



North Central Washington
AUDUBON SOCIETY

North Central Washington Audubon Society
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April 12, 2021

To: Chelan County Commissioners and Staff

Re: Chelan County Shoreline Management Periodic Review and Update

North Central Washington Audubon Society (NCWAS) is the local chapter of the National Audubon Society covering Chelan, Douglas, Okanogan and Ferry counties. NCWAS seeks to protect and enhance the environment, native fish and wildlife populations, and habitat connectivity in the counties our chapter covers. Protecting shorelines of lakes, rivers, and creeks is, therefore, of major concern to us. These water bodies are critical components of a healthy landscape, and provide critical habitat for numerous bird, mammal, and aquatic species in Chelan County.

NCWAS was active during the 2019 Shoreline Management Plan (SMP) Amendment process, submitting written comments to both Chelan County and the Washington Department of Ecology. We raised several concerns regarding the proposed changes to shoreline buffer widths, shoreline designations, and buffer width modification tools. Our concerns were not addressed, and the 2019 SMP Amendment was adopted. Several of the changes in the 2019 Amendment do not appear to comply with the intent of Washington Shoreline Management Act (RCW 90.58) or chapter 173-26 of the Washington Administrative Code (WAC). Therefore, although not being considered in the current update, we believe Chelan County needs to re-consider several changes adopted in the 2019 Amendment.

We detail our specific concerns in the following sections.

Shoreline Buffers:

The vegetated buffers provided by riparian habitat adjacent to water play a critical role in ecological processes that provide shoreline functions. These functions are wide ranging and benefit both wildlife and humans. As the *Shoreline Master Program Handbook*, by the Washington Department of Ecology, puts it “Buffers and setbacks with vegetation conservation support a main tenet of the Shoreline Management Act (SMA) -- protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life.”

Chelan County significantly reduced shoreline buffer widths in the 2019 SMP Amendment. The “natural environment” designation went from 200/250 feet (high/low intensity) to 150 feet; “conservancy environment” went from 200/250 feet to 100 feet; “rural” went from 100/150 to 100 feet), and “urban” went from 75/100 feet to 50 feet.

Chelan County failed to meet the requirements of RCW 90.58.100(1) and WAC 173-26-201(2)(a), which discuss the use and inclusion of scientific and technical information, in making these buffer width reductions as part of the 2019 SMP Amendment. The Chelan County

Commissioners adopted the 2019 SMP Amendment via Resolution 2017-120. The resolution, under Finding of Fact #28(c), states the *Berks and Associates Memo* dated November 8, 2017 cites “various scientific information” which supports the reduction of environmental designations and buffer widths. In fact, the Berks report is a summary of existing SMP guidance and a comparison of other Eastern Washington Counties’ buffer widths. Two guidance documents summarized in the Berks report that would be considered scientific or technical information are *Management Recommendations for Washington’s Priority Habitats* by Washington State Department of Fish and Wildlife (WDFW), and the *Shoreline Master Program Handbook*, by the Washington Department of Ecology. The following is excerpted from the Berks report: “WDFW prepared management recommendations for Riparian areas in 1997. Buffer widths for Shorelines of the State are about 250 feet [(76 meters)].” The 2011 *SMP Handbook* guidance is that “Natural” “Conservancy” and “Rural Residential” buffer widths should all be 150-200 feet. Clearly, the Chelan County 2019 SMP Amendment does not meet the above guidance, which is based on scientific and technical information. It is erroneous for Resolution 2017-120 to cite the *Berks and Associates Memo* as its inclusion of scientific and technical information, as adopted buffer widths do not meet the scientific and technical information provided in the memo. Therefore, the 2019 Amendment does not meet the requirements of RCW 90.58.100(1) and WAC 173-26-201(2)(a).

WDFW would likely agree that the 100-foot buffer widths of the “Conservancy” and “Rural” designations are inadequate. In public comments dated October 26th, 2017, submitted as part of the 2019 Amendment process, WDFW states, “The vast majority of species that are addressed in WDFW’s *Management Recommendations for Washington’s Priority Habitats – Riparian* (December 1997) have been found to utilize buffer areas at distances greater than 100 feet, many far greater than 100 feet.”

Shoreline Designations at Lake Wenatchee and Fish Lake:

Chelan County, as part of the 2019 Amendment, changed shoreline designations for shorelines surrounding Lake Wenatchee and Fish Lake. Many parts of these lakes are now designated as “Rural”, and a significant portion of Lake Wenatchee’s shoreline is designated as “Urban”. These changed designations reduce the buffer widths and encourage development.

Lake Wenatchee is designated as a Shoreline of Statewide Significance by RCW 90.58.030(2)(f)(iv). RCW 90.58.020 states the following regarding use preference for Shorelines of Statewide Significance:

“The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.”

The designation of large portions of Lake Wenatchee’s shoreline as “Urban”, which significantly reduces buffer protections and encourages increased development, clearly violates the legislature’s intent for Shorelines of Statewide Significance stated in RCW 90.58.020.

