

Merrill, Hannah

From: Harry Bell [harry@greencrow.com]
Sent: Friday, July 20, 2012 9:43 AM
To: pearl hewett; zSMP; Karl Spees; connie beauvias
Cc: Jo Anne Estes; Lois Perry; mary pierce pfaff; Jay Petersen; notac@olyphen.com; Sue Forde; robert crittendend
Subject: Re: SMP Watershed restoration

Hi Pearl

What is not clear (because I don't believe it is intended) is if all restoration projects—in this case that meet the SMP review—will be considered mitigation for other shorelines impacts to meet the No Net Loss standard. I presented this issue to the consultants and they resisted. I presented this to the Planning Commission and they listened but took no action.

Harry

From: [pearl hewett](#) [REDACTED]
Sent: Thursday, July 19, 2012 12:14 PM
To: [zSMP](#) ; [Karl Spees](#) ; [connie beauvias](#)
Cc: [harry bell](#) ; [Jo Anne Estes](#) ; [Lois Perry](#) ; [mary pierce pfaff](#) ; [Jay Petersen](#) ; [notac@olyphen.com](#) ; [Sue Forde](#) ; [robert crittendend](#)
Subject: SMP Watershed restoration

This is my SMP comment on
Clallam County SMP Restoration
Anacortes DOE approved Restoration projects
Pearl Rains Hewett Trustee
George C. Rains Sr. Estate
Member SMP Advisory Committee

Would Clallam County SMP Restoration plan be similar?

A copy of Anacortes SMP - DOE approved Restoration projects.

15. Watershed restoration projects as defined herein. Local government shall

review the projects for consistency with the Shoreline Master Program in an

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expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration.

a. "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that

implements the plan or a part of the plan and consists of one or more of the following activities:

- i. A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
- ii. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
- iii. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.

b. "Watershed restoration plan" means a plan, developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the Department of Transportation, a federally recognized Indian Tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has

been conducted pursuant to chapter [43.21C RCW](#), the State

Environmental Policy Act;

16. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

a. The project has been approved in writing by the Department of Fish and Wildlife;

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b. The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to Chapter [77.55 RCW](#); and

c. The Shoreline Administrator has determined that the project is substantially consistent with this Master Program. The Shoreline Administrator shall make such determination in a timely manner and provide it by letter to the project proponent.

Fish habitat enhancement projects that conform to the provisions of [RCW 77.55.181](#) are determined to be consistent with local shoreline master programs, as follows:

i. In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under (16)(c)(i)(1) and (2) of this subsection:

(1) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:

a. Elimination of human-made fish passage barriers, including culvert repair and replacement;

b. Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing

water; or

c. Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

The Washington Department of Fish and Wildlife shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety; and

(2) A fish habitat enhancement project must be approved in one of the following ways:

a. By the Washington Department of Fish and Wildlife pursuant to chapter [77.95](#) or [77.100](#) RCW;

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b. By the sponsor of a watershed restoration plan as provided in chapter [89.08](#) RCW;

c. By the Washington Department of Fish and Wildlife as a Washington Department of Fish and Wildlife-sponsored fish habitat enhancement or restoration project;

d. Through the review and approval process for the jobs for the environment program;

e. Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by

the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the Natural Resource Conservation Service;

f. Through a formal grant program established by the legislature or the Washington Department of Fish and Wildlife for fish habitat enhancement or restoration; and

g. Through other formal review and approval processes established by the legislature.

ii. Fish habitat enhancement projects meeting the criteria of (16)(c)(i) of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of (16)(c)(i) of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030 (2)(c).

iii. A hydraulic project approval permit is required for projects that meet the criteria of (16)(c)(i) of this subsection and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the Office of Regulatory Assistance to apply for approval under these regulations. On the same day, the applicant shall provide copies of the completed application form to the Washington Department of Fish and Wildlife and to each appropriate local government. Local governments shall accept the application as notice of the proposed project. The Washington Department of Fish and Wildlife shall provide a fifteen-day comment period

during which it will receive comments regarding environmental

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impacts. Within forty-five days, the Washington Department of Fish and Wildlife shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The Washington Department of Fish and Wildlife shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the Washington Department of Fish and Wildlife determines that the review and approval process created by this section is not appropriate for the proposed project, the Washington Department of Fish and Wildlife shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

iv. Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the hydraulic appeals board pursuant to the provisions of these regulations.

v. No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of (16)(c)(i) of this subsection and that are reviewed and approved according to the provisions of this section.

F. Before issuing a shoreline statement of exemption, the Shoreline Administrator shall review the Master Program to determine if the proposed development requires a Shoreline Conditional Use Permit and/or a Variance. It may be

necessary for the Shoreline Administrator to conduct a site inspection to ensure that the proposed development meets the exemption criteria. Application information shall include those items listed in WAC 173-27-180 and as contained within the Anacortes Municipal Code for Substantial Development Permits unless otherwise waived.