table 12.10.100(C), Shoreline Use and Modification Matrix.</p> <p>Proposed 12.10.270B correctly limits fills waterward of the ordinary high-water mark to the uses and activities allowed by WAC 173-26-231(3)(c) which we strongly support. We are concerned that the allowance for fills in the Natural environment to “support primary use” in proposed Table 12.10.100(C) might be read to allow fills waterward of the ordinary high-water mark to support any allowed primary use. So, we recommend that note 4 be modified to clarify this point. Our recommended additions are double underlined.</p> <p>4. Minimum amount to support the associated primary use <u>in floodways and those uses and activities</u> allowed by SCC <u>12.10.270B that are also allowed uses in the Natural environment waterward of the ordinary high-water mark</u>, with associated mitigation, as applicable.</p>	Footnote 4 applies only to shoreline/bank stabilization. To the extent that the comment applies to that activity, the proposed changes are redundant and not needed to implement the clear intent of the existing language. SMP 12.10.100.B.2 requires all uses to comply with written provisions and regulations in the SMP. This section also notes that in the event of a conflict between the Shoreline Use and Modification Matrix (Table 12.10.100.C) and the written provisions of the Code, the written provisions control.	Ecology will not recommend or require changes to these provisions. In addition to the County’s response, Ecology also considered the limited uses that are allowed in the Natural SED, and find that the Partnership can implement the provisions of 12.10.270.B and the Table 12.10.100(C) consistent with the intent.
29	FutureWise (Sept 5)	12.10.100			We appreciate and support that proposed Table 12.10.100(C) provides that breakwaters, groins, and weirs require a conditional use permit (CUP). These facilities can have significant adverse impacts on the shoreline environment and on public use of rivers, lakes, and streams. Similar in-stream structures should also require a CUP. So, we recommend that “in-stream structures” should also be CUP (SSDP) as provided in footnote 6.	WAC 173-26-231(3)(d) recommends CUPs be required for breakwater, groins and piers. It does not include such a recommendation for In-stream structures described in WAC 173-26-241. “In stream structures” include common uses defined in SCC12.10.770, Definition #63. Additional permitting from other agencies, such as WDFW or the US Army Corps, are likely to impose additional requirements regarding such structures.	This comment is noted and appreciated, but as the County noted, the “In Stream Structures” provisions in WAC 173-26-241 do not require or recommend a CUP for all such structures.
30	FutureWise (Sept 5)	12.10.170E			Proposed 12.10.170E includes the above requirements (referring to WAC 173-26-221(3)(c)(ii)), but Table 12.10.100(C) for new flood control facilities only applies note 11 to the Natural Environment. Note 11 only includes the requirement that “no other alternatives are available.” We think this may confuse some into believing that the only standard for new flood control projects in the Natural Environment is the no alternatives requirement. And, perhaps, that that limitation does not apply in the other environments. We recommend that a new footnote be added to Table 12.10.100(C) noting that all new flood control facilities in all shoreline environments must comply with proposed 12.10.170E.	The footnote does not excuse compliance with SCC 12.10.170E. SCC 12.10.100.B.2 requires all uses to comply with the written provisions and regulations in the SMP. This section also notes that in the event of a conflict between the Shoreline Use and Modification Matrix (Table 12.10.100.C) and the written provisions of the Code, the written provisions are the control. Therefore, the provisions of SCC 12.10.170E are applicable to all new flood control facilities regardless of the environment designation.	Ecology agrees that the provisions of Section 12.10.170E apply to all new flood control facilities. Matrices or other illustrative tables within the SMP are intended to provide ease of reading and are not intended to supersede or replace the written text.
