



July 24, 2007

Doug Pineo
Washington Department of Ecology
N. 4601 Monroe
Spokane, WA 99205-1295

SENT VIA EMAIL

RE: Spokane County's Shoreline Master Program Update

Dear Doug:

This letter is submitted on behalf of my client, Sierra Club Upper Columbia River Group. As you know, Spokane County is in the process of updating its Shoreline Master Program. The Department of Ecology has a responsibility to review and approve the County's program. It is our understanding that this update was delayed, in part, to address concerns from Ecology. Unfortunately, it does not appear as though the County made any changes to its previous draft to address any of Ecology's concerns.

Sierra Club strongly supports the comments submitted by Ecology to the County regarding the program update. In addition, Sierra Club has the following comments and concerns:

1. Tie-in with TMDL Collaboration

As discussed below, several elements of the shoreline master plan have been relaxed in the draft program. These include the separation between waste water treatment systems and the water table and redesignation of Lake Spokane shoreline habitat,. These changes would potentially increase nutrient loads to the Spokane River making achievement of the Spokane River DO TMDL more difficult. At the recent hearing, a former County employee (and current consultant) and aquifer expert, Stan Miller, testified that the changes to the shoreline program will impair the County's ability to meet TMDL reduction goals. Accordingly, Sierra Club urges Ecology, consistent with the TMDL, to reject these proposed changes and to require that current protections either be maintained or enhanced.

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2. Require a Ten Foot Separation between Waste Water Systems and the Water Table

Spokane County's existing shoreline master program requires a ten foot minimum separation between a waste water treatment system and the water table. The purpose of this requirement is to protect water quality. Onsite waste disposal systems are very likely to fail. A 1998 study in Indiana reported that between 25 and 70 percent of the on-site septic systems in the state were failing.¹ A poorly functioning onsite system can release pathogens and nutrients into the environment that may create health and water quality problems. These pollutants may reach surface waters either through groundwater flow or overland if there is a surface failure. Even when they are properly operating, these systems require a significant separate between the leach field to the ground water table. The Shoreline Master Program only applies to development near rivers, lakes, and streams. This provision is needed to protect the water quality of these highly susceptible water bodies. Sierra Club urges you to reject the relaxation of this requirement and to retain or enlarge the ten foot separation.

3. Clarify the Buffer Provisions

The draft Shoreline Master Program provides in Section 8.7 that Spokane County's critical areas regulations apply within shoreline jurisdiction. Section 5.2.6.6 provides that a 50-foot buffer strip is required along all shorelines. Section 8.7 also clarifies that the most protective provision controls. Sierra Club supports these provisions, but including them in different sections has resulted in confusion. Sierra Club recommends that Ecology require the following revision to Section 5.2.6.6 to clarify the application of these provisions. This would be similar to the wetland provisions in proposed Section 5.2.6.4. The proposed additions are double underlined:

6. A 50-foot or greater buffer strip of natural vegetation shall be maintained along the waterfront to prevent erosion and protect water quality and fish habitat, provided that the following exceptions to this requirement are permitted:
 - a. vegetation may be removed to allow for uses permitted by Section 5.2.2(3)
 - b. a use activity provision in Section 5.3 specifically allows for an exception to this requirement
 - c. pathways providing access to the water or to access an allowed dock
 - d. access to watercraft launches available for use by the general public

¹ Indiana Dept. of Agriculture, The Hoosier Farmland Preservation Task Force Final Report (1999) at 21, cited in, Tom Daniels, *What to Do About Rural Sprawl?* at 1 (paper presented at the American Planning Association Conference, Seattle, Washington) (April 28, 1999), available at <http://www.mrsc.org/Subjects/Planning/rural/daniels.aspx>.

- e. removal of noxious weeds which does not result in a net-loss of shoreline ecological function or cause degradation of water quality
- f. public parks and associated beaches
- g. vegetation management necessary to maintain electrical transmission and distribution lines.
- h. Selective pruning of trees and shrubs to maintain views and safety.

Encroachments allowed by the above exceptions shall be the minimum necessary to reasonably provide for the excepted use and further the excepted encroachment shall not result in a net loss of shoreline ecological function. Additional buffer requirements apply to the Latah Creek Channel Meander Belt as specified in Section 5.2.7. The Spokane County critical areas regulations also apply. See Section 8.7 for more information on the applicability of the critical areas regulations.

The Restoration Plan in the draft Shoreline Master Program, in section 12.6.3, calls for the adoption of a lakeshore buffer. Sierra Club recommends that Ecology require an interim lakeshore buffer of 100 feet as part of this Shoreline Master Program.

4. Natural Environment Exception for Home Construction

Proposed Section 5.3.3.2 originally proposed that clearing be allowed within 100 feet of the ordinary high water mark for home construction within the natural environment. It was changed to allow construction within 50 feet. These riparian areas often serve as valuable habitat and act as filters reducing run-off into surface waters. Moreover, there are very few remaining natural shoreline environments. Sierra Club firmly believes that Ecology should require that the clearing limit be 100 feet unless it is not feasible to construct a reasonably sized house on a lot in which case the clearing could be expanded to no closer than 50 feet from the ordinary high water mark.

5. Other Comments

Sierra Club urges Ecology to require several other improvements to the shoreline master program update:

- Areas with intact shoreline functions on lakes should be designated as High Quality Areas.
- Reject the redesignation of four miles of Lake Spokane from Natural to Rural-Conservancy. This is particularly of concern given the efforts to address water quality in Lake Spokane. Natural shorelines provide the best protection for existing high quality shorelines and help protect water quality. Sierra Club requests that you require the County to keep these important protections in place.
- Require that the administrative and enforcement provisions be made more specific. Ecology's regulations contain more detail on how to effectively

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administer and enforce the shoreline master program. Sierra Club recommends that Ecology require the county regulations to include more of these provisions. These changes will improve protection for shoreline resources through better administration and enforcement.

- Sierra Club supports including the Latah Creek Channel Meander Belt provisions. This is the area within which the creek will move as it deposits gravel and sediment in its channel and erodes its banks. Channel meander belts, sometimes referred to as channel migration zones, are hazardous places to build since the natural movement of the stream can damage buildings and roads. Under certain conditions the movement can be so rapid as to even put lives at risk. Meander belts are also important shoreline habitats. Information is available for meander belts along more Spokane County streams. All of these meander belts should be identified in the shoreline master program and protected.
- One of the important functions of a shoreline master program is to provide policies and regulations to effectively manage shoreline structures and water dependent uses. Sierra Club urges Ecology to require the County to include more specific policies and regulations to manage these structures and uses such as better requirements for joint use docks. Docks can have a significant impact on habitats and uses of the water such as boating and swimming. Joint use docks should be required more often in lieu of individual docks.

We look forward to Ecology's consideration of these comments and your careful review of the County's draft program. This program and Ecology's treatment of it is one of the first places where the community can determine both the County's and Ecology's commitment to the concepts laid out in the TMDL process, particularly commitments to address septic and nonpoint source loads to the Spokane River. Sierra Club appreciates your action and leadership on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'RIS', with a long horizontal flourish extending to the right.

Rick Eichstaedt
Attorney for Sierra Club

cc: Ron Lavigne, Washington Attorney General's Office
Jim Bellatty, Ecology
Brian Farmer, Ecology
Dave Peeler, Ecology
Drea Traeumer, Ecology
Brian Crossley, Spokane Tribe