

## **Friends of the White Salmon River. May 2023**

### **Our perspective on the Shoreline Management Act.**

#### **Why you should come to the June 20, 2023 hearing in front of the Planning Commission.**

#### **What is a Shoreline Master Program?**

An SMP is a regulatory and planning document developed by local jurisdictions under the Shoreline Management Act, passed in 1971 over the objections of various environmental groups.

#### **What does an SMP do?**

The SMP has jurisdiction over “shorelines of the state” in an area 200 feet landward of the ordinary high-water mark. It regulates shoreline **uses**. Despite spin to the contrary from various places, it does not protect shorelines. It is supposed to foster reasonable and appropriate **uses** of shorelines, giving priority to uses requiring a shoreline location, such as a marina.

#### **What are “reasonable and appropriate uses” of shorelines?**

It really doesn't matter, since the SMA designates some uses as preferred, and the first one of these is single-family residences, which are basically exempt from permitting. Other preferred uses are ports, shoreline recreational uses, water-dependent industrial uses, and so on. None of the preferred uses make mention of uses by aquatic species, or any other part of the natural systems around rivers and streams.

#### **How does an SMP work?**

Not very well. It's a complicated document that is part planning and part regulatory. Regulations are supposed to be enforced, one would think, but in this case the Washington State Department of Ecology says, on the front page of their website about the SMA, that government is constrained from taking private property without due process and just compensation, and that regulations can be takings and so the SMA addresses the takings issue by requiring flexibility in implementation.

<https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Shoreline-Management-Act-SMA>

#### **Is there any consideration that a river or stream might have ecological value?**

Not much. Regulations for buffers and other things are based on Shoreline Environmental Designations (SED), but the use of the word “environmental” is very misleading. The SED's are based on the jurisdiction's comp plan, zoning, and historic and current uses. They are supposed to also consider ecological functions of shorelines, but at least in Klickitat County the survey of ecological functions is disastrously lacking in science and data. Klickitat County's SED's are not consistent with the ones recommended by the State.

#### **None of this sounds good, right? Does it get worse?**

Yes, it does. The County's final draft has significantly reduced protections for the White Salmon River, citing the need not to impose hardships on developers and future landowners, and also accommodating the request of one single landowner to lower protections on his property.

Also, Klickitat County's policy on enforcement is that they are “complaint-driven” meaning that they do not enforce SMP regulations unless someone complains. So, we have filed complaints over the years, and most have not been acted on.

### **Is it this way all over the state?**

It is in jurisdictions with the same political philosophy. In other places, counties have made a more serious effort to maximize the environmental protections, weak though they are, allowed under the law. In addition, the latest iteration of the SMA includes a provision for no net loss of ecological functions, and some jurisdictions are trying to document existing functions and prevent loss. Klickitat County has no baseline of existing ecological functions, so the no net loss provision is meaningless. Also, the Act allows for mitigation by preserving a function somewhere else, rather than preventing it at a given site. If there is no enforcement or monitoring, as in Klickitat County, this just provides a way to slide through the requirements without any real compliance.

### **Why should I go to the hearing?**

It will be beneficial for the Planning Commissioners and the County Commissioners to know that people are watching and care. Also, once the County adopts the SMP, it goes to the Washington State Department of Ecology for another review process. It won't hurt for that process to start with a little ruckus here in the County. It is very likely that Ecology will just rubber stamp the County's SMP, and at the end of that process there's a possible appeal to the Shorelines Hearing Board, if warranted. Visible demonstration of public discontent with the County's plan is important throughout all these stages.

### **What would I do or say at the hearing?**

You would offer testimony that you think the County's plan is inadequate and that you want maximum protection for the rivers and streams. If you want to add more detail, it is very worthwhile to say that the County's SED's are not adequate. Some sound scientific testimony about the inadequacies of the County's analysis of shoreline functions would be extremely helpful. We will be putting out some info sheets and sample testimony on some of these points. But really, the most important thing is to be at the hearing to speak for the fish and the larvae and the flora and the whole river system.

### **Other sources of information**

<https://www.klickitatcounty.org/1237/Shorelines-Master-Program-Update>. The County has put extensive information on their website, to their credit. It can be hard to work through, since this is a complicate document and process. Again, we will be putting out some information sheets, including (we hope) a quick guide to the component parts.

<https://lwvwa.org/Shoreline-Study> The League of Women Voters was instrumental in getting the SMP passed in 1971, and from the looks of this study, they're sorry. This is a very good overview of the weaknesses and failures of the SMP.

<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Shoreline-Master-Plan-handbook>. In addition to the Ecology link above, you can look at their SMP Handbook. It is a very rose-colored glasses document, leading one to think that there are actually environmental protections in the Act. Read carefully and with a bit of skepticism.