

The SMA and Archaeological/Cultural Resources

Shoreline Coastal Planners Group
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CULTURAL RESOURCES WORKGROUP - November 2013 REPORT
WASHINGTON DEPARTMENT OF ECOLOGY

Contents:

Executive summary - Key outcomes of Workgroup

Background

2012 Senate Bill 6406

2013 House Bill 1809

Workgroup process and outcome

Key strengths and challenges identified in workgroup discussions

Statutory amendment concepts

- Cities
- Tribes

Attachments

Workgroup members

Synthesis of Consideration of Potential Impact to Cultural Resources prepared by Mary Rossi

Acknowledges issues with laws and implementation

Calls for new level of consistency and effectiveness

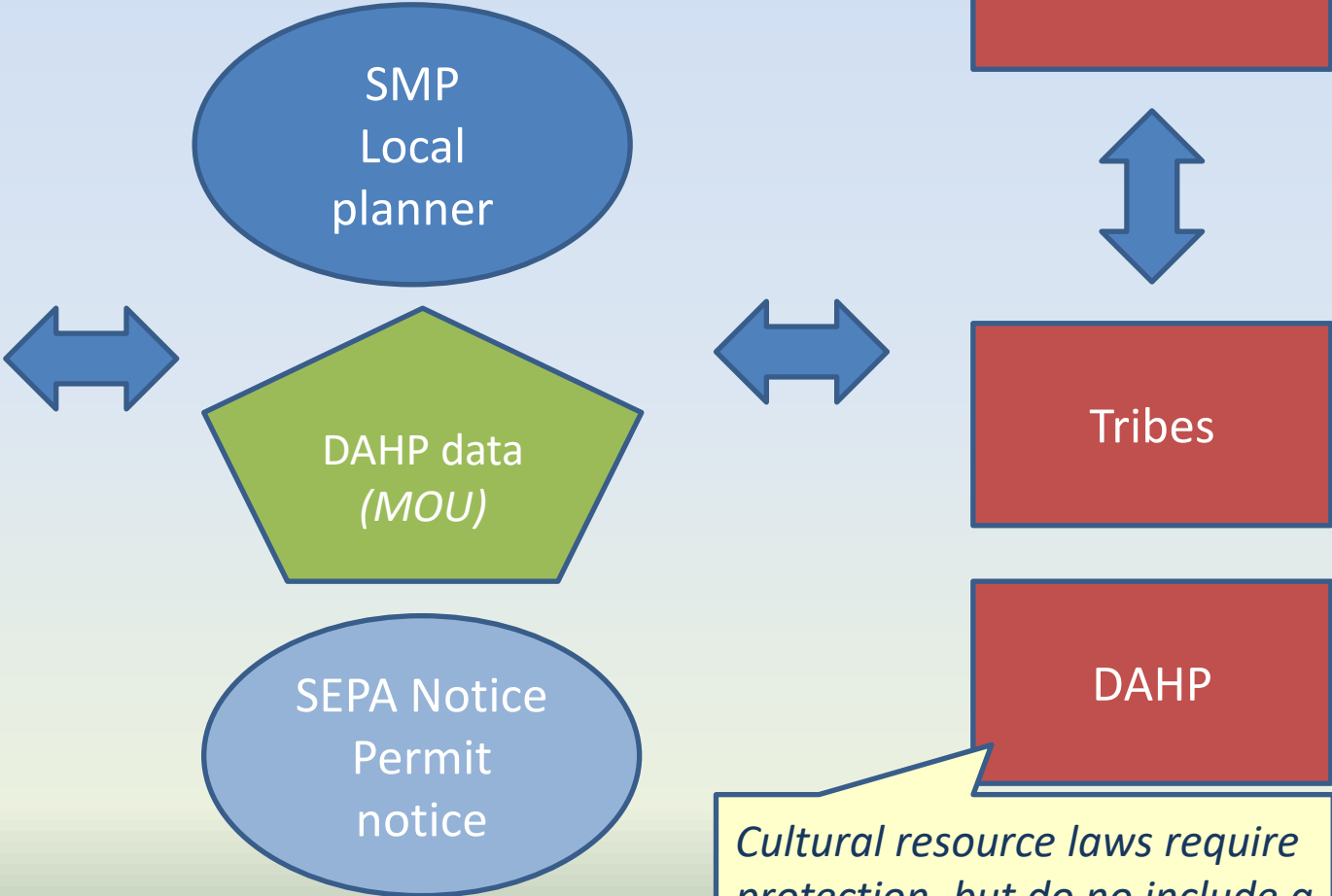
Ideas for amending Local Project Review Act (RCW 36.70B)

