	in care of agent Kira Swanson, Washington State Parks 220 North Walnut Street Burlington, WA 98233-1138
File No.:	PSJ000-16-0003
Request:	Shoreline Substantial Development Permit
Parcel No(s):	172811001 and 173312001
Location:	Mountain Lake, Moran State Park, Orcas Island
Summary of Proposal:	An application for water system improvements at Mountain Lake Recreation Area
Shoreline Designation:	Conservancy
Public Hearing:	August 18, 2016
Application Policies and Regulations:	SJCC 18.35.030 Critical areas – general exemptions SJCC 18.35.130 Protection standards for aquatic fish and and wildlife habitat conservation areas SJCC 18.50.350 Utilities SJCC 18.80.110 Shoreline permit procedures
Decision:	Approved subject to conditions

for approval of a shoreline permit for) Water System Improvements
improvements to the water system at)
Mountain Lake Recreational Area)

SUMMARY OF DECISION

The request for a shoreline substantial development permit for improvements to the water system at Mountain Lake Recreational Area in Moran State Park, Orcas Island is **APPROVED** subject to compliance with conditions.

SUMMARY OF RECORD

Request:

Washington State Parks (Applicant) requested a shoreline substantial development permit to improve the water system at Mountain Lake Recreational Area in Moran State Park, bringing the system into compliance with Washington State Department of Health standards.

Hearing Date:

The San Juan County Hearing Examiner held an open record public hearing on the request on August 18, 2016.

Testimony:

At the open record public hearing, the following individuals presented testimony under oath:

Julie Thompson, Planner, San Juan County Department of Community Development
Kira Swanson, Washington State Parks, Applicant Representative

Exhibits:

The following exhibits were admitted in the record:

10. Stormwater Pollution Prevention Plan
11. Public Works comment
12. UW Friday Harbor Labs comment
13. Legal advertisement
14. Posting and notification materials

Upon consideration of the testimony and exhibits submitted at the open record public hearing, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. The Washington State Parks and Recreation Commission (State Parks, Applicant) requested a shoreline substantial development permit (SSDP) for improvements to the water system at Mountain Lake Recreational Area in Moran State Park, Orcas Island.[1] The existing water system is older and needs to be updated to be brought into compliance with state public water system standards. *Exhibits 1 and 3; Swanson Testimony.*

2. The proposed project location is adjacent to Mountain Lake, within 578-acre Moran State Park. The area is heavily forested. The project corridor abuts a large wetland complex and crosses a small seasonal stream in two locations. Surrounding development includes a picnic shelter, a comfort station, and a cabin. *Exhibits 1 and 3.*

3. The source for the existing water system is a spring fed stream located uphill from the service area. The current system collects water from the stream and transports it to a pump house/treatment building in the recreation use area by a two-inch water line. Treatment provided in the pump house building consists of two sand filters and a hypo-chlorination system. Booster pumps then pump the treated water for distribution to an existing 5,000-gallon reservoir by a second two-inch line. *Exhibits 1 and 4.*

roads, and trails for the purpose of minimizing new disturbance in the shoreline. No outfalls are proposed. *Exhibits 1, 3, 4, and 8.*

5. During extreme drought conditions, the existing water system does not have sufficient capacity to support demand. The Applicant is currently seeking funding to add Mountain Lake as an alternate water source. Included in the instant proposal is a two-inch HDPE waterline from the existing pump house to the existing dock with a stub out, adding approximately 500 feet of additional line. Adding an intake into Mountain Lake would be completed as a separate project and permitted separately, if funded, at an unknown future time. The purpose of including this line in the instant project is to minimize disturbance in the shoreline associated with trenching. *Exhibits 1, 3, and 4.*

6. The existing system runs out of water during peak use periods due to production limitations in the sand filter treatment system. The proposal would replace the sand filter treatment system with a bag filter treatment system or with another treatment technology capable of increasing water system capacity, as approved by the Washington State Department of Health. The existing pump house is proposed to be expanded by approximately 120 square feet, with the expansion proposed in an existing gravel parking area. The bag filter treatment system would be installed in the expanded building and would increased treatment capacity. *Exhibits 1, 3, 4, and 8; Swanson Testimony.*

