

FINAL EVALUATION FINDINGS

WASHINGTON COASTAL ZONE MANAGEMENT PROGRAM

October 2004 – September 2009

November 2010



Office of Ocean and Coastal Resource Management
National Ocean Service
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I. Executive Summary

Section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA), requires the National Oceanic and Atmospheric Administration's (NOAA) Office of Ocean and Coastal Resource Management (OCRM) to conduct periodic evaluations of the performance of states and territories with federally approved coastal management programs. This review examined the operation and management of the Washington Coastal Zone Management Program (WCZMP or Coastal Program) by the Department of Ecology (Ecology), the designated lead agency, for the period from October 2004 to September 2009.

This document describes the evaluation findings of the Director of OCRM with respect to the WCZMP during the review period. These evaluation findings include discussions of major accomplishments as well as recommendations for program improvement. This evaluation concludes that the Ecology is satisfactorily implementing and enforcing its federally approved coastal program, adhering to the terms of the Federal financial assistance awards, and addressing the coastal management needs identified in section 303(2)(A) through (K) of the CZMA.

The evaluation team documented a number of WCZMP accomplishments during this review period. The Coastal Program provided extensive support to local governments for the development and implementation of Shoreline Master Programs (SMPs) through the provision of technical and planning assistance, training opportunities, and guidance. Ecology has also made significant improvements to its wetland program including increasing the success of wetland mitigation projects by over 50 percent and developing a wetland mitigation banking program. In addition, the WCZMP has successfully completed the development of its CELCP Plan and is actively engaged in developing land acquisition projects to protect habitat and provide public access; improved the federal consistency process; and provided key support for state and regional ocean planning.

The evaluation team also identified areas where the implementation of the WCZMP could be strengthened. The recommendations are in the form of one Necessary Action that is mandatory and five recommendations for the WCZMP are in the form of Program Suggestions and describe actions that OCRM believes Ecology should consider to enhance or improve the program, but that are not mandatory. The Necessary Action requires Ecology to work with OCRM to develop a work plan for meeting the outstanding conditions of its conditionally approved Coastal Nonpoint Program and submitting the documentation indicating how the outstanding conditions are met by November 30, 2014. Opportunities identified for strengthening the WCZMP include assessing the scope of SMP and permit noncompliance and developing strategies to address identified issues; developing additional federal consistency guidance and resources for federal agencies; assessing the need for technical expertise in developing and implementing SMPs and identifying strategies to address gaps; prioritizing the completion of the SMP Handbook; and exploring the development of an interstate consistency agreement for the Columbia River Basin. 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 Appendix A.

II. Program Review Procedures

A. Overview

NOAA began its review of the WCZMP in July 2009. The §312 evaluation process involves four distinct components:

- An initial document review and identification of specific issues of 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.

Accomplishments and recommendations made by this evaluation appear in boxes and **bold** type and follow the findings section where facts relevant to the recommendation are discussed. The recommendations may be of two types:

Necessary Actions address programmatic requirements of the CZMA's implementing regulations and of the WCZMP approved by NOAA. These must be carried out by the date(s) specified;

Program Suggestions denote actions that OCRM believes would improve the program, but which are not mandatory at this time. If no dates are indicated, the State is expected to have considered these Program Suggestions by the time of the next CZMA §312 evaluation.

A complete summary of accomplishments and recommendations is outlined in Appendix A. Failure to address Necessary Actions may result in a future finding of non-adherence and the invoking of interim sanctions, as specified in CZMA §312(c). Program Suggestions that must be reiterated in consecutive evaluations to address continuing problems may be elevated to Necessary Actions. The findings in this evaluation document will be considered by NOAA in making future financial award decisions relative to the WCZMP.

B. Document Review and Issue Development

The evaluation team reviewed a wide variety of documents prior to the site visit, including (1) the 2004 WCZMP §312 evaluation findings; (2) the federally-approved Environmental Impact Statement and program documents for the WCZMP approved in 1976; (3) federal financial assistance awards and work products; (4) semi-annual performance reports; (5) official correspondence; and (6) relevant publications on coastal management issues in Washington.

Based on this review and discussions with NOAA’s OCRM, the evaluation team identified the following priority issues prior to the site visit:

- Program accomplishments since the last evaluation;
- Implementation of federal and state consistency authority, including improvements to the consistency process and coordination;
- Changes to the core statutory and regulatory provisions of the CZMP;
- Effectiveness of interagency and intergovernmental coordination and cooperation at local, regional, state, and federal levels;
- Public participation and outreach efforts;
- Public access;
- Coastal habitat;
- Coastal hazards;
- Water quality;
- Coastal dependent uses and community development;
- Performance measurement efforts; and
- The state’s response to the previous evaluation findings dated August 18, 2005.

C. Site Visit to Washington

NOAA sent a notification of the scheduled evaluation to the Department of Ecology and coordinated a site visit with WCZMP staff that included interviews and a public meeting. NOAA published a notice of “Intent to Evaluate” in the *Federal Register* on July 30, 2009 and notified members of Washington’s congressional delegation. The WCZMP posted notice of the public meeting and opportunity to comment in the *Olympian*, a newspaper of general circulation in the state. In addition, Ecology posted the public meeting on the Department’s calendar and the WCZMP posted a notice with background information and a public comment form on its website and provided notice through various Department list serves.

The site visit to Washington was conducted from September 21 – 25, 2009. The evaluation team consisted of Carrie Hall, Evaluation Team Leader; Kris Wall, Coastal Program Specialist, OCRM, Coastal Programs Division; and Kim Kruse, Deputy Director, Alaska Coastal Management Program.

During the site visit, the evaluation team met with WCZMP staff and other Department of Ecology staff, representatives of other state, federal, and county agencies, and members of the fishing and port sectors. Appendix C lists persons and institutions contacted during this period.

As required by the CZMA, NOAA held an advertised public meeting on Monday September 21, 2009 at 6:00 p.m. at the Washington Department of Ecology Auditorium, 300 Desmond Drive S.E., Lacey, Washington. The public meeting was an opportunity for members of the general public to express their opinions about the overall operation and management of the WCZMP.

Appendix D lists persons who attended the public meeting. In addition, NOAA and the WCZMP solicited written public comments as part of the evaluation process. OCRM's response to written public comments is summarized in Appendix E.

The support of the WCZMP staff was crucial in setting up meetings and arranging logistics for the evaluation site visit. Their support is most gratefully acknowledged.

III. Coastal Management Program Description

In June 1976, NOAA approved Washington's Coastal Zone Management Program (WCZMP or Coastal Program), the first approved program in the nation. The Washington State Department of Ecology (Ecology) is the lead coastal management agency, and the Shorelands and Environmental Assistance Program (SEA) is responsible for administering the WCZMP. The WCZMP headquarters and the Southwest Regional Office are located in Lacey, the Northwest Regional Office is located in Bellevue, and a small field office is located in Bellingham. Each regional office houses planners and permit coordinators.

Washington's coastal zone includes the rugged outer coast, which includes habitats ranging from coastal bluffs and offshore rocks to cobble and sand beaches. The Olympic Coast National Marine Sanctuary covers over 3,000 square miles of Washington's northern outer coast (including areas in federal waters) and encompasses a productive upwelling zone off the coast. Washington's coastal zone also includes Puget Sound and the western reach of the Columbia River, which together constitute two of the three largest estuaries that are part of the west coast-wide large marine ecosystem known as the California Current. Puget Sound is part of the National Estuary Program and is also home to the Padilla Bay National Estuarine Research Reserve. Washington's coast is also home to many native American tribes and a number of significant cultural resources.

The Washington coastal zone includes the state's 15 coastal counties that front saltwater, including Wahkiakum County on the Columbia River. 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 200 feet of the waters, and associated wetlands. The primary authority for the Coastal Program is the Shoreline Management Act of 1971 which requires local governments to develop and implement Shoreline Master Programs that regulate streams with mean annual flow of over 20 cubic feet per second, lakes over twenty acres, and marine shorelines. All cities and counties within Washington's coastal zone are currently or will soon begin undertaking a process to update their shoreline master programs in accordance with the State's Shoreline Master Program Guidelines that were updated in 2003. The Coastal Program provides training, financial and technical assistance to local government decision-makers on shoreline planning, wetlands management, and coastal hazards. The Coastal Program also preserves important coastal habitat by identifying key opportunities and securing necessary funding to conduct priority restoration and acquisition projects.

IV. Review Findings, Accomplishments, and Recommendations

A. Operations and Management

Overall, OCRM finds that the Washington Department of Ecology is satisfactorily implementing the Washington Coastal Zone Management Program as approved by NOAA in 1976.

1. Organization and Administration

The WCZMP is administered by the Shorelands and Environmental Assistance Program within the Department of Ecology. Ecology houses a broad range of programs addressing water, air, and waste and the Padilla Bay National Estuarine Research Reserve (Padilla Bay Reserve). The implementing regulations of the WCZMP are the Shoreline Management Act (SMA), Clean Water Act, Clean Air Act, State Environmental Policy Act, Energy Facility Site Evaluation Council Law, and Ocean Resources Management Act.

The Coastal Program is well integrated with other programs within SEA but does not have a strong identity of its own. The WCZMP supports the broad mission of SEA and, in particular, SEA's mission to help communities manage shorelands and wetlands. The WCZMP does maintain a distinct presence on Ecology's website and provides extensive information on the role of the state Coastal Program and national Coastal Zone Management Program. The current situation appears to be working well for both the WCZMP and SEA. OCRM encourages the WCZMP to periodically reassess if the Coastal Program would benefit from a stronger identity within the state and region.

The State of Washington has shown strong support for the SMA and development of revised Shoreline Master Programs (SMPs). The state has provided consistent funding to support local governments in developing new SMPs and during a difficult budget year, provided an additional 3.5 million dollars for the 2009-2011 biennium. This additional funding will allow Puget Sound jurisdictions to more quickly begin to develop and adopt revised SMPs.

2. Management of Cooperative Agreements

OCRM awards the State of Washington federal funds through annual cooperative agreements for the implementation and enhancement of the Coastal Program and the WCZMP is required to submit semi-annual performance reports. OCRM finds that the WCZMP satisfactorily managed its federal funding, submitted complete performance reports in a timely manner, and achieved desired results from funded tasks during this evaluation period.

3. Performance Measures

NOAA, the state coastal management programs, and the national estuarine research reserves have created the Coastal Zone Management Act (CZMA) Performance Measurement System to track national indicators of the effectiveness of state coastal management programs and national estuarine research reserves in achieving CZMA and strategic objectives. The Performance Measurement System was devised to provide flexibility and accommodate varying management structures and differing coastal priorities across coastal states. The System consists of a suite of contextual indicators to provide information on environmental and socioeconomic factors influencing program actions, and a set of performance measures to assess how well the national program is achieving CZMA objectives. The six categories of performance measures are coastal habitats, coastal hazards, coastal water quality, coastal dependent uses and community development, public access, and government coordination and decision-making. Measures are aggregated across programs for a national and regional picture of coastal zone management.

In 2001, OCRM commissioned the Pew Center to develop a framework for coastal management indicators and a potential implementation plan. Based on the framework developed by the Pew Center, OCRM and nine state coastal programs developed a set of draft performance measures. The WCZMP was then one of seven state coastal programs who volunteered to participate in a 2004 pilot project to evaluate the draft performance measures for usefulness and feasibility. As part of this effort, the WCZMP was one of two states who hosted and worked closely with a NOAA Fellow to study the implementation of the draft performance measures in depth. OCRM used the results of this pilot project to modify the performance measures and states began submitting data, using a phased approach in 2006, and the final phase of the system was implemented in 2009.

As a member of the Coastal States Organization Resilience Steering Committee, the WCZMP also assisted with a study to examine how to advance coastal community resilience and to determine if resilience should be used as a national performance measure. The committee published a report, *Coastal Community Resilience: An Evaluation of Resilience as a Potential Performance Measure of the Coastal Zone Management Act* in July 2008. The report provides a series of recommendations to advance coastal community resilience and recommended that the potential for resilience to be used as a performance measure be placed on hold, until current or new efforts to define resilience indicators are complete. OCRM commends the WCZMP for volunteering to research and pilot potential performance measures for the national coastal zone management program.

4. Partnerships

The WCZMP has strong partnerships with other state agencies that complement and enhance their service to local governments. During the evaluation period, the Coastal Program worked closely with Washington Sea Grant to reinvigorate the Shoreline and Coastal Planners Group. The group was active for many years until 2005, when the group became dormant due to changes in staffing. In 2008, the WCZMP Program Planner worked with Washington Sea Grant to conduct

a formal needs assessment and re-launch the program. The meetings are now focused on fostering communication between local governments and other relevant parties to (1) provide an informal professional development forum for discussion of policy concerns, new technologies, emerging issues and new or amended legislation or regulations and (2) better enable implementation of the state's SMA, Growth Management Act and other similar programs through field trips and discussion of case studies, best practices, and lessons learned. The meetings are focused on key issues of interest to planners and provide time for networking and sharing information. Past workshops have focused on topics such as mitigation and restoration, shoreline armoring, and dock development.

