

Merrill, Hannah

From: pearl hewett [REDACTED]
Sent: Friday, November 04, 2011 6:32 PM
To: zSMP
Subject: Fw: SMP CONFLICT WITH STATE LAW

----- Original Message -----

From: [pearl hewett](#)
To: ; [Lois Perry](#) ; [Sue Forde](#) ; [earnest spees](#)
Cc: [marv Chastain](#)
Sent: Friday, November 04, 2011 5:55 PM
Subject: SMP CONFLICT WITH STATE LAW

TO WHOM IT MAY CONCERN

Please add this as my comment to the SMP Update

Pearl Rains Hewett

Victory for Pacific Legal Foundation (I have posted this before) **Now with our SMP update the same conflict with the same State Law RCW 90.58.100. will apply to Clallam County SMP if it is not STOPPED IN IT'S TRACKS.**

It took from 2006-2011 to settle this. Does Clallam County need a law suit like this?

In 2008, Ms. Luhrs appealed the decision to the trial court, arguing that **Whatcom County's shoreline management rules conflict with state law, which mandates that counties "shall provide for methods which achieve effective and timely protection against loss or damage to single family residences and appurtenant structures due to shoreline erosion." RCW 90.58.100.**

Court of appeals agreed that Ms. Luhrs has the right to demonstrate the need to build a protective bulkhead based upon a showing that erosion is threatening her home and that less rigid means would be inadequate. The appeals court remanded the case to the trial court to determine the necessity of shoreline protection.

Private counsel and PLF attorneys were able to reach a settlement with the County that allows the Luhrs to build a revetment to protect their home. The revetment was installed and the case was voluntarily dismissed.

Coastal homeowners shouldn't be held hostage to erosion

Luhrs v. Whatcom County

Read on if you missed it the first time around.

Contact: [Brian T. Hodges](#)

Status: The Parties settled with the County. The case was voluntarily dismissed March, 2011.

Summary:

Victoria Luhrs purchased property on the east shoreline of Lummi Island in Whatcom County, Washington, in July, 1992. She lawfully expanded a 1925 cabin to create her dream retirement home, and built a garage and greenhouse. Shortly after she built her home, however, Ms. Luhrs noted increased wave erosion. From 2002 to 2006, Ms. Luhrs' property lost up to 13 feet from wave attack in certain areas. The home, which was 70 feet from the bluff in 2000, was only 60 feet from the bluff in early 2006.

In 2006, Ms. Luhrs filed for an emergency permit to slow down the ongoing erosion and protect her home. The County denied the permit, stating that erosion due to wave attack is an anticipated seasonal occurrence and cannot constitute an emergency. The County's letter denying the emergency permit instructed Ms. Luhrs to apply for a Shoreline Development Permit, which she did. But the County denied that permit too. This time, the County explained that it had adopted a policy of prohibiting any hard armoring on erosional bluffs to protect the natural cycle of shoreline erosion.

In 2008, Ms. Luhrs appealed the decision to the trial court, arguing that Whatcom County's shoreline management rules conflict with state law, which mandates that counties "shall provide for methods which achieve effective and timely protection against loss or damage to single family residences and appurtenant structures due to shoreline erosion." RCW 90.58.100(6).

Court of appeals agreed that Ms. Luhrs has the right to demonstrate the need to build a protective bulkhead based upon a showing that erosion is threatening her home and that less rigid means would be inadequate. The appeals court remanded the case to the trial court to determine the necessity of shoreline protection.

Private counsel and PLF attorneys were able to reach a settlement with the County that allows the Luhrs to build a revetment to protect their home. The revetment was installed and the case was voluntarily dismissed.