

REFERENCE – USED IN CONJUNCTION WITH OUR ADMINISTRATION OF 17.56.170

INTRODUCTION

WHY THE PLAN?

Grays Harbor is one of two major estuaries on the Washington coast and is the only coastal estuary in the state with an authorized deep water navigation channel and major port. The Grays Harbor estuary provides an important transportation link to local, national and international markets and serves as a focal point for the regional economy. In addition, the estuary is a nursery ground and passage way for a vast array of living resources and an important link in the migratory patterns of many fish and wildlife species.

Each year an increasing number of demands are placed on the estuary by an expanding economic base and growing population. The ability of the estuary to accommodate these demands, remains constant or diminishes. The result is often conflict between the various groups that want to use the resources of the estuary and the agencies responsible for managing those resources.

The responsibility for making decisions about the use of the land and water resources of the Grays Harbor area falls to local, state and federal agencies. Each agency uses a plan or written guidelines to make decisions on what may or may not be done. The cities and county have comprehensive plans and Shoreline Master Programs; the Corps of Engineers, Environmental Protection Agency, State Departments of Game, Fisheries, Natural Resources, Ecology and other state and federal agencies each have their own regulations. Most agencies have prepared their plans and guidelines independently. The resulting process for making decisions is confusing, uncertain and often frustrating for the individuals involved.

In response to increasing conflicts, the Grays Harbor Regional Planning Commission formed an Estuary Planning Task Force in late 1975. In September 1976 the Task Force, through the Regional Commission and the Department of Ecology, received federal funds to prepare a Grays Harbor Estuary Management Plan. A consultant was retained to assist the Task Force in the preparation of the plan.

The Grays Harbor Estuary Management Plan does not eliminate or modify any of the laws, regulations, or policies which govern the actions and decisions of local, state, or federal agencies. The plan improves the interpretation and implementation of those laws and regulations. The plan attempts to meld the various authorities and concerns into unified estuary-wide guidelines for both protection and development of the area's

economic and natural resources. Since the plan has been prepared by participating local, state and federal agencies with recognition of legal and policy constraints on each, it helps avoid piece-meal decision making in the permit processes. Activities which are not allowed by the Plan can expect to be denied by participating agencies.

THE PLAN AREA

The area covered by the management plan includes the Grays Harbor estuary area from the end of the harbor entrance jettys, up Chehalis River to its junction with Wynoochee River, south of Montesano. The specific plan boundary is described in each management unit.

THE PLANNING PROCESS

- Preparing the Estuary Management Plan

The Estuary Management Plan was prepared over an eleven year period by the Estuary Planning Task Force. The process involved 6 steps:

- Step 1 - Preparation of a technical data base and solicitation of public opinions.⁽¹⁾
- Step 2 - Task Force workshops leading to a first draft plan.
- Step 3 - Public hearings and reviews - preparation of several revised drafts.
- Step 4 - Preparation of draft federal Letters of Intent (LOI) and Program Draft Environmental Impact Statement (PDEIS/SEPA, NEPA).
- Step 5 - PDEIS public hearing and comments; preparation of revisions to the plan and response to comments; preparation of Final Environmental Impact Statement.
- Step 6 - Adoption of plan into local Shoreline Master Programs; amendment to state Shoreline Master Program and Coastal Management Program.

(1) Grays Harbor Estuary Management Program, Technical Memoranda, Summary of Interviews, and Annotated Bibliography; mapped information on: hydrology and floodplain, jurisdictions and boundaries, land and water transportation, land ownership, existing uses, historical features, soil and sediments, fisheries, natural resource use, major utilities, comprehensive plan designation, shoreline types, vegetation and wildlife, areas of conflicts and concern. (Available at the offices of Grays Harbor Regional Planning Commission).

PLAN CONCEPTS

There are two important concepts in the plan. First, the plan contains management goals, guidelines and policies as well as specific conditions on issues or projects within the Plan Area. The distinction between goals and conditions is important since the normal process for developing this type of plan begins and ends with goals and policies. However, because of conflicts over specific issues, developing goals and policies without understanding their effect on those issues was not possible in Grays Harbor. In many cases, resolving specific issues provided the basis for developing broader policies.

The second concept of the plan is "balance." The Estuary Management Goal states that the estuary as a whole will be managed for multiple uses. Inherent in this goal is the idea of balance - the plan specifies goals, policies and guidelines which strike a tenuous balance between appropriate development of the harbor and protection of the estuary's natural resources. The plan establishes this balance on an estuary-wide rather than piecemeal basis. Thus, some areas of the estuary are primarily devoted to the preservation of fish, wildlife and plant resources, free from the pressures of development. Still other areas are approved for certain types of development, allowing development and natural resources to co-exist in these areas.

