

*Final Evaluation Findings*

*Washington Coastal Management Program  
September 2000 - September 2004*

*Padilla Bay National Estuarine Research Reserve  
September 1999 - September 2004*



**Office of Ocean and Coastal Resource Management  
National Ocean Service  
National Oceanic and Atmospheric Administration  
U.S. Department of Commerce**



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## I. EXECUTIVE SUMMARY

### A. OVERVIEW

Sections 312 and 315 of the Coastal Zone Management Act (CZMA) of 1972, as amended, require the National Oceanic and Atmospheric Administration (NOAA) to conduct periodic performance evaluations of federally approved Coastal Management Programs and National Estuarine Research Reserves (NERRs). This review examined the operation and management of the Washington Coastal Zone Management Program (WCZMP) during the period of September 2000 through September 2004 and the Padilla Bay National Estuarine Research Reserve (PBNERR) during the period of September 1999 through September 2004. WCZMP and PBNERR are administered by the Shorelands and Environmental Assistance (SEA) Program in Washington's Department of Ecology (Ecology).

This evaluation concludes that Ecology is successfully implementing and enforcing its federally approved Coastal Management and National Estuarine Research Reserve Programs. This document contains eight Program Suggestions that describe actions that NOAA believes Ecology should take to improve the programs but are not currently mandatory. Program Suggestions that are reiterated in consecutive evaluations due to continuing problems may be elevated to Necessary Actions that address programmatic requirements and *must* be implemented in the timeframes indicated. This document contains two Necessary Actions. If no dates are indicated, Ecology is expected to address the recommendations by the time of the next §312 and §315 program review.

### B. SUMMARY OF ACCOMPLISHMENTS

#### *Washington Coastal Zone Management Program and Padilla Bay National Estuarine Research Reserve*

1. The overall level of cooperation between WCZMP and PBNERR has contributed greatly to the success of both programs.
2. Cooperation between PBNERR and WCZMP in developing and delivering a Coastal Training Program has led to the creation of a strong program that provides mutual benefits to both the coastal program and the Reserve.
3. PBNERR and WCZMP have successfully worked together to integrate themselves in local communities and provide relevant products and services to local decision-makers and community members.

#### *Washington Coastal Zone Management Program*

1. Completion of the challenging effort to finish the Shoreline Master Program (SMP) Guidelines and obtain state funding for the local governments to update their SMPs is a major achievement. Ecology is highly commended for its hard work in developing technical assistance reports on the Guidelines, providing necessary technical assistance to local governments, and establishing the Guideline homepage.

2. WCZMP has successfully developed relevant and accessible technical assistance documents to provide local permittees with science-based tools for wetlands protection.
3. During the review period, WCZMP has made great strides toward improving permit predictability and efficiency through: implementation of the “90/90/10” pilot program for 401 Water Quality Certifications; launching an internal permit tracking database; and consolidating federal permitting and federal consistency into one section.
4. WCZMP’s continued support for the Coastal Planners Group has contributed to its success in providing technical assistance and improving coordination and communication amongst local governments.

*Padilla Bay National Estuarine Research Reserve*

1. The Reserve and the Padilla Bay Foundation have demonstrated their great creativity and tenacity to enable construction of new laboratory facilities, meeting rooms, and education wing at the Reserve. When completed, these facilities will further enhance education and research capabilities at the Reserve.
2. During the review period, PBNERR launched its highly successful Coastal Training Program. Based on participant feedback, the program is clearly meeting a well-defined need, and the program has become a model within the National Estuarine Research Reserve System.
3. PBNERR’s research and monitoring program continues to maintain high quality data, recruit researchers, and conduct research relevant to local decisionmakers.
4. PBNERR’s science-based approach strengthens its stewardship programs.
5. PBNERR plays a positive role in its local community through flood management research, support for the Northwest Straits Commission, and a variety of demonstration projects.

**C. SUMMARY OF RECOMMENDATIONS**

*Washington Coastal Zone Management Program and Padilla Bay National Estuarine Research Reserve*

1. WCZMP and PBNERR may wish to explore opportunities for greater consultation between the two programs when developing research agendas, permit guidance documents, and other research-related materials.
2. WCZMP and PBNERR may wish to work together to disseminate the results of PBNERR’s nonpoint source pollution demonstration projects to interested local jurisdictions and other agencies.

*Washington Coastal Zone Management Program*

1. Ecology should work with OCRM to develop a streamlined process to expedite the ESA review of SMPs submitted to OCRM by Ecology for incorporation into the WCZMP. Ecology should also work with OCRM to assist local jurisdictions in considering the needs of species listed under the ESA in their local planning processes.

2. WCZMP may wish to consider drawing upon information collected by PBNERR and other programs when establishing baselines for local permits and creating best available science documents.
3. OCRM is aware that programs must set priorities to accommodate shrinking budgets. Enforcement remains, however, an integral component of coastal management. OCRM encourages WCZMP to continue to work to identify state funding for enforcement positions and/or to develop a strategy to identify projects that need to be monitored.
4. OCRM recognizes that incorporating enforceable policies not under the purview of the state's approved coastal program would require more coordination on permits and consistency review. WDNR expressed interest in incorporating Washington's aquatic land-related laws, as well as the Seashore Conservation Act (implemented by the Parks and Recreation Commission) and the Hydraulics Code (implemented by WDFW), if the two implementing agencies are interested in pursuing such a relationship. WCZMP may therefore wish to explore the possibility of incorporating related coastal legislation into its approved coastal program.
5. OCRM recognizes the important role that tribes may play in coastal management in Washington. Where appropriate, partnerships with interested tribes may be explored.

*Padilla Bay National Estuarine Research Reserve*

1. **Necessary Action:** Reserve staff must complete the process of revising the Reserve's Management plan. Reserve staff must work with OCRM's Estuarine Reserves Division to develop a mutually agreeable timeline to finalize the revised Management Plan. This timeline must be developed within three months of issuance of these final findings. The Management Plan must be completed within the timeline.
2. **Necessary Action:** Reserve staff must complete the Reserve's Site Profile. Reserve staff must work with OCRM's Estuarine Reserves Division to develop a mutually agreeable timeline to complete the Site Profile. This timeline must be developed within three months of issuance of these final findings. The Site Profile must be completed within the timeline.
3. Once the new facilities have been completed, the education program may wish to consider additional recruiting strategies to ensure that traditionally underserved audiences are being reached.
4. PBNERR may wish to consider ways to increase interactions between its research and education programs to allow the education program to integrate the Reserve's outstanding research capabilities into its curriculum.

## **II. PROGRAM REVIEW PROCEDURES**

### **A. OVERVIEW**

NOAA began its review of WCZMP and PBNERR in June 2004. The §312 evaluation process involves four distinct components:

- An initial document review and identification of specific issues of particular concern;
- A site visit to Washington including interviews and a public meeting;
- Development of draft evaluation findings; and
- Preparation of the final evaluation findings, partly based on comments from the state regarding the content and timetables of recommendations specified in the draft document.

### **B. DOCUMENT REVIEW AND ISSUE DEVELOPMENT**

The evaluation team reviewed a wide variety of documents prior to the site visit, including: (1) financial assistance awards and work products; (2) semi-annual performance reports; (3) previous §312 evaluation findings; (4) the Northwest Straits Marine Conservation Initiative Five-Year Evaluation Report; and (5) relevant publications on natural resource management issues in Washington.

Based on this review and on discussions with the Office of Ocean and Coastal Resource Management's (OCRM) Coastal Programs Division and Estuarine Reserves Division, the evaluation team identified the following priority issues:

- The manner in which WCZMP and PBNERR coordinate with one another and meet individual program goals, as well as how they coordinate with other federal, state, and local agencies and programs;
- WCZMP's implementation of the newly adopted Shoreline Master Program Guidelines;
- Construction and acquisition at PBNERR; and
- Management plan and site profile development at PBNERR.

### **C. SITE VISIT TO WASHINGTON**

The scheduled evaluation was coordinated with WCZMP and PBNERR. In addition, a notice of NOAA's "Intent to Evaluate" was published in the *Federal Register* on July 16, 2004.

