

## Linda Ann Kuller

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**From:** Stephanie Buffum <stephanie@sanjuans.org>  
**Sent:** Tuesday, September 18, 2018 5:29 PM  
**To:** lindag@sanjuansco.com; Linda Ann Kuller  
**Cc:** Kyle Loring; Jan Sanburg; Katie Fleming; Lovel Pratt; Michel Vekved; 'Shannon Davis'; 'Stephanie Buffum'; 'Tina Whitman'  
**Subject:** FSJ SMP Comment ltr 9\_18\_18  
**Attachments:** FSJ\_smp comment attachment 1 psnerp basin map.pdf; FSJ SMP tracking suggested database attribute additions.xlsx; FSJ SMP tracking suggested database additions project specific fields.pdf; FSJ SMP tracking suggested database additions all projects.pdf; FINAL\_FSJ\_SMP\_comments\_to\_SJCC\_and\_PC\_09\_18\_2018\_with attachments.pdf

Friends of the San Juans respectfully submits the following comments to address the September 7, 2018 draft of the Shoreline Master Program ("SMP") amendments for compliance with the June 13, 2018 Growth Management Hearings Board decision. We appreciate the effort that you and your staff have made to craft SMP revisions consistent with that decision and agree with many of the proposed changes. We identify those areas of agreement below, as well as areas where we feel the ordinance would benefit from additional revision. For clarity, we have enclosed at the end of these comments a copy of the proposed ordinance amendment sections with our suggested edits in green. We look forward to working with you on an SMP that may offer some hope of slowing the decline of precious, culturally important, and critically endangered species like the Southern Resident Killer Whales and Puget Sound salmon.

Regards,

Stephanie

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# Friends *of the* San Juans

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P.O. Box 1344  
Friday Harbor, WA 98250

To: San Juan County Council and Planning Commission  
From: Stephanie Buffum, Executive Director, Friends of the San Juans  
Date: September 18, 2018  
Re: September 21, 2018 San Juan County Council Special Meeting and Continued Joint Public Hearing with the Planning Commission to Hear Testimony on Proposed Amendments to San Juan County Code Chapter 18.50 Shoreline Regulations

Friends of the San Juans (“FSJ”) respectfully submits the following comments to address the September 7, 2018 draft of the Shoreline Master Program (“SMP”) amendments for compliance with the June 13, 2018 Growth Management Hearings Board decision. We appreciate the effort that you and your staff have made to craft SMP revisions consistent with that decision and agree with many of the proposed changes. We identify those areas of agreement below, as well as areas where we feel the ordinance would benefit from additional revision. For clarity, we have enclosed at the end of these comments a copy of the proposed ordinance amendment sections with our suggested edits in green. We look forward to working with you on an SMP that may offer some hope of slowing the decline of precious, culturally important, and critically endangered species like the Southern Resident Killer Whales and Puget Sound salmon.

The following comments address: (A) in-watershed mitigation; (B) armoring; and (C) cumulative effects accounting.

**A. In-Watershed Mitigation** (Ordinance Section 3, SJCC 18.50.140, Staff Report pages 2-4)

FSJ appreciates that the current draft of the mitigation provisions limits off-site mitigation to the same watershed where the impacts will occur, and that it should relate to the marine shoreline where feasible. We are concerned, however, that the proposed qualified professional determination imposes an undue burden on individual residents on currently unmapped islands when the County could instead accomplish that task one time for the entire county without unreasonable expense. In addition, the effective tracking of permits and cumulative impact will require the county to include information on location such as watersheds to its permit database.

We encourage the County to allocate the appropriate GIS resources to mapping watersheds on the remaining, smaller San Juan Islands. We believe that this could be accomplished by picking a similar basin scale as the current stormwater mapping and using existing LiDAR data for the full county, or exploring existing basin layers that may be available through other sources such as the shoreline drainage basin maps created by the Puget Sound Nearshore Ecosystem Restoration Program (PSNERP) (attached) and available at [http://www.pugetsoundnearshore.org/supporting\\_maps.html](http://www.pugetsoundnearshore.org/supporting_maps.html) or mapping that may be

available from another agency such as the Washington Department of Ecology or Fish & Wildlife that may also be suitable for this purpose.

## B. Armoring

1. **Definition for Soft Shoreline Stabilization.** Ordinance Section 1. SJCC 18.20.190 (“S” definitions). Staff Report, page 9.

FSJ agrees with the amendments to the definition for “soft shoreline stabilization.”

2. **Threshold Standard for Armoring Approval.** Ordinance Sections 4, 6. SJCC 18.50.350 (Hard and soft structural shoreline stabilization measures – General regulations), SJCC 18.50.420 (Hard or soft shoreline stabilization measures – Additional submittal requirements).