Although the plan has been carefully balanced in this manner, this does not mean that it cannot be amended. The section entitled Plan Review and Amendment outlines specific procedures for amending the plan. The effect on the balance of the plan is an important consideration in amending the plan. Future changes, whether policy or site-specific, will be evaluated to ensure that the balance of the plan is maintained. Such changes must either be accommodated within the existing balance of the plan, or must be combined with mitigating actions to re-establish that balance.

RELATIONSHIP TO OTHER PLANS

The Estuary Management Plan was prepared under the authority of the Grays Harbor Regional Planning Commission. The Commission, however, does not have the authority to adopt or enforce the plan since it is a planning and coordinating agency. The Estuary Management Plan has been recommended by the Estuary Planning Task Force to Commission members (local cities and the county) as well as to the affected state and federal agencies.

Each city and the county have incorporated the plan into their policies, review criteria, Shoreline Master Programs and comprehensive plans as appropriate. The State Department of Ecology has incorporated the plan into the state's Shoreline Management and Coastal Zone Management program. Participating state and federal agencies have committed to use the plan in their planning and permitting processes as specified in Letters of Intent (Appendix C). In areas where management unit boundaries fall outside the jurisdiction of local Shoreline Master Programs, local comprehensive plans and zoning designations are used to implement the plan.

RELATIONSHIP TO LOCAL, STATE, AND FEDERAL PERMITTING PROCESSES

Most local, state and federal agencies issue permits or review and comment on permit requests. The Estuary Management Plan does not eliminate or modify the authority of these agencies, but does increase the predictability of these permitting processes since many of the issues that must be addressed in a specific permit have already been addressed in the plan.

Some of the most significant permits affecting the estuary and its wetland areas are under the responsibility of the Corps of Engineers. The Rivers and Harbors Act of 1899 authorizes the Corps to determine whether activities in navigable waters of the United States may be allowed (Section 10 permits). The Clean Water Act authorizes the Environmental Protection Agency through the Corps to determine whether filling of waters of the United States, including wetlands, may be allowed (Section 404 permits). Section 404 permit requests are evaluated with guidelines developed by the Environmental Protection Agency (404 Guidelines) and are subject to review and concurrence by the EPA and other federal agencies. In issuing both Sections 10 and 404 permits, the Corps must solicit comments from state and federal fish and wildlife agencies and must assure that equal consideration is given to the protection of fish and wildlife resources along with other project purposes. These latter requirements are based on 404 Guidelines, the Fish and Wildlife Coordination Act, the National Environmental Policy Act, and various state statutes.

Section 404 Guidelines, which control requests to fill in waters and wetlands, require that a permit applicant make four demonstrations. These are: 1) that the activity associated with the fill is either water dependent, or has no practicable site or construction alternative, 2) that the fill does not cause a violation of applicable state or federal standards and laws relating to water quality, toxic effluents, endangered or threatened species, or officially protected areas, 3) that the fill will not result in a significant degradation to the waters of the U.S., and 4) that appropriate and practicable measures will be used to minimize the impacts of the fill.

At the broadest level, criteria 1, 2 and 3 have been evaluated in the plan on an estuary-wide basis. Alternative locations within the estuary to locate activities where fill might be required were evaluated by the Task Force leading to its ultimate decision on areas so designated (Urban Mixed/Development areas, etc.). Protected areas, endangered species and the potential for such activities to violate other state or federal standards were considered in those decisions. In some cases, more specific aspects of the criteria were considered as individual management unit decisions were made. Often special conditions have been imposed to deal with known circumstances including measures to minimize impacts of fills required under criterion #4.

Under no circumstance does the plan assume to have satisfied all levels of 404 criteria that may be necessary for any particular permit. To fully satisfy those criteria, the permit process must look at the specific characteristics of each project.

It is with the criterion of significant degradation that the plan may have its greatest value since it is here that the permit process often encounters its greatest problems. The criterion defines significant degradation in terms of significant adverse impacts on a variety of environmental factors. The plan makes determinations of the acceptability of those adverse impacts associated with its management designations and thereby makes determinations on the projected degree of degradation to the waters of Grays Harbor.

Simply, the plan accepts some site-specific adverse impacts, recognizing both the overall protection afforded to the total resources of Grays Harbor by the plan and that the total adverse impacts anticipated by the plan will not significantly degrade the waters of Grays Harbor.

