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Before Hearing Examiner  
Gary N. McLean

**BEFORE THE HEARING EXAMINER  
FOR SAN JUAN COUNTY** S.J.C. DEPARTMENT OF

JAN 23 2020

In the Matter of a Shoreline Substantial )  
Development Permit Application filed by )  
**DAVID & NANCY HONEYWELL (ORCA )  
DREAMS, LLC), )**  
Applicants, )  
PROJECT: *Reverse Osmosis Desalination System to )  
serve up to six single-family residences located on )  
three tax parcels, at 57 Island Marble Lane, along )  
the southwest shore of San Juan Island.* )

COMMUNITY DEVELOPMENT  
**LANDUSE-19-0125**  
**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
DECISION APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT  
PERMIT FOR A REVERSE OSMOSIS  
DESALINATION SYSTEM**

**I. SUMMARY OF DECISION.**

The Shoreline Substantial Development Permit for the Honeywell’s reverse osmosis desalination system is approved, subject to Conditions of Approval that are based upon a preponderance of un rebutted evidence in the record and the unchallenged MDNS issued for the project.

**II. RELEVANT CODE PROVISIONS.**

**Shoreline Regulations:** The County’s Shoreline Master Plan/Program (SMP) is comprised of Chapter 18.50 of the San Juan County Unified Development Code (UDC), together with Element 3 of the County’s Comprehensive Plan, the official maps and common descriptions of shoreline designation boundaries that do not follow property lines (Ordinance 1-2016, Exhibit D), Section 2(B) Figures 130-6, 130-7 of the Eastsound Subarea Plan, SJCC 18.30.480, the Eastsound Waterfront Access Plan, and SJCC 18.80.110. (*See SJCC*

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1 18.50.020(A)). The County’s current SMP and shoreline regulations took effect on October  
2 30, 2017, and apply for purposes of this application, which was filed in August of 2019, with  
3 additional information requested and received during the month of October 2019. (*Staff*  
4 *Report, page 6*). This application was filed as a new proposal, with major design changes  
5 from a previous project pursued by the same applicants using an LLC entity under their  
6 control, assigned File No. PSJ000-17-0003 (Orca Dreams, LLC Shoreline Substantial  
7 Development Permit Application, which included a desalination system).

8 ***Circumstances that trigger requirement to obtain a Shoreline Substantial***  
9 ***Development Permit:*** “Substantial Development” is defined in RCW 90.58.030(3)(e) and  
10 SJCC 18.20.190, and means any development proposed in the shoreline areas of San Juan  
11 County of which the total cost, or fair market value, exceeds the dollar threshold established  
12 by the Washington State Office of Financial Management (RCW 90.58.030(3)(e)) [currently  
13 \$7,047<sup>1</sup>] or any development which materially interferes with the normal public use of the  
14 water or shorelines of the state, except for the exemptions specified in WAC 173-27-040 or  
15 Chapter 18.50 SJCC. The application materials include a detailed Regulatory Analysis,  
16 which concedes that major elements of the proposed desalination system – including without  
17 limitation the seawater intake pump and utility line, a flushing valve vault, the brine discharge  
18 line and diffuser, and necessary electrical lines – will be located within both the 200-foot  
19 Shoreline jurisdictional area and the uplands of the property. (*Ex. 4, Regulatory Analysis on*  
20 *page 2*). There is no dispute that development and installation of this proposed desalination  
21 water system requires a Shoreline Substantial Development Permit.

22 ***Approval Criteria for Shoreline Substantial Development Permits:*** The procedures  
23 for review of shoreline permit applications are contained in Chapter 18.80.110 of the county’s  
24 code, with the Criteria for Approval of Shoreline Substantial Development Permits found in  
25 SJCC 18.80.110(H), which reads as follows:

- 26
1. A shoreline substantial development permit will be granted by the County if the applicant demonstrates the proposal is:
    - a. Consistent with the policies of the SMA, Chapter 90.58 RCW and Chapters 173-26 and 173-27 WAC, as amended;
    - b. Consistent with the policies and regulations of this SMP;
    - c. Consistent with other applicable sections of this code; and
    - d. Consistent with the goals and policies of the Comprehensive Plan.
  2. The conditions specified by the hearing examiner to make the proposal consistent with the SMP and to mitigate or avoid adverse impacts to shoreline ecological functions will be attached to the permit.

