

Merrill, Hannah

Subject: RE: BEFORE ESA WAS HIRED BY CLALLAM COUNTY

From: pearl hewett [REDACTED]

Sent: Wednesday, April 03, 2013 5:17 PM

To: zSMP

Cc: Karl Spees; marv chastain; [REDACTED]; Brian and Brooke; Keith Olson; Randy Dutton; info@justwateralliance.org; joni howard; [REDACTED]; Vi; Windy Boulden; Misty Rains; Delane Hewett; Tristin Hewett; Rick Forschler -; Frank M Penwell; Norman MacLeod; Jim Boyer; Sandy Rains; Miller, Sheila Roark; McEntire, Jim; Chapman, Mike; Hargrove,Jim; Van De Wege, Rep. Kevin; Don; Dawn Rains

Subject: BEFORE ESA WAS HIRED BY CLALLAM COUNTY

Comment on the
Clallam County SMP Update
Who and what? Are the 3300 affected private property owners
up against? In an attempt to protect their Constitutional Rights?

Pearl Rains Hewett

BEFORE ESA ADOLFSON WAS HIRED BY CLALLAM COUNTY

ESA ADOLFSON June 2010

Prepared by: - Margaret Clancy (ESA Adolfson) Jim Kramer

OPPORTUNITIES TO IMPROVE SHORELINE MANAGEMENT IN PUGET SOUND

This report was funded by the National Fish and Wildlife Foundation with guidance and technical support from Ecology's Shorelands and Environmental Assistance (SEA) Program.

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OPPORTUNITIES TO IMPROVE SHORELINE MANAGEMENT IN PUGET SOUND

Executive Summary

on Findings

NFWF Project: 2010

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002 Protect Puget Sound Shoreline Ecosystems

Prepared by:

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Carol MacIlroy

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Prepared for:

National Fish and Wildlife Foundation

1133 15th Street N.W.

Suite 1100,

Washington, D.C. 20005 June 2010

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EXECUTIVE SUMMARY

The **Department of Ecology** is working diligently with local governments across the state to achieve the legislative mandate of **updating shoreline master programs (SMPs)** in accordance with state guidelines adopted in 2003. This report summarizes the successes and challenges that the state, local governments and other stakeholders are encountering in the process and recommends actions for improvement. The findings presented here were developed based on surveys, meetings, and discussions with a wide range of stakeholders involved in the **SMP update process**.

This report was funded by the National Fish and Wildlife Foundation with guidance and technical support from Ecology's Shorelands and Environmental Assistance (SEA) Program.

Many people believe the **SMP update** process is making a difference. Some see this difference as positive, with local governments adopting more protective buffers, setting more stringent limits on hard armoring, and protecting areas where rivers naturally flood and migrate. Others see the **SMP updates as mainly negative because of additional burdens placed on private property owners.**

Many people do not believe there are environmental threats or a need for increased regulation, while others do. Others view the **SMP updates** as not doing enough to protect and restore shoreline resources. This range of viewpoints is inevitable when the issue is land use management. However, we believe from our experience and the perspectives gathered through our white paper, survey, and meetings that enhancements to the **SMP update** process are important to more fully achieve the three goals of the Shoreline Management Act (SMA). We believe enhancing the current process will heighten the chance to rekindle public support for the future of shorelines, while saving money and making the process more efficient and constructive for local communities. From the range of views, the authors identified 14 key issues that need to be addressed more successfully to improve the protection of ecosystem functions and contribute to the broader effort to recover Puget Sound by 2020.

These issues are:

1.

Explicit Linkages between Ecosystem Function, Human Action and Impacts : To successfully manage our shorelines, we need to improve our ability to reliably define the relationships between human actions that occur via SMPs and their effects on ecological functions.

2.

No Net Loss:

We need a system for measuring ecological functions (or indicators of function) to establish a baseline against which protection and restoration efforts can be monitored over time.

3.

Mitigation and Restoration:

Mitigation and restoration policy and procedural improvements are necessary to successfully address the impacts from new development.

4.

Incentives: Property owners, developers, and government staff need examples of non-regulatory techniques that create incentives for the use of soft-shore or bioengineered techniques to protect threatened structures and promote other stewardship habitats.

5.

Effective Public Engagement:

To increase public support for SMPs, it is imperative that we identify the scientific bases for policy decisions in a way that is clear and relevant to stakeholders. Stakeholders in the SMP process want to know and understand the issues by seeing the **scientific basis** for assumptions and policy conclusions.

6.

Ecology Review and Approval:

Ecology needs to continue to emphasize the importance of providing consistent and timely feedback to local governments to increase predictability in the final review process.

7.

Aquaculture:

A Sound- wide approach to identifying the needs of the aquaculture industry and its effect on shoreline resources is needed to address the perspectives of both the industry and those concerned about environmental impacts.

8.

Nonconforming Uses:

This issue does not appear to be consistently understood or described by key stakeholders, nor does it appear that the immediate or long-term impact of a non-conforming use designation on private property owners is well understood or clearly articulated.

9.

Monitoring:

The need for coordinated monitoring of no net loss and mitigation was an issue raised by all categories of respondents.

10.

Future Updates:

Local governments need strategic, financial, and coordinated support to execute current updates, implementation, and monitoring in a manner that best prepares them to make meaningful use of the next round of updates.

11.

Common Solutions:

There is a need for additional regional approaches to SMP planning and implementation.

12.

Implementation:

Continued public engagement and resources are needed to successfully implement the new SMPs. Local governments need resources to manage and implement these highly complex policy documents.

13.

Coordinated Protection Program:

We need a comprehensive program for protection that integrates the authority under SMPs with other state and federal programs.