Several state agencies also issue or review permits within the harbor area. While on any specific project, numerous permits will be required, the authority of the state Departments of Fish, Game and Natural Resources most directly affects the use of the estuary and its land and water resources.

The Department of Natural Resources is the manager of state-owned aquatic lands. To carry out this responsibility, the department promotes the use of these lands through leases, easements and other instruments. The department also identifies and protects resources of statewide value through advance planning or mitigation (associated with a lease, easement, etc.).

In addition to their individual responsibilities for managing fish and wildlife resources, the Department of Fish and Game are jointly responsible for issuing the state's hydraulic permit. This permit is required whenever the waters of the state are utilized or diverted from their natural flow and is similar in many ways to the federal Sections 10 and 404 permits.

As with federal permits, the Estuary Management Plan does not eliminate or modify any of these or other required state permits. By incorporating the factors that state agencies use in their permit evaluations into the Estuary Management Plan, greater predictability is assured in those permit processes.

Appendix C contains Letters of Intent from each of the participating state and federal agencies stating how each will use the Estuary Management Plan in their permit processes. Local cities and the County have adopted this plan as a part of their Shoreline Master Program. A Substantial Development Permit and/or other permits will be required from the responsible local government as a means of enforcing the provisions of this plan and evaluating specific project proposals. The State Department of Ecology reviews all Substantial Development Permits to assure consistency with local Shoreline Master Programs and the Shoreline Management Act. The Department of Ecology also has final permit approval authority on conditional uses and variances.

HOW TO USE THIS PLAN

This plan does not answer all questions on what can or cannot be done with a specific piece of land. As previously described, this plan does not take away the authority of existing regulations, nor does it remove any decision-making responsibility of a local, state or federal agency. The plan is designed to provide guidance to the decision making process, it does not make decisions itself.

The issues surrounding any proposed use or activity in an estuary are complex. The decision on such a proposal is therefore rarely based on a simple "right or wrong," or "good or bad" evaluation. Because of this, it is not possible to simply go, as an example, to page 38 to find "the right answer" to the question of a specific allowed use. This plan contains several different forms of guidance which all must be considered to determine what is

"right." Both the individual property owner who is considering a specific proposal and the decision maker who is evaluating the proposal, must use all of the guidance of this plan to make their final judgement.

There is no single way to properly use this plan. However, the following steps represent a general sequence to be used to determine whether or not a specific use or activity is considered appropriate by the plan.

STEP 1

Locate the property in question on the Estuary Management Plan map (Appendix B). Two things should be noted from the map; first, the Management Unit number; second, the Planning Area number.

STEP 2

The proposed use or activity must be accurately described. To do so, several questions should be asked:

1. Which of the uses identified on the "Standard Uses" table on page 114 most accurately describe the proposal?
2. Will any of the following structures or activities be required to accomplish the proposal? If so, which ones?

Allowable Activities

Structures

- Piers, docks, wharves
- Piling and mooring dolphins
- Bridges
- Causeways
- Outfalls
- Cable/pipeline crossing
- Boathouses
- Breakwater

Bankline Activities

- Diking
- Bulkheading
- Groins
- Jetty
- Special Project Fills (see page 15)
- Bankline Straightening (see page 25)
- Bankline Erosion Control (see page 24)
- Special Activities

Channel (Navigation) Activities

- New Access Channel
- Maintenance of Existing Channels or Berths

3. Will any part of the proposed use or activity extend waterward of the line of Ordinary High Water?

If the answer to this question is yes, in addition to the Management Unit number identified in STEP 1, note that Management Unit 44 (dealing exclusively with the water area) will also apply to the proposal.

4. Will any part of the proposed use or activity extend into the wetlands?

NOTE: Wetlands will not be easy to identify without technical assistance. While the line of non-aquatic vegetation generally describes the landward boundary of marsh or wetland areas, the seasonal nature of these areas and the broad definition of non-aquatic vegetation types make it difficult to accurately identify the extent of these areas. The Regional Planning Commission, city, county, Department of Ecology or U.S. Corps of Engineers staff can provide assistance on this question. For state owned submerged lands, a lease or other proprietary authorization will be required from the State Department of Natural Resources.

If the answer to this question is yes, the proposal will be subject to the Corps of Engineers Section 404 permit requirements. Other permits may also be required depending on the specific type of proposal. This plan does not try to identify those additional requirements, but again, the Regional Planning Commission, city or county staff should be consulted to identify other required permits or procedures.