The site visit to Washington was conducted September 27—October 1, 2004. Mr. Ralph Cantral, Evaluation Team Leader, OCRM National Policy and Evaluation Division Chief; Ms. Jennifer Winston, Evaluator, OCRM National Policy and Evaluation Division; Ms. Masi Okasaki, WCZMP Program Specialist, OCRM Coastal Programs Division; Ms. Nina Garfield, PBNERR Program Specialist, OCRM Estuarine Reserves Division; and Ms. Kimberly Cole, Environmental Scientist, Delaware Coastal Programs, formed the evaluation team.

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During the site visit, the evaluation team interviewed WCZMP and PBNERR staff; senior Ecology managers and other state officials; representatives from the Northwest Indian Fisheries Commission and the Squaxin Island Tribe; industry representatives; legislative staff for Senator Murray, Senator Cantwell, and Congressman Larsen; Whatcom and Skagit County Commissioners; and private citizens. Appendix B lists people and institutions contacted during this review.

As required by the CZMA, NOAA held an advertised public meeting on September 29, 2004 at 7:00 pm in the Evergreen Room at Washington State University Extension, 600 – 128<sup>th</sup> St. SE, Everett, WA 98208 to solicit public comments. The public meeting was advertised in the Everett Herald on September 13, 2004 and on the Shorelands and Environmental Assistance Program website. No members of the public attended this meeting. Appendix C lists NOAA's response to written comments submitted by the public.

The crucial support of WCZMP and PBNERR staff with the logistics and planning of the site visit is gratefully acknowledged.



### **III. WASHINGTON COASTAL MANAGEMENT PROGRAM AND PADILLA BAY NATIONAL ESTUARINE RESEARCH RESERVE**

#### **A. OVERVIEW**

The CZMA requires NOAA to conduct periodic evaluations of all federally approved CMPs and NERRs. Historically, NOAA has conducted evaluations of individual programs. In states with both a CMP and a NERR, evaluations have given some consideration to the programs' interaction with one another, but it has not been an area of particular emphasis.

During the last two years, NOAA has moved toward conducting joint evaluations of CMPs and NERRs where appropriate and feasible. The purpose of a joint evaluation is to gain a more integrated assessment of a state's coastal management efforts, recognizing that sound coastal management depends upon the successful implementation of both programs. Accordingly, a joint evaluation document contains not only individual program findings, but also accomplishments and recommendations that apply to both the CMP and the NERR.

#### **B. WASHINGTON SHORELAND AND ENVIRONMENTAL ASSISTANCE PROGRAM DESCRIPTION**

As described earlier in these findings, both WCZMP and PBNERR are administered by the Shorelands and Environmental Assistance Program (SEA) in Washington's Department of Ecology (Ecology). The mission of the SEA Program is to work in partnership with communities to support healthy watersheds and promote statewide environmental interests.

#### **C. ACCOMPLISHMENTS, REVIEW FINDINGS, AND RECOMMENDATIONS**

##### *Communication and cooperation*

Communication and cooperation between WCZMP and PBNERR is simplified and encouraged by the fact that the two programs are administered by Ecology's SEA Program. Managers and staff of both programs seem to feel comfortable consulting and coordinating with one another. For example, the programs collaborate on Coastal Training Programs, the Coastal Planners Group, and AmeriCorps volunteers placement.

**Accomplishment:** The overall level of cooperation between WCZMP and PBNERR has contributed greatly to the success of both programs.

##### *Using Reserve research to inform Coastal Program permitting*

WCZMP relies upon best-available science to create guidance documents for permittees and planners. PBNERR is conducting cutting-edge and locally-relevant research,

particularly on sediments and juvenile salmon in eelgrass habitat. WCZMP may wish to draw more upon this research or upon researchers' expertise in developing future guidance documents or when writing permit conditions. Similarly, PBNERR may wish to consult WCZMP in developing future research agendas to ensure that its research continues to be relevant for local planners and permittees.

**Program Suggestion:** WCZMP and PBNERR may wish to explore opportunities for greater consultation between the two programs when developing the research agenda, permit guidance documents, and other research-related materials.

### *Coordinating Reserve and Coastal Program nonpoint efforts*

As noted in further detail below, PBNERR is conducting projects to involve the local community at its demonstration farm and at No Name Slough to study approaches to minimize nonpoint source pollution in Padilla Bay. The conclusions drawn by these studies may be of use to other agencies and to local jurisdictions developing or implementing approved Coastal Nonpoint Source Pollution Programs.

**Program Suggestion:** WCZMP and PBNERR may wish to work together to disseminate the results of PBNERR's efforts to reduce nonpoint source pollution in Padilla Bay and No Name Slough to interested local jurisdictions and other agencies.

### *Coastal Training Program*

As discussed in further detail below, PBNERR's Coastal Training Program is a major success and has become a model for Coastal Training Programs throughout the National Estuarine Research Reserve System. By working with WCZMP, the Coastal Training Program has successfully targeted coastal planners who are working with WCZMP to update their jurisdictions' Shoreline Master Programs.

**Accomplishment:** Cooperation between PBNERR and WCZMP in developing and delivering a Coastal Training Program has led to the creation of a strong program that provides mutual benefits to both the coastal program and the Reserve.

### *Integration of Coastal Program, Reserve, and the surrounding community*

In meetings with Skagit County Commissioners, Whatcom County Commissioners, the Northwest Straits Commission, and U.S. Congressional staff, it was clear that PBNERR and WCZMP cooperate effectively with local jurisdictions to provide locally relevant trainings, technical assistance, and demonstration projects.

**Accomplishment:** PBNERR and WCZMP have successfully worked together to integrate themselves in local communities and provide relevant products and services to local decision-makers and community members.

## **IV. THE WASHINGTON COASTAL ZONE MANAGEMENT PROGRAM**

### **A. COASTAL ZONE MANAGEMENT PROGRAM DESCRIPTION**

In June 1976, Washington received NOAA approval of its coastal management program. Washington was the first state to receive such approval. The Washington Coastal Zone Management Program (WCZMP) is based primarily on the state's Shoreline Management Act (SMA) and the State Environmental Policy Act (SEPA).

The Department of Ecology (Ecology) has been designated as the lead coastal management agency in the State. The Shorelands and Environmental Assistance Program is responsible for administering the WCZMP.

Washington's coastal zone boundary is composed of the 15 coastal counties that front saltwater including Wahkiakum. The Shoreline Management Act applies to the shorelines of the State which includes all marine waters, all lakes twenty acres and larger, all streams and rivers with a mean annual flow of twenty cubic feet per second or more, land areas within 2000 feet of these waters, and associated wetlands.

### **B. ACCOMPLISHMENTS, REVIEW FINDINGS, AND RECOMMENDATIONS**

#### ***Shoreline Master Program Guidelines***

The Shoreline Management Act was adopted in 1972 "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." Ecology regulates local governments who are required by the SMA to implement local Shoreline Master Programs (SMPs) which regulate coastal development. Ecology provides technical assistance and reviews local programs and permit decisions.

During the review period, WCZMP worked diligently to update the State's SMP guidelines. The second revised guideline rule was appealed by a coalition of business groups and local governments. In August 2001, in a split decision, the Washington State Shoreline Hearings Board invalidated the guideline Rules. At the Governor's request, Ecology entered into negotiations with litigating parties to address their concerns. After a final series of public meetings, Ecology successfully adopted new SMP guidelines in December 2003. The guidelines became effective in January 2004.

As part of this process, the State Legislature appropriated \$2 million for the current biennium and \$4 million for each biennium thereafter for the next ten years to fund development of SMPs. The legislation also established a new schedule for updating SMPs that will ensure that all plans are consistent with the new guidelines by 2014. OCRM recognizes the dedication and vision that was required to reach an agreement that was acceptable to industry, local government, and the State Legislature. OCRM congratulates Ecology and its partners for successfully adopting these guidelines and securing funding for SMP updates.

Ecology built upon this success by continuing to help local governments to interpret the new Guidelines and update their SMPs. Technical assistance has included Ecology's 2004 draft report titled *What Does No Net Loss Mean in the 2003 SMA Guidelines?* Additionally, Ecology has developed a guidelines homepage at <http://www.ecy.wa.gov/programs/sea/SMA/guidelines/index.html>. This homepage contains the technical assistance developed for the new Guidance. Ecology has also established an internal shoreline management advisory group that meets monthly to ensure that headquarters and regional staff are providing the consistent guidance to local governments. This ongoing provision of technical assistance has helped build capacity at the local level and improve Ecology's relationships with local jurisdictions.

