



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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January 23, 2012

Libby Hudson, Division Manager, Long Range Planning  
Ryan Ericson, Shoreline Planner  
City of Bainbridge Island  
280 Madison Avenue North  
Bainbridge Island, WA 98110-1812

Re: 2011 Planning Commission Preliminary Draft SMP Section 8 Definitions and Section 11 Appendix B

Dear Libby and Ryan:

Ecology recognizes that the City's Planning Commission is presently working diligently on a draft SMP update. Sections 8.0 Definitions and 11 Appendix B Critical Area Ordinance have been fully reviewed by Ecology. As a follow-up to the January 19<sup>th</sup> comment letter, the comments below reflect Ecology's comments on Sections 8 Definitions and 11. Also, please find attached to this letter, as an example, an Ecology required changes table reflecting the changes identified below.

**8.0 DEFINITIONS**

Definitions are a required element of an SMP. Required definitions are found in WAC 173-26-020 and in RCW 90.58.020. The Bainbridge SMP is very complete in its definitions section. Definitions used in SMPs should include not only the Shoreline Management Act (RCW 90.580) and state guidelines (WAC 173-26); but also definitions for terms found in local municipal codes and supporting available technical and scientific documents that enable the implementation of the SMP. The Bainbridge definition section is very complete using definitions drawn from all of the above sources. Ecology only requires the following changes to Section 8 Definitions and Section 11 Appendix B:

**Section 8. Definitions. Hydric Soils (page 248)** Due to recent legislative changes, the last sentence of the definition of Hydric Soils should read: The presence of hydric soils shall be determined following the methods identified by the Department of Ecology within the Federal Delineation Manual and Regional Supplement or its successor.

**Section 8. Definitions. Substantial Development (page 265)** Any development of which the total cost or fair market value exceeds the amount specified in WAC 173-267-040(2)(a); five thousand dollars [or another amount established in RCW 90.58.030(3)(e) or its successor], or any development which materially interferes with the normal public use of the water or shorelines of the State, except as specifically exempted pursuant to RCW 90.58.030(3)(e) or its successor and WAC 173-27-14-040 or its successor.



## **11.0 APPENDIX B Critical Area Ordinance**

### **Section 11 A-6 Mitigation Plan Requirements**

The Guidelines, under WAC 173-26-201(2)(e), clearly state that compensatory mitigation shall only be allowed after mitigation sequencing is applied and higher priority means of mitigation (i.e. avoiding, minimizing or rectifying) are determined infeasible. For wetlands, the Guidelines; WAC 173-26-221(1)(I)(E)&(F) require mitigation standards to include wetland ratios and performance and monitoring standards for long-term protection of and management of compensatory mitigation sites, if compensatory mitigation is necessary.

Upon Ecology's review, the 2011 Draft SMP Section 11 Appendix B has been found to meet those wetland ratio and performance and monitoring standards for long-term protection of and management of compensatory mitigation sites, after application of mitigation sequencing planning.

**Section 11 Appendix B: A-1 Definitions (40) –Wetland (page 279).** The definition should be consistent with the following definition of wetland found in RCW 90.58.030(h) and RCW 36.70A.030(21): "Wetland or wetlands means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands." Also, the state delineation manual has been repealed so reference to that manual should be deleted. This is a required change.

**Section 11 Appendix B. A-1 Definitions (41) (page 279) Wetland Boundary -** The phrase of the last sentence which read "or Washington State Department of Ecology current methodology" should be changed to read "per WAC 173-22-035. This is a required change.

**Section 11. Appendix B. A-10 Wetlands ( C)(1)(a) (page 307)** refers to the recently repealed state delineation manual. This section should be changed to read "wetlands that meet the criteria per the Federal Delineation Manual and the Regional Supplement consistent with RCW 173-22-035. This is a required change.

**Section 11. Appendix B. A-10 Wetlands( C)(2)(a) (page 307-308)** and exempts wetlands less than 1,000 s.f. This is not consistent with the requirements of no net loss of ecological functions within the shoreline jurisdiction and is not consistent with state law. There is no threshold size for wetlands in state law. This language should be removed from the SMP update. (Please note that there is no definition within Appendix B for "riparian corridor" which in theory might preclude the exemption of many/most perhaps all of these small wetlands depending upon the definition of "riparian corridor.") This is a required change.

**Section 11. Appendix B. A-10 Wetlands (pages 308-311)** provide tables for buffers based on "Impact of Land Use". This is acceptable and meets the criteria per Ecology's guidance; however, what is missing in

these pages is the table that defines through multiple examples the definitions of "Low, Moderate and High" intensity land uses. Table 8C-3 as found in Appendix 8-C of Wetlands in Washington State, Volume 2, April 2005, Publication No. 05.06.008 should be included in conjunction with Tables 3-6 on pages 308-311. This is a required change.

Ecology looks forward to further reviewing the Planning Commission's Draft SMP Recommendations and providing formal comments. Ecology appreciates the effort put into this work. If you have any questions, please feel free to contact me at 425-649-4309 or at [Barbara.Nightingale@ecy.wa.gov](mailto:Barbara.Nightingale@ecy.wa.gov).

Sincerely,



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Attachment

Cc: Geoff Tallent, Ecology SEA Program Manager, NWRO  
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