STEP 3

Turn to the page that covers the identified Management Unit (pages 51-113). On that page, you will find the following information:

1. Planning Area Number

This number (roman numeral) is directly under the Management Unit number. This refers to the Planning Area within which this management unit is located (occasionally a management unit is in two Planning Areas). General Guidelines for the Planning Areas can be found on pages 31-50.

2. Management Category

Management categories are defined on pages 22 and 23.

3. Boundary Description

This is a description of the boundaries of the management unit.

NOTE: The waterward boundary of a shoreline management unit is generally the line of Ordinary High Water. In some cases a different boundary is used and is so described.

4. Management Objective

This is a statement of the objectives for managing this area. This should be considered a refinement of the Management Category for this management unit.

5. Allowable Activities Table

A table that describes the allowable activities for this specific management unit (definitions of allowable and conditional are found on pages 15 and 17).

6. Standard Uses

This is only a reference to the Standard Uses Table on page 114.

7. Special Conditions

Not all management units contain this section. For those that do, this section provides further guidance than can be found in the Allowable Activities or Standard Uses tables or within other guidelines.

If it is determined that the proposal involves Management Unit 44 (STEP 2, question 3), turn also to the page corresponding to that management unit.

STEP 4

Conduct an initial evaluation of the proposal in the following sequence:

1. Turn to the Standard Uses table (page 114);
2. Find the use (barge, berthing, aquaculture, etc.) that best fits the proposal;
3. Find the column with the applicable Management Category (UR, CM, etc.) for your Management Unit;
4. Identify whether the use is (●) APPROPRIATE, (○) MAY BE APPROPRIATE, or (no symbol) GENERALLY INAPPROPRIATE.

USE is APPROPRIATE or MAY BE APPROPRIATE

Turn to the Management Unit page and see if the activities (piers, diking, etc.) that will be required are allowable.

USE is GENERALLY INAPPROPRIATE:

When the Standard Use table suggests that a specific use is generally inappropriate in a Management Category, a permit request for that use will most likely be denied by the permitting agency. In such circumstances, however, specific management unit conditions may provide additional guidance on the appropriateness of the use and its activities, or a plan amendment may be required if the use is still desired (see Plan Review and Amendment section, pages 9-11).

5. Turn to the page containing the specific Management Unit (pages 51-113) that applies to your site and look at the Allowable Activities table. Determine whether the activities (piers, piling, fills, erosion control, etc.) that you will require to accommodate your proposed use are (**A**) ALLOWED, (**C**) CONDITIONAL, (**1,3**) subject to SPECIAL CONDITIONS, or () are NOT ALLOWED.

ACTIVITIES are NOT ALLOWED

The proposal does not conform to the plan (even though the use from the Standard Use table may have been considered appropriate) and a plan amendment will be required to accommodate the use if still desired (see Plan Review and Amendment section, pages 9-11).

ACTIVITIES are CONDITIONAL

The activity may be allowable depending on the specific proposal but is not assumed to be allowable. The determination of whether or not such a proposal is allowable is dependent on meeting Conditional criteria (page 17), its conformance with the Estuary Management Goal (page 12), the applicable Planning Area Guidelines (pages 31-50), the Management Unit Objective and other relevant factors.

ACTIVITIES are ALLOWABLE

The Estuary Management Plan considers such activities in designated management units as appropriate and allowable. As with any use or activity, other applicable local, state and federal regulations must also be met (see sections on Relationship to Other Plans and Relationship to State and Federal Permitting Processes, pages 3-5).

PLAN REVIEW AND AMENDMENT

The Estuary Planning Task Force, through its consensus decision-making process, will continue to play an important role in on-going estuary planning, and in plan review and amendment. This continuing role is necessary in order to maintain the balance of the plan through the consensus process. Both consensus and balance must be maintained if the plan is to serve as an effective guide to local, state, and federal decision making. A change in the balance of the plan (even through a change in a single Management Unit) could jeopardize the responsiveness of the plan to agency and citizen concerns, impairing the advance permit evaluations that are contained in the plan and undermine the commitment of Task Force members to use the plan. The review and amendment process includes the following elements:

- **Annual Review**

In February of each year following adoption of the plan, the Regional Planning Commission will convene a meeting of the Estuary Planning Task Force to conduct an Annual Review of the Estuary Management Plan. The primary purpose of this session is to review development and permit activities of the previous year and to assess the usability of the plan. The Task Force may wish to suggest amendments to various portions of the plan although it is expected that most amendments that result from the annual review will be administrative or for the purpose of clarification rather than substantive policy changes. As with all of its reviews, the Task Force will ensure that comments from the general public are solicited and reviewed in accordance with its adopted Citizen Participation Procedures (Appendix D).