DAHP "ideal process"

Local planners: facilitating respectful development

Applicant:
proposal
that may
affect
cultural
resources

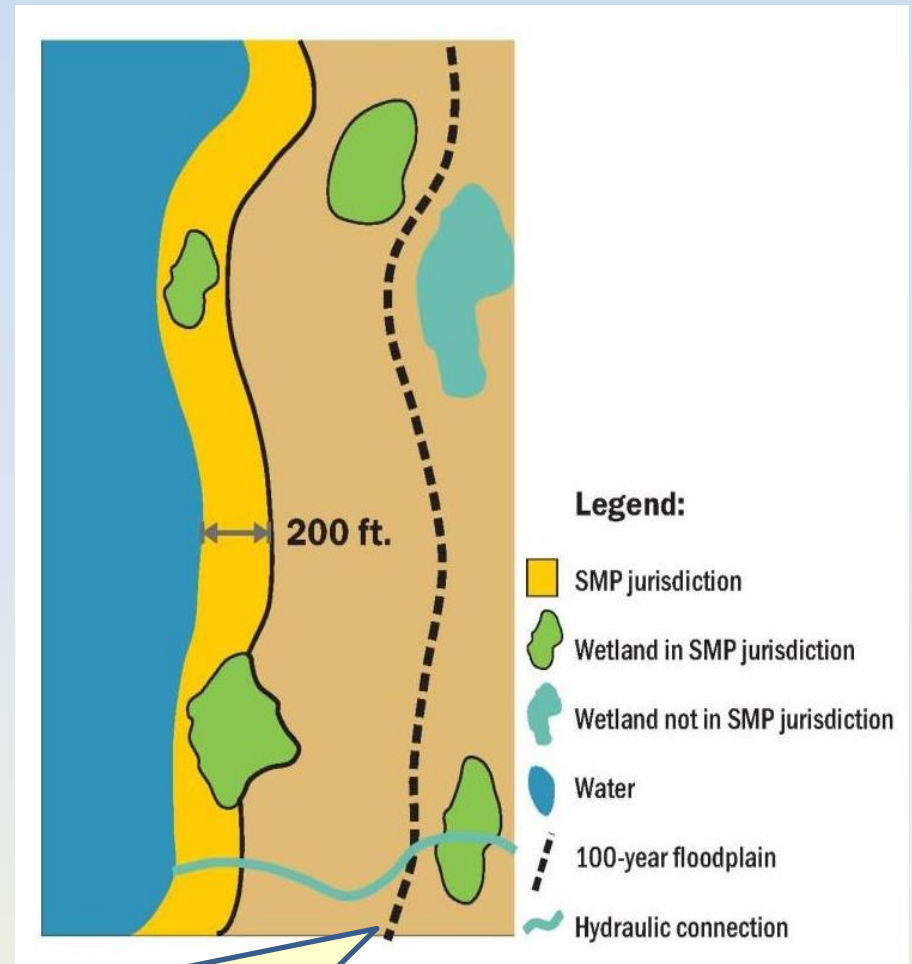
Facilitator role



Cultural resource laws require protection, but do not include a project review process

SMA: small % of state's land base... but

- **Marine waters**
- **Lakes** > 20 acres
- **Larger streams** (> 20cfs mean annual flow)
- **Shorelands:** 200' landward from Ordinary High Water Mark
- **associated wetlands**



Local option: 100-year floodplain.