CUMULATIVE AND ENVIRONMENTAL IMPACTS ANALYSIS							
31	Eric Davis (Aug 26, and Sept 4)				<p>Representative of similar observations in other sections of both comment letters</p> <p>“There is no projection of potential expansion or replacement development for those three SWS (<i>Lakes Loon, Deer, Spokane</i>) despite that type of activity being the vast majority of current and recent past development on their shorelines. According to the County (see its response to comments 3 and 15), it is “committed to no net loss of ecological functions and values for redevelopment and new</p>	Lake Spokane, Loon and Deer Lakes are highly developed shorelines. The majority of the lots were platted and developed prior to the adoption of the Shoreline Management and Growth Management Acts. Many lots, especially on Deer and Loon Lakes were created in the 1940’s and 1950’s and have a narrow shoreline frontage (50 feet). Most were fully developed in the 1940’s through 1960’s with small cabins without utilities (potable water and sewer).	As the commenter noted, the Partnership’s Cumulative Impacts Analysis (Sept 2018) does include anticipated future development. This report also states on page 6, <i>The County has experienced limited development within its shoreline in the last 5 years, with a rate of up to nine</i>

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					<p>development." Since "redevelopment" is not defined in the SMP, it's difficult to know what it includes. Logically, it should include expansion (above some de minimis amount) and replacement of previously existing structure of specified types. Perhaps, re-placement is considered "new" development.</p> <p>...</p> <p>Expansion and replacement development probability is high, but quantification is purposely ignored by the County to distort the probable impact of the lack of appropriate development standards on these SSWS.</p> <p>For Loon, the "Cumulative Impacts Analysis Report" says only "Future demolition and redevelopment of residential structures in also anticipated." For Deer, the Report says, "Remodels and expansions to existing residential developments are also anticipated." For Lake Spokane, the Report has no comment on this type of activity. Unfortunately, it is this type of activity that is most likely to cause further deterioration of eco-functionality on these SSWS. Data on recent activity of these types is readily available since the activity should be subject to County building permits, especially for Loon and Deer Lakes."</p>	<p>As these cabins reach their structural lifespan and with the advent of public water and sewer on Deer and Loon Lakes, many lots have converted into full-time modernized residences. Under the current zoning code, all lots containing less than 5 acres on Deer and Loon Lakes are legal non-conforming lots. As such, these lots retain the right to be developed, maintained, replaced or restored. SMP Section 12.10.520 sets forth more stringent criteria than the current SMP for expansion or redevelopment. See response to Comments 24 and 25 for a more detailed explanation of this criteria.</p> <p>SMP 12.4.5(B)(4) contains protection and management priorities for Shorelines of Statewide Significance, as follows:</p> <ul style="list-style-type: none"> a. Recognize and protect the statewide interest over local interest; b. Preserve the natural character of the shoreline; c. Result in long term over short term benefit; d. Protect the resources and ecology of the shoreline; e. Increase public access to publicly owned areas of the shorelines; f. Increase recreational opportunities for the public in the shoreline; g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary 	<p><i>residential units per year, including new developments and expansions.</i></p> <p>According to Ecology's permit tracking system we have filed 35 shoreline permits for jurisdictions within the Partnership in the last 10 years. That is an average of 3 or 4 permits annually across the entire County.</p> <p>This report, in Section 3.2 starting on page 19 also identifies potential impact to ecological functions from the anticipated development. And Section 4, starting on page 21 outlines the SMP provisions that aim to protect ecological resources and functions.</p> <p>Ecology finds that the Partnership has addressed this issue within the proposed SMP and as part of the Cumulative Impacts Analysis Report.</p>
32	Gonzaga University Legal Assistance (GULA) (Sept 4)				<p>Section 12.10.750 (A) of The Proposal establishes that, "The Partnership will periodically evaluate the effectiveness of the SMP update for achieving no net loss of shoreline ecological functions with respect to shoreline permitting and exemption processes" without identifying or utilizing any measurable indicia of ecological function for measuring no net loss.</p> <p>How can no net loss be calculated accurately under The Proposal if there is nothing indicated to be measured? Shouldn't determination of net loss involve at a minimum quantifiable parameters which utilize the "most current, accurate, and complete scientific and technical information available" as laid out in WAC 173-26-201(2)(a)?</p> <p>Furthermore, doesn't the allowance of this evaluation of effectiveness to take place "periodically" further obscure the accuracy of any scientific analysis, were it even to "periodically" be attempted, by removing all consistency of measurements?</p> <p>How can net loss be calculated accurately under The Proposal if measurements can be taken as randomly as The Partnership deems necessary?</p>	<p>The commenter is incorrect regarding the lack of baseline data to measure the shoreline ecological function of no net loss. The IAC Report (See SMP Record #1) is the documentation of the baseline conditions for all shorelines under the jurisdiction of the SMP. Further, the SMP update is reviewed in coordination with Ecology to ensure compliance with no net loss requirements.</p> <p>See response to Comment 18.</p>	<p>Section 12.10.750(A) related to the Partnership's review of the effectiveness of this SMP. This provision is meeting the administrative provisions intent of WAC 173-26-191(2)(a)(iii)(D) which requires that local governments shall identify a process for periodically evaluating the cumulative effects of authorized development on shoreline conditions. The terms used here by the Partnership are consistent with the above references Guideline. No additional changes are warranted based on WAC or RCW requirements.</p>