WCZMP and Sea Grant staff also worked closely with the Padilla Bay Coastal Training Program (CTP) Coordinator to ensure that the Shoreline and Coastal Planners Group was complementary to the CTP and not duplicative. The CTP Coordinator worked with WCZMP and Sea Grant staff to obtain accreditation from the American Institute of Certified Planners (AICP) for the workshops. The group is now able to offer sessions on relevant coastal issues that will enable planners to meet new AICP continuing education requirements. The AICP accreditation will likely lead to an increase in the already well attended meetings of 30-40 planners, state agency staff, and consultants. OCRM commends the WCZMP for working with Sea Grant and Padilla Bay Reserve to re-launch the Shoreline and Coastal Planners Group and obtain accreditation for workshops from the AICP.

Accomplishment: The WCZMP partnered with Washington Sea Grant and the Padilla Bay Coastal Training Program to re-launch the Shoreline and Coastal Planners Group to address identified planner needs and obtained accreditation from the AICP for workshops.

The WCZMP has also benefited from the new Washington Sea Grant Marc Hershman Marine Policy Fellowship Program. The program was initiated in 2009, and is a nine month fellowship for one to three eligible graduate students, or recent graduates, with member agencies of the Washington State Ocean Caucus to work on ocean and coastal science and management issues. In 2009, Ecology hosted a Hershman fellow who worked on an analysis of the benefits and drawbacks to adding state authorities to the Washington Coastal Zone Management Program.

The WCZMP also has a strong partnership with the Padilla Bay Reserve, in particular with the CTP, which provides ongoing education opportunities for local government planning staff. The WCZMP Planner and other SEA Program staff sit on the Advisory Board for the Coastal Training Program and SEA staff have helped develop trainings such as “Protecting Aquatic Ecosystems: A Guide for Puget Sound Planners Understanding Watershed Processes.” In addition, SEA staff help deliver various training programs including “How to Administer Development Permits in WA's Shorelines;” “Planning for Climate Change;” “How to Determine the Ordinary High Water Mark;” and “Using the Interagency Mitigation Guidance to Review Mitigation Plans.”

The Puget Sound Partnership is also an important partner in protecting and restoring the state's coast. The Partnership was created in 2007 and is a community-wide effort of citizens,

governments, tribes, scientists and businesses working together to restore and protect Puget Sound by 2020. The Partnership is a state agency with a board appointed by the governor. The Partnership developed an Action Agenda, published in December 2008 that integrates scientific assessments with community priorities, and establishes a unified set of actions to protect and restore Puget Sound. The WCZMP is supporting the implementation of various action items in the Action Agenda. For example, Ecology and the Partnership, with funding from the U.S. Environmental Protection Agency (EPA), have undertaken a Puget Sound characterization project and the WCZMP marine ecologist serves on the project's advisory team. The results will be used by local governments and consultants revising local plans, policies, and regulations and in establishing non-regulatory approaches to protecting aquatic resources. Ecology and WCZMP staff have also been working with the Partnership on developing a wetland in-lieu fee program for the Puget Sound Basin (*see Section C. Coastal Habitat for more information*).

5. Washington Coastal Atlas

The Washington Coastal Atlas provides extensive information on Washington's marine shorelines, large lakes, and major rivers, as well as the land areas near Puget Sound, the outer coast, and the estuarine portion of the Columbia River including aerial photographs of marine shorelines, habitat types, physical features, and changes in land cover. The WCZMP has held coastal atlas workshops for state and local government personnel to familiarize them with the atlas' capabilities and the types of information available. The WCZMP is continuing to improve the atlas.

To further the development of the coastal atlas, WCZMP has also reached out to other west coast programs developing coastal atlases to share ideas and increase synergies. The WCZMP partnered with NOAA Coastal Services Center to host and organize a meeting focused on increasing contact among existing and emerging coastal web atlas efforts on the west coast; informing each other of future plans and data gaps; and exploring opportunities for collaboration. The meeting was well attended by participants from Oregon, California, Alaska, the British Columbia Provincial government, and Department of Fisheries and Oceans Canada. The meeting was held in April of 2009 and participants shared information and developed an action plan to improve collaboration and address regional needs. The proceedings are available on the International Coastal Atlas Network website at <http://ican.science.oregonstate.edu/westcoast>. OCRM commends the WCZMP for providing training to local governments on use of the coastal atlas, soliciting feedback to improve the atlas, and bringing together west coast coastal atlas programs to share ideas and identify synergies. (*See Section E. Public Access for more information on the atlas.*)

6. Website

Ecology and the Coastal Program have a well designed, comprehensive, and informative website. At the time of the site visit, the WCZMP was developing a new shoreline master program website designed to help the public, local governments, and the media better understand and get involved in the process of updating SMPs. The revised website includes a citizen's guide for the public, a media kit, and a shoreline planner's toolbox to provide guidance and resources for local governments updating their SMPs. The updated website was launched in May of 2010. In

addition, SEA provides an extensive on-line library with access to over 500 publications. During the evaluation, the evaluation team heard from a participant that they would like more information regarding WCZMP activities. OCRM encourages the WCZMP to consider if developing an annual or biennial accomplishments report for the website and/or print that highlights the work of the Coastal Program would be a useful tool for communicating the program's activities and successes. OCRM commends Ecology and the Coastal Program for their excellent and informative website and encourages the Coastal Program to continue to update and improve the website.

B. Coastal Dependent Uses and Community Development

The WCZMP is based on the implementation of the SMA and shoreline management that fosters reasonable and appropriate uses of the shoreline, protects against adverse effects to vegetation and wildlife, and enhances the public interest. The Revised code of Washington Section 90.58.020 states:

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates 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, while protecting generally public rights of navigation and corollary rights incidental thereto.

Local governments are to develop SMPs to implement the SMA and Ecology provides guidance and assistance in the development of SMPs. Once a local SMP is approved, Ecology continues to support and review shoreline planning and permitting and provides technical assistance to local governments. During the evaluation period, the WCZMP's primary focus has been assisting communities with developing their revised SMPs.

1. Shoreline Master Programs

Washington's Shoreline Management Act was passed by the legislature in 1971 and by voters in 1972. The Act was passed "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." To carry out the policies and regulations in the SMA, local governments develop local SMPs that meet state requirements but are tailored to the needs of an individual community. Ecology oversees and provides guidance to local governments who are required by the SMA to implement local SMPs and provides technical assistance with implementation of the act. A Shorelines Hearing Board serves as a quasi-judicial body and hears and rules on permit appeals.

In 1995, the legislature amended the SMA as part of a broad reform to better integrate the Growth Management Act passed in 1990, SMA, and State Environmental Policy Act. The broad goals of the SMA did not change but the legislature directed SEA to rewrite the SMA rules to make them function more efficiently and effectively. The rewriting of the proposed guidelines produced significant controversy, and delayed the adoption of the guidelines. The guidelines were adopted in 2000, but this decision was then appealed to the Shorelines Hearings Board. The State of Washington then entered a negotiation process with the appellants and the guidelines were revised and an agreement was reached. The revised guidelines were adopted by Ecology and became effective in January 2004. Legislation was passed establishing a schedule for updating all 266 SMPs by 2015 and appropriations for \$2 million for the first biennium and \$4.5 million for each biennium thereafter for the next ten years were granted to support the development of revised SMPs. The legislature provided an additional 3.5 million dollars for the 2009-2011 biennium (\$3 million for grants and \$500,000 for staffing) to enable Puget Sound jurisdictions to more quickly develop and adopt new SMPs and contribute to efforts to protect and restore Puget Sound by 2020.

SEA has undertaken multiple initiatives to assist county and local government planners through the SMP update process. WCZMP partnered with Sea Grant to re-launch Shoreline and Coastal Planners Group meetings that provide information on specific issues and opportunities for networking and discussion (*see Section A. Operations and Management for more information*). SEA also holds quarterly meetings for local governments working on SMP updates to provide a forum for town, cities, and counties conducting comprehensive updates to share their success and lessons learned and to learn about the latest news and guidance. SEA has also developed presentations and trainings to address identified needs. At the time of the site visit, SEA communication staff were developing a training to assist local governments effectively address misinformation campaigns. The session being developed was focused on how to get accurate information to the public and keep elected officials informed. As part of this training, SEA also developed web and power point templates that local governments can use to accurately communicate information about the SMP planning process.

During the evaluation period, SEA also worked on developing an on-line shoreline planners toolbox (<http://www.ecy.wa.gov/programs/sea/shorelines/smp/toolbox.html>) which includes a detailed description of the planning process with examples; SMP Guidelines; completed chapters of the SMP Handbook; information on laws, rules, and case studies; guidance on issuing different types of permits and enforcement; sources of data and information that can be used in developing SMPs; and a simple checklist that jurisdictions are required to use to ensure that they have submitted everything needed for approval. The SMP Handbook is designed to assist local government planners meet the requirements of the SMA and SMP Guidelines, and builds on existing science, guidance, and state and local government knowledge. Due to limited time and staffing, only a few of the anticipated chapters have been developed and published. As of June 2010, five full Chapters including *No Net Loss of Shoreline Ecological Functions* had been completed. The Handbook Chapters provide valuable guidance for local planners throughout the state and build upon the knowledge gained throughout the SMP development process. Although the SMP Handbook chapters build upon existing knowledge, there are also additional opportunities to capture and share lessons learned, case studies, best management practices, and relevant

technologies and tools used that are shared during workshop forums.

Program Suggestion: OCRM encourages the WCZMP to prioritize the completion of the SMP Handbook and further the sharing of lessons learned, case studies, best management practices, and relevant technologies and tools through the shoreline planners toolbox or other written materials.

In addition to the training opportunities and development of guidance, SEA planning staff work daily with local governments, permit applicants, state agencies and others to answer questions and provide requested assistance. Requests for assistance often relate to interpreting regulations and developing or amending SMPs and assistance is provided through field visits, phone calls, trainings, and presentations. Examples of assistance include providing guidance to the Washington State Department of Transportation on SMA issues and wetland impacts; assisting the City of Marysville with the conditional use permit process; and providing the City of Port Townsend Advisory Panel with recommendations on a new SMP provision that encouraged developers to conduct restoration activities in exchange for allowing more residential use on the ground floor. Many of the evaluation participants that the evaluation team met with commended the WCZMP staff for their professionalism and assistance in addressing shoreline management issues.

The WCZMP also has several technical experts on staff, a coastal geologist, coastal engineer and marine ecologist, that are able to provide assistance to state-wide planning efforts, state agencies, and local governments. These technical experts are able to provide a range of valuable services including providing state agencies and local governments advice on shoreline armoring proposals, beneficial use of dredged material projects, geoduck aquaculture permit applications, and shoreline habitat restoration proposals and plans. Throughout the evaluation site visit, the evaluation team heard from local government and SEA staff the importance of having technical expertise that they could rely on. Smaller local governments noted that they could not afford to have technical expertise on staff and SEA staff assistance was key to making more informed and better planning and permitting decisions. Evaluation participants also noted that the need for technical expertise was greater than the existing staff could handle and that there might also be additional types of expertise that would be valuable. OCRM encourages the WCZMP to conduct a needs assessment to measure the demand for expertise, identify the types of technical expertise needed, and to pursue strategies to help fill identified needs. Possible strategies for providing additional technical expertise include hiring of additional staff, building and encouraging partnerships with other federal or state agencies and universities, and/or promoting cost share of positions with local governments and/or other state agencies.

Program Suggestion: OCRM encourages the WCZMP to evaluate the need for technical expertise to better implement the SMA and to work with key partners to develop strategies to address priority needs.

Accomplishment: Ecology and WCZMP’s strong and extensive support of local government planning efforts through training opportunities, development of guidance, and on the ground assistance are resulting in improved SMPs that will guide future development and protect the public interest and natural resources.

Ecology staff are also responsible for developing rules to implement state law in an open and public process. The Revised Code of Washington 34.05.325 requires an open public process for rule making and stakeholders and members of the public are provided with the opportunity to provide both written and oral comments. When publishing a rule, state agencies must describe differences between the text of the proposed rule as published in the register and the text of the rule as adopted, summarize all comments received regarding the proposed rule, and respond to the comments by category or subject matter, indicating how the final rule reflects agency consideration of the comments, or why it fails to do so. Members of the public and stakeholders also have the opportunity to join a shoreline list serve to receive notices about comment opportunities of any proposed rulemaking related to the SMA.

2. Shoreline Inventories, Analyses, and Characterizations

The development of a shoreline inventory, analysis and characterization that looks at ecosystem-wide processes, characterizes shoreline function, and identifies public access is one of the first steps in the development of a local SMP. An inventory includes the compilation and evaluation of all pertinent and available data, reports, information, aerial photos, plans, studies, inventories, and other information applicable to a jurisdiction’s shorelines. This information is then analyzed to further document and understand existing conditions. Shoreline characterizations are an important tool that will provide baseline data and enable local governments to determine if they are successfully achieving the goal of “no net loss of ecological functions necessary to sustain shoreline natural resources” over time. Local governments are required to develop a system that will enable them to track changes and conduct an analysis of ecological functions every five years to ascertain that there has been a “no net loss” of ecological functions.

