

# Merrill, Hannah

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**Sent:** Friday, January 04, 2013 3:44 PM  
**To:** zSMP  
**Cc:** Karl Spees; Brian and Brooke; notac@olympen.com; Sandy Rains; [REDACTED]; Vi; Windy Boulden; Misty Rains; Dawn Rains; Delane Hewett; Tristin Hewett; Jay Petersen; Harry Bell; Lois Perry; Sue Forde; Ed B; Frank M Penwell; WILLIAM PALMER; Don  
**Subject:** THE INTENT OF THE LAW IS PROTECTION

Comment on Clallam County SMP Update  
Pearl Rains Hewett Trustee  
George C. Rains Sr. Estate  
Member SMP Committee

## THE INTENT OF THE LAW IS PROTECTION

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.

**Determining the "legislative intent" of a law is one of the major tools of settling case law. In order to adjudicate the Law, a Court must know what the People -- via their elected legislators -- have intended that Law to be.**

**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.**

## WHAT IS THE INTENT OF SMP 3.18.10 Regulation using THE FOLLOWING STANDARDS ?

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. **SHALL** include 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. **SHALL** include 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. **SHALL** include A description of alternatives to structural approaches, and a thorough discussion of the environmental impacts of each alternative; and
- d. **SHALL** include A description of any proposed vegetation removal and a plan to revegetate the site following construction; and
- e. **SHALL** include 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. **SHALL** include 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. **SHALL** include 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. **SHALL** include A description of any waste and debris disposal sites for materials generated during construction; and
- i. **SHALL** include Any other information that may be required by the Administrator to demonstrate compliance with the review criteria referenced in this section.

**UNDER 3.18.10 Regulation IS THIS REALLY ESA ADOLFSON AND CLALLAM COUNTY'S INTERPRETATION OF THE STANDARDS OF LAW RCW 90.58.100?**

**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.

Will Clallam County Elected Administrators place it's private property owners in the same position as Vicki Luhrs?

“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.”

I met and spoke with Vicki Luhrs at the Pacific Legal Foundation meeting in June 2012.

“In some areas, up to 25 feet of land has eroded, nearly a third of the land between her house and the bluff.

Shall Clallam County **INTERPRETATION** of "**STANDARDS**" **UNDER 3.18.10 Regulation** as applied to RCW 90.58.100 force private property owners to fight for over 10 years and create a financial hardship **JUST** to get the RCW 90.58.100 protection of their single family residence?

If in fact 3.18.10 Regulation

**IS ESA ADOLFSON AND CLALLAM COUNTY'S INTERPRETATION OF THE LAW RCW 90.58.100**

**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