33	Gonzaga University Legal				<p>Unless there is a defined process for correlating the parameters to key measures of development, known to adversely impact eco-functionality, there is no valid way to determine where development policies/activities have caused functionality loss.</p>	<p>See responses to Comments 18 and 32.</p>	

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	Assistance (GULA) (Sept 4)				<p>This also means that there is no valid way to determine whether mitigation of one form or another is appropriate in a given circumstance. Correlation is typically done through statistical methods readily available and widely used. Without this process, the County can blame any net loss on anything other than its development policies. This effectively places the burden of determining net loss on the public and/or the DOE, which seems contrary to the intent of RCW 90.58.050 and WAC 173-26-171(2).</p> <p>How can net loss be determined if there is no baseline of key parameters to determine the current situation?</p> <p>Net loss is to be measured from the current state of ecosystem functionality. That is impossible to do with no parameters to identify the current situation. Again, this makes the ultimate determination of no net loss entirely subjective and forces the public (and the DOE) to bear the burden of determining no net loss. If eco-functionality deteriorates substantially on a particular shoreline and waterbody, it will typically be very visible. But is allowing appallingly visible levels of deterioration to take place just in order to identify a need for change the intent of all the no net loss provisions in law and regulation? That seems illogical and contrary to the language in RCW 90.58.020.</p>	<p>Baseline conditions were inventoried in the Inventory, Analysis, and Characterization Report (See SMP Record #1). Environment Designations were applied based upon these baseline conditions. The standards for environment designations represent the levels of development and existing functions and values. The Cumulative Impacts Analysis characterizes how the program is expected to perform to achieve no net loss.</p>	<p>The Guidelines governing principles found in WAC 173-26-186(8) acknowledges that shoreline ecological functions may already be impaired and establishes the principle for protecting shoreline ecological systems within the context and authority of the SMP. As part of a SMP Comprehensive update, this is done through:</p> <ul style="list-style-type: none"> • The Inventory and Characterization, which identifies, inventories and ensures meaningful understanding of the current ecological functions. • The Cumulative Impacts Analysis, which assesses the potential impacts of reasonability foreseeable development based upon the proposed codes in the context of the existing conditions as established in the IAC. • The policies and regulations created to achieve no net loss, such as those requiring mitigation sequencing, and the review of each permitted development to assure consistency with the SMP and in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property. <p>No net loss in the context of SMP's are related to ensuring that project authorized under the SMP are not contributing to a net loss of ecological function. The baseline is the existing condition prior to authorization of a project, which is established as part of the shoreline permit application. The SMP cannot address previous impairments or correct functional loss that is not associated with new development or uses subject to the SMP.</p>
34	Gonzaga University Legal Assistance (GULA) (Sept 4)				<p>Does the cumulative impacts requirement of section 12.10.750 (A) of The Proposal apply to the impacts of all of the County's development policies and activities, or just to those where variances were approved?</p>	<p>Section 12.10.750(A) applies to "shoreline development permits, conditional permits, and variances, including the exempt use activity approvals and the locations and effects of each by type and classifications."</p>	<p>Section 12.10.750 (A) is the review of all new developments and uses authorized under the SMP by the local government.</p>
35	Gonzaga University Legal Assistance (GULA) (Sept 4)				<p>Section 12.10.750 (A) of The Proposal states that the required report documenting the effects of cumulative impacts "should summarize the cumulative effects of authorized development on shoreline conditions using appropriate measures". The Proposal has no list of "appropriate measures" or referral to other sources of them. This would allow The Partnership to make arbitrary decisions on what those measures are and grants The Partnership discretion to change them at will. This would further undermine the protections this update seeks to incorporate and address.</p>	<p>See responses to Comments 18, 32, and 33. Examples of appropriate measures required in the SMP include buffers, a minimum replacement acreage of 1:1 for wetland impacts, and compliance with the critical areas provisions.</p> <p>Information from Stevens County regarding the permitting process is available to the public and the standards will be applied consistently.</p>	<p>Wetland impacts will be mitigated for following joint Corps and Ecology wetland mitigation guidelines, which call for much greater than 1:1 replacement ratios for direct impacts. This is not a permit review provision. It is an adaptive management or feedback loop provision intended to inform future implementation and/or SMP amendments. See also related responses above.</p>

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SHORELINES OF STATEWIDE SIGNIFICANCE							
