

Walla Walla County Shoreline Master Program Periodic Review



Public Comment Response (5/2/2023)

Walla Walla County and the Washington Department of Ecology accepted comments on a periodic review of Walla Walla County’s Shoreline Master Program (SMP) under RCW 90.58.080(4). Comments were accepted from March 23rd, 2023, to April 24th, 2023. A Public Hearing was held on Wednesday April 19th, 2023, at 6:30 pm. No verbal comments were received at the public hearing. Any written and verbal comments received during the public comment period are included below. All comments received will be forwarded to the Department of Ecology. This memorandum has been prepared in response to comments submitted during the Joint Public Comment Period and includes the relevant SMP section or topic, comment provided, and the County’s response.

Suggested new text, either from the commenter or in response to comment, is shown as underlined.

Table 1 (below) lists all the individuals or organizations that provided comments and reference to each topic/issue as summarized in the Memorandum Section.

TABLE 1: LIST OF COMMENTERS AND WHERE THEIR COMMENTS CAN BE ADDRESSED IN THE MEMORANDUM SECTION		
COMMENT NO.	ORGANIZATION – DATE RECEIVED	MEMORANDUM REFERENCE LOCATION
1	Confederated Tribes of Umatilla Indian Reservation (CTUIR) – 4/24/2023	1,2
2	Department of Natural Resources (DNR) – 3/20/2023	3
3	Department of Fish and Wildlife (WDFW) – 4/24/2023	NA*

*Note –WDFW provided a formal comment letter during the public comment period. However, it did not include any requested changes. Therefore, the comments are not addressed in this memorandum but are enclosed along with all comments received.

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MEMORANDUM

1. CTUIR – 4/24/2023 – Treaty Rights

- a. The commenter suggests adding language to Section 5.0 – General Policies and Regulations to acknowledge that shoreline actions must not impact Treaty Rights (pursuant to RCW 90.58.350). CTUIR suggested language:

Treaties entered into between tribes and the United States under the U.S. Constitution, including case law interpreting these treaties, will also have implications for shoreline management. This SMP shall not affect treaty rights of Native American tribes pursuant to federal law and RCW 90.58.350.

Response: No change recommended. The County appreciates these comments and agrees that such shoreline actions need to be consistent with RCW 90.58.350. The County actively complies with these rules and this language does not need to be added to the SMP.

2. CTUIR – 4/24/2023 – Section 5.4 - Archaeological and Historic Resources

- a. The commenter requests a change of language to Section 5.4 – Archaeological and Historic Resources. The Columbia, Snake, Walla Walla, and Touchet Rivers along with their tributaries are culturally significant to the Confederated Tribes of Umatilla Indian Reservation (CTUIR) and were utilized by CTUIR ancestors. Many of these water resources intersect historic properties of religious and cultural significance to Indian Tribes. They do not believe the current archaeological review process is adequate and that many possible culturally significant sites are disturbed because of a lack of proper review. They request to change the language in Section 5.4 – Archaeological and Historic Resources, Subsection Regulations (A) as follows:

CTUIR Proposed Language (replacing the first sentence):

Where a professional archaeologist or historian recognized by the State of Washington or Native American tribe has identified an area of cultural significance such as a historic property of religious and cultural significance to Indian Tribes (HPRCSIT) or traditional cultural property (TCP) or a site, or where state data or a Native American tribe has identified the potential for cultural resources, the SMP Administrator shall, with Department of Archaeology and Historic Preservation (DAHP) consultation, require shoreline permit applicants to provide an evaluation of the resource, and the County may apply permit conditions for the protection of the resource...



Current SMP Language (first sentence italicized):

Where a professional archaeologist or historian recognized by the State of Washington has identified a site or area as containing resources of significant value, or where a site or area is listed on National, State, or local historic registers, or where state data has identified the potential for cultural resources, the SMP Administrator shall, with Department of Archaeology and Historic Preservation (DAHP) consultation, require shoreline permit applicants to provide an evaluation of the resource, and the County may apply permit conditions for the protection of the resource. Conditions may include, but are not limited to, preservation and/or retrieval of data, modification of the development proposal to reduce impacts, or other mitigation authorized under the State Environmental Policy Act (SEPA) or other local, State, and Federal laws.

Response: No change recommended. The current language (above) requires that applicants provide an evaluation of cultural resources on a project site in the following cases:

1. Where a professional archaeologist or historian recognized by the state has identified a site or area as containing resources of significant value.
2. Where state data has identified a “potential for cultural resources.”
3. Where there is a site or area that has been identified in historic registers (local, state or federal).

The proposed language would remove Item #3, the reference to historic registers, which does not seem appropriate. Evaluation would be warranted if the project would impact a site with a resource listed on a historic register. Though not many resources in unincorporated Walla Walla County are listed on historic registers, some are.

Secondly, CTUIR proposes that we add references to specific tribal data sources. According to the commenter, it is the practice of Washington State DAHP “... to treat eligible but not listed sites and areas the same as those listed.” For this reason, a change is not needed. The existing language of Items 1 and 2 is already very broad. If something is in State data (#2), even if not on a register, evaluation would be required. If a site or area is not in State data but has been identified by an archaeologist or historian recognized by the State (#1), evaluation would be required. Adding the proposed references to specific tribal data sources is not needed since the same resources and areas should be listed in State data. It would be confusing and more difficult to administer to add additional, and duplicative, resources. If there are sites or areas listed in CTUIR data that are not in the DAHP data, we would encourage CTUIR to work with the State to address this.

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- b. Subsection Regulations B.(1)(a) – the commenter disagrees with the threshold in this section (projects will be exempt from cultural resource reviews if there is a negative survey on file for the project area). A negative archaeological survey for one project does not guarantee zero disturbance to cultural resources during a different project in the same area. The commenter further elaborates, saying that DAHP requires surveys in previously surveyed areas if the survey is older than five years.

Response: Minor clarifying change recommended. The language in Regulation B.(1)(a) can be clarified. Staff believes the current language was intended to exempt from further cultural resources review projects where there is a past negative survey for the site, not an adjacent site in the nearby area. To make this clear, the following amendment could be made (added text underlined).

- 1. *If any of the following are met, the project will be exempt from taking action:*
 - a. *Prior negative archaeological survey is on file for the site*
 - b. *No ground disturbance will occur*

- c. How does the County define no ground disturbance?

Response: There is not currently a definition of ground disturbance listed in the SMP or the Walla Walla County CAO. However, ground disturbance could be considered as actions such as land grading, digging, pile driving, or other similar land modification.

- d. The commenter recommends adding the CTUIR Cultural Resources Protection Program (CRPP) published Places Names Atlas to the Archaeological and Cultural Resources review library. The commenter also explains that the currently listed resource (The DAHP Predictive Model) is subjective and does not consider tribal knowledge of resource potential in a given area.

Response: Change not recommended. The County appreciates the suggested resource reference but will need to evaluate this reference in more detail during the County’s future critical areas ordinance update, which would include a review of best available science.

3. DNR – 3/20/2023 – Appendix A, Section 5.5 – Critical Area Report - Additional requirements for specific hazards



Subsection (A)(4). Commenter requests that the requirement for a geotechnical engineering report be prepared by a licensed engineer also specify that the engineer be from Washington State.

Response: Change not recommended. As the commenter also notes, the definition of Qualified Professional does contain this specific requirement for the geologist or engineer to be licensed in the State of Washington.