

Merrill, Hannah

From: pearl hewett [REDACTED]
Sent: Sunday, March 04, 2012 10:33 AM
To: zSMP; Miller, Sheila Roark; Gray, Steve; Jim McEntire
Cc: Kaj Ahlburg; Lois Perry; Sue Forde; earnest spees; Chapman, Mike
Subject: ACCESS DENIED TO DOE Public Trust Doctrine web site (88 pages)

TO WHOM IT MAY CONCERN

WA State DOE Public Trust Doctrine web site is no longer accessible on line?

PUBLIC ACCESS to the Doe WA State Public Trust Doctrine IS BEING DENIED to "We the People" ON LINE.

After I submitted an SMP comment on 11/10/11 on the Due Process of Law.

DOE Public Trust Doctrine web site (88 pages) has gone missing and
IT HAS BEEN REPLACED WITH THE FOLLOWING

Local governments should consider public trust doctrine concepts when developing comprehensive plans, development regulations and shoreline master programs. There are few "bright lines," however, as the Public Trust Doctrine is common law, not statutory law. The extent of its applicability can only be determined by state court decisions. The document below is a good introduction to the case law in Washington State.

Go on line for WA State DOE Public Trust Doctrine web site for complete information.

I submit this as my comment
On the SMP Update
Pearl Rains Hewett Trustee
George C. Rains Sr. Estate
Member SMP Advisory Committee

Please continue reading for the 11/10/11 comment I made to the SMP Update.

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

From: [pearl hewett](#)
To: [zSMP](#) ; [Lois Perry](#) ; [Sue Forde](#)
Cc: [earnest spees](#) ; [Sandy Collins](#) ; [Marv Chastain](#)
Sent: Thursday, November 10, 2011 4:19 PM
Subject: THE DUE PROCESS OF LAW

TO WHOM IT SHALL CONCERN

I submit this as my comment
On the SMP Update
Pearl Rains Hewett Trustee
George C. Rains Sr. Estate
Member SMP Advisory Committee

THE LITTLE WORD "DUE"

Andrew T. Hyman *

I. INTRODUCTION

(this is taken out of context the complete document is available on line)

The Fifth [1] and Fourteenth [2] Amendments bar the government from depriving anyone of "life, liberty, or property, without due process of law."

Justice Joseph Bradley once said that **"we are entitled, under the fourteenth amendment, not only to see that there is some process of law, but 'due process of law,' provided by the State law when a citizen is deprived...."** [72] Justice Bradley was correct, in the sense that a mere portion of legal process will not be allowed, when more is required by positive law. Failure to provide all process that is due may not normally be treated as harmless error, according to the Due Process Clause, and statutes may not normally treat it as such.

With regard to Clallam County SMP Update.

While WAC'S are NOT laws, they become enforceable LAW if they are written into Clallam County SMP Update.

This is on the DOE Public Trust Doctrine web site (88 pages)

"Finally, **SMP'S, unlike other comprehensive plans,** are **adopted as WAC'S** and become part of the state's Shoreline Master Program. As such, all local SMP rules, regulations, designations and guidelines **BECOME STATE LAW AND ARE ENFORCEABLE.** in this manner, protection of public trust resources and uses becomes binding."

(this is taken out of context the complete document is available on line)

The Supreme Court has in recent decades added increasingly **stringent due process restraints on Congress and the states,** pursuant to its mistakes in *Hurtado*. With regard to procedural law, the Court has developed a test for determining what process is "due" by balancing three factors:

- (1) **the nature and weight of the private interest affected,** [page 31]
- (2) **the risk of an erroneous deprivation of this interest using existing procedures compared with alternative or additional procedures,** and
- (3) **the government's concern with both the interest involved and the procedures used to regulate it.**

[73] Unfortunately, the rationale of a majority (or supermajority) of the people's representatives is not even a factor here, much less a determinative factor of what procedure is "due." Likewise for substantive law,

the general position of the Court is now that when a fundamental interest is at stake involving life, liberty, or property, then the state must have a "compelling" objective, and its statute must be narrowly tailored to achieve that objective.

In cases involving non-fundamental interests, the state must have a "legitimate" objective, and a statute must be rationally related to achieving that objective. The Court

thus determines what powers of state government are legitimate or compelling, regardless of the enumeration of powers in a state's constitution. The Court also determines what rights are fundamental, notwithstanding rights that may be enumerated in a state's constitution. In this way, the Court now decides what laws are due or undue, and what the law of the land should be.

I am searching for TRUTH with regard to the legality and taking of Constitutional and private property rights.

I submit this as my constitutional right to Freedom of speech.

Pearl Rains Hewett