7. The proposal also includes installation of approximately 170 feet of new electrical conduit from the road to the log comfort station/restroom. An additional 225 feet of new electrical conduit would be extended from an existing valve box to an existing vault toilet in the group camp area. Providing electricity to these two buildings is for the purpose of adding exterior lighting. These fixtures would be motion sensitive, so the buildings would only be lit when in use. In addition, water lines are proposed to connect an existing vault toilet to the water supply. *Exhibits 1, 3, and 4.*

8. Overall, construction is projected to require approximately 700 cubic yards of excavation

wetland edge. However, the proposal would not result in increased intrusion into the wetland buffer over the existing condition, because the pump house expansion would be developed entirely within the existing gravel parking area. No increase in stormwater runoff is anticipated, because the area is already developed with an existing impervious surface (gravel parking area). The proposal includes a silt fence to be placed around the pump house expansion work during construction to prevent discharge to the wetland or wetland buffer of any sediments dislodged during construction. *Exhibits 1, 3, and 4.*

11. A seasonal stream runs through a portion of the project corridor, which Applicant staff has named Wren Creek. It does not show up on the County's critical area maps, Department of Natural Resources water type maps, or Washington Department of Fish and Wildlife's (WDFW) online maps. No critical area study was conducted on stream type; instead, looking at San Juan County Code (SJCC) Table 18.35.100-2, the Applicant determined that the proposed land use intensity is low, because the existing and proposed uses are open space and utility corridors without access roads, therefore requiring little to no vegetation removal. Based on this information, the critical areas ordinance requires an aquatic fish and wildlife habitat conservation area buffer of 50 feet. Because Wren Creek is a seasonal stream that runs more than six months a year, a 30-foot from bank full width tree protection zone evaluation area is also required. *SJCC Table 18.35.130-1; Exhibits 1, 3, 4, and 8.*

12. The project corridor crosses Wren Creek in two locations in existing culverts. The proposed utility lines would be installed below the culvert in the first crossing (Culvert A on Exhibit 3, sheet 2 of 5) and within the road above the culvert in the second crossing (Culvert B, on the same sheet). To avoid potential impacts to the stream, the water quality buffer, and the tree protection zone, the proposal includes best management practices to be implemented during construction. Compost socks are proposed both upstream and downstream of the culverts. Installation below Culvert A would be in a trench dug by hand. No material or water will be allowed to discharge into the stream

14. In the existing condition, runoff from impervious surfaces within the project corridor sheet flows into adjacent vegetated areas. The Applicant proposes to retain existing stormwater management practices without changing drainage patterns. Trenching for utility placement could possibly result in some erosion. In order to avoid or minimize such erosion, the project calls for: placement of excavated materials on uphill side of trench; installation of silt fencing around pump house construction area; use of compost socks at the utility crossings of Wren Creek; and restricting ground disturbance to the minimum footprint necessary to accomplish the project. All disturbed areas would be returned to pre-project condition. No new impervious surfaces are proposed. The Applicant prepared a Construction Stormwater Pollution Prevention Plan specifically identifying proposed BMPs for erosion prevention. *Exhibits 9 and 10; Swanson Testimony.*

15. The Applicant proposed to obtain a cultural resources assessment prior to construction and to share the results of that assessment with interested tribes and the Department of Archeology and Historic Preservation. The Applicant agreed to comply with recommendations of the cultural resources assessment to ensure the preservation of archeological/historic resources during construction. Planning Staff accepted this proposed manner of handling cultural resources preservation and determined it was sufficient to comply with applicable requirements. *Exhibits 1, 3, and 9.*

16. Prior to construction, the Applicant would be required to obtain hydraulic project approval (HPA) from the Washington Department of Fish and Wildlife, if required by that agency, and would be required to abide by any conditions imposed therein. The water system would require design, construction, and operational approvals from the Washington State Department of Health as a public water supply. *Exhibit 1; Swanson Testimony.*

and long-term environmental impacts. The agency noted it had no concerns about potential impacts on the marine resources. *Exhibit 12.*

20. The County Stormwater Engineer approved the stormwater management plan. *Exhibit 11.*

21. Upon review, Planning Staff recommended approval with conditions. *Thompson Testimony; Exhibit 1.* The Applicant waived objection to conditions. *Swanson Testimony.*

CONCLUSIONS

Jurisdiction:

The Hearing Examiner is granted jurisdiction to hear and decide applications for shoreline substantial development permits, pursuant to Chapter 36.70.970 of the Revised Code of Washington and Chapters 2.22 and 18.80 of the San Juan County Code.