- **Five Year Review**

In February of the fifth year after the adoption of the initial Management Plan, the Regional Planning Commission will convene the Estuary Planning Task Force in one or more workshops to systematically review all of the elements of the plan. On the basis of that review, both administrative and substantive changes will be recommended through the Regional Planning Commission to the respective Task Force jurisdictions, agencies, and the general public.

- **Plan Amendment**

The plan amendment process is guided by the requirements of the State's Shoreline Management Program. Initially, this plan has been adopted by each local jurisdiction as an amendment to their Shoreline Master Program. The State's Shoreline Management Program has also been amended to incorporate the amended local Shoreline Master Programs.

Although the Estuary Planning Task Force is not legally a part of this adoption/amendment process because of its advisory role, it has nonetheless, been the means to create the plan through the consensus of its members. Because of this, involving task force members in the amendment process will facilitate permits that would be the result of the amendment.

Through the annual and five year review process, the Task Force will be forwarding recommendations to local government for possible amendments to various sections of the Estuary Management Plan and their Shoreline Master Programs. Such amendments will follow the same process as was used to adopt the initial Estuary Management Plan.

It is probable that individuals, corporations or special interest groups may wish to propose amendments to local Shoreline Master Programs and thereby the Estuary Management Plan. Such amendments are only within the jurisdiction of local government. The Estuary Planning Task Force will have an interest in such amendments since they will affect other areas of the estuary. The role of the Task Force in such proposed amendments will be that of "review and comment" to the local government involved. To ensure that the Task Force or its individual members are able to provide meaningful comment on such amendments, local government should consider limiting the consideration of plan amendments to once every six months. The following general procedure will be followed.

1. When a local government receives a request for an amendment to their Shoreline Master Program affecting the estuary, that request will be immediately forwarded along with explanatory materials to the Grays Harbor Regional Planning Commission.
2. Commission staff will immediately forward the request to the members of the Estuary Planning Task Force, Citizens Estuary Advisory Council and individuals and groups who have requested to be notified of such requests.
3. Task Force members will be polled to determine if the proposed amendment requires a special Task Force meeting.
4. If no meeting is believed necessary, individual Task Force member comments along with those of advisory council members and other interested individuals will be forwarded directly to the local government by those individuals.

5. If a meeting is believed necessary, the Task Force recommendation from that meeting will be forwarded to the local jurisdiction. Normally, such recommendations will be forwarded within 60 days from the time the Regional Planning Commission receives the request.

In conducting a review of the proposed plan amendment, the Task Force, through its consensus decision making process, will prepare its recommendation to the local jurisdiction using the following criteria. Applications for Shoreline Master Program amendments, therefore, should address these factors:

1. The conformity of the amendment with the Estuary Management Goal, applicable Planning Area Guidelines, applicable management unit objectives and other plan objectives and policies;
2. A demonstration that the activity is not already allowed elsewhere in the estuary or that other allowed locations are not suitable (land ownership is insufficient as a sole factor in determining suitability);
3. A demonstration that the amendment will not cause unacceptable adverse effects on the local and estuarine natural systems or that these effects can be mitigated.
4. An evaluation of the short and long-term, primary and secondary effects of a proposed amendment will include:
 - a. changes in land use patterns,
 - b. changes in energy supply and demands,
 - c. increased pressures for development in floodplains, streams and natural drainage ways, wetlands or other aquatic areas,
 - d. significant changes in air, noise or water quality levels, or potential violations of established standards,
 - e. significant changes in surface or groundwater hydrology,
 - f. pressures for encroachment on fish or wildlife habitat;
5. Additional factors include the degree to which an amendment would:
 - a. set a precedent for other comparable amendments,
 - b. result in or promote a significant cumulative adverse impact, and
 - c. affect significant historic, archaeological, pre-historic or scientific areas or facilities.

In addition, any amendment to local Shoreline Master Programs must satisfy the requirements of the State Environmental Policy Act and the National Environmental Policy Act as appropriate. Once approved by a local jurisdiction, the amended Shoreline Master Program must be forwarded to the State Department of Ecology for approval. The Department of Ecology considers such Plan amendments to be part of its Routine Program Implementation. Such amendments are periodically assembled on a statewide basis and submitted to the Office of Ocean and Coastal Resource Management (OCRM) for review. Public comment can be submitted directly to OCRM at any time during this process.