36	Eric Davis (Aug 26, and Sept 4)				<p><i>Representative of similar observations in other sections of both comment letters</i></p> <p>There are no sections in the Proposal that pertain specifically to SSWS. There is only one set of development standards applied to all 55 lakes and streams covered by the Proposal, regardless of their status under the law; their current level of impairment; their likely pattern of development in the future; or any other factors pertinent to preventing loss of eco-functionality. This fails to meet the requirement of "optimum" implementation for SSWS.</p>	<p>See response to Comment 31.</p> <p>The Commenter appears to suggest that the SMP should have different development standards for different waterbodies. The County feels that approach could lead to inconsistent application of the SMP development standards as well as inconsistency between the SMP and zoning and other local codes. WAC 173-26-211(3)(a), states that SMP policies and regulations and local codes should not conflict so that viable land uses are precluded. By providing consistent application of the development regulations on ALL shorelines, regardless of location or designation as a SSWS, this will provide "optimum" implementation and will better achieve the goal of no net loss of ecological function.</p>	<p>Ecology finds that the Partnership has appropriately identified SSWS within section 3.2 and Table 1. The Shoreline Uses and Modifications Element section 4.5.B.4 enacts the SSWS principals of RCW 90.58.020 and WAC 173-26-251. Optimum implementation is not one thing for every jurisdiction because it is based on the statewide objectives and consultation with state agencies.</p>
OTHER							
37	FutureWise (Sept 5)		12.10.120		<p>Proposed 12.10.120, Archaeological and Historic Resources, should require site investigations for sites that the Washington State Department of Archeology and Historic Preservation predictive model rates as "survey recommended: moderate risk," "survey highly advised: high risk," and "survey highly advised: very high risk." The investigation should be carried out in consultation with affected Native American Tribes and Nations.</p>	<p>The WAC does not require pre-development archeological investigations or consultation based on non-regulatory predictive modeling. SCC 12.10.120 requires project proponents to consult with proper authorities in areas with documented archaeological resources and to stop work in the event of inadvertent discovery.</p>	<p>Ecology finds that the Partnership's SMP Section 4.7 and 12.10.120 address the necessary components required by WAC 173-26-221(1).</p>
38	Eric Davis (Aug 26)				<p>In response to Ecology denial of a Hearing request (excerpt in part).</p> <p>I am surprised by your role in both the creation of the Update and apparent key role in its final approval by the DOE IMO, this is an inherent conflict of interest. On the issue of public hearings held by the County, the number is irrelevant--a matter of "form over substance"--when the entity holding the hearing is pre-committed to a specific position on the subject matter being addressed. ... In the opinion of those who have opposed the County's shoreline development actions for several decades, its pre-commitment is relevant in this situation as it has been many times before, especially involving the GMA's requirements.</p>	<p>Under WAC 173-26-120(4), a public hearing is at Ecology's discretion during the formal review period. The process for the SMP was multi-jurisdictional over a period of over 3 years. While under County review, public comment on the SMP was open from October 2015 through May 2019 with numerous public meetings and at least six public hearings.</p>	<p>This response is accurate. Due to the extraordinary measures taken by the Partnership to garner and respond to public feedback, much of which lead to improvements to the locally adopted draft, we elected not to duplicate a hearing for the state review process.</p>

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39	Eric Davis (Aug 26)				Even more discretionary authority to ignore cumulative impacts is vested in the shoreline administrator. The common line and buffer averaging exceptions remain. The 65 foot standard buffer removes the DOE even more from any oversight. High costs for appeal to the hearing examiner (who realistically works for the County) and, subsequently, appeal to the local superior court are a purposeful impediment imposed by the County to discourage the public from contesting its development decisions.	See responses to comments #4 - 6; and 9 – 12. As previously noted in Response to Comment 10, under the current 1999 SMP, the riparian buffer is 50 feet or a common-line setback in existing residential areas. The current CAO buffer of 150 feet is standardized without regard to existing conditions. Implementation of the new SMP development regulations will provide an increased buffer function and improved standards for stormwater control. The right to appeal a site-specific project is set by statute and local code. The appeal structure for shoreline permit decisions is found in SCC 12.10.720. It is appropriate for jurisdictions to establish a fee structure for services provided. The current County fee structure was established in 2018 and is comparable with similar sized counties.	As noted in Response to comment #10, the updated SMP provides more restrictive common-line setback standards that allows for some administrative flexibility while still ensuring no net loss of shoreline ecological function. The shoreline administrator is tasked with the primary role in SMP implementation and this role includes discretionary authority to interpret the code for decision making actions. According to RCW 90.58.050 , local government shall have the primary responsibility for administering the regulatory program of shoreline management consistent with the policy and provisions of the act, whereas Ecology shall act primarily in a supportive and review capacity with an emphasis on providing assistance to local government and on insuring compliance with the policies and provisions of the Shoreline Management Act.