The State Legislature has also helped clarify the guidelines by adopting legislation that integrates the Shoreline Management Act with the Growth Management Act. Under the legislation, once a community updates its shoreline master plan, critical areas will be governed by the Shoreline Management Act, rather than the Growth Management Act.

**Accomplishment:** Completion of the challenging effort to finish the Shoreline Master Program (SMP) Guidelines and obtain state funding for the local governments to update their SMPs is a major achievement. Ecology is highly commended for its hard work in developing technical assistance reports on the Guidelines, providing necessary technical assistance to local governments, and establishing the Guideline homepage.

Over the next decade, 127 cities and counties located within the WA coastal zone (over 240 counties and cities statewide) will be required to update its SMP to be consistent with the new Guidelines. All the updated SMPs requires Ecology review and approval. In addition, Ecology will submit these 127 SMPs to OCRM for approval and incorporation into the Federally approved WCZMP. In considering whether to approve the incorporation of these SMPs into the WCZMP, OCRM must comply with the federal Endangered Species Act (ESA). Due to the sheer number of SMPs, Ecology and OCRM should develop a streamlined process to expedite the review process. With Ecology's and OCRM's assistance, the local shoreline program can also assist in expediting OCRM's approval by providing the information necessary to evaluate compliance of their updated SMPs by taking into consideration the habitats and species protected under ESA. Compliance with the SMA and adherence to the Guidelines does not necessarily ensure compliance with ESA.

**Program Suggestion:** Ecology should work with OCRM to develop a streamlined process to expedite the ESA review of SMPs submitted to OCRM by Ecology for incorporation into the WCZMP. Ecology should also work with OCRM to assist local jurisdictions in considering the needs of species listed under the ESA in their local planning processes.

### ***Permitting***

To assist local planners and permitters issuing wetlands permits, in cooperation with Washington Department of Fish and Wildlife, Ecology recently published *Wetlands in Washington State Volume 2: Guidance for Protecting and Managing Wetlands* and the revised *Washington State Wetland Rating System for Western Washington*. These documents were developed by working with local governments to answer their questions and to compile the best available science on wetlands in Washington. By translating scientific jargon into planning terminology, Ecology has provided local planners and permitters with useful tools to use in determining which areas are most sensitive to development and which tools are available for their protection. Both documents can be found online.

**Accomplishment:** WCZMP has successfully developed relevant and accessible technical assistance documents to provide local permitters with science-based tools for wetlands protection.

During the review period, Ecology has also made great strides in streamlining the 401 Water Quality Certification Process. In response to recommendations by the Governor's Competitiveness Council about how to make Washington "a place where businesses want to locate or expand,"<sup>1</sup> Ecology piloted a project in the Northwest Regional Office (NWRO) to focus on timely permit decisions. The pilot set a goal of issuing 90% of individual 401 Water Quality Certifications within 90 days or less of receiving a completed application, and sending a letter to applicants indicating whether their application is complete within 10 days of receiving a Joint Aquatic Resource Permits Application.

The "90/90/10" pilot was successful in that:

- ! Applicants learned requirements and concerns right away;
- ! Review time and predictability was greatly improved;
- ! Applicants liked an expedited process;
- ! The process encouraged proactive action by staff; and
- ! It led to some improved communication with the US Army Corps of Engineers.

Ecology would like to expand the program, but continues to face staffing challenges to full implementation of the program.

WCZMP further streamlined its permitting process with the January 2004 launch of its internal online permit database. Each project manager inputs information into the database. The database then sends reminders to project managers about permit conditions. WCZMP has provided database training to staff at regional offices.

WCZMP has also recently combined federal permitting and federal consistency in one section. Federal permits handled in this newly combined section include Clean Water Act Section 401, and Section 404 and US Army Corps of Engineers permits. OCRM

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<sup>1</sup> <http://www.governor.wa.gov/wcc/wcc.htm>

believes that this will lead to increased efficiency and therefore views this consolidation as a success.

**Accomplishment:** During the review period, WCZMP has made great strides toward improving permit predictability and efficiency through: implementation of the “90/90/10” pilot program for 401 Water Quality Certifications; launching an internal permit tracking database; and consolidating federal permitting and federal consistency into one section.

### ***Enforcement***

WCZMP has suffered significant state funding cuts and experienced level Federal funding during the review period. Level funding combined with a cost of living increase for employees has forced the program to make choices. Faced with limited resources, WCZMP has chosen to focus on planning rather than enforcement. Although Ecology retains the right to appeal permits in certain circumstances, the agency has made it a statewide policy not to review substantial development permits. Regional enforcement staff has been redirected toward planning, and WCZMP relies on local governments to do enforcement. The Northwest Regional Office now reports that the number of permits has decreased in recent years. This may be anecdotal evidence that local jurisdictions are not enforcing permits as actively and effectively as the regional offices.

**Program Suggestion:** OCRM is aware that programs must set priorities to accommodate shrinking budgets. Enforcement remains, however, an integral component of coastal management. OCRM encourages WCZMP to continue to work to identify state funding for enforcement positions and/or to develop a strategy to identify projects that need to be monitored.

### ***Coastal Nonpoint Source Pollution Program***

Washington’s nonpoint program is operated by Ecology’s Water Quality Program. The state’s *Water Quality Management Plan to Control Nonpoint Source Pollution* received conditional approval and was published. A revised plan is scheduled to be completed by December 31, 2004. While the state retains the right to enforce water quality violations, the nonpoint program relies on local jurisdictions to implement the program and on other agencies to assist with education and outreach. The nonpoint program uses its EPA §319 funding to provide mini-grants to other agencies. Local jurisdictions with approved programs are prioritized to receive implementation funds. Ecology continues to work with OCRM to achieve full approval of its nonpoint program.

### ***State Agencies***

As a networked coastal program, WCZMP relies on agencies outside of Ecology to assist with drafting and implementing Shoreline Management Act guidelines; conducting coastal training programs; developing model codes for watershed planning; and

implementing restoration projects. Representatives from the Washington Department of Natural Resources (WDNR), the Washington Department of Fish and Wildlife (WDFW), the Governor's Puget Sound Action Team, and Washington State Community Trade and Economic Development (CTED) generally felt positive about their partnerships with WCZMP. Nevertheless, they expressed concern that other laws should be included amongst the coastal program's enforceable policies. WDNR expressed interest in including Washington's aquatic land-related laws to the coastal program's enforceable policies. WDNR also recommended that the state consider incorporating the Seashore Conservation Act (implemented by the Parks and Recreation Commission) and the Hydraulics Code (implemented by WDFW), if the two implementing agencies are interested in pursuing such a relationship.

**Program Suggestion:** OCRM recognizes that incorporating enforceable policies not under the purview of the state's approved coastal program would require more coordination on permits and consistency review. WDNR expressed interest in incorporating Washington's aquatic land-related laws, as well as the Seashore Conservation Act (implemented by the Parks and Recreation Commission) and the Hydraulics Code (implemented by WDFW), if the two implementing agencies are interested in pursuing such a relationship. WCZMP may therefore wish to explore the possibility of incorporating related coastal legislation into its approved coastal program.

### *Shoreline/Coastal Planners Group*

The Shoreline/Coastal Planners Group (CPG) meetings are co-sponsored by Washington Sea Grant Program, University of Washington, the Shorelands & Environmental Assistance Program, Washington Department of Ecology, and The Cascadia Chapter of The Coastal Society. In addition the Padilla Bay National Estuarine Research Reserve has provided funding support through its Coastal Decision-maker grants program.

These meetings of local government shoreline administrators and planners are held quarterly, with the meeting locations rotated throughout Puget Sound and occasionally to southwest Washington to encourage widespread attendance. The goal is to foster communication between local governments to [1] provide an informal professional development 'forum' or 'symposium' for discussion of policy concerns, new technologies, emerging issues, and new or amended legislation or regulations and [2] to better enable implementation of the state's Shoreline Management Act, Growth Management Act, and other similar programs.

Generally, some 40 to 80 people attend these forums. Meeting topics have included: marine shoreline habitats; riverbank and floodplain restoration; shoreline buffers for resource protection; GIS and database technologies for local government; application of scientific and technical information to policy-making; environmental effects of docks, piers, and other over-water structures; and alternatives to armoring for marine shoreline erosion control. The CPG website is <http://staff.washington.edu/goodrf/cpg/index.html>

The shoreline administrators and planners interviewed during the evaluation site visit had very positive things to say about the CPG meetings.