Chelan County completed the *Shoreline Inventory and Analysis Report* in 2009 as part of the 2019 Amendment process. The stated intent of the report is to establish “the framework for future steps in the SMP update process. Those future steps include development of the updated SMP, and preparation of the Cumulative Impacts Analysis and Restoration Plan.” In Section 5.2.2, the Lake Wenatchee sub-watershed, containing both Lake Wenatchee and Fish Lake, is identified as Category 1 sub-watershed. This categorization is taken from the *Wenatchee Watershed Management Plan* and associated *Detailed Implementation Plan* (2006), which assigned categories to all sub-watersheds throughout the Wenatchee basin. Section 5.3.2 of the *Shoreline Inventory and Analysis Report* defines a Category 1 watershed as follows: “Category 1 – These sub-watersheds represent systems that most closely resemble natural, fully functional aquatic ecosystems. In general, they support large, often continuous blocks of high-quality habitat and smaller drainages supporting multiple populations. Connectivity among smaller drainages and through the main sub-watershed stream corridor is good, and more than two species of federally listed fish are known to occur. Exotic species may be present but are not dominant. **Protecting functioning ecosystems in these sub-watersheds is a priority.**” In designating portions of the shorelines of both lakes as “Rural” and a significant portion of the Lake Wenatchee shoreline as “Urban”, the county is slashing protections of these functioning ecosystems and ignoring its own *Shoreline Inventory and Analysis Report*, on which the updated SMP is supposed to be based on.

Fish Lake and Lake Wenatchee contain priority habitats and several priority species as defined by WDFW. The bog at the west end of Fish Lake is designated “Wetland of High Conservation Value” by the Washington Natural Heritage Program, and a “Resource Natural Area” by the U.S. Forest Service due to its unique ecosystem qualities and functions. Large portions of both lakes’ shorelines are publicly owned and managed for recreation and conservation uses. The 2019 Amendment’s designations of “rural” and “urban” shorelines for portions of these lakes are not consistent with the observable conservation value of the lakes or the manner in which public portions of the lakes are managed.

WDFW agrees with this assessment. In public comments dated October 26th, 2017, submitted as part of the 2019 Amendment process, WDFW states, “WDFW has concerns with large changes from where Natural designations are being proposed for changes to Rural or Urban designations in the undeveloped areas within the county along the shorelines. WDFW would be glad to explain to anyone who disagrees with the above comment why they are important for fish and wildlife consistent with the best scientific and technical information. WDFW suggest this SMP be consistent with the State designation requirement in WAC 173-26-211.”

No Net Loss

WAC 173-26-186(b) states that, “Local master programs shall include policies and regulations designed to achieve no net loss of [shoreline] ecological functions.”

The following is stated in Resolution 2017-120 under Conclusions #3, “the Cumulative Impacts Analysis found that the draft Shoreline Management Program will result in no net loss of ecological functions to the shorelines of Chelan County.” However, the Cumulative Impacts Analysis (CIA), dated July 2011, does not reflect the final SMP Amendment adopted in 2019. Buffer widths analyzed in the CIA are as follows: Natural/Conservancy Environments 250 feet (high intensity) / 200 (low intensity), Rural Environment 150 feet / 100 feet, and Urban Environment 100 feet / 75 feet. These buffers are substantially more protective than the buffers eventually adopted. Shoreline designations have changed between the CIA and the 2019 Amendment as well. The CIA does not identify any portion of the Lake Wenatchee shoreline as “urban”, but as discussed above, significant portions of the lake’s shoreline are classified as “urban” in the 2019 Amendment. The above inconsistencies nullify any claim by the CIA that the

SMP results in no net loss of ecological functions. We conclude that the Chelan County 2019 SMP Amendment did not meet the requirements of WAC 173-26-201(1)(c)(iv): “Master program guidelines analytical requirements and substantive standards have been satisfied, where they reasonably apply to the amendment. All master program amendments must demonstrate that the amendment will not result in a net loss of shoreline ecological functions.”

No justification or clear methodology for demonstrating how Chelan County will meet the no net loss requirement of WAC 173-26-186(b) is given in the SMP document itself (the CIA is oddly absent from the SMP, the Chelan County SMP webpage, or the internet as a whole). On page 69 of 73, in Section 6, *Implementation Targets and Monitoring Methods* of the SMP Appendix C, each local jurisdiction’s monitoring and reporting obligations are briefly described. City and county planning staff are required to produce reports tracking SMP implementation, such as land use, development, and exemptions. The SMP states that these reports, “will be assembled to coincide with Comprehensive Plan updates and will be used, in light of the goals and objectives of the Shoreline Master Program, to determine whether implementation of the SMPs is meeting the basic goal of no net loss of ecological functions relative to the baseline condition established in the *Analysis Report* (TWC and J&S 2009)”. Chelan County has not produced, or has failed to make public, any such reports as part of the current SMP update. The current update comes twelve years after the initial baseline assessment, and no information has been made available as to where the county currently stands with regards to the no net loss requirement.

Conclusions

We encourage the Chelan County to take the following actions in order to meet the intent of RCW 90.58 and WAC 173-26:

1. Amend the SMP to include shoreline buffer widths identified in the *Cumulative Impacts Analysis*, on which the claim of no net loss of shoreline ecological functions has been made.
2. Amend the SMP shoreline designations surrounding Lake Wenatchee to meet the intent of RCW 90.58.020 and to be consistent with documented conservation value of the lake and the manner in which public portions of the lake are managed.
3. Amend the SMP shoreline designations of Fish Lake to be consistent with documented conservation value of the lake and the manner in which public portions of the lake are managed.
4. Make available for public review a report documenting the county’s current status with regards to meeting the basic goal of no net loss of ecological functions relative to the baseline condition established in the *Shoreline Inventory and Analysis Report*.

Sincerely,



Arthur Campbell
President