King County, an early SMP early adopter, created a geographic information system (GIS) to house, and analyze, existing data on shorelines and provided the evaluation team with a demonstration of the system during the site visit. The King County shorelines GIS can be easily modified and tailored to other jurisdictions and it has been adopted for use by many of the local governments undertaking shoreline characterizations. Local governments have the option to choose what type of system they use for their shoreline characterizations and a variety of systems have been implemented. Some local governments have chosen to purchase and use proprietary software, which can provide excellent analytical capabilities but licensing limitations can limit the broader utility of the tools. Currently, SEA has not focused on the compatibility of data and analytical tools across jurisdictional lines although there are state-wide initiatives such as the Puget Sound Partnership that will need to track and analyze information from numerous jurisdictions. OCRM encourages the WCZMP to consider how they can promote data and system compatibility

to ensure that the state and interested stakeholders can assess ecological functions on a regional and state-wide scale.

3. Aquaculture

During the past ten plus years, geoduck aquaculture has expanded in the tidelands of Puget Sound. Geoduck aquaculture continues to be a controversial issue in Puget Sound and those concerned about increases in geoduck aquaculture cite environmental impacts and public access and visual concerns. In 2007, the state legislature passed House Bill 2220 which calls for Sea Grant to conduct research studies that examine the effects of current geoduck aquaculture techniques on the environment; the creation of an advisory Shellfish Aquaculture Regulatory Committee to advise Ecology on regulatory processes and approvals for all current and new shellfish aquaculture activities; and for Ecology to develop guidelines by rule for the appropriate siting and operation of geoduck aquaculture operations to be included in SMPs. The advisory committee completed their review and recommendations in December of 2008 and Ecology then began drafting proposed rules for geoduck siting and operations. Ecology has solicited public input through the provision of an early discussion pre-draft release for public and stakeholder comments from May 14 – June 5, 2010 and the draft rules have been submitted for filing and the general public is able to comment from August 4 – November 23, 2010. In addition, as part of the process four public meetings will be held throughout the state.

4. Compliance and Enforcement

The primary responsibility for enforcing the SMPs is at the local level, although, the state also has the ability to enforce some permits authorized by the SMPs. Throughout the 1990s, the need for the Coastal Program to make improvements to monitoring and enforcement capabilities was cited by OCRM as a required action. After the 1997 evaluation, Ecology implemented a number of actions in response to this concern. They included increasing the number of enforcement staff; establishing a SMA Compliance Workgroup; improving internal communication and consistency in decision making; updating the enforcement manual, *Enforcing the Shoreline Management Act: Guidebook for Local Government Administrators*; assisting Ecology in the development of an investigator training program; completing the first retrospective analysis of permit compliance; and heightening efforts to coordinate enforcement jointly with other agencies. Prior to the 2004 evaluation, the program was faced with state budget cuts and level federal funding. Faced with limited resources and a legislative requirement to complete a large planning initiative, the Coastal Program has chosen to focus more resources on planning than enforcement. In 2004, the evaluation contained a program suggestion encouraging the WCZMP to identify state funding for enforcement positions and/or to develop a strategy to identify projects that need to be monitored. During the evaluation period, the WCZMP continued to face limited resources and in April of 2008 the sole compliance and enforcement specialist left the agency. Ecology modified the responsibilities of this position and hired a staff person to focus on SMP communication and to lead Ecology through the required rule-making process. Currently, Ecology relies on staff located at the regional offices to meet enforcement responsibilities as best they can with limited resources.

During the evaluation, the evaluation team heard concerns that permitting conditions were not being enforced and that this was reducing the effectiveness of the SMA. Several of the local government staff members the evaluation team met with noted they are facing reduced budgets and staffing levels and were less able to, or in the future might be less able to, address compliance issues. Although SEA no longer has a compliance and enforcement officer on staff, the WCZMP planning staff provide various types of assistance to local enforcement officers including phone calls, writing letters and notices of violation, and holding meetings with violators. In addition, WCZMP planning staff offer technical assistance to local governments such as determining if wetland violations have occurred, reviewing restoration plans, and testifying and providing expert testimony in Shorelines Hearings Board and Pollution Control Hearings Board cases.

Public comments received by the evaluation team expressed concerns that local governments were occasionally permitting activities that were not in compliance with their approved SMPs; that Ecology should be appealing more substantial development permits; and the number of enforcement actions reported in the performance reports was low. The evaluation team found that Ecology staff continue to enforce the SMA but Ecology has had to prioritize the enforcement actions and the appeals it undertakes due to limited staffing. Ecology staff provide comments on key permit applications to ensure they meet state guidelines and appeal shoreline development permits and conditional use permits in precedent setting cases. Ecology staff not only pursue enforcement actions at the state level but they also spend time supporting enforcement actions at the local level.

OCRM recognizes that the WCZMP has limited staff and funding and is focused on working with local governments to develop revised SMPs. As the effort to assist local governments develop and adopt revised SMPs begins to ramp down in four to five years, OCRM encourages the WCZMP to identify and pursue opportunities for improving enforcement as was done for the Wetland Mitigation Program (*see Section C. 2. Wetland Mitigation*). The WCZMP could conduct an analysis of permit compliance and develop effective and efficient strategies to address priority issues. The WCZMP may wish to work closely with local governments to identify effective strategies and actions that both the state and local governments could undertake to improve compliance. OCRM also encourages the WCZMP to pursue additional sources of funding to strengthen compliance and enforcement.

Program Suggestion: OCRM recognizes that the WCZMP is currently focused on working with coastal governments to develop revised SMPs. In the next 4-5 years as local governments complete their revised SMPs, OCRM encourages the WCZMP to focus on identifying key areas for improving compliance and enforcement and implementing effective strategies and actions to ensure monitoring and compliance.

5. Critical Areas Ordinance

During the evaluation, the evaluation team discussed with staff the Washington State Supreme Court case *Anacortes (Futurewise et al v. Western Washington Growth Management Hearings Board et al.*, 164 Wash.2d 242, 189 P.3d 161) and the confusion caused by ambiguous language in

Engrossed Substitute House Bill 1933. The 2003 law included a clear intent for critical areas within the shoreline jurisdiction to be protected solely by SMPs adopted under the state SMA, rather than by critical areas ordinances adopted under the Growth Management Act. However, the 2003 law was not as clear on when a local SMP would take precedence over critical areas ordinances. After Ecology lost their appeal for reconsideration of the *Anacortes* case, the WCZMP developed guidance for local governments on how to proceed and pursued legislative changes to clarify the intent and procedures of the SMA.

On March 18, 2010, Governor Gregoire signed substitute House Bill 1653. The bill clarifies that, with certain exceptions, critical area regulations adopted under the Growth Management Act apply within shoreline areas. These regulations apply until Ecology approves either a comprehensive new SMP that meets Ecology's guidelines, or a SMP amendment specifically related to critical areas.

C. Coastal Habitat

The Coastal Program focuses on protecting coastal habitats through the development and implementation of SMPs, development of shoreline characterization tools to track cumulative impacts over time, support of watershed management, and protection and management of wetlands. The 2006 §309 five-year Assessment and Strategy ranks both cumulative and secondary impacts and wetlands as high priorities and the WCZMP has focused its §309 funding on developing and disseminating technical guidance to local governments to assist them with addressing the impacts of cumulative and secondary impacts of growth on the environment.

1. Wetlands

Ecology manages wetlands through the co-administration of the SMA with local governments and issuance of §401 water quality certifications. Ecology also provides technical assistance to local governments administering their GMA critical area ordinances. Under §401 of the Clean Water Act a state agency must grant or waive §401 certification before a federal agency can issue a permit or license for an activity that may result in a discharge that originates in the state. During the evaluation period, the WCZMP decoupled the federal consistency review from §401 certifications to further strengthen both the federal consistency review and §401 certifications (*see Section D. Government Coordination and Decision-Making for more information*).

Through the SMA, local governments have the primary responsibility for managing wetlands. Revisions to the Growth Management Act and the rules for implementing the SMA require that local governments include the best available science in their wetland regulations. In order to support local governments in their efforts to manage cumulative and secondary impacts and wetlands, the WCZMP's §309 Strategy incorporates the provision of guidance and training to local governments. Ecology has developed a number of reports, some with the assistance §309 funding, to assist local governments including:

- *Wetlands in Washington State – Volume 1: A Synthesis of the Science* synthesizing the ‘best available science’
- *Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands* developed to provide guidance for local governments on how to develop regulations to manage wetlands
- Revised *Washington State Wetland Rating System for Western Washington*
- Revised *Washington State Wetland Rating System for Eastern Washington*

In addition, staff worked with the Coastal Training Program to help develop and deliver training to local governments on how to use this information.

The Department of Ecology also published *Protecting Aquatic Ecosystems: A Guide for Puget Sound Planners to Understand Watershed Processes* in December 2005. The guide for Puget Sound planners, resource managers, and consultants outlines five steps to understand and incorporate information about watershed processes into planning efforts. The guide was developed to provide the target audience with information on how to better protect aquatic ecosystems, such as lakes, rivers, wetlands, and estuaries, by including information about watershed processes in resource management plans and regulatory actions. The process was designed to use readily available data and to be simple, rapid, and inexpensive to apply. The Coastal Training Program has also developed a one-day training based on this guide.

SEA staff work closely with local governments and provide various types of technical assistance to support efforts to protect wetlands and other shoreline habitats. SEA staff support local government officials upon request and assist with activities such as wetland delineations, meeting with property owners to discuss remediation of illegal wetland fill, and making ordinary high water mark determinations. SEA staff also provide policy guidance and answer policy questions, for example, providing written comments on draft critical areas ordinance wetland provisions and training on planning guidance and concepts. SEA staff also support local governments facing legal challenges through activities such as preparing amicus briefs and reviewing conflicting documents to establish the correct interpretation of jurisdictional boundaries to be used in hearings.

2. Wetland Mitigation

The state legislature ordered a review of wetland mitigation projects in the late 1990s and it was found that half of the projects were unsuccessful. In order to improve the success of wetland mitigation projects, Ecology pursued grant funding from the U.S. Environmental Protection Agency (EPA) to implement a comprehensive monitoring and enforcement program. SEA staff now visit every wetland mitigation project at 18 months to monitor as built conditions and again at year five and year ten. This level of monitoring allows staff to track and analyze what conditions lead to successful projects and to work with the responsible parties to address issues found during the site visits. SEA staff’s analysis of wetland mitigation project permit conditions led to the development of clear standardized permit conditions that have dramatically increased the success rate of wetland mitigation projects. SEA staff have also partnered with the Coastal Training

Program to provide training to local government staff on using the *Alternative Interagency Mitigation Guidance* to review mitigation plans. Recent statistics show that the success rate of wetland mitigation projects has increased from 50 to 80 percent.

Ecology also convened a forum Mitigation that Works, to investigate the issues surrounding wetland mitigation and make recommendations for improvement. The forum was composed of 22 members including members of state and federal agencies, local governments, ports, businesses, environmental, and land use/conservation interests. The forum members met 11 times in 2007 and 2008 and members of the public were welcomed and opportunities for public comment were provided. The forum members were supported by a consultant team who conducted research, developed materials, and facilitated meetings. In December 2008, the forum released a set of recommendations for improving wetland mitigation that identified agency leads and key partners for each recommendation.

Accomplishment: SEA successfully pursued funding to improve wetland mitigation and developed and implemented a program that has increased the success rate of wetland mitigation projects by over 50 percent.

In order to improve the effectiveness of wetland mitigation, Ecology also developed a wetland mitigation banking program in conjunction with EPA and U.S. Army Corps of Engineers (USACE) using a pilot rule. The pilot rule process allowed “field-testing” of the draft banking rule which began in 2004 and ran for five years. At the end of the pilot project, the pilot rule was revised to reflect lessons learned during the pilot rule test, ensure that the state rule was consistent with the April 2008 federal rule on compensatory wetland mitigation, and address public comments. The final rule was published in early September of 2009. At the time of the site visit, eight banks were certified and six banks were in the certification process. The approved mitigation banks are currently being monitored to ensure that they perform successfully. Ecology also provides outreach and training for local governments including the use of characterization data to guide mitigation bank site selection, design, and service areas and provides example language for ordinances that allow for off-site mitigation options such as mitigation banks.

Accomplishment: SEA successfully developed and implemented a wetland mitigation banking program.

One of the Mitigation that Works Forum’s recommendations was to support the development of a pilot in-lieu fee program in the Puget Sound region. Ecology has been working with the Puget Sound Partnership on developing an in-lieu fee program for the Puget Sound Basin including drafting policies for the establishment and use of in-lieu fee programs. The state legislature has provided \$4.4 million in funding to support this effort. Ecology has also reviewed and worked with the USACE and other key partners on the development of an in-lieu fee program administered by King County.

3. Coastal and Estuarine Land Conservation Program

Congress established the Coastal and Estuarine Land Conservation Program (CELCP) in 2002 to protect coastal and estuarine lands considered important for their ecological, conservation, recreational, historical, or aesthetic values. The program provides state and local governments with matching funds to purchase significant coastal and estuarine lands, or conservation easements on such lands, from willing sellers. Lands or conservation easements acquired with CELCP funds are protected in perpetuity so that they may be enjoyed by future generations.