40	Elizabeth Duroe (Sept 5)				My family has been on loon lake at Larson beach for over 50 years. There has been a decline in the water quality and ecology of the lake. Please do what you can to protect it in what ever capacity. We need to think long term to protect it for future. Please hold accountable Stevens county to protect loon lake.	The County is required to comply with the provisions of the SMA and the WAC, and to meet the no net loss of ecological functions standard for the SMP while providing for future uses of the shorelands in the County	The comment is noted and appreciated.
41	Joan Duroe (Sept 3)				Over the years, as much as Jeanie Wagenman and Eric Davis and others have fought Stevens County to keep the Lake healthy, the County refuses to follow the law that has been set down by the state to keep our waters clean and healthy. They blatantly allow building very close to the water line and/or over the water line. They almost fully cover the property close to property lines. They park cars very close to the shoreline. There's been little or no mitigation. There's no specification of the type of vegetation and it's density. There's no "low impact development" as the County allows for a small structure to be torn down and replaced by a house two or three times the size of the original structure. This causes greater use of water from the wells and the springs that feed the sewer system and feed the Lake with the threat of a well "drying up" because of it. It also is a greater impact on the lake as such, larger homes closer to the shoreline, removal of vegetation impacting the wetlands that are the cleansing sponge for the lake. The lake is filthy compared to past years. ... I support Jeanie Wagenman's Letter of concern and requests, and also Eric Davis' Letter of Concern and Requests.	See responses to comments #4 - 6; and 9 – 12	The comment is noted and appreciated. Responses related to stormwater are provided above and in Attachment A.

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42	Jessie Duroe Hadley (Sept 4)				<p>I am writing to ask you to make changes to the Steven's County Shoreline Master Program as recommended by Eric Davis and Jeanie Wagenman.</p> <p>Stormwater review should be required for all shoreline developments - not just "when applicable." Wetlands need long-term protected status and should be designated as natural or conservancy areas, not just rural. Buffers should be expanded. Sixty-five feet is the standard but is that enough for a lake with a water quality problem like Loon Lake?</p>	See responses to comments #2, #4 - 6; and #9 - #12	The comment is noted and appreciated. Responses related to wetland protection, shoreline environment designation, and stormwater standards are provided above and in Attachment A.
43	Eric Davis (Aug 26)				<p>Although state law and regulations encourage the DOE to work with each local government to develop its shoreline use requirements in its Shoreline Master Program (SMP), the DOE retains the fiduciary responsibility to ensure that the SMP protects the public interest value. ... The DOE has to be extremely careful to separate its assistance to the local government from its approval of the end product. "Regulatory capture" is a recognized risk in public policy implementation.</p>	<p>This is a commentary regarding the working relationship between the County and Ecology. It is not substantive regarding any provision in the SMP. Ecology provided technical assistance during the master program process. Ecology also provided oversight regarding the grant funding and grant deliverables. This is the working relationship between the County and Ecology that is defined in law. RCW 90.58.050 requires local government to undertake the primary responsibility for initiating the planning and administration of the regulatory program of the shoreline master program. DOE is to act primarily in a "supportive and review capacity with an emphasis on providing assistance to local government." Under RCW 90.58.250, the State Legislature authorized DOE to "make and administer" grants to local government for the express purpose of funding the shoreline master program development and amendment costs.</p>	<p>An open, honest, and engaged working relationship between Ecology and all local jurisdiction is vital not only to creating a compliant SMP, but also to ensure that the SMP is effectively implemented once approved.</p> <p>The SMP development, approval, and implementation is reflective of RCW 90.58.050 which provides that the Shoreline Management Act is intended to establish a cooperative program between local government and the state. According to this provision, local government shall have the primary responsibility for initiating the planning required by the act and administering the regulatory program of shoreline management consistent with the policy and provisions of the act, whereas the department shall act primarily in a supportive and review capacity with an emphasis on providing assistance to local government and on insuring compliance with the policies and provisions of the Shoreline Management Act.</p>
44	Jim Davies (Aug 28)				<p>...Loon Lake has severe dissolved oxygen and excessive nutrient issues exacerbated by the current inadequate and carelessly regulated SMP.</p> <p>The County has now engaged in an update of the SMP. Eric Davis has compiled an excellent and comprehensive commentary (dated August 26th) on the status of the proposed and soon to be completed SMP. Since managing the monitoring program and having attended some of the meetings in Colville related to the SMP update, I have intimate knowledge of the matter and agree with Mr. Davis' excellent summary pertaining to the SMP update. It concludes that the County and the DOE have failed to exercise their duties and responsibilities in protecting the waters of Loon Lake.</p> <p>I would add that the entire effort has been a gutless and pathetic effort, only attempting to satisfy the base minimum requirements of the regulation.</p>	See responses to comments #4 - 6; and 9 – 12	The comment is noted and appreciated.