14.

Agricultural and Forestry Exemptions:

Additional research is necessary to further refine this issue. Tackling all of these issues will take time, but there are several actions that could create tangible benefits if implemented immediately. **We recommend the following immediate actions** from the longer list because in combination they will (1) produce positive results for the parties most involved, (2) likely improve the cost-effectiveness of the process and the environmental results, and (3) **resolve some of the concerns expressed by shoreline property owners**. If implemented in a manner that involves a broad spectrum of stakeholders, these actions will resolve many of the key issues and build support for solutions to more complex challenges.

Our recommendations for immediate enhancement are:

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Improve the Linkage between Science and Policy Several issues such as vegetated buffers, shoreline armoring, and aquaculture are essentially the same across Puget Sound but each jurisdiction is taking its individual path to synthesize scientific information and determine the right policies and regulations. The recent work by the

Puget Sound Nearshore Ecosystem Restoration Project can be useful in bringing to light several of these issues. A well structured set of workshops involving scientists, industry leaders, residents, and policy experts would help illuminate where additional analysis and research would **significantly benefit SMP updates and identify appropriate SMP policy and regulatory choices given our current knowledge**. Addressing these priority issues would help clarify where there is misinformation, where there needs to be more scientific work, and **where we have to make policy decisions**. The workshops could also help emphasize and build support for the additional actions needed that are beyond the scope of most SMP updates such as incentives, technical assistance to property owners, and funding of science and restoration. Make the Process Efficient A number of changes to the update process and **the administration of local government grant programs** would increase the efficiency and effectiveness of local updates. Each jurisdiction spends significant time, money, and resources on the inventory and characterization of the existing shoreline. This step could be streamlined by **having Ecology contract to complete the inventory and characterization instead**. Alternatively, Ecology could create an inventory checklist of questions (similar to a SEPA checklist) that local governments could fill out to address the guidelines requirements. A similar check list could be used to support other technical requirements such as the cumulative impacts analysis or the restoration plan. Local governments also would benefit from having a model ordinance that they could tailor to their circumstances. Changes to the contracting approach and requirements would also increase efficiency. An expedited SMP update process for cities and towns that have limited shoreline area or that issue very few shoreline permits would save time and resources. The current contracts to local government prescribe the process and the percentage of funds to be used on each stage. Allowing local governments to tailor their process and the budget to local conditions would improve the effectiveness of the funds and allow for more emphasis on the later stages of the process where the public engages and the policy decisions are made. Allowing a rollover of funds would allow funds to be applied to the most important tasks as each update evolves, rather than strictly adhering to a timeline and tasks imagined prior to the start of the process. **Increase the Certainty of the Review and Approval Process** If local governments and others had a more complete understanding of Ecology's process and criteria for developing comments during the update process, and in the final approval phase, this would help them know in advance if they are meeting Ecology's standards. **A workshop where Ecology transparently illustrates its analysis and findings** would help demonstrate what is expected and expedite the final approval process. For example, we recommend that Ecology use a locally adopted county and city SMP to illustrate the decision criteria and process.

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Ecology could host an open dialogue meeting with the jurisdiction to review the adequacy of the locally adopted program and discuss concerns. The meeting would be predicated on Ecology staff having completed a thorough internal review of the technical supporting materials, and proposed policies and regulations. This meeting would occur prior to writing the formal Ecology comment letter, so that local planning staff and elected officials would be apprised of Ecology's interim conclusions. If this meeting were open to the public and other interested planners, it would help people understand how Ecology is arriving at decisions and allow for those at the local level to explain their rationale and thinking. Ecology would then write its comment letter based on the discussion.

Reduce the Conflict and Misunderstanding Regarding Nonconforming Structures
This issue has generated substantial public concern and opposition to SMP

updates in part because the policy issues and choices are poorly understood and often poorly communicated. The ramification of nonconforming structure policies on property owners is unclear. Property owners want to understand how their homes impact ecological health and the **ramifications of new policies and regulations on their ability use their property.** Some property owners believe that if their homes are rendered nonconforming because a new buffer standard is adopted, they will not be able to maintain or expand their homes or rebuild them if they are destroyed. Others want to ensure that SMPs contain adequate safeguards on redevelopment and expansion of homes and structures that may be located close to the shore, on unstable bluffs, or in other potentially damaging or hazardous locations. The State Legislature has attempted to address the concerns about nonconformity in Engrossed House Bill 1653, but this may not go far enough toward addressing property owner concerns. We believe the concerns could be addressed to a significant degree with clear guidance and sample language on the policy choices that are available to local governments. Some jurisdictions have identified ways of **addressing Nonconformity without generating substantial public opposition.** These options need to be vetted with stakeholders, sanctioned, and communicated to the public. Further clarifying the issue of restrictions on homes that were legally established before buffers were increased by an **SMP update** would create more support from landowners with potentially little if any adverse environmental consequence. **We also recommend using a less inflammatory term such as “grandfathered” instead of “nonconforming.”** Foster a Learning Community of Shoreline Managers Ecology is contributing staff resources to continually improve the understanding and expertise of their staff and local government planners through meetings and training. There is tremendous expertise, both in Ecology staff and local governments, to increase learning across the community of local and state planners. We suggest restructuring the shoreline planner meetings and Ecology training sessions to be directed by local planners and consultants who have been through the process and **successfully updated their SMPs.** We also recommend allowing more time for local planners and state staff to meet on specific topics and have discussions sharing their perspectives and experience in addition to presentations and briefings. An effort to build a sense of community across the state and local planners would help broaden the feeling of responsibility to collectively address challenging issues, acknowledge success, and create a sense of momentum **in achieving the SMA goals.**