The CELCP guidelines outline the criteria and process for states to nominate land conservation projects to a national competitive process. The program is coordinated at the state level through each state's CELCP lead within the state's lead coastal management agency. According to CELCP guidelines, each state must develop a CELCP plan which is submitted to OCRM for approval. As part of the plan development process, the WCZMP met with major estuarine management groups and organizations around western Washington's coastal communities to (1) inform them about the CELCP plan development; (2) scope out regional concerns; and (3) identify resources considered to be of high ecological significance. All tribal nations were notified of the CELCP Plan development and information was posted on the web and public comments solicited. A diverse technical advisory group was created that included representatives from the federal, state, local, and tribal governments, Puget Sound Action Team, nonprofit land trusts, and the Washington Pacific Coast Joint Venture who participated in the development and early review of the plan. The CELCP Plan identifies the state's significant lands and values as salmon, wetlands, forage fish and shorelines, and species and habitat biodiversity. The *Washington CELCP Plan* was approved in 2007 and was the first approved CELCP plan in the nation.

The WCZMP is one of the few state coastal programs who has a part-time staff member tasked with developing CELCP and other land acquisition projects to protect coastal resources and increase public access opportunities. In 2009, the WCZMP was one of nine successful applicants in the nation and received funding for the project *Kiket Island Addition to Deception Pass State Park*. After the evaluation site visit, *Kiket Island Addition to Deception Pass State Park - Phase II* was selected as a 2010 project. Kiket Island is located just east of Deception Pass State Park in Skagit County, Washington within the Swinomish Indian Reservation and is rich in species diversity and provides important habitat for all eight native salmon and trout species. The total project is 96 acres, including 86 upland acres and over two miles of shoreline. The complex project has brought together a diverse group of partners to ensure the property is protected including the WCZMP, Trust for Public Land, Swinomish Indian Tribe, and Washington Parks and Recreation Commission. The project is now co-owned and co-managed by Washington State Parks and the Swinomish Indian Tribe and WCZMP staff worked closely with involved partners to bring together funding and to ensure this park, within Reservation lands, is managed in a manner acceptable to all partners.

Accomplishment: The WCZMP is successfully implementing their CELCP and have (1) conducted an inclusive CELCP planning process; (2) received the first approval in the nation for a CELCP Plan; (3) supported a part-time staff member who has successfully developed CELCP and other land acquisition projects; and (4) successfully obtained funding to acquire and protect Kiket Island.

D. Government Coordination and Decision-Making

The WCZMP has enhanced government coordination and decision making by improving the federal consistency process, contributing to state and ocean planning and project implementation efforts, and developing regional sediment management programs.

1. Federal Consistency and Permitting

During the evaluation period, the WCZMP improved the use of federal consistency, a tool to ensure that federally permitted activities are consistent with the approved WCZMP and that federal activities are consistent to the maximum extent practicable. The WCZMP decoupled the federal consistency determination from the §401 water quality certification to make each stronger and better tailored to each specific program. The separation of the federal consistency determination from the §401 water quality certification has also raised the visibility of the federal consistency program with other state and federal agencies. The WCZMP has expanded their outreach to state and federal agencies to ensure understanding of federal consistency requirements.

At the time of the site visit, the WCZMP had recently ramped up its outreach to other state and federal agencies to explain the decoupling of the §401 water quality certification review from the federal consistency review and to provide federal and agency staff with a better understanding of federal consistency. WCZMP federal consistency staff had recently met with U.S. Navy staff to discuss federal consistency issues and were scheduled to meet with USACE staff in October. OCRM commends the WCZMP for reaching out to federal and state agencies and encourages them to continue to work with agency staff to ensure they are aware of applicable federal consistency requirements and regulations.

The evaluation team met with USACE and U.S. Navy staff to discuss the federal consistency process. They offered several suggestions for improving the federal consistency process including:

- (1) Provide federal agencies with templates, examples, and clear instructions and a staff contact list that includes specific responsibilities.** At the time of the site visit, the WCZMP provided general information on the consistency process on its website but did not have templates, examples, instructions, or a federal consistency staff list available for federal agencies. OCRM encourages the WCZMP to consider developing a procedural guidebook, templates, and examples for federal agencies.
- (2) Provide approved SMPs and maps on-line.** The WCZMP has provided access to new revised

SMPs which are available on Ecology’s website but older SMPs are not available online. Federal agency staff noted that it could be difficult to find a SMP and some local governments wanted payment for a copy. Many older SMPs and maps are not currently available in electronic format and OCRM encourages the WCZMP to explore low cost options for scanning and uploading the information.

(3) Provide a formal response to federal consistency certifications. The implementing regulations of the CZMA do not require a formal response to federal consistency certifications and concurrence is presumed after 60 days. Federal agency staff noted that there were times a quicker response and/or formal response would be helpful. Some states though have chosen to provide federal agencies with a courtesy notice that federal consistency is waived but that the proposed activity will be evaluated for conformance with the relevant coastal management policies, standards and criteria in conjunction with the state permit review process. OCRM encourages the WCZMP to consider if this, or other options, could improve the federal consistency process.

Accomplishment: The WCZMP has improved the federal consistency process by (1) decoupling the federal consistency determination from the §401 water quality certification; (2) placing new SMPs on-line; and (3) providing federal and state agency staff with training and information on federal consistency.

Program Suggestion: OCRM encourages the WCZMP to continue to improve the federal consistency process by (1) developing and providing more detailed information such as a procedural guidebook, templates, and examples and contact list for federal agencies; (2) placing older SMPs and associated maps on-line; and (3) continuing outreach, training, and exploration of possible improvements to the federal consistency process.

The previous evaluation noted that 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 generally felt positive about their partnerships with the WCZMP but they nevertheless, expressed concern that other laws should be included amongst the Coastal Program’s enforceable policies. In particular, agencies were interested in incorporating Washington’s aquatic land-related laws, Seashore Conservation Act, and the Hydraulics Code into the WCZMP. The evaluation team met with WDNR and WDFW staff and they reiterated their interest in exploring the addition of these laws into the WCZMP. The Washington *Ocean Action Plan* also calls for examining whether the inclusion of these laws into the Coastal Program would be beneficial. WDNR and WDFW staff noted that possible benefits included enhanced protections for fish and ensuring WDNR was aware of projects that were being proposed on state owned tidelands.

The WCZMP hired a Hershman Fellow to analyze the benefits and drawbacks of incorporating new statutes into the Coastal Program, conduct a preliminary cost analysis, and to develop recommendations. The report *Examination of the Benefits and Drawbacks of Adding State Authorities to the Washington Coastal Zone Management Program* was published in May of 2010.

During the evaluation, the evaluation team met with the Fellow and discussed some of the draft results. The report provides an extensive discussion of the issues and cost analysis of various options. Although the report does not provide definitive conclusions as to whether each act should be included, it does provide recommendations for improving existing processes and additional analyses to be conducted.

In the state of Washington, the responsibility for assisting applicants with environmental permitting lies with the Governor's Office of Regulatory Assistance. The WCZMP recently assisted the Office of Regulatory Assistance with developing a revised Joint Aquatic Resource Permit Application (JARPA) to improve coordination. JARPA is not mandatory and applicants complete an on-line questionnaire to determine which agencies need to review a proposed project. Although, this is an improvement, issues with agencies not receiving applicable permit applications appears to still be a significant issue. To address coordination issues, OCRM encourages the WCZMP to work with the designated agency for permit assistance, the Office of Regulatory Assistance, and other state agencies to improve the permit submittal and routing process.

Since the evaluation site visit, the WCZMP has met with WDNR and WDFW and a pilot project is being planned to investigate the feasibility and benefit of including additional statutes in the WCZMP. WDNR and WDRW staff members will work with WCZMP federal consistency staff to review projects and determine if the inclusion of additional enforceable policies would lead to more effective management of state coastal uses and resources. OCRM commends the WCZMP for conducting an extensive analysis and pilot project to determine the feasibility and benefit of adding statutes to the approved WCZMP

During the evaluation site visit, WCZMP staff discussed with the evaluation team their interest in pursuing an interstate consistency agreement with Oregon, in particular, to better address and coordinate issues in the Columbia River basin. An interstate consistency agreement could facilitate coordination and improve the states' ability to address complex issues in the Columbia River basin. OCRM encourages the WCZMP to work with OCRM and the state of Oregon to evaluate the potential benefits of an interstate consistency agreement and to pursue such an agreement if it is determined that it would improve coordination and the states' ability to address complex issues.

Program Suggestion: OCRM encourages the WCZMP to work with OCRM and the state of Oregon to evaluate the potential benefits of an interstate consistency agreement.

2. Regional and State Ocean Planning and Management

The Coastal Program has increased its focus on the ocean coast during the evaluation period and has been actively involved in several large efforts including the State Ocean Policy Workgroup and West Coast Governors Agreement on Ocean Health. The WCZMP has played a pivotal role in the development and implementation of the state's *Ocean Action Plan*. In response to the Pew Commission and U.S. Commission on Ocean Policy, the Governor's office established a

Washington State Ocean Policy Work Group in 2005 to summarize the status and value of Washington's ocean resources and provide recommendations for improving protection and management of them. The workgroup was composed of representatives from the state legislature, state agencies, tribes, local governments, and ports and the WCZMP hired an Ocean Policy Associate to staff the workgroup. As part of the planning process, the workgroup solicited input from coastal communities and stakeholders. The workgroup chose to focus on Washington's outer coast and straits as the Puget Sound Partnership was doing similar work in the Sound. In December of 2005, the workgroup released the report, *Action for Washington's Ocean: Initial Steps to Enhance Management of Washington State's Ocean and Outer Coasts*. This report was followed in December of 2006 by *Washington's Ocean Action Plan: Enhancing Management of Washington State's Ocean and Outer Coasts* which summarizes the status of and values of Washington's ocean resources and offers recommendations to (1) manage the state's ocean and coastal areas to protect valuable marine resources and maintain ecosystem health while ensuring the vitality of coastal communities; (2) protect the coastal environment and its communities from the threats of marine hazards; (3) enhance the sustainability and resiliency of outer coast communities; (4) increase state attention on ocean-related scientific research and observation practices; (5) inform all state citizens of the vital importance of the state's ocean resources; and (6) coordinate state policy and consult and collaborate with tribes, local government, ports, and interested citizens. The Ocean Policy Associate also provides staff support to the State Ocean Caucus, an interagency team focused on implementing the action plan.

The west coast states of California, Oregon, and Washington also initiated discussions on ocean issues and in September of 2006, the Governors of California, Oregon, and Washington announced the West Coast Governors' Agreement on Ocean Health. The agreement calls for the three states to work together to achieve (1) clean coastal waters and beaches; (2) healthy ocean and coastal habitats; (3) effective ecosystem-based management; (4) reduced impacts of offshore development; (5) increased ocean awareness and literacy among the region's citizens; (6) expanded ocean and coastal scientific information, research, and monitoring; and (7) sustainable economic development of coastal communities. A draft action plan was released in 2007 and a final action plan was released in July of 2008. The states then set up multiple workgroups, known as Action Coordination Teams, to coordinate coast-wide implementation of the action plan. The Ocean Policy Associate provides staff support for the Governor's office and is coordinating Washington's contributions to the Renewable Energy and Seafloor Action Coordination Teams. OCRM commends the WCZMP for its increased focus on, and support of, ocean policy and planning efforts at the state and regional level.

Accomplishment: The WCZMP has provided significant support to the development of regional and state ocean policy plans through the West Coast Governors Agreement and State Ocean Policy Workgroup and is actively engaged in projects to support these efforts and improve ocean health and coastal management.

3. Sediment Management

The WCZMP is involved in several sediment management efforts including the Dredge Material Management Program (DMMP) and Columbia River Disposal Program. The DMMP, a cooperative led by the Department of Natural Resources which includes EPA, USACE, and Ecology manages disposal within Puget Sound, Strait of Juan de Fuca, and Grays Harbor and Willapa Bay.

In addition to the DMMP, the WCZMP has been working with the State of Oregon, USACE, and other partners through the Lower Columbia Solutions Group since 2005 to develop beneficial use disposal options in Oregon and Washington. The evaluation team visited Cape Disappointment and Benson Beach and met with USACE staff to discuss sediment management. After the initial Columbia River jetties were constructed, the shoreline grew seaward rapidly but with dams upriver trapping much of the sediment, the shoreline has been eroding since the 1950s. Cape Disappointment State Park has lost over 260 acres of land, and beachside areas once targeted for campground construction have been removed from the planning process and sewer ponds have been decommissioned because of the threat of erosion.

The WCZMP worked closely with the USACE and other partners and led the effort to secure funding for a pilot project where dredged sediment from the Columbia River is being placed on Benson Beach. The movement of sand and impacts on nearshore ecosystems are being closely monitored. WCZMP staff have also provided additional support to sediment management efforts, for example, assisting with the development of a workshop focused on wave hazard and navigation safety and developing an agreement on how these issues would be handled in the permitting of a new nearshore disposal site. OCRM commends the WCZMP for pursuing the beneficial reuse of dredged sand for beach renourishment while ensuring that environmental, resource, and navigation impacts are minimal.