**Accomplishment:** WCZMP's continued support for the Coastal Planners Group has contributed to its success in providing technical assistance and improving coordination and communication amongst local governments.

### *Tribal participation*

The Northwest Indian Fisheries Commission expressed concern that the new SMA Guidelines may not be consistent with the provisions of the Endangered Species Act. When the Guidelines were initially developed, Ecology provided two options for communities developing Shoreline Master Plans. "Path A" allowed jurisdictions more latitude in meeting the requirements of the SMA. "Path B," developed in conjunction with NOAA Fisheries and US Fish and Wildlife contained specific measures to protect shoreline functions. Jurisdictions that opted to follow the requirements of Path B were protected from federal penalties and citizen lawsuits under the Endangered Species Act (ESA). Path B was subsequently challenged by a coalition of business groups and local governments, and the Shoreline Hearings Board invalidated Path B, saying that Ecology did not have the jurisdiction to allow ESA exceptions. The Northwest Indian Fisheries Commission worries that without Path B, local Shoreline Master Plans will not meet their obligations under the ESA. In order to receive federal funding under the CZMA, local Shoreline Master Plans will need to be consistent with the provisions of the Endangered Species Act. OCRM is currently working with NOAA fisheries to resolve this issue by developing a mechanism to ensure that local jurisdictions receiving federal funding are meeting the requirements of the ESA.

A representative from the Squaxin Island Tribe also expressed concern that tribes are not eligible to become coastal management programs under the CZMA. He also pointed out that tribal lands make up a significant portion of the Washington coastline and play a vital coastal management role in Washington. In the past, Ecology used CZM grants to fund tribal projects. Neither Ecology nor the tribes felt comfortable with this arrangement, however, because Ecology did not have jurisdiction over CZM funding on tribal lands and because the tribes did not want to feel subordinate to Washington State. While OCRM recognizes the value of the contribution that tribes could make if they were part of the National Coastal Management Program, it would not be possible to recognize a tribe as federally approved coastal management program without revision and reauthorization of the CZMA.

**Program Suggestion:** OCRM recognizes the important role that tribes may play in coastal management in Washington. Where appropriate, partnerships with interested tribes may be explored.



## **V. THE PADILLA BAY NATIONAL ESTUARINE RESEARCH RESERVE**

### **A. RESERVE SITE DESCRIPTION**

The Padilla Bay National Estuarine Research Reserve (PBNERR), designated in 1980, is located near Anacortes in Skagit County, Washington. The total area within the proposed boundary was approximately 13,535 acres including tidelands and uplands. This includes Hat Island, which was added to the overall Reserve area in 1998. Padilla Bay contains one of the largest concentrations of eelgrass on the Pacific Coast along with unique populations of invertebrates, fish, birds, and marine mammals. The area is surrounded by extensive agricultural lands with two major oil refineries located at adjacent March Point and an inland marine transportation system used extensively for commerce and recreation by major urban centers in the area.

### **B. RESERVE ADMINISTRATION**

The PNBERR was established to provide a representative area for long term research, monitoring, and education and interpretation in Washington. The Reserve is administered by Ecology's Shorelands and Environmental Assistance (SEA) Program. Because SEA is also the State's designated coastal management office, there is direct coordination and interaction between the Reserve and the State's coastal zone management program. The management of the Reserve is guided by a management plan developed in 1984 and a draft revised management plan, currently under review. Both plans provide direction for administration, land acquisition, resource management, research programs, and education/interpretive programs.

### **C. ACCOMPLISHMENTS, REVIEW FINDINGS, AND RECOMMENDATIONS**

#### ***Operations and management:***

NERRS regulations require that all reserves update their management plans at least once every five years. Management plans are used to guide reserve operations and management, and provide the basic framework for all reserve activities, including education, outreach, research, and monitoring. PBNERR still operates under its initial management plan which was prepared and approved in 1984. In FY 95, OCRM made management plan updates a priority and made funds available to assist with this effort. PBNERR applied for and received this funding, but has not yet finished the Management plan update.

The 1999 evaluation findings contained a Necessary Action requiring revision of the Reserve's Management Plan. While the Reserve has made significant progress toward meeting this goal, the revised Management Plan is still not complete. OCRM is aware that the Management Plan has been delayed by extensive construction taking place at the Reserve. Nevertheless, a revised Management Plan is required by NERRS regulations, and the Reserve needs to move forward to complete this requirement.

**Necessary Action:** Reserve staff must complete the process of revising the Reserve's Management plan. Reserve staff must work with OCRM's Estuarine Reserves Division to develop a mutually agreeable timeline to finalize the revised Management Plan. This timeline must be developed within three months of issuance of these final findings. The Management Plan must be completed within the timeline.

During the review period, the Reserve has undergone extensive construction and acquisition. Construction of new laboratory facilities, meeting rooms, and an education wing is scheduled to be completed soon. The laboratory facilities will support expanding research, monitoring, and stewardship capacity at the Reserve. The new meeting room and education wing will enable the Reserve to more comfortably meet the needs of volunteers and students. In constructing these facilities the Reserve has taken a number of steps to review and integrate "green" products consistent with the State's sustainable design program. The construction project has required a great deal of persistence both by Reserve staff, who have planned the project and adjusted to construction inconveniences, and by the Padilla Bay Foundation, whose capital campaign has helped raise the necessary match funding for the project.

**Accomplishment:** The Reserve and the Padilla Bay Foundation have demonstrated their great creativity and tenacity to enable construction of new laboratory facilities, meeting rooms, and education wing at the Reserve. When completed, these facilities will further enhance education and research capabilities at the Reserve.

***Coastal training program:***

In creating its Coastal Training Program, PBNERR made the conscious decision to provide in-depth trainings geared toward one specific audience instead of offering more diffuse trainings to a broader audience. To identify this target audience, the program coordinator conducted a market analysis that revealed that shoreline planners were not getting the level of training they needed. The analysis also identified a list of topics of interest to this audience.

Based on this initial needs assessment, the program coordinator developed a curriculum for workshops that can be repeated on a regular basis to address the high turnover of planning staff. Registration is available on a very well-organized and user friendly website that allows participants to pre-register for classes online and provides links to other related trainings. The program also has a high rate of return on its online evaluation tool, which allows the program to continually improve its curriculum and adjust to changing trainee needs.

By all accounts, this program has been extremely successful. Most workshops fill to capacity, and representatives from various state agencies lauded the success of the program. Staff from the Southwest regional office said that the workshop on establishing the ordinary high water mark had an "overwhelming response" and was "extremely well

received,” while the Northwest regional office was “excited” about the opportunity to get staff out to trainings, and a representative from the Governor’s Puget Sound Action Team described the training program as “absolutely essential.” PBNERR’s Coastal Training Program has quickly become a national leader, and the program coordinator is providing training to other coastal training programs online evaluation and other program elements.

**Accomplishment:** During the review period, PBNERR launched its highly successful Coastal Training Program. Based on participant feedback, the program is clearly meeting a well-defined need, and the program has become a model within the National Estuarine Research Reserve System.

***Research and monitoring program:***

PBNERR has received grant funding to write a Site Profile which is now past due.

**Necessary Action:** Reserve staff must complete the Reserve’s Site Profile. Reserve staff must work with OCRM’s Estuarine Reserves Division to develop a mutually agreeable timeline to complete the Site Profile. This timeline must be developed within three months of issuance of these final findings. The Site Profile must be completed within the timeline.

During the review period, the research and monitoring program has worked creatively to attract new staff, researchers, and volunteers. With increased staff capacity PBNERR has become a leader in the Reserve system in terms of data quality and innovative research on emerging issues. For example, a new staff person has been hired to handle all nutrient samples for the Systemwide Monitoring Program. Dedicating a professional to these responsibilities ensures that PBNERR is collecting high quality data on water quality, weather, and nutrients.

Because the Reserve is not co-located with a research institution, the reserve has had to be more resourceful in order to recruit graduate students and researchers. To meet this challenge, PBNERR offers assistantships to students who conduct research at the Reserve or study a topic with implications for the Reserve. These assistantships have recruited two to four students each year during the review period.

This commitment to staffing the research and monitoring program has allowed PBNERR to conduct innovative research on emerging issues. PBNERR is focusing its research efforts on two identified emerging issues: sediments and juvenile salmon in eelgrass habitat. This research will be directly relevant to local decisionmakers who need information on how various flood management tools will affect Skagit Valley resources.