Criteria for Review:

Criteria for Approval of Substantial Shoreline Development Permits

Pursuant to SJCC 18.80.110(H), a shoreline substantial development permit shall be granted by the County only when the applicant meets the burden of proving that the proposal is:

1. Consistent with the policies of the Shoreline Management Act and its implementing regulations, Chapter 90.58 RCW and Chapter 173-27 WAC, as amended;

2. Consistent with the policies and regulations of the Shoreline Master Program in Chapter 18.50 SJCC;

3. Consistent with this chapter;

B. The operation, maintenance, repair, removal, or replacement of existing shoreline facilities, infrastructure systems, development areas and uses, provided there is no further intrusion into geologically hazardous areas, frequently flooded areas, wetlands, or fish and wildlife habitat conservation areas or their buffers; soil erosion is controlled; disturbed areas are promptly stabilized; and actions do not have an additional adverse effect on the functions and values of critical areas. Existing structures, uses and activities located within shorelines of the state are addressed separately as described in SJCC 18.35.025 and 18.35.110 through 18.35.140.

SJCC 18.50.350 Utilities.

A. Regulations – General.

1. In shoreline areas, utility transmission lines, pipelines, and cables must be placed underground unless demonstrated to be infeasible. Further, such lines must utilize existing rights-of-way whenever possible. Proposals for new corridors in shoreline areas involving water crossings must fully substantiate the infeasibility of existing routes.

2. Utility development must, through coordination with government agencies, provide for compatible multiple use of sites and rights-of-way. Such uses include shoreline access points, trails, and other forms of recreation and transportation systems, providing such uses will not unduly interfere with utility operations or endanger public health and safety.

3. Sites disturbed for utility installation must be stabilized during and following construction to avoid adverse impacts from erosion.

4. Immediately following the completion of utilities installation of maintenance projects on shorelines, disturbed areas must be restored to project configurations, replanted with local vegetation, and the vegetation maintained until it is firmly established.

5. Utility lines, pipes, stations, plants, and other apparatus shall not be installed in shoreline

9. Where utility lines, pipes, or other apparatus must cross shoreline areas, they shall do so by the route which will cause the least damage to the shoreline, both physically and visually.

10. Drainage and surface runoff from utility installation areas shall be controlled so that pollutants will not be carried into water bodies.

11. Applications for outfalls and underwater pipelines that transport substances harmful or potentially harmful to aquatic life or water quality shall not be approved unless the applicant has demonstrated that no significant adverse impacts will result. Desalination and reverse osmosis brine discharge is not considered to be potentially harmful to aquatic life or water quality provided all required state and federal requirements are met.

B. Regulations – Desalination. (n/a)

C. Regulations by Environment.

. . .

3. Conservancy. Utility transmission, distribution, or collection facilities are permitted in the conservancy environment subject to the policies and regulations contained in this master program; provided, that the applicant can demonstrate that no feasible alternative exists, and that the utility line shall follow a route which will minimize the adverse impacts on the physical and visual resources of the area. Desalination and reverse osmosis systems shall be permitted in the conservancy environment subject to the policies and general regulations contained in this master program.

SJCC 18.60.060 Clearing and grading standards.

...

E. Grading.

the following information:

i. Source of fill material and deposition of excess material;
ii. Physical characteristics of fill material;
iii. Proposed methods of placement and compaction;
iv. Proposed surfacing material;
v. Proposed method(s) of drainage and erosion control;
vi. Methods for restoration of the site;
vii. Demonstration that instream flow of water will remain unobstructed;
viii. Demonstration that erosion and sedimentation from outflow channels will be minimized by vegetation or other means; and
ix. Demonstration that pond runoff will be controlled to protect adjacent property from damage.