Shorelines = very high likelihood of arch resources

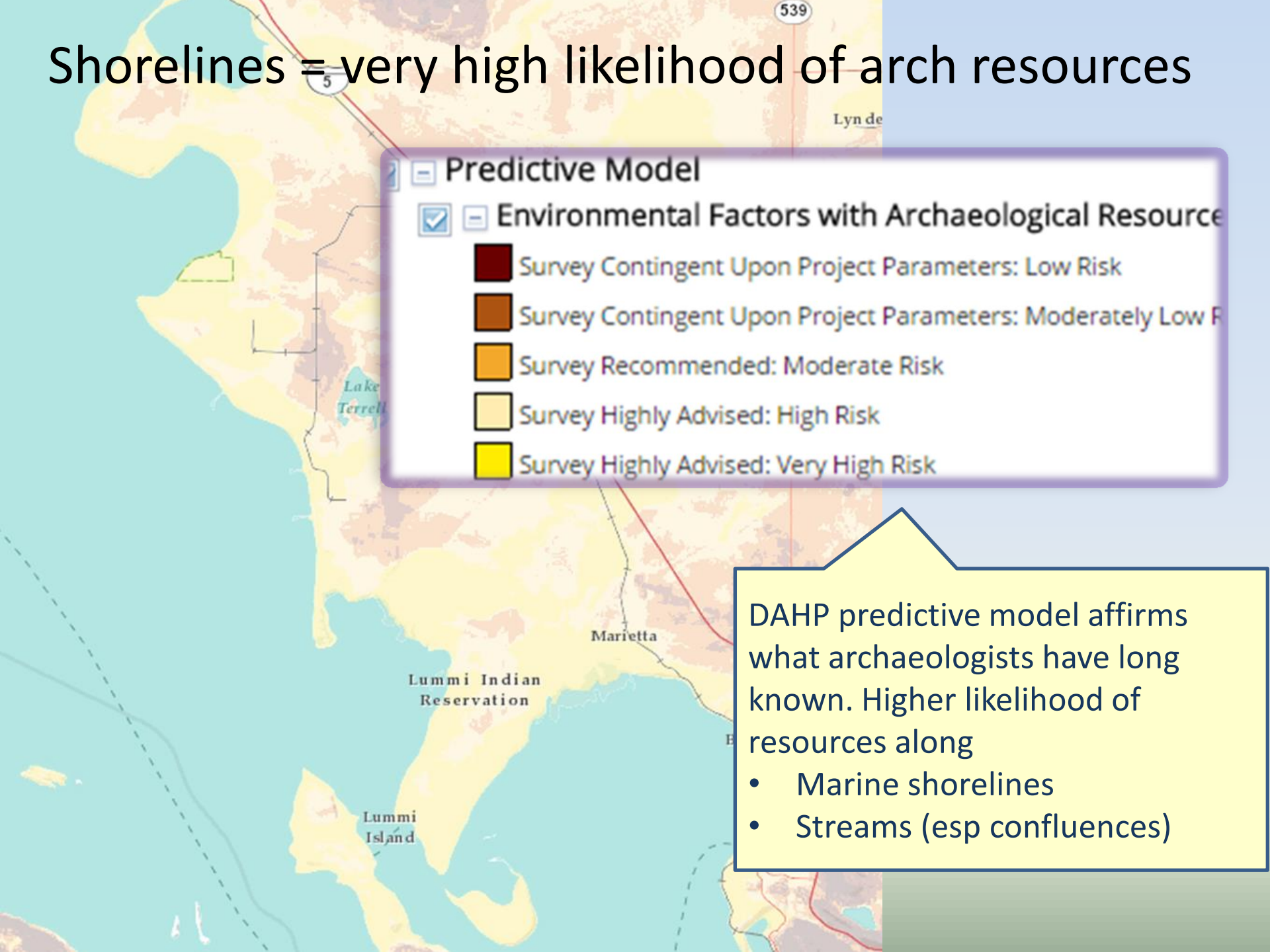
Predictive Model

Environmental Factors with Archaeological Resources

-  Survey Contingent Upon Project Parameters: Low Risk
-  Survey Contingent Upon Project Parameters: Moderately Low Risk
-  Survey Recommended: Moderate Risk
-  Survey Highly Advised: High Risk
-  Survey Highly Advised: Very High Risk

