

# Merrill, Hannah

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**From:** pearl hewett [REDACTED]  
**Sent:** Saturday, July 14, 2012 3:13 PM  
**To:** Lois Perry; Sue Forde; zSMP  
**Cc:** Karl Spees; Jo Anne Estes; Katie Krueger; connie beauias; Frank M Penwell; [REDACTED]; Delane Hewett; Sandy Rains; **Judy Miller**; Vi; Don; randy simmins; Marv Chastain; Jay Petersen; harry bell; Steve Gray; notac@olypen.com; Tristin Hewett; McEntire, Jim; Miller, Sheila Roark  
**Subject:** SMP COMMENT ON THE SMP Advisory Committee

This is my comment

## **on the SMP Advisory Committee**

Pearl Rains Hewett Trustee

George C. Rains Estate

Concerned Member SMP Advisory Committee

## **At the July 10, 2012 SMP Committee Advisory meeting**

### **Two thirds or more of the SMP Advisory Committee**

**VOTED TO WALK AWAY FROM THE TABLE,**

**against my suggestion that we needed an additional August meeting to complete our duty to the citizens and private property owners, as SMP advisors, prior to the final SMP draft proposal being written.**

The SMP Advisory Committee that represent the 3300 Clallam County shoreline private property owners is **approximately** as follows.

1/3 = 10 private interest groups

1/3 = 10 paid government employees

1/3 = 10 SMP Affected taxpaying private property owners **(only 8 at this meeting)**

### **DOES THE MAKEUP OF THIS COMMITTEE EXPLAINS WHY?**

**THEY VOTED TO WALK AWAY FROM THE TABLE**

**LEAVING 19 OR MORE PROPOSED SMP DRAFT ISSUES RELATED TO THE DOE SMP TAKING OF PRIVATE PROPERTY without argument, suggestions or comment?**

**(1) DISCUSSED AND QUESTIONED? The undecipherable table with the percentages, the 15% of whatever?** It made no sense to me either? Jay Pedersen could help with his knowledge of what he thought it actually was/represented? It would be very helpful to members of the committee.

### **The written text related to the undecipherable table below**

220. Minor new development Grading shall not exceed 500 cubic yards; and ii. Land disturbing activities shall not exceed 20,000 square feet, except that on parcels less than five (5) acres, land disturbing activities must not exceed fifteen (15) percent of the gross parcel size; and iii. The total cumulative footprint of all structures on a parcel must be less than 4,000 square feet; and iv. The total cumulative impervious surface area on the parcel must be less than ten (10) . All land disturbing activities must be located on slopes less than fifteen (15) percent; and vi. All land disturbing activities must comply with any critical area buffer and other protection standards established for parcels created by land division.

### **(2) DISCUSSED AND QUESTIONED? NOT ADDRESSED**

**The limited number of trained specialists**, Jay's comment was in reference to the county SMP requiring **specialists**, to perform the mitigation tests. If a property owner could even find one to do the testing? The time delay and cost would be prohibitive.

### **(3) PRESENTED NOT DISCUSSED**

**SMP Excessive restrictions on all forms of developments.** I am extremely concerned about the additional restrictive requirements written into the SMP update for major development. They are **counter-productive to the economic recovery of Clallam County, they restrict the ability of business and citizens to create employment opportunities in both Clallam County and Port Angeles.** Why are the Dept. of Community Development and the planning biting off their own feet? Why are they creating these obsessive restrictions on all developments?

The way Steve was talking it, with all the added bells and whistles, it was to make **any form of mitigation for anything totally infeasible, creating a like it or lump it, situation for all development by business or private shoreline property owners.**

### **(4) PRESENTED- DISCUSSED but NOT ADDRESSED**

**The cumulative effect of setbacks SHORELINE, WETLAND and HABITAT** Ed Bowen did a good job when he pointed out **an example of the enormous loss** of private property use with the setbacks on Lake Pleasant, in conjunction with the yet **undetermined, Clallam County DOE designated WETLANDS.**

### **(5) PRESENTED NOT ADDRESSED**

#### **More additional HABITAT setbacks**

It was impressive how smoothly Margaret and Steve just added on the **additional habitat setbacks, but did not mention endangered species.**

289. **Rare, endangered, threatened and sensitive species** means plant and animal species identified and listed by the Washington State Department of Natural Resources, Washington Natural Heritage Program, Washington State Department of Fish and Wildlife, or the U.S. Fish and Wildlife Service, as being severely limited or threatened with extinction within their native ranges.