**Accomplishment:** PBNERR’s research and monitoring program continues to maintain high quality data, recruit researchers, and conduct research relevant to local decisionmakers.

***Education Program:***

PBNERR continues to offer a variety of popular education programs. Approximately 120 students visit the Reserve each day, and programs fill quickly. During the review period, the education program has also been a “live” site for Estuary Live and has helped run “Storming the Sound,” a conference for environmental educators from the Northwest Straits region. Both of these activities have helped the education program reach wider audiences.

Nevertheless, the Reserve’s school program seems to recruit mostly from the education coordinator’s existing database of teachers. While this approach has the benefit of maintaining a consistent core group of teachers who can then include a PBNERR visit in their curriculum, the risk exists that new groups of students and teachers will not have the opportunity to be exposed to the Reserves educational programming.

**Program Suggestion:** Once the new facilities have been completed, the education program may wish to consider additional recruiting strategies to ensure that traditionally underserved audiences are being reached.

The education program also seems to miss a potential opportunity to integrate the Reserve’s research and monitoring activities into its curriculum. PBNERR is a leader in research and monitoring. Because most students who participate in the Reserve’s education programs are from the surrounding communities, the Reserve’s research could be a vital component of a locally-based watershed curriculum.

**Program Suggestion:** PBNERR may wish to consider ways to increase interactions between its research and education programs to allow the education program to integrate the Reserve’s outstanding research capabilities into its curriculum.

***Stewardship Program:***

In the past, PBNERR has had to deal with significant challenges from invasive species, particularly *Spartina*. By combining innovative mowing and spraying techniques, the stewardship program has been able to reduce the *Spartina* infestation at the Reserve from 17 acres in 1997 to half an acre in 2003. With the *Spartina* problem successfully under control, the program has been able to focus its attention on establishing baselines and planning for the future. During the review period, the program established baselines on upland wetlands, emergent marsh, and amphibian populations. This information can be used as baseline information to compare against in the event of an oil spill, sea level rise, or flood. The program also wrote an upland habitat management plan which is intended to be a living document that will be revisited annually.

**Accomplishment:** PBNERR’s science-based approach strengthens its stewardship programs.

### ***Reserve Involvement in the Local Community***

Based on meetings with a variety of stakeholders including County Commissioners, members of the Northwest Straits Commission, local farmers, and other community members, PBNERR plays a vital and respected role in the local community. The Reserve Manager and members of his staff are viewed as trusted advisors who work in partnership with the local community.

The review team met with two Skagit County Commissioners to discuss flooding and floodwater bypass proposals. Flood management poses serious challenges in the heavily diked Skagit Valley: 20,000-30,000 homes, valuable agricultural lands, and salmon runs could all be seriously damaged in a 100-year flood. It was clear from our discussions with the County Commissioners that the Reserve plays a respected role in the community and provides welcomed research and advice to local decisionmakers on flood management issues.

PBNERR also played a critical role in the launch of the Northwest Straits Commission. The Commission was recently evaluated by a panel convened by the Policy Consensus Center at the University of Washington and Washington State University, so this evaluation does not seek to evaluate the success of the Commission. Nevertheless, PBNERR manager Terry Stevens provided significant staff support and leadership to the Commission during its infancy, and PBNERR retains administrative oversight for the Commission. The Commission makes a significant contribution to on-the-ground implementation of habitat, marine life, science, education, and water quality projects in the region. PBNERR's support of the Commission helps the Reserve maintain its reputation as a trusted leader throughout the larger community and the region.

In response to the previous evaluation findings, in 2000, PBNERR's stewardship program established a natural resources advisory committee made up of state agencies, local governments, the Samish and Swinomish tribes, and Reserve staff. OCRM views the annual meetings of this group as another way that PBNERR is successfully participating in, and serving as a resource for, the local community.

The stewardship demonstration farm has also contributed to the Reserve's presence in the community. Reserve staff has been working collaboratively with local farmers, agribusiness, Washington State University Agricultural Research and Cooperative Extension, and environmental groups to identify conservation practices that are relevant for Skagit Valley agriculture. A local farmer has been identified to implement these conservation practices while keeping the demonstration farm in agricultural production. OCRM views both the relationships that the Reserve has established in the local community and the useful information that will be generated on agricultural best practices as successes.

Similarly, the Reserve is working with local community members to improve water quality in No Name Slough. Reserve staff is involving interested community members in meetings to solicit ideas; workshops on water quality and septic systems; and volunteer

monitoring. These opportunities help involve the community in a non-confrontational manner and will hopefully help improve water quality in the Slough.

**Accomplishment:** PBNERR plays a positive role in its local community through flood management research, support for the Northwest Straits Commission, and a variety of demonstration projects.

## VI. CONCLUSION

Based upon the recent evaluation of WCZMP and PBNERR, I find that Washington is adhering: (1) to its approved Coastal Management Program and is making satisfactory progress implementing the provisions of its approved Coastal Management Program; and (2) to the programmatic requirements of the NERRS in its operation of its approved National Estuarine Research Reserve.

These evaluation findings contain eight Program Suggestions and two Necessary Actions. The Necessary Actions must be addressed in the timetables listed. The Program Suggestions should be addressed before the next regularly scheduled program evaluation, but they are not mandatory at this time. Program Suggestions that must be repeated in subsequent evaluations may be elevated to Necessary Actions. Summary tables of program accomplishments and recommendations are provided in the Executive Summary.

This is a programmatic evaluation of WCZMP and PBNERR that may have implications regarding the state's financial assistance awards. However, it does not make any judgment on or replace any financial audits related to the allowability or allocability of any costs incurred.

*signed Eldon Hout*  
Eldon Hout  
Director

*16 August 2005*  
Date

## VII. APPENDICES

### APPENDIX A. PROGRAM RESPONSE TO PREVIOUS EVALUATION FINDINGS

#### *Washington Coastal Management Program Response to 2000 Findings*

**1. PROGRAM SUGGESTION: OCRM encourages Ecology to submit a proposal to the State Legislature explaining the need for additional funds to hire technical staff to augment the existing capacity in the WACZMP. With the revised guidelines and ESA, additional consultative services to local governments and watershed bodies in the areas of habitat restoration ecology, coastal geology, and hydrology are needed. The SEA Program is encouraged to request assistance from the NMFS and USFWS to obtain staff expertise in one or more of these areas.**

PROGRAM RESPONSE: WCZMP continues to face staffing challenges. Nevertheless, the program succeeded in securing funding from the State Legislature for local governments to implement the Shoreline Master Program Guidelines. See Section IV, C for further information.

**2. PROGRAM SUGGESTION: The SEA Program should make a systematic effort to develop a strategy for assessing the full range of scientific information and expertise in the region to be applied to the update of the shoreline management Guidebook.**

PROGRAM RESPONSE: The program has crafted the *Washington State Wetland Rating System for Western Washington* and *Wetlands in Washington State: Guidance for Protecting and Managing Wetlands* to provide technical and regulatory assistance to local governments. See Section IV, C for further information.

**3. PROGRAM SUGGESTION: The WACZMP should conduct an analysis of cases where existing regulatory policies or management practices provide a disincentive for municipalities or private landowners to undertake voluntary habitat restoration projects. Over the longer term, Ecology should pursue a coordinated strategy for removing regulatory disincentives and creating incentives to encourage successful habitat restoration. As part of this effort, Ecology may want to explore a regional \$404 permit program with the U.S. Army Corps of Engineers (Corps) with procedures to streamline approval of restoration projects. The WACZMP should also review state policies for land acquisition to ensure that habitat restoration needs can be met.**

PROGRAM RESPONSE: Due to staffing limitations and other priorities, Ecology did not specifically address these suggestions. The WACZMP streamlined U.S. Army Corps of Engineers nationwide permits for Washington State by expanding the number of projects that do not need individual review and conditioning by Ecology's Federal



Permitting Unit. In addition, the new shoreline guidelines include a requirement for restoration planning which may facilitate more thoughtful habitat restoration.