E. Public Access

The provision of public access to rivers, lakes, and saltwater is provided by a variety of public agencies including local government park and recreation agencies, public port districts, National Park Service, National Forest Service, Washington Park and Recreation Commission, and the state departments of Fish and Wildlife and Natural Resources. A 1996 statewide public opinion survey (Social and Economic Sciences Research Center, 1996) found that when asked, “Is there adequate public access to shorelines in Washington?” 63 percent responded “enough” and 37 percent “not enough.” A 1985 inventory of Washington’s 2,200 miles of inland marine shoreline found that only about 19 percent of the shore was publicly owned and only about half that was accessible from the uplands. In Washington, the trend towards extensive private ownership of tidelands and shorelands began after statehood in 1889 and ended in the early 1970’s. During this time, the state sold tidelands and shorelands into private ownership for various reasons including raising money for the State Treasury and encouraging commercial oyster production. The state’s current policy is to sell no publicly owned tidelands and shorelands, although a lease program continues. In the

WCZMP 2006 §309 five-year Assessment and Strategy, public access is ranked as a medium priority. The WCZMP addresses public access through the local government public access plans required for SMPs, by developing and providing easily accessible information on existing public access to shoreline planners and the public. The Coastal Program also works with state agencies, local governments, and nonprofits to increase public access through land acquisition (*see Section C.3. Coastal and Estuarine Land Conservation Program*).

During the evaluation period, WCZMP initiated a project to expand the Washington Coastal Atlas to include public access information. The public access project has several components (1) collaboratively design and implement the addition of public access information to the existing Washington Coastal Atlas; (2) design and conduct a study to evaluate use of public access information added to the Washington Coastal Atlas; and (3) develop improved state policy guidance for the local public access plan component of SMPs. The WCZMP successfully developed a proposal for a Coastal Services Center Coastal Fellow who began to implement the development of the public access portion of the coastal atlas. The GIS database was completed in the fall of 2008 and is available at www.ecy.wa.gov/programs/sea/sma/atlas_home.html. A more user friendly interface for the public is now being developed so that citizens can easily search and find information about public access sites and public access policy guidance for shoreline planners is also under development. OCRM commends the WCZMP for developing a state-wide database of public access information.

Accomplishment: The WCZMP has continued to improve the Washington Coastal Atlas through the addition of public access information, training local government staff on the use of the Atlas, and bringing together west coast coastal atlas programs to share ideas and identify synergies.

F. Water Quality

The WCZMP addresses water quality through the implementation of the Coastal Nonpoint Pollution Control Program, providing technical guidance on cumulative and secondary impacts and water quality, and the development and implementation of SMPs.

The Coastal Nonpoint Pollution Control Program (Coastal Nonpoint Program), created by §6217 of the Coastal Zone Act Reauthorization Amendments of 1990, is jointly administered by NOAA and EPA. Two of the Coastal Nonpoint Program's key purposes are to strengthen the links between federal and state coastal zone management and water quality programs, and to enhance state and local efforts to manage land use activities that degrade coastal waters. NOAA and EPA must approve each state's coastal nonpoint program. Washington's Coastal Nonpoint Program was conditionally approved in 1998.

Washington's Coastal Nonpoint Program is led by Ecology's Water Quality Program. While the state retains the right to enforce water quality violations, the Coastal Nonpoint Program relies on local jurisdictions to implement the program and on other agencies to assist with education and

outreach. During the evaluation period, there has been no formal documentation of progress towards meeting the outstanding conditions of the Coastal Nonpoint Program.

Necessary Action: Ecology must work with OCRM to develop and submit to OCRM by May 31, 2011 a work plan with interim benchmarks and a time line for meeting the outstanding conditions of its conditionally approved Coastal Nonpoint Program. The documentation indicating how the outstanding conditions are met must be submitted to OCRM no later than November 30, 2014.

During the evaluation process, several commenters expressed concerns with the negative impact forestry practices were having on stream habitats and endangered fish species. In the June 30, 1998 conditional approval findings for Washington's Coastal Nonpoint Program, NOAA and EPA found that Washington's program satisfied all the forestry management measure requirements of the Coastal Nonpoint Program but an additional condition was placed on Washington's program to address endangered species concerns, requiring the state to adopt "additional management measures where water quality impairments or degradation of beneficial uses attributable to forestry exist despite implementation of the Coastal Nonpoint Program measures." The state then passed the Forest and Fish Act in 2001, which calls for an adaptive management approach to forestry. In addition, in 2006, EPA and NOAA's National Marine Fisheries Service approved the state's Forest Practices Habitat Conservation Plan which asserts that Washington's forestry rules and program enable the state to meet the requirements of the Federal Clean Water Act as well as the Endangered Species Act for species included in the plan. Therefore, with these programs and rules in place, NOAA and EPA believe Washington has satisfied this condition on its Coastal Nonpoint Program.

In July of 2009, Ecology published the results of a Clean Water Act Assurances Review of Washington's Forest Practices Program, *Examining the effectiveness of Washington's forest practices program in bringing waters into compliance with state water quality standards and the federal Clean Water Act*. Ecology found that the existing framework was solid but that additional information was needed to validate the effectiveness of the program in protecting water quality. Ecology conditionally extended Clean Water Act Assurances and included a series of corrective milestones associated with operational issues, compliance monitoring, and assessing progress. OCRM believes the state has developed an adaptive management process and will continue to track the results of monitoring studies and any adaptive regulatory actions initiated by the state.

The WCZMP has focused its limited federal coastal nonpoint funding on providing assistance and technical guidance on cumulative and secondary impacts and water quality to local governments to support development of revised SMPs that ensure no net loss of ecosystem function and SMP implementation. During the evaluation period, the Coastal Program funded an array of Coastal Nonpoint Program tasks including developing guidance for using landscape characterization; providing technical assistance to local governments developing new or revised regulations; revising the guidance *Protecting Aquatic Ecosystem: A Guide for Puget Sound Planners Understanding Watershed Processes*; the Puget Sound Characterization Project which is designed to use water quality and quantity data and wildlife information to identify areas most suitable for

protection, restoration, and development; and developing and conducting training and workshops (many through the Coastal Training Program) to assist local governments best protect wetlands. In addition to projects funded with the support of CZMA funds, Ecology has also supported efforts to protect water quality and wetlands through improvements to its wetland permitting program and development of additional wetland guidance and training for local governments (*see Section C. Coastal Habitat for additional information*).

G. Coastal Hazards

The state of Washington has over 3,000 miles of shoreline, of which over two-thirds is located within Puget Sound and less than a third is ocean coast. In the WCZMP 2006 §309 five-year Assessment and Strategy, hazards are ranked as a medium priority. The Assessment and Strategy also states that Washington is at high risk for episodic shoreline erosion, chronic shoreline erosion, earthquakes, tsunamis, and coastal landslides and also faces risk from flooding, storm surge, and sea level rise, especially in areas that are subsiding. The hazard risks vary significantly between the ocean coast and Puget Sound due to the physical conditions and nature of development. The WCZMP addresses coastal hazards through the provision of technical assistance to federal, state, and local government agencies and policy development.

The Coastal Program has two staff members with coastal hazards expertise including a coastal geologist and coastal engineer. During the evaluation period, these staff members provided support to hazards mitigation efforts including assisting with the initial development and review of a recently published Puget Sound Nearshore Ecosystem Restoration Project report, *Management Measures for Protecting and Restoring the Puget Sound Nearshore* which includes chapters on bulkhead removal, beach nourishment, and groin removal (available at www.pugetsoundnearshore.org/technical_reports.htm); reviewing and providing comments on the draft critical areas ordinances that address geological hazards such as erosion; and overseeing coastal mapping projects.

The WCZMP has chaired and played a leading role in the Shoreline Armoring Workgroup, a collaboration of biologists and geologists from the U.S. Geological Survey, University of Washington, Puget Sound Nearshore Restoration Project, and other state and federal agencies. The workgroup has focused on a variety of activities including developing a monitoring protocol for beach restoration projects and advising University of Washington scientists on a research project looking at the effects of a proposed large-scale seawall removal at Seahurst Park in the City of Burien. In addition, the workgroup organized a four-day workshop in May of 2009 that convened regional and national experts to examine the state of the science relevant to shoreline armoring in environments similar to Puget Sound. Presentations addressed current understanding of Puget Sound, emerging scientific research on beaches and armoring, and relevant experience from other regions. The abstracts and presentations are available at <http://wa.water.usgs.gov/SAW/index.html>.

The WCZMP has also begun to undertake planning activities to better understand the impacts and potential for adapting to climate change. Currently, updated SMPs aren't required to consider or

address likely climate change impacts. In 2009, the Governor directed the Director of Ecology to work with the Washington State Association of Counties and the Association of Washington Cities to *evaluate the potential impacts of sea level rise on the state's shoreline areas, including the potential increases in storm surge and coastal flooding, increased erosion, and loss of habitat and ecosystems, and to develop recommendations for addressing these impacts*. At the time of the site visit, the WZCMP staff were working with others in Ecology on strategies for improving understanding of sea level rise and incorporating this knowledge into SMP updates. In addition, the WCZMP was developing a proposal to obtain a Coastal Services Center Fellow who would be able to further facilitate the development of climate change policy recommendations that could be incorporated into SMPs.

V. Conclusion

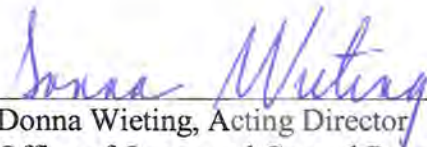
For the reasons stated herein, I find that the State of Washington is adhering to the programmatic requirements of the Coastal Zone Management Act and its implementing regulations in the operation of its approved Washington Coastal Zone Management Program (WCZMP).

The WCZMP has made notable progress in the following areas: support of local governments through the provision of technical and planning assistance, training opportunities, and guidance; improvement of wetland permitting and mitigation projects including development of a wetland mitigation banking program; the completion of the state's CELCP Plan and successful development of land acquisition projects; improvement of the federal consistency process; and support of ocean policy development, planning, and project implementation.

The evaluation findings contain a Necessary Action requiring Ecology to work with OCRM to develop a work plan for meeting the outstanding conditions of its conditionally approved Coastal Nonpoint Program and submitting the documentation indicating how the outstanding conditions are met by November 30, 2014. These evaluation findings also contain five recommendations in the form of Program Suggestions which should be addressed before the next regularly-scheduled program evaluation, but 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 Appendix A.

This is a programmatic evaluation of the WCZMP which may have implications regarding the State's financial assistance awards. However, it does not make any judgment about or replace any financial audits.

The Necessary Action requires Ecology to work with OCRM to develop a workplan for meeting the outstanding conditions of its conditionally approved Coastal Nonpoint Program and submitting the documentation indicating how the outstanding conditions are met by November 30, 2014



Donna Wieting, Acting Director
Office of Ocean and Coastal Resource Management

NOV 16 2010

Date

VI. Appendices

Appendix A: Summary of Accomplishments and Recommendations

Accomplishments

Issue Area	Accomplishment
Partnerships	The WCZMP partnered with Washington Sea Grant and the Padilla Bay Coastal Training Program to re-launch the Shoreline and Coastal Planners Group to address identified planner needs and obtained accreditation from the AICP for workshops.
Shoreline Master Programs	Ecology and WCZMP's strong and extensive support of local government planning efforts through training opportunities, development of guidance, and on the ground assistance are resulting in improved SMPs that will guide future development and protect the public interest and natural resources.
Wetlands	SEA successfully pursued funding to improve wetland mitigation and developed and implemented a program that has increased the success rate of wetland mitigation projects by over 50 percent.
Wetlands	SEA successfully developed and implemented a wetland mitigation banking program.
CELCP	The WCZMP is successfully implementing their CELCP and have (1) conducted an inclusive CELCP planning process; (2) received the first approval in the nation for a CELCP Plan; (3) supported a part-time staff member who has successfully developed CELCP and other land acquisition projects; and (4) successfully obtained funding to acquire and protect Kiket Island.
Federal Consistency	The WCZMP has improved the federal consistency process by (1) decoupling the federal consistency determination from the §401 water quality certification; (2) placing new SMPs on-line; and (3) providing federal and state agency staff with training and information on federal consistency.
Regional Planning	The WCZMP has provided significant support to the development of regional and state ocean policy plans through the West Coast Governors Agreement and State Ocean Policy Workgroup and is actively engaged in projects to support these efforts and improve ocean health and coastal management.
Coastal Atlas	The WCZMP has continued to improve the Washington Coastal Atlas through the addition of public access information, training local government staff on the use of the Atlas, and bringing together west coast coastal atlas programs to share ideas and identify synergies.
Staffing	OCRM encourages SEA to evaluate the need for technical expertise to better implement the SMA and to work with key partners to develop strategies to address priority needs.

Recommendations

Recommendations are in the form of Necessary Actions (NA) or Program Suggestions (PS).

Issue Area	Recommendation
Shoreline Master Programs	PS: OCRM encourages the WCZMP to prioritize the completion of the SMP Handbook and further the sharing of lessons learned, case studies, best management practices, and relevant technologies and tools through the shoreline planners toolbox or other written materials.
Staffing/ Shoreline Master Programs	PS: OCRM encourages the WCZMP to evaluate the need for technical expertise to better implement the SMA and to work with key partners to develop strategies to address priority needs.
Enforcement	PS: OCRM recognizes that the WCZMP is currently focused on working with coastal governments to develop revised SMPs. In the next 4-5 years as local governments complete their revised SMPs, OCRM encourages the WCZMP to focus on identifying key areas for improving compliance and enforcement and implementing effective strategies and actions to ensure monitoring and compliance.
Federal Consistency	PS: OCRM encourages the WCZMP to continue to improve the federal consistency process by (1) developing and providing more detailed information such as a procedural guidebook, templates, and examples and contact list for federal agencies; (2) placing older SMPs and associated maps on-line; and (3) continuing outreach, training, and exploration of possible improvements to the federal consistency process.
Interstate Consistency	PS: OCRM encourages the WCZMP to work with OCRM and the state of Oregon to evaluate the potential benefits of an interstate consistency agreement.
Coastal Nonpoint Program	NA: Ecology must work with OCRM to develop and submit to OCRM by May 31, 2011 a work plan with interim benchmarks and a time line for meeting the outstanding conditions of its conditionally approved Coastal Nonpoint Program. The documentation indicating how the outstanding conditions are met must be submitted to OCRM no later than November 30, 2014.