Conclusions Based on Findings:

1. As conditioned, the proposed utility replacement and expansion project would be consistent with the Shoreline Management Act (SMA). The policy of the SMA, as set forth in RCW 90.58.020, is to "provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses." This policy "contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto." *RCW 90.58.020*. Pursuant to the County's Shoreline Master Program, utilities are allowed in the Conservancy shoreline environment. Compliance with the conditions imposed herein, the mitigation measures imposed in the MDNS, and any conditions imposed by the WDFW HPA would ensure that adverse effects to the waters of the state are avoided. *Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 14, 16, 17, 19, 20, and 21.*

2. The proposal satisfies applicable Shoreline Master Program policies and regulations as follows. The proposed replacement and new utility lines would be placed underground. Design and construction has been and would continue to be coordinated with other

Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 19, 20, and 21.

3. The proposed water line replacement is exempt from critical areas regulations, pursuant to SJCC 18.35.030.B. New installations, including the water line from the pump house to the shoreline and the pumphouse expansion, are required to comply with applicable critical areas provisions. With regard to the pumphouse expansion adjacent to the wetland, the proposal would not result in new intrusion into the critical area buffer, because all improvements are proposed in a developed, graveled parking area. With regard to the stream crossings and water line routes through high quality terrestrial habitats, conditions would ensure that soil erosion is controlled, that disturbed areas are promptly stabilized and restored upon project completion, and that construction activities would not have an adverse effect on the functions and values of the critical areas. *Findings 2, 4, 6, 10, 11, 12, 13, 14, and 21.*

4. As conditioned, the project would comply with the clearing and grading standards of SJCC 18.60.060. Clearing and earthwork have been minimized to the greatest extent feasible to accomplish the project. Conditions would ensure that all stages of development follow the mitigation measures identified in the erosion control and stormwater pollution prevention plans. *Findings 4, 8, 12, 14, 20, and 21.*

DECISION

Based on the preceding findings and conclusions, the requested shoreline substantial development permit for improvements to the water system at Mountain Lake Recreational Area in Moran State Park is **APPROVED** subject to the following MDNS conditions:

1. Development of the proposal shall incorporate measures to minimize impacts to trees including the following:
   - If possible, replace the excavated backfill in the trench on the same day to avoid drying of exposed roots.

- Contractor shall notify Engineer where these BMPs cannot or have not been met to allow for post-construction monitoring and mitigation for increased tree risk by State Parks.

3. Additional minimization measures to be implemented include:
   - In areas where vegetation is disturbed, the area will be replanted with native vegetation.
   - The project will be reviewed by State Parks Historic Preservation Specialist and designed to be consistent with the character of the Moran Historic District.
   - Construction conservation measures and best management practices will be implemented as stated in the SEPA checklist.

4. Prior to ground disturbing activities, the Applicant shall obtain a professionally prepared cultural resources assessment and share the results of that assessment with interested tribes and the Department of Archeology and Historic Preservation. Development of the proposal shall comply with recommendations of the cultural resources assessment.

5. Prior to ground disturbing activities, the Applicant shall obtain all necessary state and local permits including, but not limited to, an HPA and approvals of the public water supply from the Washington State Department of Health.

6. Construction or substantial progress toward construction of a project for which a shoreline permit is granted must be undertaken within two years after the permit approval. Substantial progress toward construction shall include the letting of bids, making of contracts, purchase of materials involved, utility installation, and site preparation, but shall not include use or development inconsistent with the Shoreline Master Program or the terms of permit approval. The two-year period shall not include time during which development could not proceed due to reasonably related administrative appeals or litigation, nor include time necessary to obtain other required

By: Sharon A. Rice

Sharon A. Rice
San Juan County Hearing Examiner

Effective Date, Appeal Right, and Valuation Notices

Hearing examiner decisions become effective when mailed or such later date in accordance with the laws and ordinance requirements governing the matter under consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be subject to review and approval by the Washington Department of Ecology pursuant to RCW 90.58.140, WAC 173-27-130 and SJCC 18.80.110.

This land use decision is final and in accordance with Section 3.70 of the San Juan County Charter. Such decisions are not subject to administrative appeal to the San Juan County Council. See also, SJCC 2.22.100.

Depending on the subject matter, this decision may be appealable to the San Juan County Superior Court or to the Washington State Shorelines Hearings Board. State law provides short deadlines and strict procedures for appeals and failure to timely comply with filing and service requirements may result in dismissal of the appeal. See RCW 36.70C and RCW 90.58. Persons seeking to file an appeal are encouraged to promptly review appeal deadlines and procedural requirements and consult with a private attorney.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.