**4. PROGRAM SUGGESTION: The SEA Program should post a copy of the annual work plan on its Web site and encourage a dialogue with the public to gain feedback on its year-to-year priorities.**

PROGRAM RESPONSE: 2003 was the last year the SEA Program produced that type of work plan. A different style of program plan can be viewed at: [http://www.ecy.wa.gov/pubs/0101005/0101005\\_sea.htm](http://www.ecy.wa.gov/pubs/0101005/0101005_sea.htm). The SEA Program has also continued to enhance its web presence over this period, and a CZM page was added to the SEA site in the summer of 2004.

**5. PROGRAM SUGGESTION: The WACZMP is encouraged to conduct a review and update the list of Federal activities subject to Federal consistency review using the established OCRM approval process and submit these changes for incorporation as part of the new Federally-approved program document.**

PROGRAM RESPONSE: WACZMP conducted a review when the program document was revised and will consider reviewing/revising the list when the program makes the next update.

**6. PROGRAM SUGGESTION: The WACZMP should work with NOAA to improve the format and content of its current federal performance reports to provide greater coverage of the on-the-ground progress being made. The program should determine how to incorporate cost-effective and quantifiable resource-based measures of performance, where they are being acquired for reporting purposes within Ecology. The program should make relevant portions of these reports available to the public on its Web site and in other periodic public documents reporting on the WACZMP.**

PROGRAM/OCRM RESPONSE: WACZMP continued to work with OCRM to improve the format and content of its performance report. However with the development of OCRM's Coastal and Marine Management Program (CAMMP) which will include a performance report module, this task was put on hold. Now there is NOAA wide initiative, Grants Online that also has a performance report section. With the development of CAMMP and/or Grants Online, the performance reports will be readily available for the public.

OCRM is continuing to work with the states to improve the use of performance indicators by completing a performance indicator pilot project involving seven states of which one was Washington. This pilot project resulted in a list of national performance indicators that will be implemented in all coastal management programs over the next three years. These indicators will track outputs and outcomes of the programs related to the CZMA Section 303 objectives: coastal habitats, coastal water quality, coastal hazards, public

access, coastal dependent uses and community development, and government coordination and decision-making.

*Padilla Bay National Estuarine Research Reserve Response to 1999 Findings*

**1. NECESSARY ACTION: Reserve staff must complete the process of revising the Reserve's Management Plan, as required by the NERRS regulations. Within three (3) months of issuance of these final findings, the State must submit a timeline to complete a revised management plan, including reviews, public comment (if necessary), and printing and distribution. The Management Plan must be completed within the submitted timeline.**

PROGRAM RESPONSE: The Reserve continues to work on its Management Plan update. See Section V, C for further details.

**2. PROGRAM SUGGESTION: The Padilla Bay NERR should develop a strategy that would consolidate the various elements of the Reserve's fragmented volunteer program, including training, recruitment, and recognition. The Reserve is encouraged to explore different avenues by which a volunteer coordinator position could be created and added to the Reserve staff.**

PROGRAM RESPONSE: The Reserve has set aside space in the new Breazeale Interpretive Center where volunteers will be able to congregate and work. The Reserve continues to consider designating a point person for volunteer coordination. This idea will be further explored when construction has been completed.

**3. PROGRAM SUGGESTION: The Reserve is encouraged to start the process of re-evaluating the role of the Education Advisory Committee, including reviewing the composition of its membership and establishing priorities. This should be incorporated in the revised Management Plan described in Section V.A. of these findings.**

PROGRAM RESPONSE: The Reserve continues to maintain an education advisory committee. The Education Coordinator convenes the committee when needed for program or curriculum development. For example, the committee was convened in 2004 to assist with development of a new high school curriculum.

**4. PROGRAM SUGGESTION: The Reserve and Department of Ecology/Shorelands Program is encouraged to continue its efforts in coordinating and identifying research needs that affect the State's coast and may want to consider developing additional "white papers" that address specific areas of research.**

PROGRAM RESPONSE: During the review period, PBNERR has focused its research efforts on two identified emerging issues: sediments and juvenile salmon in eelgrass

habitat. This research is intended to be directly relevant to local decisionmakers who need information on how various flood management tools will affect Skagit Valley resources.

**5. PROGRAM SUGGESTION: The Reserve is encouraged to establish the Natural Resource Management Committee, including membership structure, committee role, goals and objectives, and the establishment of priorities. This committee and its description should be incorporated in the final revised Management Plan described in Section V.A. of these findings.**

PROGRAM RESPONSE: In 2000, the Stewardship Coordinator established a Natural Resource Committee with appropriate agency and tribal membership. This committee convenes approximately once a year, but conducts most of its business via e-mail. Similarly, the Research Advisory Committee also meets informally and conducts business (including peer review) via mail and e-mail.

**6. PROGRAM SUGGESTION: The Reserve is encouraged to continue with its plans for facility enhancements including expansion of the Interpretive Center and other renovations to Reserve-held facilities, as funding is available.**

PROGRAM RESPONSE: The Reserve has made impressive progress on facility enhancements and expansion during the review period. See Section V. C for further details.

**7. PROGRAM SUGGESTION: The Reserve is encouraged to continue with its efforts to acquire Padilla Bay tidelands and priority upland interests within the Reserve's original boundary, as funding is available.**

PROGRAM RESPONSE: During the review period, the Reserve staff has continued to work with the local community to identify opportunities to acquire tidelands within the Reserve boundary. As of 2003, the Reserve owned over 11,000 acres of tidelands and marshlands within the proposed 13,535 acre boundary.

**APPENDIX B. PEOPLE AND INSITUTIONS CONTACTED**

**Washington Department of Ecology**

Name	Affiliation
Polly Zehm	Special Assistant to the Director – Regulatory Improvement
Gordon White	Shorelands and Environmental Assistance Program Manager
Brian Lynn	Coastal/Shorelands Section Manager, Shorelands and Environmental Assistance Program
Terry Stevens	Padilla Bay National Estuarine Research Reserve Manager
Peter Skowlund	Shorelands and Environmental Assistance Program
Jim Anest	Shorelands and Environmental Assistance Program
Lauren Driscoll	Shorelands and Environmental Assistance Program
Tom Hruby	Shorelands and Environmental Assistance Program
Paige Boulé	Shorelands and Environmental Assistance Program
Lorée Randall	Shorelands and Environmental Assistance Program
Brenden McFarland	Shorelands and Environmental Assistance Program
George Kaminsky	Shorelands and Environmental Assistance Program
Jane Rubey	Shorelands and Environmental Assistance Program
Doug Canning	Shorelands and Environmental Assistance Program
Perry Lund	Shorelands Southwest Regional Office
Barry Wenger	Shorelands Bellingham Field Office
Melissa Gildersleeve	Water Quality Program
Helen Bresler	Water Quality Program
Rob Spath	Washington Conservation Corps
Jeannie Summerhays	Shorelands Northwest Regional Office
Alice Schisel	Shorelands Northwest Regional Office
Steve Fry	Padilla Bay National Estuarine Research Reserve
Mark Olson	Padilla Bay National Estuarine Research Reserve
Doug Bulthuis	Padilla Bay National Estuarine Research Reserve
Glen Alexander	Padilla Bay National Estuarine Research Reserve
Cathy Angell	Padilla Bay National Estuarine Research Reserve
Sharon Riggs	Padilla Bay National Estuarine Research Reserve

**Washington State Agencies**

Name	Affiliation
Jay Udelhoven	Washington Department of Natural Resources
Hugo Flores	Washington Department of Natural Resources
Millard S. Deusen	Washington Department of Fish and Wildlife
Duane Fagergren	Puget Sound Action Team
Chris Parson	Washington Department of Trade and Economic Development

**Tribal Representatives**

Name	Affiliation
Bruce Davies	Northwest Indian Fisheries Commission

Washington Coastal Zone Management Program and Padilla Bay National Estuarine Research Reserve  
Final Evaluation Findings

Jeff Dickison	Squaxin Island Tribe
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**Industry Representatives**

Name	Affiliation
Eric Johnson	Washington Public Ports Association

**University/Research**

Name	Affiliation
Bob Goodwin	University of Washington/Washington Sea Grant
Andrea Copping	Washington Sea Grant Program, University of Washington

**Legislative Staff**

Name	Affiliation
Rachelle L. Hein	Senator Patty Murray
Sally Hintz	Senator Maria Cantwell
Jill McKinnie	Congressman Rick Larsen

**Local Government Representatives**

Name	Affiliation
Don Munks	Skagit County Commissioner
Ken Dahlstedt	Skagit County Commissioner
Russel Nelson	City of Blaine
Rollin Harper	Cities of Everson and Nooksack
Jeff Chalfant	Whatcom County
Steve Sundin	City of Bellingham
Chris Spens	City of Bellingham

**Related Initiatives**

Name	Affiliation
Tom Cowan	Northwest Straits Marine Conservation Initiative
Kay Reinhardt	Padilla Bay Foundation

## **APPENDIX C. NOAA RESPONSE TO WRITTEN COMMENTS**

NOAA received written comments regarding the implementation of the Washington Coastal Management Program and Padilla Bay National Estuarine Research Reserve. Each of the comments is summarized below and followed by NOAA's response.

