

# Merrill, Hannah

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**From:** pearl hewett [REDACTED]  
**Sent:** Monday, March 11, 2013 9:16 AM  
**To:** zSMP  
**Cc:** Karl Spees; marv chastain; [REDACTED]; Brian and Brooke; Randy Dutton; harry bell; Jo Anne Estes; notac@olypen.com; Sandy Rains; Vi; Don; joni howard; Delane Hewett; Tristin Hewett; Keith Olson; Rick Forschler -; Jay Petersen; mary pierce pfaff; robert crittendend; [REDACTED]; Miller, Sheila Roark; Steve Gray; connie beavvias; Chapman, Mike; McEntire, Jim; Sandy Collins  
**Subject:** PUBLIC ACCESS TO PUBLIC LAND

This is my SMP Comment on  
RCW 90.58.100 THIS IS THE LAW  
Pearl Rains Hewett Trustee  
George C. Rains Sr. Estate  
Member SMP Update Committee

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[90.58.100 - Washington State Legislature - Access Washington](http://apps.leg.wa.gov)  
[apps.leg.wa.gov](http://apps.leg.wa.gov) › [RCWs](#) › [Title 90](#) › [Chapter 90.58](#)

(1) The master programs provided for in this chapter, when adopted or approved by the department shall constitute use *regulations* for the various shorelines of ...

**(2) The master programs shall include, when appropriate, the following:**

**(b) A public access element making provision for public access to publicly owned areas**

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**Specifically, by law Provisions for Public Access to Public Land.**

I will enlarge no more on the evidence, but submit it to you, gentlemen—Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence: nor is the law less stable than the fact.  
1770 John Adams

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**RCW 90.58.100 (Full Text)**

**Programs as constituting use regulations — Duties when preparing programs and amendments thereto — Program contents.**

(1) The master programs provided for in this chapter, when adopted or approved by the department shall constitute use regulations for the various shorelines of the state. In preparing the master programs, and any amendments thereto, the department and local governments shall to the extent feasible:

(a) Utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, **economics**, and other pertinent data;

(f) Employ, when feasible, all appropriate, modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered.

**(2) The master programs shall include, when appropriate, the following:**

**(a) An economic development** element for the location and design of industries, projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;

**(b) A public access element making provision for public access to publicly owned areas;**

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;

**(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;**

(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;

(h) An element that **gives consideration** to the statewide interest in the prevention and minimization of flood damages; and

(i) Any other element deemed appropriate or necessary to effectuate the policy of this chapter.

(3) The master programs shall include such map or maps, descriptive text, diagrams and charts, or **other descriptive material as are necessary to provide for ease of understanding.**

(4) Master programs will reflect that **state-owned shorelines**

of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other **recreational activities for the public** and will give appropriate special consideration to same.

(5) Each master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances, **to insure that strict implementation of a program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020.** Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW [90.58.140](#)(3).

(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.

[2009 c 421 § 9; 1997 c 369 § 7; 1995 c 347 § 307; 1992 c 105 § 2; 1991 c 322 § 32; 1971 ex.s. c 286 § 10.]

Notes:

Effective date -- 2009 c 421: See note following RCW [43.157.005](#).

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW [36.70A.470](#).

Findings -- Intent -- 1991 c 322: See note following RCW [86.12.200](#).

Project of statewide significance -- Defined: RCW [43.157.010](#).