DAHP predictive model affirms what archaeologists have long known. Higher likelihood of resources along

- Marine shorelines
- Streams (esp confluences)



Shoreline Management Act (SMA)

RCW 90.58



Shoreline Master Program (SMP) Guidelines

WAC 173-26



Local Shoreline Master Program

Local Ordinance

SMA requires historic cultural “element” in SMPs

(2) The master programs shall include...:

(a) An economic development element

(b) A public access element

(c) A recreational element

(d) A circulation element

(e) A use element

(f) A conservation element

(g) An **historic, cultural, scientific, and educational element** for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;

SMA requires use of available info

In preparing SMPs, Ecology and local governments shall *to the extent feasible*:

- (a) Use a **systematic interdisciplinary approach**...;
- (c) Consider all plans, **studies, surveys, inventories, ...**
- (e) **Use all available information** regarding hydrology, geography, and other pertinent data;
- (f) Employ **modern scientific data processing and computer techniques**...

Shoreline Management Act (SMA)

RCW 90.58



Shoreline Master Program (SMP) Guidelines

WAC 173-26



Major revision in 2003, included new arch standards

Local Shoreline Master Program

Local Ordinance

All SMPs being revised consistent with 2003 guidelines (150 of 260 are done)

State guidelines for cultural resources

Found under “General Provisions”

- Apply to all areas that meet applicability criteria (regardless of environment designation).

(1) *Archaeological and historic resources.*

- (a) Applicability.
- (b) Principles.
- (c) Standards.

Next 3 slides = the entire rule



(a) Applicability

The following provisions apply to archaeological and historic **resources that are either recorded at [DAHP] and/or by local jurisdictions or have been inadvertently uncovered.**

Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter [27.44](#) RCW (Indian graves and records) and chapter [27.53](#) RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter [25-48](#) WAC as well as the provisions of this chapter.

(b) Principles

Due to the limited and irreplaceable nature of the resource(s),

prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value

as identified by the appropriate authorities, including affected **Indian tribes, and [DAHP]**.



(c) Standards

SMPs shall include policies and regulations to **protect** historic, archaeological, and cultural features and qualities of shorelines and **implement the following standards.**

Minimum obligation to include in every SMP

A local government may reference historic inventories or regulations. Contact the office of archaeology and historic preservation and affected Indian tribes for additional information.

(i) **Require that developers and property owners immediately stop work and notify** the local government, the office of archaeology and historic preservation and affected Indian tribes **if archaeological resources are uncovered during excavation.**

Inadvertent discovery: “fail safe”

(ii) Require that **permits issued in areas documented to contain archaeological resources require a site inspection or evaluation** by a professional archaeologist in coordination with affected Indian tribes.

Require site inspection in documented areas



SHPO COMPLIANCE

I Need a Letter from the SHPO

Section 106

SEPA

Forest Practices Act

Governor's Executive Order 05-05

EZ Forms

• Shoreline Management Act •

Hiring a Preservation Consultant

Home > Programs > SHPO Compliance > Shoreline Management Act

SHORELINE MANAGEMENT ACT

The [Shoreline Management Act \(SMA\)](#), [RCW 90.58](#) provides a statewide framework for managing, accessing, and protecting the Washington's significant shorelines including rivers, lakes, and coastal waters. Passed by the Legislature in 1972, the SMA reflects the strong interest of the public in our natural areas, aesthetics, and

Our shorelines are also the location of many historic sites. Native Americans have used shoreline resources. Upon arrival in the Northwest, settlers used shorelines in the same way, and in addition to protecting natural resources, they also merit protection and appropriate result, RCW 90.58.100 requires that jurisdictions include "An historic, cultural protection and restoration of building educational values".