**Commenter:** David E. Ortman, President  
Wise Use Movement  
Seattle, WA

**Comment:** In 2000, the Sierra Club provided the following comments:

"The public participation process for Sec. 312 evaluations remains deficient and inadequate. One Federal Register notice is not sufficient. OOCRМ must stop relying on states to carry out public notice of such evaluations. Ecology made little effort to alert environmental and conservation organizations concerning the 14 September public meeting in Lacey, WA. While Ecology may have put a legal notice of the meeting in the Seattle Times, many of our members do not subscribe to the Seattle Times and the only evaluation notification on Ecology's website is dated 1 September. Ecology's website archive of press releases back to 1 July contains no announcement of the WACZMP Evaluation Meeting. This confirms that Ecology has little interest in soliciting the views of the public on your behalf for your evaluation process. Ecology's news release of 7 September (00-177) on the public meeting comes with just seven days notice. It certainly does not allow the public adequate time to review three years of documents and performance reports on the WA CZAMP."

**NOAA Response:** OOCRМ response to these comments can be found in the Evaluation Finding dated November 28, 2001.

**Comment:** It is outrageous that OOCRМ has continued to allow this state of affairs to continue for nearly another half decade. OOCRМ cannot rely on Ecology to generate public notices of what is an OOCRМ federal grant review function.

**NOAA Response:** As required by the CZMA, the Federal Register notice was published on July 16, 2004. This notice is the requirement of OOCRМ. Ecology published the public notice of the public meeting in the Everett Herald on September 13, 2004. Due to a miscommunication between Ecology and OOCRМ, the State was late in publishing the public notice. Ecology also posted the announcement on their website which indicated that OOCRМ would accept comments submitted on the website until Oct 29, 2004.

**Comment:** In addition, public hearings need to be held throughout the State of Washington, not one mid-week public meeting in Everett, WA. The Sec. 312 "continuing review" requirement has now slipped to a four year interval. OOCRМ cannot expect the public to comment in October 2004 on events taking place in September of 2000.

**NOAA Response:** NOAA does not have the staff to conduct annual evaluations of the 60 federally-approved programs (Coastal Zone Management and National Estuarine Research Reserve) receiving funding under the CZMA, nor do we believe that an annual review is typically warranted. OCRM's program staff is responsible for ongoing monitoring of programs throughout the review cycle. Based on knowledge gained through this contact, OCRM may conduct issue or problem-specific evaluations between scheduled evaluations of approved programs which occur on a 3-4 year cycle.

Various times and settings for this meeting were explored, with each arrangement having associated pros and cons. Given that this was a joint evaluation of the Washington Coastal Management Program and Padilla Bay NERR and the existing financial constraints, NOAA determined that Everett, WA was a central location for both programs. NOAA and its state partners need to explore all available avenues to receive public feedback on program performance and does not depend solely on the public meeting format.

**Comment:** While it is true that for the first time Ecology has placed its CZM grant applications and performance reports on its website, it has failed to make them available in full text retrieval format. This means that it is impossible to cut and paste this information into comments in order to provide in-depth analysis.

**NOAA Response:** According to Ecology, the performance reports and applications were scanned and converted to PDF files and posted on Ecology's website as PDF documents. Ecology chose to post these documents as scanned documents that could not be manipulated. Ecology also mentioned that portions of the text can be cut out of a PDF document and pasted into other documents. The text is an image and can not be edited, however it is easy to insert into a document. Copying can be done using the Adobe Acrobat "Graphics Select Tool" button: Click on the tool and use the "+" shaped cursor to draw a box around the text or graphics of interest, then click the copy tool button, then paste the copied stuff anywhere you want. However, OCRM is not certain if this is available on all versions of Adobe Acrobat. The Ecology website to locate the performance reports and applications is:

<http://www.ecy.wa.gov/programs/sea/czm/eval.html>

**Comment:** In the past, comments to OOCRМ have pointed out that Ecology's "performance reports" are woefully deficient in quantitative analysis, making it impossible to determine from year to year what on the ground results are taking place.

**NOAA Response:** The National Policy and Evaluation Division, OCRM is currently completing a pilot performance indicators project with seven (7) coastal management programs, including Washington. The goal of this project is to measure the effectiveness of state programs in achieving the CZMA objectives. The results of the project may provide a better indication of "on the ground" results. It is anticipated that the remaining coastal states will begin the indicators project by the end of the 2005.

**Comment:** There is little to no information presented on Hood Canal, even though it is more and more turning into a dead zone. There is no information presented on the most

significant coastal zone restoration project in the State of Washington: the removal of the two salmon killing dams on the Elwha River on the Olympic Peninsula. Sad to say, Ecology has done virtually nothing to promote or encourage this restoration project, despite its mention in the WA CZMP.

**NOAA Response:** This is not a comment about Washington's Coastal Zone Management Program. For further information, please direct this question to the Department of Ecology.

**Comment:** There are no performance results quantifying how many acres of wetlands have been filled or restored. There are no performance results quantifying how many miles of Washington shoreline have been amended from natural or conservancy to more intensive uses. Regrettably, OOCRМ has allowed local governments in the State of Washington to amend their shoreline master programs to create out of thin air so many variations of Urban Development Special, Rural Residential, Rural Farm Forest and whatnot that it has become impossible to track shoreline destruction in a systematic fashion. OOCRМ must review and deny WACZMP amendments that continue to fracture and spot zone Washington's shorelines with ever increasing environmental designations.

**NOAA Response:** OOCRМ is continuing to work with coastal management programs to explore and undertake approaches to measure on-the-ground programmatic progress. The National Policy Division, OOCRМ is currently completing a pilot performance indicators project with seven (7) coastal management programs, including Washington. The goal of this project is to measure the effectiveness of state programs in achieving the CZMA objectives. It is anticipated that the remaining coastal states will begin the indicators project by the end of the 2005.

**Comment:** Because we were only alerted to this Sec. 312 public review three days before the comment deadline, we cannot comment on the lengthy list of deficiencies in Ecology's sketchy grant requests and performance reports. However, the following is a sampling of problems that permeate the Sec. 312 review process. Frankly, we expect better of both Ecology and OOCRМ. Accountability for federal grant money has to produce real coastal zone protection. We are not getting our moneys worth.

**NOAA Response:** As required by the CZMA, the Federal Register notice was published on July 16, 2004. This notice is the requirement of OOCRМ. Ecology published the public notice of the public meeting in the Everett Herald on September 13, 2004. Due to a miscommunication between Ecology and OOCRМ, the State was late in publishing the public notice. Ecology also posted the announcement on their website which indicated that OOCRМ would accept comments submitted on the website until Oct 29, 2004.

*Comments based on WA Coastal Zone Management Performance Reports and Grant Applications*



WA CZM FFY -00 306/306A/309/6217 Grant Performance Report July 1, 2000 to December 31, 2000 1<sup>st</sup> Semi-Annual Report (January 2001)

**Comment:** Carey Brothers/Creekside Meadows, Whatcom County. The project concerned a 1.5 acre wetland fill for a residential subdivision. According to this summary, the applicant agreed to reduce the wetland fill. How many acres of wetland were actually filled?

**NOAA Response:** According to project consultant and the County, the site was filled according to the plan. Therefore, 1.3 acres of wetlands was filled. Ecology is expecting to receive the mitigation and monitoring report soon.

**Comment:** Carroll's Creek Landing/Navy Housing, Snohomish County (Stillaguamish) This narrative discusses the filling of Category I wetlands by the Navy for a multi-family housing project. How many acres of wetlands were actually filled?

**NOAA Response:** According to the "Time-Zero Report" by The Jay Group, Carroll's Creek Landing installed the full compensatory mitigation, so Ecology expects they filled the 0.31 acre of wetland that was proposed.