Appendix B. WCZMP Response to 2004 Evaluation Findings

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.

Program Response: OCRM has still not approved the amendment we submitted in 2004 that would incorporate our SMA guidelines into our CZMP. Because of this, we have not been able to submit any SMPs to OCRM for inclusion in the CZMP. This issue continues to be a major area of concern for us as we are unable to use newly updated and in most cases greatly improved SMPs for federal consistency purposes. We are eager to work with OCRM to develop this streamlined process as soon as possible, however the continued delay in approving our SMA guidelines has prevented us from making headway on this recommendation. We are also willing to work with OCRM on coordinating with NMFS and USFWS on ESA review of individual SMPs. We have recently discussed this with OCRM and would support their facilitation of this effort. We look forward to tackling this task soon.

Program Suggestion: 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.

Program Response: In 2008, the SEA Program convened a Technical Team that included Dr. Doug Bulthuis, the Research Coordinator at the Padilla Bay Reserve. The team meets periodically to share information and address issues. For example, the team met at Padilla Bay in 2008 to discuss the No Net Loss of Ecological Function policy in the Shoreline Master Program guidelines and make recommendations for how to improve implementation of this policy. Much of the information that arises from these team meetings has been and continues to be used to inform the SMP handbook and other topic-specific guidance. Additionally, the WCZMP Senior Marine Ecologist consults with Reserve staff as needed on marine/estuarine issues, especially eelgrass ecology.

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.

Response: Washington's compliance and enforcement capability continued to be hampered by limited resources and competing priorities during this evaluation period. Additionally, in April 2008, our compliance and enforcement specialist left the agency and to date we have been unable to refill the position due to a hiring freeze.

The program does continue to take compliance/enforcement action on high priority cases and

continue to work with local jurisdictions on compliance/enforcement issues. Southwest and Northwest regional staff are called in by local jurisdictions to assist in enforcement efforts from time to time. However, because enforcement does rest primarily with local jurisdictions, it is difficult for regional staff to engage in enforcement activities without the cooperation of local governments.

Regarding OCRM's suggestion that we seek additional funding for enforcement, the program did prepare a shoreline management funding request for the 2009 legislative session. Our original request included funding for Shoreline Master Programs (for pass-through grants and CZMP staffing) as well as for additional staff to support compliance and enforcement efforts in Puget Sound. After priorities discussions and difficult budget paring decisions in the agency, the compliance portion of the request was removed from the final version submitted to the legislature. This decision was driven by the tight state budget and the fact that Shoreline Master Program updates were the higher priority for the Governor and the Puget Sound Partnership.

We were fortunate to receive additional funds to support SMP updates in the Puget Sound region (\$3 million in additional state funds for SMP grants as well as funding for 2.5 FTEs to provide technical assistance for SMP updates) and will continue to evaluate the potential for requesting additional compliance/enforcement funding.

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.

Response: The SEA Program supports the idea of a thorough, analytical assessment of the state's Coastal Program. In particular, we want to understand how the addition of other state laws and regulations as enforceable policies in the coastal program will improve the protection and management of our coast, and to discover if there are any gaps in our regulation of projects affecting the coastal zone. We also want to understand the cost of implementing any potential changes to the program so we can fully weigh the costs/benefits of any proposed change.

To meet this end, the SEA Program developed a project proposal for the newly created Washington Sea Grant Marc Hershman Marine Policy Fellowship program and was awarded a fellow in 2009 to work on this specific project. Nathalie Hamel is working with us to research potential new enforceable policies including the Aquatic lands Act, Hydraulics Code, Growth Management Act, and Seashore Conservation Act. She is evaluating these policies to determine the impact of their inclusion as part of the CZMP, both from a policy and a coordination perspective. We expect a report on her work at the end of October when her fellowship ends. Program staff and management will then make decisions on her recommendations and determine whether or not to move forward with adding additional enforceable policies to the CZMP.

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.

The SEA program continues to reach out to tribes in Washington State and to search for partnerships where appropriate. During the CZMA visioning process conducted by CSO and NOAA in 2007, we met with representatives of the Northwest Indian Fisheries Commission and sought input from member tribes regarding potential expansion of the CZMA to include tribes. We then conveyed the importance of working with tribes to our congressional representatives when visiting Washington, DC in January of 2008.

Staff working on the outer coast in Washington have developed working relationships with tribes in that part of the state. Tribes with an interest in the management of the Olympic Coast National Marine Sanctuary work as part of the Intergovernmental Policy Council to inform the management of the sanctuary. SEA program staff attend council meetings to ensure collaboration between our CZMP and outer coast tribes.

Finally, we encourage communities to actively engage tribes in their Shoreline Master Program updates.

Program Suggestion: 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.

Response: Please see the answer below, for a description of the ways in which the WCZMP and PBNERR have collaborated since the last assessment.

Program Suggestion: 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.

Response: WCZMP has passed CZM grant funds to PBNERR to fund a staff member working on their non-point program. Her work and that of other PBNERR staff has carried resulted in over 80 volunteers getting involved in local monitoring and reporting of raw and summary data. Information from the monitoring is provided to other Ecology offices, the Skagit County Conservation District (which works with Ecology water quality inspectors on developing solutions to agricultural non-point problems), Skagit County Health Department, and the State Department of Health (Shellfish Harvest Program). This past year an additional "Storm-Team" project was initiated, where staff and volunteers go into specific areas of the county (where coastal water quality has been an issue) immediately after substantial rainfall events, and collect water quality data. These samples are immediately processed at the Padilla Bay lab and distributed to regional shellfish growers due to the high probability that fecal contamination will cause an industry closure. Data is then provided to the State Health Department and the closure is then determined

to be either "voluntary" or "mandatory". This Storm team program has resulted in several closures this past winter, prevented contaminated shellfish from entering the market, and directed federal and state agency attention to areas experiencing ongoing water quality issues.

Appendix C. Persons and Institutions Contacted

Department of Ecology

Name	Position
Gordon White	Program Manager, Shorelands and Environmental Assistance Program
Brian Lynn	Section Manager, Coastal/Shorelands Section
Carrie Byron	Coastal Zone Management Program Planner
Peter Skowlund	Senior Shorelines Planner
Betty Renkor	Senior Shorelines Planner
Tom Clingman	Policy and Legislative Lead
Loree Randall	401/Federal Consistency Policy Lead
Lori Ochoa	Federal Permit Coordinator
Rebekah Padgett	Federal Permit Coordinator
Jessica Moore	Federal Permits Unit
Lauren Driscoll	Wetlands Section Manager
Jennifer Hennessey	Ocean Policy Associate
Kathy Taylor	Senior Marine Ecologist
Deborah Purce	Coastal Management Fellow
Geoff Talent	Regional Manager, Northwest Regional Office
Barry Wenger	Shoreline Planner
Bob Fritzen	Shoreline Planner
Joe Burcar	Shoreline Planner
Josh Baldi	Special Assistant to the Director
Hugh Shipman	Coastal Geologist

State Agencies

Name	Agency
Hugo Flores	Department of Natural Resources
Kristen Swenddal	Department of Natural Resources
Randy Carmen	Department of Fish and Wildlife
Mark Daily	Department of Fish and Wildlife
Mike Rechner	Department of Natural Resources
Kat Hoffman	Washington Sea Grant
Penny Dalton	Washington Sea Grant

Counties

Name	Organization
Brian Shea	Grays Harbor County, Director of Planning & Building
Ryan Harriman	Grays Harbor, Planner III
Harry Reinert	King County
Maggie Glowacki	City of Seattle
Paul Stewart	City of Bellevue

Federal Agencies

Name	Organization
Doris McKillip	US Army Corps of Engineers, Portland District
Chemine Jackels	USACE
Hannah Hadley	USACE
Andrea Cummins	USACE
Amanda Ogden	USACE
Nancy Gleason	USACE
Evan Lewis	USACE
Deborah Johnston	USACE-ERS
George Hart	U.S. Navy

Other

Name	Affiliation
Jim Neva	Port of Ilwaco
Dale Beasley	Columbia River Crab Fishermen's Association
Eric Johnson	Washington Public Ports Association
Elizabeth Butler	Trust for Public Land
Peter Dykestra	Trust for Public Lands
Scott Andrews	Swinomish Tribe Environmental Programs

Appendix D: Persons Attending the Public Meeting

One public meeting was held on Monday September 21, 2009 at 6:00 p.m. at the Washington Department of Ecology Auditorium, 300 Desmond Drive S.E., Lacey, Washington. A list of attendees follows:

Name	Affiliation
David E. Ortman	Cascade Chapter Sierra Club
Dick Nelson	
Kristine M. Reeves	U.S. Senator Patty Murray's Office

Appendix E: OCRM'S Response to Written Comments

OCRM received eight sets of written comments regarding the Washington Coastal Zone Management Program. Comments are summarized below and followed by OCRM's response.

Keith Staurum, President Independent Shellfish Growers of Washington State

Comments: On behalf of The Independent Shellfish Growers of Washington State, Mr. Staurum commented that the organization wanted all spraying of chemicals into salt water to stop and he noted that they had 327 members in the state.

OCRM's Response: OCRM thanks Mr. Staurum and the Independent Shellfish Growers of Washington State for their comments. OCRM acknowledges that aquaculture is a controversial issue in the state of Washington. The state legislature has required studies and rulemaking to be undertaken. The state of Washington is currently undergoing rulemaking and OCRM encourages the commenter to raise his concerns during the aquaculture rule making process. A discussion of aquaculture and the rulemaking process can be found in *Section B.3. Aquaculture* of the evaluation findings.

Linda Orgel and Arthur Grunbaum Aberdeen, WA

Comments: Ms. Orgel and Mr. Grunbaum stated that they strongly support the concept of the Coastal Zone Management Program but noted that in their experience, the concepts are rarely followed or properly enforced in actual land use decisions. They stressed the need for there to be stronger adherence to the intent of the law, especially when we are faced with probable sea level rise due to global warming.

OCRM's Response: OCRM thanks Ms. Orgel and Mr. Grunbaum for their comments. *Section B.4. Compliance and Enforcement* of the evaluation findings discuss ongoing concerns with enforcement of the SMA. The WCZMP is currently focusing much of its effort on working with coastal governments to develop revised SMPs to better protect ecosystem function. As this effort wraps up in four to five years, OCRM has included a program suggestion that the WCZMP focus on identifying key areas for improving compliance and enforcement and implementing effective strategies and actions to ensure monitoring and compliance.

The evaluation findings, *Section G. Coastal Hazards*, discuss recent initiatives undertaken by the WCZMP to address climate change and sea level rise.

Jim Johannessen
Bellingham, WA

Mr. Johannessen noted that most of the local SMPs have fairly good policies for protecting nearshore resources while working in areas with commerce etc., but that the implementation of the plans in the form of issuing permits is still lacking. He stated that a moderate number of permits are granted by local jurisdiction that are not consistent with SMPs and cause harm to nearshore habitats (both on-site and off-site).

OCRM Response: OCRM thanks Mr. Johannessen for his comments. Please see response above to Ms. Orgel and Mr Grunbaum.

Dick Nelson
Tokeland, WA

Mr. Nelson noted that the review of five years of federal funding of the Washington Coastal Zone Management Program (WCZMP) requires better public notice.

Mr. Nelson also noted concerns with Ecology's review of the Shoalwater Bay Shoreline (North Cove) Erosion Project in Willapa Bay. Mr. Nelson stated he provided comments on numerous project documents and that Ecology never indicated an interest in his comments. He expressed specific concerns with Ecology's lack of leadership in protecting Willapa Bay from a damaging USACE project, that the best available science was not represented in Ecology's comments on the project, and that Ecology had not used the federal consistency provisions of the CZMA to protect Willapa Bay.

OCRM's Response: OCRM thanks Mr. Nelson for his comments. NOAA met its requirements for public notification under 15 C.F.R. §923.134. NOAA published a Notice of Intent to Evaluate in the Federal Register on July, 30, 2009. The WCZMP posted notice of the public meeting and opportunity to comment in the Olympian, a newspaper of general circulation in the state. In addition, Ecology posted the public meeting on the Department's calendar and the WCZMP posted a notice with background information and a public comment form on its website, and provided notice through various Department list serves.

Section *D.1. Federal Consistency and Permitting* of the evaluation findings address the implementation of the federal consistency and the §401 water quality certification process throughout Washington's coastal zone. A specific review of the Shoalwater Bay Shoreline Erosion Project was not conducted as part of this evaluation as programmatic evaluations of this type cannot effectively address individual actions of the state coastal programs, but instead must determine whether the combined actions of the participating state and local agencies are effectively implementing the state's federally approved coastal management program.