361. **Threatened species** means a species that is likely to become an endangered species within the foreseeable future, as classified by the Washington Department of Fish and Wildlife, the Department of Natural Resources, Washington Natural Heritage Program, or the federal Endangered Species Act.

### **(6) ED BOWEN COMMENT NOT ADDRESSED**

293. Recording means the **filing of a document(s) for recordation with the County auditor.**

### **(7) NO DISCUSSION OR RESOLUTION (not required by law)**

304. **Restoration** means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of fill, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

### **(8) DOE DESIGNATED WETLANDS NOT IDENTIFIED OR INCORPORATED**

**Wetlands have no boundaries, adjoining wetlands could restrict the use of your property.**

392. **Wetlands** means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created for non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass lined swales, canals, detention

facilities, wastewater treatment facilities, farm ponds, and landscape amenities or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands created as mitigation and wetland modified for approved land use activities shall be considered as regulated wetlands.

**PROHIBITED EXCEPTION DISCUSSED AND RESOLVED BY RCW**

Provisions for protection **SHALL** be included in SMP up date.

306. Revetment means a sloped wall constructed of rip-rap or other suitable material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement.

307. Rip-rap means dense, hard, angular rock free from cracks or other defects conducive to weathering often used for bulkheads, revetments or similar slope/bank stabilization purposes.

**(9) DISCUSSED UNDEFINED NO RESOLUTION [insert final date]**

**3.1.1 Shoreline Environment Designations**

1. A shoreline environment designation has been assigned to each segment of the shoreline in accordance with this section. The designations are based on the following general factors:

a. The ecological functions and processes that characterize the shoreline, together with the degree of human alteration as determined by the **[insert final date]** Shoreline Inventory and Characterization Report and subsequent technical analyses; and

**(10) NOT PRESENTED OR DISCUSSED**

**EXPENSE OF SPECIALISTS FOR APPROVAL**

c. **Hazard Tree Removal:** Removal of a hazard tree may be allowed in the buffer when trimming is not sufficient to address the hazard. Where the hazard is not immediately apparent to the Administrator, the hazard tree **determination SHALL be made after Administrator review of a report prepared by a qualified arborist or forester.**

**(11) NOT PRESENTED OR DISCUSSED**

**EXPENSE OF SPECIALISTS FOR APPROVAL**

d. **Invasive Species Management:** Removing invasive, non-native shoreline vegetation listed on the Clallam County Noxious Weed List may be allowed in the buffer when otherwise consistent with this Program. The disturbed areas must be promptly revegetated using species native to western Washington. **The Administrator SHALL require a vegetation management plan prepared by a qualified ecologist, forester, arborist, or landscape architect prior to approving the invasive species removal.** The vegetation management plan **SHALL identify** and describe the location and extent of vegetation management. For properties within designated landslide or erosion hazard areas, the Administrator may require **review of the vegetation management plan by an engineering geologist or geotechnical engineer** to ensure that the vegetation management will not cause or

exacerbate hazards associated with soil or slope instability. The location and size of **the invasive species management area SHALL be clearly defined on the site plan**

### **(12) NOT DISCUSSED - ADDRESSED OR RESOLVED**

**Taking of Value of view property** by limited **20% KEYHOLE view corridor**. If 50% of the value of your shoreline property is for the view? Losing 80% the view value will affect the true and real value of your property

#### **4.2.4 Regulations – Shoreline Buffers**

. 3. Buffer Condition: Shoreline buffers shall be maintained in a predominantly well vegetated and undisturbed condition to ensure that the buffer provides desired buffer functions including shade, habitat, organic inputs, large woody debris, slope stability, water storage, biofiltration, contaminant removal, and fine sediment control. Up to **eighty percent (80%) of the buffer area shall be vegetated** with native trees and shrubs. The **remaining twenty percent (20%), or at least fifteen (15) linear feet of the water frontage, whichever is greater, may be retained as lawn for active use.**

4. Allowed Uses and Buffer Modifications: The Administrator may allow **limited clearing, thinning, and/or pruning to accommodate specific shoreline buffer uses** and modifications identified in this section. Such allowances **shall not require compensatory mitigation provided that the amount and extent of the clearing, limbing, and/or pruning are the minimum necessary to accommodate the allowed use** and all other requirements of the Program are met:

### **(13) view corridor NOT DISCUSSED OR ADDRESSED limited and selective tree removal, pruning, and/or limbing in the buffer**

a. View Corridors: The Administrator **may allow limited and selective tree removal, pruning, and/or limbing in the buffer to create a view of the shoreline** when otherwise consistent with this Program. The removal, pruning, and/or limbing **shall not require any ground-disturbing equipment and shall not materially alter soils or topography.**

### **(15) NOT DISCUSSED OR ADDRESSED**

#### **EXPENSE OF SPECIALISTS FOR APPROVAL**

#### **Administrator shall require a view clearance plan**

The Administrator **shall require a view clearance plan prepared by a qualified ecologist, forester, arborist, or landscape architect prior to approving the view corridor.** The view clearance plan shall identify and describe the location and extent of the proposed tree removal, pruning, and limbing and **shall demonstrate compliance** with American National Standards Institute (ANSI) A300 Standards for Tree Care Operations (Tree, Shrub, and Other Woody Plant Management – Standard Practices). For properties within designated landslide or erosion hazard areas, the Administrator **may require review of the view clearance plan by an engineering geologist or geotechnical engineer to ensure that the proposed removal, pruning, and/or limbing will not cause or exacerbate hazards associated with soil or slope instability.** The location and size of the view corridor shall be clearly defined on the site plan.

b. Private Pathways: Private pathways which provide pedestrian access to the shoreline **may be allowed within the buffer** provided they are constructed of pervious material, are less than or equal to six (6) feet wide, and follow a route that minimizes erosion and gulying

### **(16) NOT DISCUSSED OR ADDRESSED**

#### **Taking of Private property for Public access**

The removal of any reference to the taking of private property for Public access, Clallam County has the highest public access to public land in WA State. At the Private DOE meeting on June 6, 2012 Gordon White agreed that we have sufficient cause **51%** to remove any taking of private property for public access.

## **(17) DISCUSSED AND DISMISSED**

### **EPA. Precautionary setback are not legal**

As questioned by Rob McKenna, why are the DOE SMP setbacks more restrictive the EPA. Precautionary setback are not legal.

## **(18) LEGALITY OF 80% TAKING NOT DISCUSSED NOT ADDRESSED**

### **ONE HUNDRED PERCENT (100%) NON-CONFORMING PROPERTY**

i. At least eighty percent (80%) of the buffer area between the structures and the shoreline and/or critical area is maintained in a naturally vegetated condition.

### **What provisions have the DOE made to stay within the LAW?**

“It is now undisputed that the county had no authority to deprive residents of the use of their own private property.” **CAO’S “65 PERCENT” SEIZURE OF PROPERTY PLF Lauds Supreme Court for “Driving a Stake Through One of the Most Extreme Assaults on Property Rights in the U.S.”**

SEATTLE, WA; March 4, 2009: The [Washington Supreme Court](#)

**the CAO limited rural landowners with five acres or more to clearing only 35 percent of their property, forcing them to maintain the remaining 65 percent as native vegetation indefinitely.**

Rural landowners owning less than five acres were allowed to clear only 50 percent of their parcels. Affected landowners had to continue paying taxes on the portion of the property rendered useless by the CAO.

## **(19) NOT DISCUSSED OR ADDRESSED**

**The provisions of WAC173-26-191** anything that may be **illegal and unconstitutional** at a State level, may also be **illegal and unconstitutional at a county level** AND shall not be included in Clallam County SMP update.

## **WAC 173-26-191**

[Agency filings affecting this section](#)

## **Master program contents.**

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The results of shoreline planning are summarized in shoreline master program policies that establish broad shoreline management directives. The policies are the basis for regulations that govern use and development along the shoreline. **Some master program policies may not be fully attainable by regulatory means due to the constitutional and other legal limitations on the regulation of private property.** The policies may be pursued by other means as provided in **RCW 90.58.240**. Some development requires a shoreline permit prior to construction. A local government evaluates a permit application with respect to the shoreline master program policies and regulations **and approves a permit only after determining that the development conforms to them.** Except where specifically provided in statute, the regulations apply to all uses and development within shoreline jurisdiction, whether or not a shoreline permit is required, and are implemented through an administrative process established by local government pursuant to **RCW 90.58.050** and **90.58.140** and enforcement pursuant to **RCW**

**90.58.210** through **90.58.230**.

If any of you read this complete comment? You understand fully, why I am critical of the two thirds majority of the Advisory Committees that failed to complete their responsibility to the citizens and private property owners of Clallam County, prior to the final SMP Draft Proposal.

Pearl Rains Hewett