**Comment:** Wetland mitigation evaluation project. This section states that Ecology conducted field visits to 24 wetland mitigation projects. What were the results of the evaluation project?

**NOAA Response:** The final Phase I and Phase II reports can be viewed and downloaded from [hht://www.ecy.wa.gov/biblio/0206009.html](http://www.ecy.wa.gov/biblio/0206009.html) and <http://www/ecy.wa.gov/bibli/0006016.html>

Grant Performance Report from January 1, 2001 to June 30, 2001 (2<sup>nd</sup> Semi-Annual Report (July 2001)

**Comment:** Penalties and Orders issued from January 1 through June 30. This section and the accompanying table in Section B only lists penalties issued NOT penalties collected. What's the total fines collected from those six month's worth of imposed penalties?

**NOAA Response:** During this period, two penalties totaling \$59,000 were issued to the same violator "Twin Bridges Marine Park". No penalty has yet been paid because the penalties are under appeal before the Washington Appeals Court. One of the major issues is the applicability of Washington's Land Use Petition Act (LUPA) to these two penalties. The LUPA, formally titled "Judicial Review of Land Use Decisions", is codified as RCW 36.70C and can be viewed and downloaded from this web site: <http://www.leg.wa.gov/RCW/index.cfm?fuseaction=chapterdigest&chapter=36.70C>

Grant Performance Report from July 1, 2003 through December 31, 2003

**Comment:** Table 1 Shoreline Permits July 1, 2003 – December 2003. This table shows 190 total projects of which 165 were substantial development permits. Only 1 conditional use permit is listed as denied and only 2 variances are listed as denied. These nearly 200 projects have a cumulative adverse impact on the environment.

**NOAA Response:** Ecology does not have the resources to inspect every Shoreline-permitted site year after year to gather and analyze sufficient information to identify the cumulative impacts. Simply gaining permission to inspect, and traveling to and from hundreds of additional sites every year would strain their resources. This would be a new and unfunded workload for Ecology.

**Comment:** Table 2. Shorelines Hearings Board Cases. This table shows that Ecology did not file a single appeal to the SHB from July 1-Dec. 31, 2003. Can you explain why?

**NOAA Response:** According to Ecology, “Simply put, none of those projects rose to the level of the criteria we use to determine when we appeal a Shoreline substantial development permit.”

**Comment:** Table 5. Federal Licenses and Permits – Section 307(C). This table is virtually devoid of meaning other than to note that there were 90 concurrences of 404/NWP. We request that OOCRM require Ecology to report meaningful data on Corps 404/NWP permits including the amount of acreage allowed to be filled by type of 404 and NWP.

**NOAA Response:** The table reflects the information requested in OCRM’s performance report guidelines.

**Comment:** Table 7 SEPA Documents Received and Reviewed. How many were EIS’s, DNS’s and how many of each did Ecology respond to in writing?

**NOAA Response:** SEPA document abbreviations are found at <http://www.ecy.wa.gov/programs/sea/sepa/sepainfo.html>

Miscellaneous Documents		DNSs		EISs	
Addendum	97	DNS	1,025	Draft EIS	25
Adoption	46	DNS-M	536	Final EIS	20
Consultation	248	ODNS/NOA	491		
Notice of Action	18	ODNS/NOA-M	16		
NEPA	18	ODNS	158		
Scoping	19	ODNS-M	36		
<b>TOTAL MISC</b>	<b>446</b>	<b>TOTAL DNSs</b>	<b>2,262</b>	<b>TOTAL EISs</b>	<b>45</b>

Written Responses:  
Southwest Region

Washington Coastal Zone Management Program and Padilla Bay National Estuarine Research Reserve  
Final Evaluation Findings

- S Total documents received in SW - 950
- S Answered - 480
- S Filed with no response - 376

Northwest Region

- S Total documents received in NW - 1,803
- S No information available from the SEPA Database on number of responses
- S Regional Shorelands staff may have some data

FFY02 Coastal Zone Management Grant Application for Period July 1, 2002 through December 31, 2003. (Aug. 30, 2002)

**Comment:** Water Quality Program Coastal Non-point Work Plan. This section (WQ1) states that the salmon of the White River system are considered one of the most threatened species in western Washington. Ecology has not presented information concerning its role in allowing the Muckleshoot White River Amphitheatre adjacent to the White River.

**NOAA Response:** This is not a comment about Washington's Coastal Zone Management Program. For further information, please direct this question to the Department of Ecology.

FFY 2003 CZM Grant Application for Period July 1, 2003 through December 31, 2004

**Comment:** Ecology claims it has begun an effort to evaluate compensatory wetland mitigation success. What were the results?

**NOAA Response:** The final Phase I and Phase II reports can be viewed and downloaded from <http://www.ecy.wa.gov/biblio/0206009.html> and <http://www.ecy.wa.gov/biblio/0006016.html>

Coastal Zone Management Performance Report, 1<sup>st</sup> Semi annual report (July 1-Dec. 31 2003)

**Comment:** Task 1.3 Wetlands Management. There is no useful information provided on what Ecology is doing with “wetlands management.” The problem seems to be that Ecology views its role as “managing” wetlands, rather than preserving, protecting, restoring or enhancing our dwindling acreage of Washington wetlands.

**NOAA Response:** By Ecology’s definition, wetlands management includes, protection, preservation, restoration and enhancement.

**Comment:** Task 1.4 SEPA. How is SEPA being used to evaluate adverse environmental impacts in the WA coastal zone?

**NOAA Response:** Ecology evaluates SEPA threshold determinations and sends their comments and recommendations to the lead agencies. They may also use SEPA's authority to condition or deny as set forth in Chapter 43.21C.060. In addition, when Ecology staff is the SEPA lead agency, they evaluate and implement, as appropriate, the comments and suggestions received from those who review and comment on Ecology's SEPA threshold determinations.

**Commenter:** Doug Sutherland, Commissioner of Public Lands  
Washington State Department of Natural Resources

**Comment:** "It is time for Washington State to improve its 'networked' Coastal Zone Management Program (CZMP). Currently, the CZMP only includes six enforceable policies, all of which are administered directly by the Washington State Department of Ecology. . . . To improve Washington's management of its coastal areas, all of the major ' . . . policies which are legally binding through constitutional provisions, laws, regulations. . . by which we exert control over private or public land and water uses and natural resources in the coastal zone' should likely be included as enforceable policies within the CZMP. This would, at a minimum, include adding the aquatic land-related laws to the existing list of enforceable policies in the CZMP."

**NOAA Response:** These evaluation findings include a program suggestion recommending that WACZMP explore the possibility of incorporating related coastal legislation into its approved coastal program. Please see Section IV, B above.

**Commenter:** Fred Felleman, NW Director  
Ocean Advocates  
Seattle, WA

**Comment:** Despite the fact that the (Olympic Coast National Marine) Sanctuary includes State waters throughout its length and has oil spill prevention and response as key issues in its management plan, the Sanctuary barely contributes to any of the DOE's oil spill advisory committees.

**NOAA Response:** This is beyond the scope of the Washington Coastal Zone Management Program and Padilla Bay National Estuarine Research Reserve evaluation.

**Commenter:** Northwest Indian Fisheries Commission  
Olympia, WA

**Comment:** Comments provided by the Northwest Indian Fisheries Commission (NWIFC) center around concerns that, in order to provide federal CZMA funding to state and local jurisdictions to implement their SMPs, those SMPs must be consistent with ESA habitat protection standards. NWIFC proposes that, "NOS should develop

Guidance for CZMA plans that will ensure these plans are consistent with the ESA.” NWIFC also includes proposed ESA Guidance based on the original “Path B” Guidelines and the draft Nearshore and Marine Chapter of the Puget Sound Salmon Recovery Plan.

**NOAA Response:** As discussed in further detail in Chapter IV, Section B of these findings, Path B was challenged by a coalition of business groups and local governments. The Shoreline Hearings Board eventually invalidated Path B, saying that Ecology did not have the jurisdiction to allow ESA exceptions. NOS acknowledges that, in order to receive federal funding under the CZMA, local SMPs will need to be consistent with the provisions of the Endangered Species Act. OCRM is currently working with NOAA Fisheries to resolve this issue by developing a mechanism to ensure that local jurisdictions receiving federal funding are meeting the requirements of the ESA.