**John de Yong, President
Wise Use Movement
Seattle, WA**

Mr. de Young stated that the Wise Use Movement provided extensive comments on the previous evaluation but did not receive notice of the current evaluation and that this appears to be a violation of 15 CFR Sec. 923.134(a). He also commented that he supports the policy of the Coastal Management Act “to preserve, protect, restore, and enhance the coastal zone.” He noted that Skagit County had a large number of coastal management issues over the past five years but did not identify or provide information on any specific issue(s). Mr. de Young requested responses to a list of questions regarding number and types various permits issued, funding levels, changes in environmental conditions, and changes in economic activities specific to Skagit County.

OCRM’s Response: OCRM thanks Mr. de Young and the Wise Use Movement for their comments. Please see the response to Mr. Nelson regarding public notice of the evaluation.

OCRM did not collect county data as part of this evaluation process and does not have the data requested. As counties develop their revised SMPs they are required to develop shoreline characterizations which will enable the local jurisdiction to measure and compare ecosystem functions every five years to ensure “no net loss” of ecosystem function. As part of the characterization process, counties will be gathering available environmental data in a central location and conducting an analysis as discussed in *Section B.2. Shoreline Inventories, Analyses, and Characterizations*. OCRM encourages Mr. de Young to contact his county government and WCZMP for the requested information.

**Bonnie Phillips, Executive Director
by Marcy J. Golde
Olympic Forest Coalition
Seattle, WA**

On behalf of the Olympic Forest Coalition, Bonnie Phillips, Executive Director by Marcy J. Golde has provided comments in addition to those sent in conjunction with the 10,000 Years Institute and the Washington Forest Law Center.

Ms. Phillips noted that the mission of the Olympic Forest Coalition is protecting and restoring the forest and aquatic ecosystems on the Peninsula’s public lands. Ms. Phillips requests that NOAA and EPA exercise their full authority under the Coastal Zone Management Act to have Ecology use its full authority to bring forestry into full compliance with the State Clean Water Act. She states the Olympic Forest Coalition’s field work and analysis of state data show that Washington’s Water Quality Standards are not being met on the forest lands on the Olympic Peninsula. Ms. Golde noted that sedimentation from roads and harvest on private and state-managed lands is entering and moving through streams and wetlands that are not fully mapped and often used as sediment traps for roads, especially on private lands on the Peninsula. She stated that enforcement of Forest Practice rules is weak and uneven across Washington State. Ms. Phillips also provided copies of

comments submitted in support of a related request to the Department of Ecology not to extend Clean Water Act Assurances for Forest Practices which include an Olympic Forest Coalition report on enforcement of the Forest Practices rules and document cases of sedimentation.

OCRM Response: OCRM thanks Ms. Phillips and Ms. Golde for comments on behalf of the Olympic Forest Council. The evaluation findings discuss water quality issues, the Coastal Nonpoint Program, and Forest Practices Program in *Section F. Water Quality*. The Forest Practices Program is based on monitoring and adaptive management to ensure that water quality standards are met. In 2009, Ecology published the results of a review of forestry management practices to determine if Clean Water Act assurances should remain in effect. Ecology's review found that additional monitoring studies needed to be undertaken but that the framework in place was substantial. Ecology conditionally extended the Clean Water Act Assurances and identified needed remedial actions to be undertaken to maintain assurances. OCRM will continue to monitor the results of monitoring and any adaptive management actions undertaken.

Bonnie Phillips
Executive Director
Olympic Forest Coalition
Olympia, WA

Kurt Beardslee
Executive Director
Wild Fish Conservancy
Duvall, WA

Paul A. Kampmeier
Washington Forest Law Center
Seattle, WA

The commenters on behalf of the Olympic Forest Coalition, the Washington Forest Law Center, and the Wild Fish Conservancy expressed concern that the WCZMP does not ensure that logging in coastal areas protects water quality and aquatic species. The commenters state that EPA and NOAA have not fully and finally approved Washington's 6217 program because Washington has not met the outstanding conditions on its program and therefore is not in compliance with CZARA and the CZMA. The commenters suggest that NOAA cannot find that Washington has met the National Objectives or adhered to its Coastal Management Program document where Washington has not complied with CZARA or the CZMA requirement to ensure implementation of a fully approved 6217 program.

They also state that the Coastal Program is not ensuring that forest practices in coastal areas comply with state water quality standards as required by CZARA. In particular, the commenters express concern that pursuant to Section 10 of the Endangered Species Act, the State developed a Habitat Conservation Plan (HCP) and obtained incidental take permit coverage for those of its forest practices rules that are applicable to private landowners. They state that since Washington's

water quality standards require the protection of aquatic species (WAC Chapter 173-201A) any take of those species and any impairment of those species habitats necessarily violate those water quality standards.

The commenters also submitted additional documentation, a paper *Clean Water Act Assurances Literature Review* by Dr. Whittaker and comment letters written by Dr. Abbe; Dr. Frissell; Dr. McCullough, the Pacific Rivers Council; Mr. Rhodes; and a report by Steward and Associates that were submitted during the public comment period on Washington's Forest Practices Habitat Conservation Plan.

OCRM Response: OCRM thanks the commenters for their comments on behalf of the Olympic Forest Coalition, the Washington Forest Law Center, and the Wild Fish Conservancy. The evaluation findings discuss water quality issues, the Coastal Nonpoint Program, and Forest Practices Program in *Section F. Water Quality*.

OCRM believes the WCZMP continues to remain in compliance with CZARA and the CZMA. The Washington Coastal Nonpoint Program is conditionally approved. The forestry management measure is approved and the required additional Forestry Management Measure is believed by NOAA and EPA to be approvable. OCRM has included a Necessary Action in the findings that Ecology work with OCRM to develop and submit a work plan, within the next six months, for meeting the remaining conditions on its Coastal Nonpoint Program and to submit the documentation indicating how the outstanding conditions are met to OCRM by November 2014 (*see Section F. Water Quality*).

OCRM believes the 2006 Forest Practices Habitat Conservation Plan (HCP) that covers 9.3 million acres of state and private forestry lands and the issuance of an incidental take permit by NOAA's National Marine Fisheries Service does not interfere with the implementation of an adaptive management process designed to ensure that aquatic species are protected and water quality criteria met. Monitoring and adaptive management are required by the HCP to ensure that forestry practices are not leading to water quality degradation. If existing, allowed practices are shown to cause harm, under the HCP the state is to develop new regulations to ensure water quality criteria are met. The HCP is anticipated to have a positive impact on salmon habitat and ensure salmon survival.

The HCP states that "*implementation of the Forest Practices HCP will produce improved habitat conditions for covered species across forestlands managed under the plan... Implementation of HCP protection measures will not only conserve existing habitats, but will also foster habitat recovery, improving prospects for the continued survival of species across covered lands.*" The plan includes a robust adaptive management process to address uncertainties through research and monitoring. In its June 5, 2006, Biological Opinion NOAA's National Marine Fisheries Service concluded "*that the proposed action is not likely to jeopardize the continued existence of these species, and is not likely to destroy or adversely modify critical habitat.*"

The additional forestry management measure lays out an adaptive management process to ensure that water quality standards continue to be met. OCRM has found that the state is implementing this adaptive management process. As discussed in the previous response, Ecology has identified concerns with the lack of monitoring studies and therefore identified actions the state needs to take to ensure the necessary monitoring and determination of effectiveness occurs. OCRM will continue to track the results of the monitoring studies and any adaptive regulatory actions initiated by the state.

Llyn Doremus
Chair, Mt. Baker Group
Sierra Club
2520 Jefferson Street
Bellingham, WA 98225

Llyn Doremus, for Elaine Packard on behalf of Sierra Club provided extensive comments that are summarized below.

Comment: Llyn Doremus stated the public evaluation process was deficient and inadequate and that the Sierra Club had previously documented the deficiencies in comments on the Section 312 WCZMP evaluation dated September 14, 2000. In particular (1) one Federal Register notice is not sufficient; (2) OCRM has not complied with 15 CFR 923.134(a); (3) OCRM must stop relying on states to carry out public notice of such evaluations; (4) Ecology made little effort to alert environmental and conservation organizations concerning the September 21st public meeting in Lacey, WA; (5) Ecology's public notice material does not mention the availability of the state's past performance reports; (6) a request for all past performance reports during the evaluation period required a Freedom of Information Act request; (7) evaluations should be held yearly unless there is a regional staff person; and (8) at least five public meetings should be held in the evening as part of the evaluation.

OCRM Response: OCRM thanks Llyn Doremus, Elaine Packard and the Sierra Club for their comments. Please see the response to Mr. Nelson with regards to points one and two. With regards to points three and four, §923.134(b) details the responsibility of the state with regards to public notice. Since the State is in a better position to identify newspapers of general circulation, most likely knows and interacts with those persons and organizations interested in the Section 312 evaluation, and maintains communication mechanisms such as a website, newsletters and e-mail list serves that the general public regularly use to obtain program information, the obligation to issue a notice of the public meeting(s) in its evaluation by placing a notice in the newspaper(s) of largest circulation in the coastal area where the meeting(s) is being held and by taking other reasonable action to communicate with persons and organizations known to be interested in the evaluation properly rests with the State. The WCZMP maintains various e-mail list serves that serve the shoreline planning community, environmental groups, ocean policy community, and tribal representatives among others and used these lists to further advertise the opportunity to provide comments on the implementation of the WCZMP. With regards to point six, the regulations require that the federal register notice include information on the availability of the

state's performance report. The state is not required to include a notice regarding the availability of performance report when advertising the public meeting in the local newspaper. The notice in the local newspaper is to advise the public they have the opportunity to provide both oral and written comments as part of the evaluation. OCRM also did not commit an error by treating the request for WCZMP performance reports, referenced in the comments, as a FOIA request. The July 2009 Federal Register notice of the evaluation and public meeting states, "Copies of states' most recent performance reports, as well as OCRM's evaluation notification and supplemental information request letters to the states, are available upon request from OCRM." The FOIA request was processed in eight days and was free of charge. OCRM will take the suggestions under points seven and eight under advisement, although at this time there are resource limitations. OCRM holds at least one public meeting and accepts written comments as required by 15 CFR 923.134. A regional coastal management specialist has been located in Portland, Oregon since July 2009.

Comment: Numerous comments relate to the information contained in the performance reports and that they do not contain performance measures, do not measure the gain and losses of natural resources such as wetland, or changes to the ecosystem such as seawall construction, and do not provide enough details in general. Llyn Doremus also requested that OCRM revise its performance report criteria as found in 15 CFR 923.133(a) – 133(c)(3)(i) and that performance measures as noted in OCRM's program evaluation letter dated August 7, 2009, should be part of the performance report.

OCRM Response: OCRM provides annual performance report guidance to states that details the information that is required in semi-annual performance reports. The performance report guidance is reviewed annually and revised as necessary. When state coastal programs submit semi-annual performance reports to NOAA, the reports are reviewed by a state coastal management specialist at OCRM and the NOAA Grants Office to ensure that specific tasks are being completed as laid out in each annual cooperative agreement and all federal requirements are met. OCRM believes the information provided by the WCZMP in its performance reports meets federal reporting requirements.

The Department of Ecology and WCZMP are supporting the development of shoreline inventories, analysis, and characterization and the development of ecosystem health indicators which will allow communities to determine if they have achieved "no net loss of ecosystem function" every five years. This effort is the first in the nation to attempt to track ecosystem health at this scale, and OCRM commends the WCZMP for its technical and financial support of shoreline inventories, analysis and characterizations and development of ecosystem health indicators. This effort is discussed in the evaluation findings in *Section B.2. Shoreline Inventories, Analyses, and Characterizations*. In addition, the WCZMP has developed and continues to improve the Washington Coastal Atlas which among other things allows for the tracking of habitat change over time. Please see *Section A.5. Washington Coastal Atlas* of the evaluation findings for further discussion.

The national performance measures are meant to measure national progress towards meeting national goals and are not meant to measure individual program performance. The WCZMP has provided significant contributions to this national effort which is discussed in *Section A.3. Performance Measures*. OCRM agrees that state level indicators would be beneficial and will be working with individual state coastal programs to develop indicators that will track performance and progress at the state level. OCRM also would like to acknowledge that developing and tracking indicators is expensive and requires significant staff time and funding. Information systems must be developed and maintained to house data electronically and staff time must be dedicated to entering information. The development and tracking of indicators must be balanced with implementing coastal programs.

Comment: Llyn Doremus included several specific requests for information from the Department of Ecology.

OCRM Response: Requests for information from the Department of Ecology should be made directly to the Department of Ecology.

Comment: Llyn Doremus expressed concern that the list of threatened and endangered species has continued to grow and that Ecology is not tracking the recovery of threatened or endangered species in their cooperative agreement performance reports. In addition, Llyn Doremus requested that OCRM review the threatened or endangered species list and determine what measurable recovery results have taken place since 2004.

OCRM Response: The program evaluation findings discuss the WCZMP's efforts to protect coastal habitat for both endangered and non-endangered species in *Section C. Coastal Habitat* and more generally throughout the evaluation findings. The WCZMP has worked to protect and restore important habitats primarily through the development of technical guidance, assistance to local governments in revising and implementing their SMPs, land acquisition, and dramatically improving the success rate of wetland mitigation projects. In addition, as discussed above, the WCZMP is supporting efforts to better measure "no net loss" of ecosystem function. Currently, OCRM performance report guidance does not require states to report on the recovery of threatened or endangered species in the state.

