

Merrill, Hannah

From: pearl hewett [REDACTED]
Sent: Tuesday, February 28, 2012 8:34 AM
To: Lois Perry; earnest spees; Sue Forde
Cc: harry bell; Gray, Steve; zSMP
Subject: RCW 36.70A.480 Mentions NO NET LOSS
Attachments: no net loss.docx

TO WHOM IT MAY CONCERN NO NET LOSS MENTIONED In law RCW 36.70A.480

Taken out of context

(2) The shoreline master program shall be adopted pursuant to the procedures of chapter [90.58](#) RCW rather than the goals, policies, and procedures set forth in this chapter for the adoption of a comprehensive plan or development regulations.

(3)(a) The policies, goals, and provisions of chapter [90.58](#) RCW and applicable guidelines shall be the sole basis for determining compliance of a shoreline master program

(B) the local government determines that the proposed redevelopment or modification will result in **no net loss** of shoreline ecological functions. The local government may waive this requirement if the redevelopment or modification is consistent with the master program and the local government's development regulations to protect critical areas.

Pearl Rains Hewett
Trustee George C. Rains Sr. Estate
Member SMP Advisory Committee

Open attachment if you are interested

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Read on if you are interested

RCW 36.70A.480

Shorelines of the state.

(1) For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW [90.58.020](#) are added as one of the goals of this chapter as set forth in RCW [36.70A.020](#) without creating an order of priority among the fourteen goals. The goals and policies of a shoreline master program for a county or city approved under chapter [90.58](#) RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter [90.58](#) RCW, including use regulations, shall be considered a part of the county or city's development regulations.

(2) The shoreline master program shall be adopted pursuant to the procedures of chapter [90.58](#) RCW

rather than the goals, policies, and procedures set forth in this chapter for the adoption of a comprehensive plan or development regulations.

(3)(a) The **policies, goals, and provisions of chapter [90.58](#) RCW and applicable guidelines shall be the sole basis for determining compliance of a shoreline master program with this chapter except as the shoreline master program is required to comply with the internal consistency provisions of RCW [36.70A.070](#), [36.70A.040](#)(4), [35.63.125](#), and [35A.63.105](#).**

(b) Except as otherwise provided in (c) of this subsection, development regulations adopted under this chapter to protect critical areas within shorelines of the state apply within shorelines of the state until the department of ecology approves one of the following: A comprehensive master program update, as defined in RCW [90.58.030](#); a segment of a master program relating to critical areas, as provided in RCW [90.58.090](#); or a new or amended master program approved by the department of ecology on or after March 1, 2002, as provided in RCW [90.58.080](#). The adoption or update of development regulations to protect critical areas under this chapter prior to department of ecology approval of a master program update as provided in this subsection is not a comprehensive or segment update to the master program.

(c)(i) Until the department of ecology approves a master program or segment of a master program as provided in (b) of this subsection, a use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the local government's development regulations to protect critical areas may continue as a conforming use and may be redeveloped or modified if: (A) The redevelopment or modification is consistent with the local government's master program; and (B) **the local government determines that the proposed redevelopment or modification will result in no net loss of shoreline ecological functions. The local government may waive this requirement if the redevelopment or modification is consistent with the master program and the local government's development regulations to protect critical areas.**

(ii) For purposes of this subsection (3)(c), an agricultural activity that does not expand the area being used for the agricultural activity is not a redevelopment or modification. "Agricultural activity," as used in this subsection (3)(c), has the same meaning as defined in RCW [90.58.065](#).

(d) Upon department of ecology approval of a shoreline master program or critical area segment of a shoreline master program, critical areas within shorelines of the state are protected under chapter [90.58](#) RCW and are not subject to the procedural and substantive requirements of this chapter, except

as provided in subsection (6) of this section. Nothing in chapter 321, Laws of 2003 or chapter 107, Laws of 2010 is intended to affect whether or to what extent agricultural activities, as defined in RCW [90.58.065](#), are subject to chapter [36.70A](#) RCW.

(e) The provisions of RCW [36.70A.172](#) shall not apply to the adoption or subsequent amendment of a local government's shoreline master program and shall not be used to determine compliance of a local government's shoreline master program with chapter [90.58](#) RCW and applicable guidelines. Nothing in this section, however, is intended to limit or change the quality of information to be applied in protecting critical areas within shorelines of the state, as required by chapter [90.58](#) RCW and applicable guidelines.

(4) Shoreline master programs shall provide a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources as defined by department of ecology guidelines adopted pursuant to RCW [90.58.060](#).

(5) Shorelines of the state shall not be considered critical areas under this chapter except to the extent that specific areas located within shorelines of the state qualify for critical area designation based on the definition of critical areas provided by RCW [36.70A.030](#)(5) and have been designated as such by a local government pursuant to RCW [36.70A.060](#)(2).

(6) If a local jurisdiction's master program does not include land necessary for buffers for critical areas that occur within shorelines of the state, as authorized by *RCW [90.58.030](#)(2)(f), then the local jurisdiction shall continue to regulate those critical areas and their required buffers pursuant to RCW [36.70A.060](#)(2).

[2010 c 107 § 2; 2003 c 321 § 5; 1995 c 347 § 104.]

Notes:

***Reviser's note:** RCW [90.58.030](#) was alphabetized pursuant to RCW [1.08.015](#)(2)(k), changing subsection (2)(f) to subsection (2)(d).

Intent -- 2010 c 107: "(1) The legislature recognizes that Engrossed Substitute House Bill No. 1933, enacted as chapter 321, Laws of 2003, modified the relationship between the shoreline management act and the growth management act. The legislature recognizes also that its 2003 efforts, while intended to create greater operational clarity between these significant shoreline and land use acts, have been the subject of differing, and occasionally contrary, legal interpretations. This act is intended to affirm and clarify the legislature's intent relating to the provisions of chapter 321, Laws of 2003.

(2) The legislature affirms that development regulations adopted under the growth management act to protect critical areas apply within shorelines of the state as provided in section 2 of this act.

(3) The legislature affirms that the adoption or update of critical area regulations under the growth management act is not automatically an update to the shoreline master program.

(4) The legislature intends for this act to be remedial and curative in nature, and to apply retroactively to July 27, 2003." [2010 c 107 § 1.]

Retroactive application -- 2010 c 107: "This act is remedial and curative in nature and applies retroactively to July 27, 2003." [2010 c 107 § 5.]

Effective date -- 2010 c 107: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 18, 2010]." [2010 c 107 § 6.]

Finding -- Intent -- 2003 c 321: See note following RCW [90.58.030](#).

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW [36.70A.470](#).