To aid communities that are drafting and Historic Preservation has prepared a model element is provided for community requirement for the program to protect document is intended as sample language only; jurisdictions are welcome to modify it as appropriate to fit local shoreline and planning goals, policies, procedures, and timelines.

For questions about protecting cultural resources in local shoreline master programs and/or the model SMP element, contact DAHP's Environmental Review staff. For general questions

DAHP helps flesh out Ecology minimum standards:

Model Code outlines process and authority (*has evolved*)

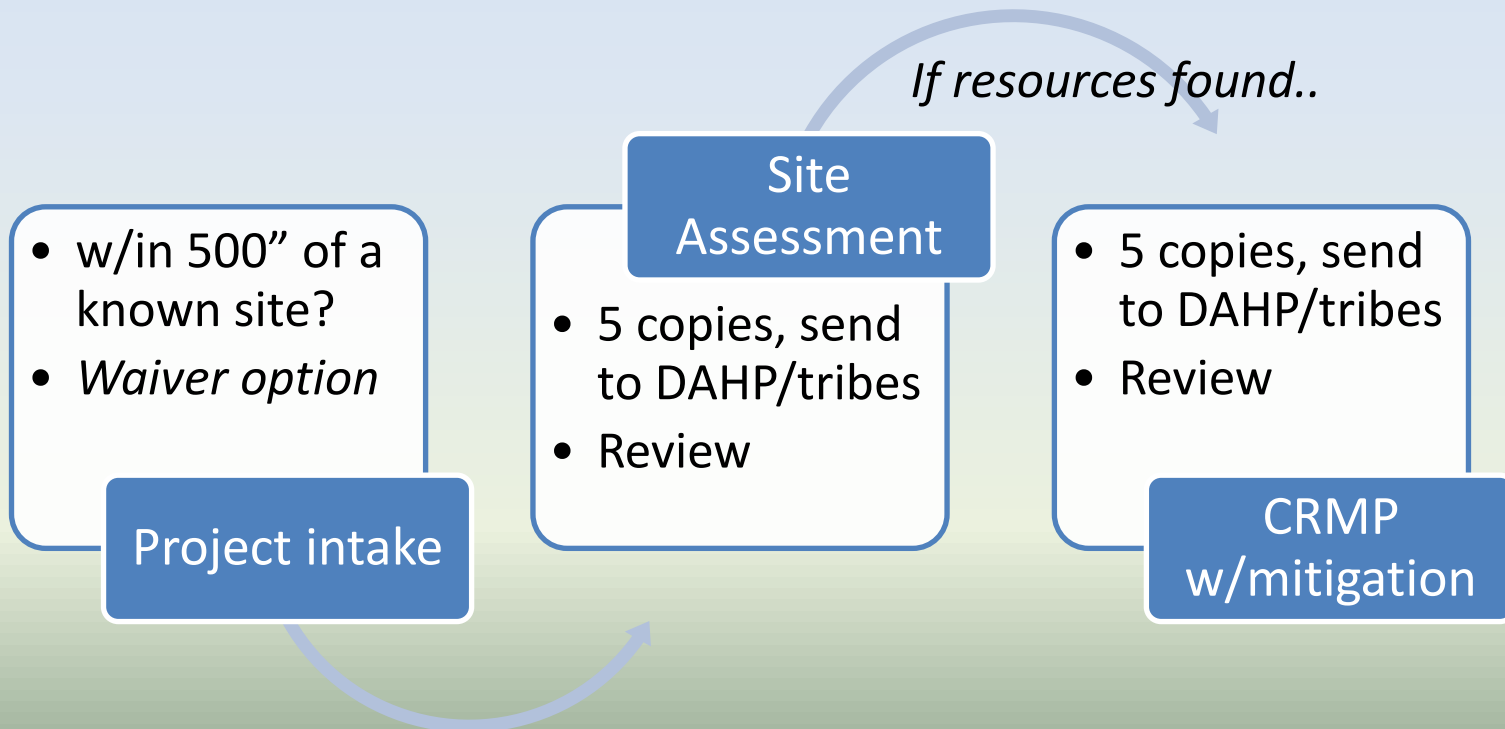
Comments on draft SMPs

 Try WISAARD
Our Searchable Cultural Database

Search the DAHP site:

Example 1: Whatcom County: a detailed code

- Based on earlier DAHP model
- Outlines local facilitator role in detail
- Establishes authority to condition permits with requirements for evaluation and mitigation



Example 2: Island Co SMP: reference MOU

1. The Shoreline Administrator shall ensure that **known or suspected locations** of archaeological resources are **protected consistent with** provisions and procedures in the GMA Comprehensive Plan and **Memorandum of Understanding** between the County and the State Department of Archaeology and Historic Preservation (DAHP).

Relies on MOU for arch details.

Benefit: MOU can be amended without amending the SMP.

2. *[Inadvertent Discovery/ Stop Work]*

3. No permit ... will be issued prior to the receipt by the County of the required archaeological report and review and approval of the report by DAHP.....

Defines authority to require evaluations and DAHP approval

4. [Developments adjacent to state or National Historic Register sites must protect character]

Example 3: Clark Co SMP: uses predictive model

A. When a shoreline use or development is in an area known *or likely to contain* archaeological artifacts and data **based on the state's predictive model**, the applicant shall provide for a site inspection and evaluation by a professional archaeologist prior to issuance of any shoreline permit or approval. Work may not begin until the inspection and evaluation have been completed and the County has issued its permit or approval.

B. [Inadvertent Discovery/ Stop Work]

C. [Special provisions for skeletal remains]

Development Services

Archaeological Review

What is the purpose of an archaeological review?
The purpose of a review is to determine if cultural resources are present on a property. If they are discovered to be present, the review will also serve to identify and protect them from development impacts.

When is an Archaeological Predetermination required?
An archaeological predetermination is required for all development applications that are subject to the State Environmental Protection Act (SEPA) review and:

- Have sites within a "20-100% predictive probability area" as defined on the Clark County Archaeological Predictive Model Map, and have a moderate to high impact of ground disturbance; and/or,
- Have sites that are within 1320' of a registered archaeological site or 500' of a known but not registered archaeological site.

How does the county determine if archaeological artifacts exist?
The county has a series of three steps to determine if and to what extent resources may exist on a parcel of land.

Step #1: Predictive Mapping Model: This computer model is designed to predict what areas are likely to contain archaeological and cultural resources.

Step #2: Archaeological Predetermination: If the county determines that an archaeological site is likely to be affected by a proposed activity, based upon the predictive model above, an archaeological predetermination is required. The predetermination is a tool used to determine whether cultural resources exist on a particular site without the cost and expenditure of a full Archaeological Survey. In cases where resources are found, a survey may be needed. If no resources are found, no additional work will be needed and the review will be complete.

Step #3: Archaeological Survey: As an in-depth professional study of a site. They include the analysis of potential impacts from a proposed activity.

The Archaeological Predictive Model Map is available for viewing at www.clark.wa.gov. Click on the Maps button, find the property you are interested in, then click on the Layers tab and select Archaeological Predictability on the pull down menu. On the right side of the page, you have to choose the layers you want shown.

associated permits could be delayed or ceased.

Revised 9/1/11

Community Development
1300 Franklin Street, Vancouver, Washington
Phone: (360) 397-2375 Fax: (360) 397-2011
www.clark.wa.gov/development

For an alternate format, contact the Clark County ADA Compliance Office.
Phone: (360) 397-2322
Falls: 711 or (800) 833-6384
E-mail: ADA@clark.wa.gov

Best practice: “Inadvertent discovery” standard permit condition

IX- CONDITIONS OF APPROVAL

3. In the event that any ground-disturbing activities, other project activities related to this development, or in any future development uncover protected cultural materials (e.g. bones, shell, stone tools, beads, ceramics, old bottles, hearths, etc.), the actions as listed in the attached document entitled **Inadvertent Archaeological and Historic Resources Discovery Plan** for Island County must be followed.