Comment: Llyn Doremus also expressed concern with commercial aquaculture and requests a moratorium on Public Aquatic Lands leases until a comprehensive Department of Natural Resources policy for aquaculture leasing is established based on sound science, a cancellation of the geoduck intertidal leasing program, and terminating finfish leases on state lands. In addition, Llyn Doremus requests that OCRM stop funding aquaculture programs in the State of Washington. A request was also made that OCRM review and evaluate Ecology's involvement in using the Public Trust Doctrine to preserve and protect the state's coastal zone, particularly as to whether industrial aquaculture interferes with the public use and enjoyment of shoreline areas.

OCRM Response: Please see the response to Mr. Staurum and Aquaculture section of the evaluation findings. OCRM encourages Llyn Doremus to participate and raise any specific

concerns through the aquaculture rule-making process. OCRM will monitor the aquaculture rule-making process and implementation and impacts of any approved rule.

Comment: Llyn Doremus stated that wetland mitigation banking is contrary to the goals and policies of the Coastal Zone Management Act and requested that OCRM review and evaluate the potential wetland losses from Ecology’s wetland mitigation bank program. Llyn Doremus also requested that OCRM deny adding the wetland mitigation banking as an amendment to the current WCZMP. In addition, Llyn Doremus requests that Ecology reject the USACE reliance on preservation, in-lieu fees, mitigation banks, and out of basin mitigation.

OCRM Response: Section 1452(2)(A) of the CZMA establishes a national policy that encourages and assists to establish programs that provide for “the protection of natural resources, including wetlands, ...within the coastal zone.” Research by the National Research Council and others has shown that third-party compensatory mitigation such as mitigation banks offer advantages over permittee responsible mitigation in the fulfillment of regulatory goals. Mitigation banking allows state and local governments to protect wetlands while ensuring that there is not a complete “taking” of private property. As discussed in *Section C. Coastal Habitat*, the WCZMP has implemented numerous improvements to its wetland mitigation program including the development of a mitigation banking program in 2009. Ecology has received a grant from the EPA which has allowed for the expansion of the monitoring program and Ecology will be monitoring mitigation projects to ensure their success. The review of requested program changes is governed by a process separate from the evaluation and the process is laid out in 15 C.F.R. 923.80-84. OCRM duly notes Llyn Doremus’ concerns with incorporating the wetland mitigation banking rule into the current WCZMP and request that Ecology reject the USACE reliance on preservation, in-lieu fees, mitigation banks, and out of basin mitigation.

Comment: Llyn Doremus also expressed concern that the public does not have input into deciding how many credits are issued for many specific projects as the vast majority of wetland filling in the state takes place under the Corps’ Nationwide Permit program which does not require the USACE to issue public notice. In addition, Llyn Doremus notes that the Interagency Review Team is not subject to the Washington Open Public Meetings Act as it is governed by a single person, the Director of Ecology.

OCRM Response: Section 1455(d)(14) of the CZMA states that a management program should provide for public participation in permitting processes, consistency determinations, and other similar decisions. The State of Washington has an open and public rule making process which is discussed in the findings in *Section B. Shoreline Master Programs*. The development of the wetland mitigation banking rule was conducted under this process and public comment was solicited and addressed. The Wetland Mitigation Banking Rule (WAC Chapter 173-700) also provides for public comment on the details of any mitigation bank before approval or denial. Although the individual actions under a nation-wide permit are not reviewable by the public, through the federal consistency process, the public has an opportunity to provide comments on any USACE proposed nation-wide permit to ensure the proposed permit is consistent with the state’s federally approved coastal program. Individual actions not covered under a nation-wide permit are

reviewable by the public through the federal consistency process for consistency with the state's federally approved coastal program. OCRM believes that the State of Washington is in compliance with the CZMA and is providing for public participation in permitting processes and consistency determinations.

Comment: Llyn Doremus requested that OCRM review and evaluate Ecology's involvement in marine protected areas, especially as the Marine Protected Areas Center is located within OCRM.

OCRM Response: The State of Washington is a successful participant in the voluntary National System of Marine Protected Areas and has 29 sites enrolled, second only to California.

Comment: Llyn Doremus has urged OCRM to recommend that Ecology increase protections for islands in Washington's coastal zone and noted an interest in whether any other states provide special protection for islands as part of their coastal zone program.

OCRM Response: OCRM works closely with states on an annual basis to determine funding priorities and tasks for the cooperative agreement. OCRM is supportive of WCZMP's efforts to focus on the development of revised SMPs that will provide enhanced protection of ecosystem functions. CZMA funds may be used towards the development of special area management plans which could be targeted towards islands. Information on special area management plans can be found at <http://coastalmanagement.noaa.gov/special.html>.

Comment: Llyn Doremus expressed concern over how the WCZMP interacted with native American tribes regarding projects and aquatic resource management issues.

OCRM Response: The evaluation findings include examples of the WCZMP directly engaging with native American tribes to address coastal management issues. OCRM did not receive comments from any native American tribes and specifically notified and requested a meeting with the Northwest Indian Fisheries Commission to discuss implementation of the WCZMP.

Comment: Llyn Doremus commented that the state should provide yearly acreage of wetlands filled, restored and acquired as well as the acreage of wetlands filled and quantitative summary of wetland acquisition projects.

OCRM Response: OCRM concurs that annual publication of this data for the public would be beneficial. This information could be included in an annual accomplishments report as discussed in *Section A.6. Website* of the evaluation findings. In addition, information on Coastal and Estuarine Land Conservation projects funded through OCRM are available on-line at <http://www.ecy.wa.gov/programs/sea/wetlands/stewardship/celcp.html>

Comment: Llyn Doremus stated that OCRM should work with EPA to ensure that Washington State meets the goals of the Federal Clean Water Act in the coastal zone.

OCRM Response: Please see *Section F. Water Quality* for a discussion of the Coastal Nonpoint Pollution Control Program which is jointly administered by NOAA and EPA and developed and implemented at the state level.

Comment: Llyn Doremus stated that OCRM should review all pesticide application reports in the coastal zone; all variances allowing construction in the shoreline and conduct an evaluation of whether the criteria for variances were being met and their cumulative impacts; the accuracy of all wetland delineations; the review of all federal projects for which Ecology granted concurrency approval; and review of all nationwide permits issued by the USACE.

OCRM Response: OCRM does not conduct a duplicative review of all decisions made at the state level and does not believe this would be an efficient and effective use of tax payer funds. OCRM has conducted a broad evaluation to ensure that WCZMP is implementing its approved coastal management program.

Comment: OCRM should evaluate the cumulative impacts to the coastal zone from the CUPs and variances granted by local governments.

OCRM Response: A scientific evaluation of the cumulative impacts to the coastal zone from the CUPs and variances granted by local governments is beyond the scope of this evaluation. As noted previously, local governments will now be required to measure “no net loss” every five years and this analysis should lead to a better understanding of the cumulative impacts of development in the coastal zone.

Comment: OCRM should evaluate the Grays Harbor estuary management plan and determine whether a new mill is consistent with the Grays Harbor estuary management plan.

OCRM Response: Programmatic evaluations of this type cannot effectively address individual actions of the state coastal programs, but instead must determine whether the combined actions of the participating state and local agencies are effectively implementing the state’s federally approved coastal management program.

Comment: Llyn Doremus expressed numerous concerns over enforcement including concern over the low number of shoreline enforcement actions and appeals brought before the Shoreline Hearings Board; a request that OCRM evaluate to what extent Ecology monitors mitigation conditions included in MDNS [mitigated determinations of non-significance]; and a request to evaluate Ecology’s record of SMA enforcement.

OCRM Response: Please see the response to Ms. Orgel and Mr. Grunbaum for a discussion of enforcement issues and *Section C. Coastal Habitat* provides a discussion of wetland mitigation monitoring. The WCZMP places a standard condition on §401 certifications requiring that access must be granted for compliance reviews, other conditions in the MDNS are monitored by local governments.

Comment: Llyn Doremus expressed concern that the WCZMP has undertaken a mediator role in a FERC relicensing project and worked directly with applicants in large projects such as the Port of Everett/Boeing Rail-Barge Facility and requested that OCRM evaluate how often and where Ecology has undertaken “mediation roles” involving shoreline development permits.

OCRM Response: State coastal programs are responsible for coordinating federal consistency review of federal activities and federal permitting and licenses. OCRM encourages state coastal programs to bring together state and federal agencies to address issues and reach consensus while ensuring that federal activities are in compliance with the coastal program’s enforceable goals to the maximum extent practicable and federal permits and licenses are compliant with the enforceable goals of the coastal program. OCRM also encourages state coastal programs to work with applicants early in the permitting process to ensure that they are knowledgeable and aware of all permitting requirements. Applicants may then avoid pursuing costly project designs that can’t be permitted.

Comment: Llyn Doremus requested that OCRM evaluate Ecology’s management of the state’s coastal zone with regard to pipelines and WCZMP’s policies on sand and gravel mining on Puget Sound Islands. In addition, Llyn Doremus requested that OCRM evaluate whether Washington’s Growth Management Act has been successful at keeping development out of critical areas located in the shoreline jurisdiction.

OCRM Response: *Section B. Coastal Dependent Uses and Community Development* of the evaluation findings discuss SMP development and enforcement issues and *Section D. Government Coordination and Decision-making* discusses federal consistency and permitting issues. Programmatic evaluations of this type cannot effectively analyze all detailed issues of individual concern, but must instead determine whether the combined actions of the participating state and local agencies are effectively implementing the state’s federally approved coastal management program. Separately from the evaluation process, OCRM reviews and approves local SMPs and associated policies under the process laid out in 15 C.F.R. 923.80-84, ensuring that they are consistent with the CZMA, before they become part of the federally approved coastal program.

Comment: Llyn Doremus suggested Ecology and OCRM make restoration of the Elwha River a priority for the WCZMP

OCRM Response: NOAA has provided significant support to the Elwha River project and NOAA has awarded and is managing \$2 million in Recovery Act funding to restore 82 acres of the floodplain of the lower Elwha River through the removal of dikes and culverts, re-vegetation and invasive species control.

Comment: Llyn Doremus expressed concern over how Ecology has made “use of its adjacent land authority,” in the case of Pacific County and other coastal zone counties.

OCRM Response: When the SMA was passed, RCW 90.58.340 provided that all state agencies, counties, and public and municipal corporations were to review administrative and management policies, regulations, plans, and ordinances relative to lands under their respective jurisdictions adjacent to the shorelines of the state to achieve a use policy on said land consistent with the policy of this chapter, the guidelines, and the master programs for the shorelines of the state. It also provided that the department may develop recommendations for land use control for such lands. Local governments shall, in developing use regulations for such areas, take into consideration any recommendations developed by the department as well as any other state agencies or units of local government. RCW 90.58.100 provides that this information, the use element, (along with additional information) should be included when developing a new program or an amendment if feasible.

OCRM is unsure what the commenter meant by “how Ecology has made use of its adjacent land authority.”

With regards to specific questions about Pacific County, programmatic evaluations of this type cannot effectively address individual actions of the state coastal programs, but instead must determine whether the combined actions of the participating state and local agencies are effectively implementing the state’s federally approved coastal management program.

Comment: Llyn Doremus also requested that OCRM evaluate Ecology’s role in allowing continued development in the state floodplain.

OCRM Response: The state of Washington has strong regulations to limit development in floodplains located in the state’s coastal zone. The Shoreline Master Program Guidelines WAC Chapter 173-26-221 (3)(c)(i) state “Development in floodplains should not significantly or cumulatively increase flood hazard or be inconsistent with a comprehensive flood hazard management plan adopted pursuant to chapter 86.12 RCW, provided the plan has been adopted after 1994 and approved by the department. New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.”

Comment: Request that OCRM evaluate whether the state is still in compliance with the CZMA given current status between the GMA and SMA.

OCRM Response: This issue has been resolved by new legislation passed in 2010. Please see *Section B.5. Critical Areas Ordinance* for further discussion.

Comment: Llyn Doremus requested that OCRM review and evaluate Ecology’s role in commenting and monitoring the Shoalwater Bay Shoreline Erosion project, and how Ecology and the State of Washington are complying with DEPA and its review of the pontoon project.

OCRM Response: Programmatic evaluations of this type cannot effectively address individual actions of the state coastal programs, but instead must determine whether the combined actions of the participating state and local agencies are effectively implementing the state’s federally approved coastal management program.

Comment: Llyn Doremus expressed concern that many SMPs in the coastal zone were outdated.

OCRM Response: The WCZMP and SEA are in the process of working with all communities required to have an SMP to revise their programs. The status of individual communities can be found at www.ecy.wa.gov/programs/sea/shorelines/smp/status.html

Comment: Llyn Doremus expressed concern that although local governments publish a public notice regarding an SDP permit in the local paper but do not provide public notice concerning SDP permit applications upon request and that this doesn’t meet CZMA regulations for public notice at 15 CFR 923.133(c)(2)(i)(B) “...assuring the opportunity for full participation of all interested entities in CZM program implementation.”

OCRM Response: The Revised Code of Washington 90.58.130-140 provides for public notice of SDP permit applications and OCRM believes that the WCZMP meets the public participation requirements of the CZMA and implementing regulations. OCRM is supportive of additional efforts to encourage public participations.