For these comments, we have combined the discussion of the standard needed to show risk of damage to development and the timeframe in which that damage would occur. FSJ agrees that the SMP Guidelines prohibit shoreline stabilization structures unless “conclusive evidence” shows that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. In its June 13, 2018 Final Decision and Order, the Growth Board agreed, stating at page 24 that “A ‘significant possibility’ standard falls far short of ‘conclusive evidence’ as required by the rule.” In addition to this change, FSJ appreciates the insertion of the reminder from the SMP Guidelines that the armoring must not result in net loss of shoreline ecological functions.

However, the proposal to allow “soft” armor for structures without any identified time frame for the risk of damage conflicts with the clear language of the SMP Guidelines, just as the significant possibility standard did. The SMP Guidelines (WAC 173-26-231(3)(a)(iii)(B)(I)) set forth a general prohibition against armoring unless “the structure is in danger from shoreline erosion.” Although the County correctly notes that the geotechnical report section of the SMP Guidelines suggests the possibility of a longer-term timeframe for “soft” armor than for “hard” armor, that section does not circumvent the general requirement that the risk of damage must be present at the time the application is submitted—as indicated by the present tense language “is in danger.” And as currently proposed, the SMP would not require any timeframe at all for the risk of damage. Thus, if unchanged, the SMP would allow soft armor on any eroding shoreline in the San Juans, meaning any shoreline without bedrock. Consequently, FSJ recommends that the County amend SJCC 18.50.350.B., the general regulations for armoring, to be consistent with the SMP Guidelines’ general regulations for armoring, as follows:

**“B. New, replaced, or enlarged ~~hard~~ structural shoreline stabilization measures may be allowed when damage to ~~structures and infrastructure~~ ~~them~~ is expected within three years.”**

3. **Design Standards.** Ordinance Section 5. SJCC 18.50.390 (Soft structural shoreline stabilization design standards). Staff Report, pages 9-11.

FSJ agrees with the insertion of a reference to the 2014 Marine Shoreline Design Guidelines and encourages County staff to likewise commit to using those guidelines for consistency throughout the process. We understand that Development Department staff have already begun applying those guidelines to their review of armoring projects and support their continued use while they remain best available science.

**C. Cumulative Effects Tracking** (Ordinance Section 2. SJCC 18.50.020 General. Staff Report, pages 11-13).

FSJ appreciates the continued evolution of the County's proposal to track and address cumulative effects but remains concerned that the ordinance still does not provide adequate specificity for the process and that the county's lack of supporting discussion or materials outside of the ordinance itself do not demonstrate that sufficient action has been taken to ensure that tracking mechanisms will be adequate to support meaningful evaluation of the cumulative effects of authorized actions on shoreline conditions, as required. As noted by the Staff Report at page 11, the SMP Guidelines direct local governments to "include a mechanism for documenting all project review actions in shoreline areas," and to "identify a process for periodically evaluating the cumulative effects of authorized development on shoreline conditions." (WAC 173-26-191(2)(a)(iii)(D). To achieve this requirement, the ordinance must continue to be refined and supporting information be provided.

As an initial matter, FSJ recommends that the first sentence at SJCC 18.50.020.E.3 be revised to reference changing shoreline conditions rather than changing local circumstances for consistency with the SMP Guidelines. The sentence would thus read: **"The Shoreline Master Program shall be reviewed and amendments made as are necessary to address reflect changing shoreline conditions ~~local circumstances~~, and reflect new information, improved data and changes in state statutes and regulations."**

While the ordinance now identifies a 4-year review period and general categories of information to be reviewed, it should be revised to identify more specifically the types of information that would be reviewed to evaluate impacts and how it would lead to either revisions to the SMP or different implementation of SMP provisions. For example, the ordinance directs the County to use "permit applications, decisions, environmental reports, and other data from authorized shoreline exemptions and permits and GIS maps," but does not identify what data would be drawn from those documents or provide any evidence that the existing information requirements and the related permit tracking system are sufficient. For example, to fully understand the impacts of armoring on shoreline conditions, it would be necessary to compile information about the type of structures, their length, height, depth, and beach elevation, the amount of vegetation removed during and at any time after construction, and post-construction changes in the beach profile, wrack line, amount of shoreline wood, and insect assemblages, as well as the watershed they are in, the shoreform type they are located on, and if forage fish spawn is present. For docks, the County would at a minimum need to tally the amount of upland vegetation removed at or subsequent to construction, changes in the beach and biological characteristics, and changes in eelgrass and kelp presence and density in

its vicinity. Merely 'adding up' the amount of new bulkheads or docks is not adequate, specific information on the interrelationship of the structure with the resource being tracked is needed, such as area of new overwater structure over eelgrass or kelps, square footage of beach buried by the bulkhead, percentage change in riparian vegetation, etc.