Compliance with all applicable laws pertaining to archaeological resources (RCW 27.53, 27.44 and WAC 25-48) and human remains (RCW 68.50) is required.

Standard condition included in all SMP Permits and “exemption letter” authorizations

Inadvertent discovery plan



ISLAND COUNTY
PLANNING & COMMUNITY DEVELOPMENT
PHONE: (360) 679-7339 ■ from Camano (360) 629-4522, Ext. 7339 ■ from S. Whidbey (360) 321-5111,
Ext. 7339 FAX: (360) 679-7306 ■ 1 NE 6th Street, P. O. Box 5000, Coupeville, WA 98239-5000

Internet Home Page: <http://www.islandcounty.net/planning/>

Inadvertent Archaeological and Historic Resources Discovery Plan for Island County

In the event that any ground-disturbing activities or other project activities related to this development or in any future development uncover protected cultural material (e.g., bones, shell, antler, horn or stone tools), the following actions will be taken:

1. When an unanticipated discovery of protected cultural material (see definitions below) occurs, the property owner or contractor will completely secure the location and contact:
 - a. The property owner and project manager;
 - b. A professional archaeologist;
 - c. The Department of Archaeology and Historic Preservation (DAHP) (Gretchen Kaehler, 360-586-3088, 360-628-2755 cell);
 - d. The Swinomish Indian Tribal Council;
 - e. The Tulalip Tribes (Richard Young, 360-854-7090, cell 360 630 3680);
 - f. Jackie Ferry, Samish Tribe (360-242-3662), Kerry Lyste, Stillaguamish Tribe (360-652-7362);
 - g. Island County Community Development.
2. If the discovery is human remains, the property owner or contractor, adjacent to the discovery, completely secure the location and provide access to equipment to a reasonable degree:
 - a. The property owner;
 - b. The Island County Sheriff's Office;
 - c. The Island County Coroner, Records, and Forensic Services, which are forensic in nature;
 - d. If the remains are not forensic in nature, the property owner or contractor, Preservation (DAHP) (Gretchen Kaehler, 360-586-3088) will take the lead on determining the appropriate method of treatment for the remains and will consult with the affected tribes;
 - e. A professional archaeologist; and
 - f. Island County Planning and Community Development (360-679-7339).
3. Cultural material that may be protected by law could include but is not limited to:
 - a. Buried layers of black soil with layers of shell, charcoal, and fish and mammal bones (Figure 1).
 - b. Non-natural sediment or stone deposits that may be related to activity areas of people;

County-specific contact info:
- for artifacts
- for human remains

- c. Stone, bone, shell, horn, or antler tools that may include projectile points (arrowheads), scrapers, cutting tools, wood working wedges or axes, and grinding stones (Figures 2 and 3);
- d. Stone tools or stone flakes (Figures 2 and 3);
- e. Buried cobbles that may indicate a hearth feature (Figure 4);
- f. Old ceramic pieces, metal pieces, tools and bottles (Figures 5 and 6); and
- g. Perennially damp areas may have preservation conditions that allow for remnants of wood and other plant fibers; in these locations there may be remains including:
 - Fragments of basketry, weaving, wood tools, or carved pieces; and
 - Human remains.

4. COMPLIANCE WITH ALL APPLICABLE LAWS PERTAINING TO ARCHAEOLOGICAL RESOURCES (RCW 27.53, 27.44 and WAC 25-48) AND WITH HUMAN REMAINS (RCW 68.50) IS REQUIRED. FAILURE TO COMPLY WITH THESE REQUIREMENTS COULD RESULT IN A MISDEMEANOR AND POSSIBLE CIVIL PENALTIES AND/OR CONSTITUTE A CLASS C FELONY.



Figure 1: Shell midden

Highlight penalties

Pages of Photos:
examples of resources
(an education tool)