

**Lee McEnery**

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**From:** Joe Brogan <BrogJ@foster.com>  
**Sent:** Wednesday, August 26, 2015 3:59 PM  
**To:** Lee McEnery  
**Cc:** Linda Ann Kuller; Sam Gibboney; Randall Gaylord  
**Subject:** RE: Vesting of shoreline permit application

Lee-

Thanks for your July 24, 2015 e-mail. In November 2012, the Runstads applied to the County for a Shoreline Substantial Development Permit (SSDP). The applicant's consultant team completed a number of shoreline habitat studies at the request of WDFW and to support the SSDP application. Many of the studies requested by WDFW necessitated development of field data over many months and generated additional information requests from WDFW and the County. The studies and plans are exhaustive and include forage fish sampling and monitoring, a shoreline planting plan, eelgrass studies, a OHWM determination and beach nourishment plans.

Included in the 2012 SSDP application was a reservation of rights to file a request for a Shoreline Exemption. The work in question was undertaken on an expedited basis to protect existing appurtenant structures to a single-family residence, i.e., the access driveway, drainage systems, and utilities serving the home. See SJCC 18.50.020(F)(2)(c); WAC 173-27-040(2)9c).

The County is in receipt of the Runstads' Shoreline Exemption application dated June 9, 2015. We have not received any correspondence from the County related to that application since it was filed nearly three months ago. We are requesting that the County first process the exemption request consistent with SJCC 18.80.110(f). If the County needs additional information pursuant to .110((F)(3), please let us know. Otherwise, please let me know when we should expect a final determination on the exemption request.

Best Regards, Joe Brogan

**Joseph (Joe) A. Brogan**

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**From:** Lee McEnery [<mailto:LeeM@sanjuanco.com>]

**Sent:** Friday, July 24, 2015 1:38 PM

**To:** Joe Brogan

**Cc:** Linda Ann Kuller; Sam Gibboney

**Subject:** Vesting of shoreline permit application

RE: Runstad – “Bank Stabilization - bulkhead”

Project File number PSJ000-12-0019

TPNs 151024002 and 151024003

Dear Mr. Brogan:

Our Department just determined that a recent court decision affects your application for shoreline armoring. (Potala Village Kirkland LLC vs Kirkland, <http://mrsc.org/Home/Stay-Informed/MRSC-Insight/August-2014/New-Court-Decision-Clarifies-Vested-Rights-Doctrin.aspx>). The state court of appeals determined that a shoreline permit does not vest to regulations in effect at submittal.

In your case, you have **applied** for but not yet received approval of a shoreline permit. Therefore, your application is subject to the critical area regulations that became effective 3/31/2014.

Please submit evidence that your proposal is consistent with SJCC 18.35.020 – 050; SJCC 18.35.075 Frequently Flooded Areas; and SJCC 18.35.110 – 135. Specifically, the following sections of the code must be addressed:

- 18.35.130.G Standards and Requirements for Shoreline Modifications
- 18.35.130.G.1 General Standards
- 18.35.130.G.3 Additional Standards for Shoreline Stabilization Measures

<http://www.codepublishing.com/wa/sanjuancounty/>

Please give me a call if you have any questions at 370-7589.

Thank you.

Lee