It is not clear from either of the ordinance language or the Staff Report whether the County intends to collect that information or, more basically, whether the information sources they cite even offer the right kinds of information in a usable form. For example, through a previous analysis of the county's land use permit database for shoreline permits, FSJ documented a lack of standardized data entry, to the point that it took substantial effort to even count total numbers of the various types of projects, such as armoring, never mind the effect of these actions on shoreline condition. In addition, no information on environmental conditions, the presence of critical areas, or if mitigation was required, was compiled through the permit database at that time. In the absence of a discussion and sampling of information to be gathered, the ordinance does not demonstrate that it can document project review actions and changing conditions in shoreline areas.

Much of the necessary changes could be made by identifying in some detail the type of information that would be gleaned from permits (such as the location, shoreform type and size of structures) and entered into the county's land use permit database, as well as what kinds of information is expected to follow from field observations or other data sources. Please see the attached spreadsheets for examples of the sort of simple changes that could be made to the existing land use permit database in support of efficient tracking as well as examples of the types of information that could be compiled for all permits and by project type to yield useful information in the evaluation of impacts. Upfront planning to develop the framework for meeting this requirement of the WAC and growth board order will save applicants and county staff significant time and resources in the future.

On a final point, FSJ appreciates the effort to carefully allocate adequate resources for improved permit tracking and the reviews of cumulative impacts, and, toward that end, encourages the County to increase the frequency to an annual or at least biannual review so that staff need not have to relearn the review process every four years. The infrequency of 4-year reviews likely will make it difficult for individual staff members to remember how to conduct the process, whereas annual or biannual review will likely increase the speed at which staff members conduct the process. And because the length of time necessary to conduct the reviews would be based on the number of permits received between review periods, rather than the amount of time between reviews, an annual review would not increase the total amount of time spent over four years to review permit impacts. If the County chooses the longer intervals, we recommend that it conduct the first review in year 1 to work out kinks in the system before realizing at year 4 the types of information that should have been collected.

**Recommendations:** FSJ proposed changes to September 7, 2018 Staff Report are shown in green text below (staff changes are in blue).

**SJCC 18.50.350 Hard and soft structural shoreline stabilization measures – General regulations.**

Hard and soft structural shoreline stabilization measures must meet the following requirements:

A. Hard and soft structural shoreline stabilization measures are only allowed to protect the following types of structures and infrastructure:

1. An existing primary structure;
2. An accessory dwelling unit;
3. Underground utilities and components of on-site sewage disposal systems and wells that cannot feasibly be relocated; and
4. A road or driveway that cannot be relocated and where there is no feasible alternative means of access.

B. New, replaced, or enlarged ~~hard~~ structural shoreline stabilization measures may be allowed when damage to them is expected within three years.

C. New, replaced, or enlarged ~~soft~~ structural shoreline stabilization measures ~~may~~ are not be allowed unless there is conclusive evidence documented by a geotechnical analysis, that the structure or infrastructure identified in subsection A above is in danger from shoreline when there is a significant possibility that development will be damaged as a result of erosion caused by tidal action, waves and or currents.

1. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need.
2. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.
3. The erosion control structure will not result in a net loss of shoreline ecological functions.

D. A certificate of exemption is required prior to undertaking the repair of shoreline stabilization measures.

E. All structural shoreline stabilization measures must result in no net loss of ecological functions.

F. If it can be demonstrated that nonstructural measures such as planting vegetation or the installation of on-site drainage improvements are not feasible or sufficient to address erosion causes and impacts, new structural stabilization measures may be allowed to:

1. Restore shoreline ecological functions;
2. Remediate hazardous substances pursuant to Chapter 70.105D RCW; or
3. Protect sites with exposed and verified archaeological resources.

**SJCC 18.50.020 General.**

E. Responsibilities of Department Director and Planning Commission

3. The Shoreline Master Program shall be ~~periodically~~ reviewed and amendments made as are necessary to ~~address reflect~~ changing shoreline ~~conditions local circumstances~~, and reflect new information, improved data and changes in state statutes and regulations. This ~~periodic~~ review

shall be conducted every four years and include an evaluation of ~~project review actions in shoreline areas and~~ the cumulative effects of authorized shoreline development including shoreline exemptions and permits. The following information shall be used in the ~~periodic~~ evaluation of the Shoreline Master Program:

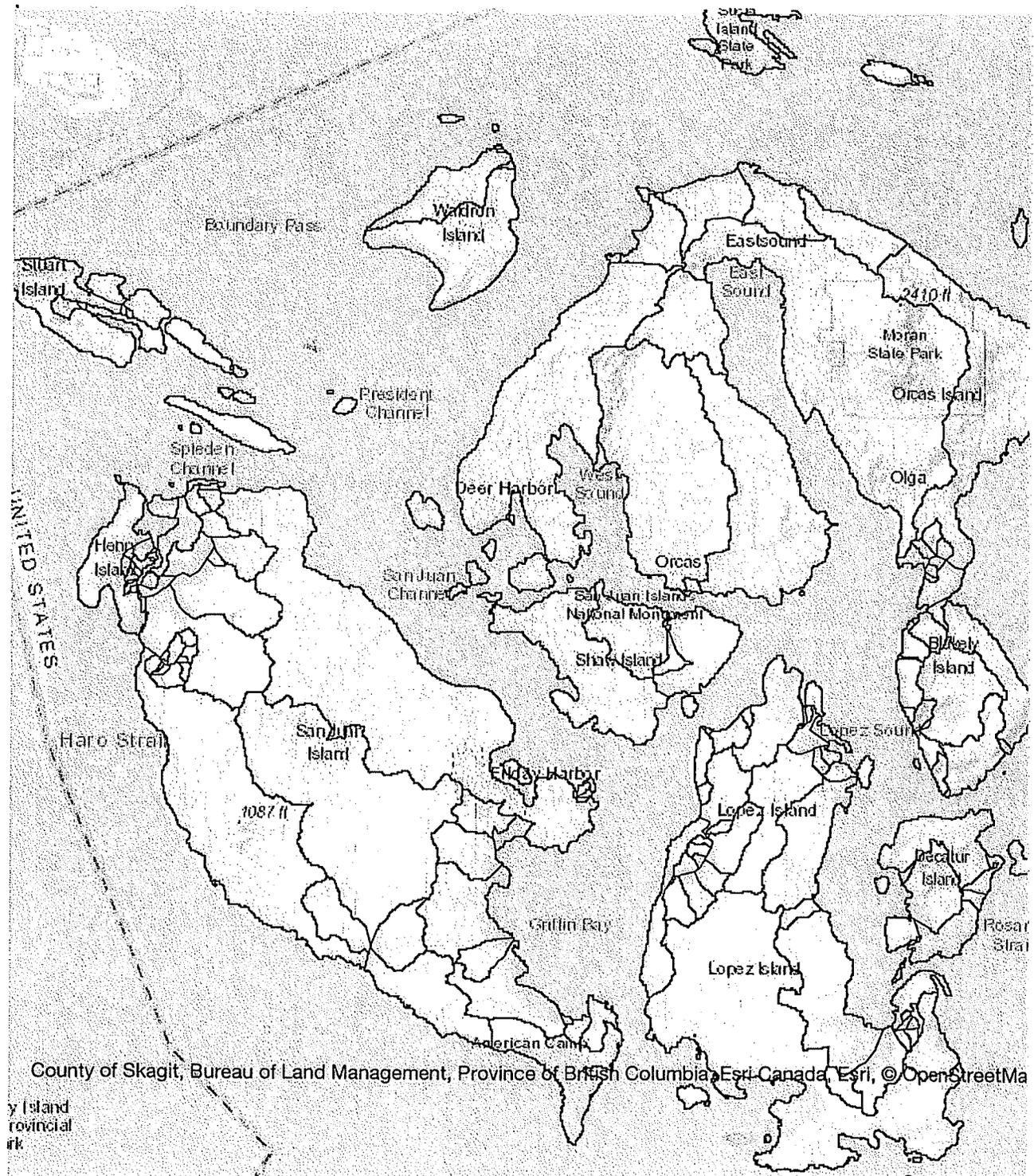
- a. ~~The department's permit tracking system~~ Permit applications, decisions, environmental reports, and other data from authorized shoreline exemptions and permits and GIS maps;
- b. Aerial and LIDAR photographs;
- c. Other available data; and
- d. Field observations.

The ~~cumulative impact~~ review shall be coordinated with the Tribes, relevant State agencies and interested parties.

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- a. ~~The department's permit tracking system~~ Permit applications, decisions, environmental reports, and other data from authorized shoreline exemptions and permits and GIS maps;
- b. Aerial and LIDAR photographs;
- c. Other available data; and
- d. Field observations.

The ~~cumulative impact~~ review shall be coordinated with the Tribes, relevant State agencies and interested parties.



# Nearshore Assessment Map

+ - PSNERP MAPPING



MARINE_RAILWAY	area of canopy kelp	area of understory kelp	herring spawn present?	area of forage fish spawning habitat	linear ft. change in overhanging vegetation	area of eelgrass	estimated number of vessel trips by season
MOORING_BUOY	area of canopy kelp	area of understory kelp	herring spawn present?	area of eelgrass within 25 ft.	estimated number of vessel trips by season		
POND							
RECREATION_AREA							
SEPTIC							
SETBACK							
SHORELINE							
STORMWATER							
TRANSIENT_RENTAL							
WATER							
WETLAND							

