

Merrill, Hannah

From: pearl hewett [REDACTED]
Sent: Thursday, December 06, 2012 9:21 AM
To: zSMP
Cc: Miller, Sheila Roark; Steve Gray; Karl Spees; Jo Anne Estes; notac@olypen.com; [REDACTED]; Brian and Brooke; info@justwateralliance.org; Sandy Rains; [REDACTED]; Vi; Windy Boulden; Misty Rains [REDACTED]; McEntire, Jim; Chapman, Mike; Lois Perry; Sue Forde; Jay Petersen; harry bell; Keith Olson; Frank M Penwell; Norman MacLeod; Don; Dawn Rains; Randy Dutton; [REDACTED]; marv chastain
Subject: RCW.90.58.100 Comment on the SMP Draft Update

RCW.90.58.100 Comment on the SMP Draft Update
Pearl Rains Hewett Trustee
George C. Rains Sr. Estate
Member SMP Committee

This is the change on the SMP Update

For the protection of single family residences and appurtenant structures against damage or loss due to shoreline erosion.

Shoreline stabilization **Removed, imminent- imminent danger** language per advisory committee comments.

My comment was that the words **imminent danger** were in conflict with RCW 90.58.100 **For the protection of single family residences and appurtenant structures against damage or loss due to shoreline erosion.**

Members of the SMP Committee were advised, in writing, that the Clallam County SMP master program did contain standards governing the **protection** of **single family residences** and appurtenant structures against damage or loss due to shoreline erosion.

If in fact 3.18.10 Regulation

IS ESA ADOLFSON AND CLALLAM COUNTY'S INTERPRETATION OF THE LAW RCW 90.58.100 That **shall** contain standards governing the protection of **single family residences** and appurtenant structures against damage or loss due to shoreline erosion?

IT IS LEGALLY FLAWED BY WORDING, DEFINITION AND THE INTENT OF RCW 90.58.100

1. The words **primary structure** ARE NOT included in RCW 90.58.100.
2. There is no definition of **primary structure** in the SMP Update
3. RCW 90.58.100 specifically states the wording **single family residences**
4. The intent of RCW 90.58.100 is **PROTECTION**
5. HAS THE **LEGAL INTENT** OF RCW 90.58.100 BEEN MET OR **COMPROMISED** IN CLALLAM COUNTY SMP UPDATED **3.18.10 Regulations – Application Requirements?**

THIS IS THE LAW

RCW 90.58.100

(6) Each master program shall contain standards governing the protection of **single family residences** and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards 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**. The standards shall provide a preference for permit issuance for measures to protect single family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment.

YES, AFTER YOU HAVE READ THE LAW, I AM REPEATING THE FOLLOWING

Members of the SMP Committee were advised, in writing, that the Clallam County SMP master program did contain standards governing the protection of **single family residences** and appurtenant structures against damage or loss due to shoreline erosion.

If in fact 3.18.10 Regulation

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5. HAS THE LEGAL INTENT OF RCW 90.58.100 BEEN MET OR COMPROMISED IN CLALLAM COUNTY SMP UPDATED 3.18.10 Regulations – Application Requirements?

IS 3.18.10 REALLY CLALLAM COUNTY'S IDEA OF PROTECTION?

3.18.10 Regulations – Application Requirements

1. **Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation.** As a general matter, hard armoring solutions shall not be authorized except when a report confirms that there is a significant possibility that such **a structure will be damaged within three years as a result of shoreline erosion** in the absence of such hard armoring measures, or

where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

2. To verify that the provisions of this section are fully addressed, the Administrator may require information to support a permit application for any type of shoreline stabilization. The Administrator shall consult with the appropriate state and federal natural resources agencies to determine the type and level of information that should be provided. **Application information required pursuant to this section shall address the urgency and risks associated with the specific site characteristics and shall include:**

a. **A scaled site plan showing: (1) existing site topography, and (2) the location of existing and proposed shoreline stabilization structures, and any fill including dimensions indicating distances to the ordinary high water mark; and**

b. **A description of the processes affecting the site and surrounding areas, including but not limited to tidal action and/or waves; slope instability or mass wasting; littoral drift; channel migration; and soil erosion, deposition, or accretion; and**

c. **A description of alternatives to structural approaches, and a thorough discussion of the environmental impacts of each alternative; and**

d. **A description of any proposed vegetation removal and a plan to revegetate the site following construction; and**

e. **A hydraulic analysis prepared by a qualified hydrologist, professional engineer, geotechnical engineer or engineering geologist that describes anticipated effects of the project on water and wave elevations and velocities; and**

f. **A biological resource inventory and analysis prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources; and**

g. **A description of opportunities for providing public access to and along the affected shoreline, as well as any proposed on-site recreational features, if applicable; and**

h. **A description of any waste and debris disposal sites for materials generated during construction; and**

i. **Any other information that may be required by the Administrator to demonstrate compliance with the review criteria referenced in this section**

PLF scores win in fight to save Puget Sound homeowner's property

Ms. Luhrs' home sits on a bluff facing Hale Passage. Soon after she bought it in 1992, it became apparent that shoreline erosion threatened the property. **Washington law mandates that a coastal property owner must be allowed to build a protective bulkhead in these circumstances**, and experts, including from the Army Corps of Engineers, concluded that nothing less than a rock revetment would work. But Whatcom County adopted an outright prohibition on "hard" shoreline defenses, claiming that coastal erosion is a natural process that should not be resisted.

"For a decade, as the county has callously looked on, Victoria Luhrs' property has been eroding at an alarming rate," said PLF's Hodges. "In some areas, up to 25 feet of land has eroded, nearly a third of the land between her house and the bluff. After years of litigating against the county's obstruction, Ms. Luhrs will finally be allowed to lay out the facts, in court, that support her urgent need for a rock revetment."

The case is [Luhrs v. Whatcom County](#). The appellate court ruling is available at PLF's Web site.