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45	MJ Lovel (Sept 4)				<p>I have been a part of the Loon Lake community for 40 years, but I still don't have the history of the struggle around getting the SMP finalized as Jeanie Wagenman and Eric Davis have.</p> <p>They have both submitted comments, and I agree with their comments 100%.</p> <p>...</p> <p>We need to take measures to improve the lakes water quality not reduce the quality.</p> <p>In order to do so, the SMP needs to take steps to designate the areas of wetlands around Loon Lake as conservancy or natural, not rural, as outlined in Jeanie Wagenman's letter to you dated September 3, 2019.</p> <p>I support both Jeanie Wagenman's and Eric Davis's comments on all points and ask that you please take these comments to heart and consider making changes for the better.</p>	See responses to comments #4 - 6; and 9 – 12	The comment is noted and appreciated.
46	Jane Soderberg (Sept 4)				<p>Please make the necessary changes to the Shoreline Master Program to protect our Lake. We support the proposals put forth by Jeanie Wagenman. It might not be too late to put in place adequate protection for the lake. Maybe then my grandkids may have a lake to enjoy.</p>	See responses to comments #4 - 6; and 9 – 12	The comment is noted and appreciated.
47	J Morton (Sept 5)				<p>I have noticed a great reduction in fish, wildlife and water quality over the past 20 years. There is a great need to address this issue and Stevens County is behind the 8 ball. Other counties in the remaining part of the state show a better protection plan and are very progressive compared to Stevens County. I am hoping you can help make some necessary and past due changes to the Shoreline Master to protect our lake. Our families greatly appreciate your attention to this.</p>	The County is required to comply with the provisions of the SMA and the WAC, and to meet the no net loss of ecological functions standard for the SMP while providing for future uses of the shorelands in the County.	The comment is noted and appreciated.
48	Dick Davies (Sept 5)				<p>I am in total agreement with Eric Davis comments and Jeanie Wagenman comments on the SMP Updates.</p> <p>...</p> <p>All development in the watershed should be looked at how it impacts the lake and how to minimize that impact.</p>	See responses to comments #4 - 6; and 9 – 12	The comment is noted and appreciated.
49	Joan Easley (Sept 4)				<p>The written report from Jeanie Wagenman, has voiced the concerns of many property owners on Loon Lake.</p> <p>I appreciate her well documented letter, and hope the right steps will be taken, to prevent further destruction of the few remaining wetlands and protect these shorelines that are being abused with encroachments and disregard for setbacks.</p>	See responses to comments #4 - 6; and 9 – 12	The comment is noted and appreciated.

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50	Jeanie Wagenman (Sept 3)				...the county is NOT interested in the "long term over the short term" protection of the resources. The county is not interested in listening to the voice of its citizens...those concerned about the resources for the long term. I believe that the county is not interested in preserving the natural character of the shorelines protecting the resources and ecology for future generations. This has been their record for the past 20-25 years, in which I have been involved. If I am wrong, (and I hope I am) they would then be willing, with your help, to make some necessary changes.	See response to comment #47.	The comment is noted and appreciated.