<sup>1</sup> See Washington State Register 17-17-007, Office of Financial Management filing, dated August 3, 2017, explaining that the figure is adjusted every five years, with most recent update in 2017.

1  
2       **Jurisdiction:** Under SJCC 18.80.110(E)(1), the Hearing Examiner is given the  
3 authority to hear and approve, approve with conditions, or deny shoreline substantial  
4 development permits following receipt of the recommendations of the director, based upon  
5 the criteria found in SJCC 18.80.110(H), as set forth above.

6       **Burden of Proof:** Under SJCC 18.80.010(A), "Shoreline Permits" are specifically  
7 listed as "Project Permits" covered by the provisions of SJCC Chapter 18.80 re: application,  
8 notice, review and appeal requirements for the County's Unified Development Code, which  
9 is found in Title 18 of the SJCC and includes Chapter 18.50, the County's Shoreline Master  
10 Program. SJCC 18.80.040(B) reads as follows:

11       *"[t]he burden of proof is on the project permit applicant. The project permit  
12 application must be supported by evidence that it is consistent with the  
13 applicable state law, County development regulations, the Comprehensive  
14 Plan, and the applicant meets his burden of proving that any significant  
15 adverse environmental impacts have been adequately analyzed and  
16 addressed."*

17       **Standard of Review:** SJCC 2.22.210(H) explains that "for an application to be  
18 approved, a preponderance of the evidence presented at the hearing must support the  
19 conclusion that the application meets the legal decision criteria that apply."

20       **Review Criteria for the Department of Ecology:** Finally, if the Examiner approves  
21 or denies the Shoreline Permit, such decision must be forwarded to the Department of  
22 Ecology and the Attorney General, for state review and any appeals of the Shoreline Permit,  
23 in accord with Washington Shoreline Management regulations found in WAC 173-27-130.  
24 This Decision is subject to review and approval, approval with conditions, or denial by the  
25 Washington Department of Ecology. Ecology's review criteria for Shoreline Substantial  
26 Development Permits is found at WAC 173-27-150<sup>2</sup>. The San Juan County review criteria  
for the requested shoreline permit is consistent with and substantially similar to those that

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<sup>2</sup> WAC 173-27-150

**Review criteria for substantial development permits.**

(1) A substantial development permit shall be granted only when the development proposed is consistent with:

(a) The policies and procedures of the act;

(b) The provisions of this regulation; and

(c) The applicable master program adopted or approved for the area. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter 173-26 WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.

(2) Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

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1 will be used by the Department of Ecology.

2 **III. RECORD AND EXHIBITS; SUMMARY OF PUBLIC HEARING.**

3 Exhibits entered into evidence as part of the record, and an audio recording of the  
4 public hearing, are maintained by the San Juan County Department of Community  
5 Development, in accord with applicable law.

6 **Exhibits:** The comprehensive and credible Staff Report, prepared by Colin Maycock,  
7 the designated County Planner, dated December 5, 2019, for the pending application (21  
8 pages), and all Exhibits, numbered 1 through 9, and identified on page 20 of the Staff Report,  
9 are listed below and included as part of the Record for this matter:

Exhibit No.	Description of Item	Submitted by	Date
1.	Request for Review	Colin Maycock	November 13, 2019
2.	SEPA Mitigated Determination of Non-Significance (MDNS)	Colin Maycock	November 13, 2019
3.	SEPA Environmental Checklist	Francine Shaw	August 9, 2019
4.	Application, Agent Authorization, Transmittal and Project Description, maps, bio assessment, storm drainage plan.	Stephanie O'Day	August 9, 2019
4a.	2015 Archaeology Assessment	Gretchen Kaehler	December 9, 2015
4b.	Friday Harbor Labs, project review comment letter	Megan Dethier	July 24, 2019
5.	Request for additional information	Colin Maycock	October 10, 2019
6.	Response to request for information	Stephanie O'Day	October 25, 2019
6a.	Updated project description	Stephanie O'Day	October 25, 2019
6b.	Updated biological assessment	Stephanie O'Day	October 25, 2019
6c.	Site plan showing new and existing utility lines	Stephanie O'Day	October 25, 2019
7a.	Lummi LNTPHO response to request for review	Tamela Smart	November 14, 2019
7b.	UW Friday Harbor Labs, second comment letter, supporting the proposal	Megan Dethier	November 25, 2019

24  
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Exhibit No.	Description of Item	Submitted by	Date
8.	Notices	Francine Shaw	November 12, 2019
9.	San Juan County Inadvertent Discovery Plan	Colin Maycock	December 5, 2019

At the public hearing, the following additional exhibits were submitted and accepted into the record:

10. Comment letter from local resident, Eleanor Hartmann, received Dec. 13, 2019;
11. Site plan, showing applicant's property, location of project features, dated Dec. 18, 2019;
12. Letter from applicants' attorney, Stephanie Johnson O'Day, to DCD Director Ms. Shook, dated June 1, 2018, describing intent to pursue "substantially revised desal system", correctly observing that the Examiner did not issue a final decision on the previous application, and that a new application would not be barred by claim or issue preclusion. This letter is a duplicate of item 15, attached to Ms. O'Day's Aug. 9, 2019 application letter, already included in the record as part of *Exhibit 4*, identified above;
13. Comment letter from WA Dept. of Natural Resources (DNR), dated Nov. 20, 2019, to F. Shaw, applicants' land use consultant, confirming DNR's support for the requested desalination system, subject to certain conditions, including without limitation a requirement that the brine discharge diffuser must be located at tidal elevation -2 feet (MLLW) or lower;
14. Design detail plan sheet for previous proposal for pier, ramp and float with desal system components to be routed on such facilities, dated 6-7-17. This plan was abandoned and is not the subject of the current application; and
15. Large Topographic Survey / site plan, prepared by San Juan Surveying, dated 5/14/19, showing applicants' property and general location of current desalination system pipe routes.

**Hearing Testimony, Written Comments:** The following individuals presented testimony under oath at the duly noticed open record public hearing held on December 18, 2019:

1. Colin Maycock, designated Planner for San Juan County, who summarized the Staff Report for the pending application, highlighting key features included in the proposal, and the review process for the pending matter;
2. Stephanie Johnson O'Day, attorney for the applicants, explained that none of the groundwater wells on the appellants' property are operating at this time, meaning they are now relying on

1 hauled water, with trucks coming and going to deliver drinking water, which cost around \$50,000  
2 over the last year. She explained how this application is the result of extensive consultation with  
3 and input from UW Friday Harbor Labs officials (Dr. Dethier), which now supports the  
4 application. Ms. O'Day emphasized how the discharge diffuser for the brine water will be placed  
5 well outside the "pocket beach" that was the subject of significant public comment in the previous  
6 application, where the desalination design was substantially different. Instead, the currently  
7 proposed discharge line will allow water to be diffused in waters where tides and currents are  
8 known to be rough. She explained that she contacted Ms. Hartmann (*See Ex. 10, Ms. Hartmann's*  
9 *comment letter*), and that Ms. Hartmann understands that the UW Friday Harbor Labs is  
10 supporting the current application, apparently satisfying her concerns. [Note: Ms. Hartmann did  
11 not appear at the public hearing, as many San Juan Island residents did in the hearing for the  
12 applicants' previous proposal].

- 13 3. Francine Shaw, applicants' Land Use Consultant, summarized ongoing reviews and input from  
14 other agencies, including WDFW, and DNR. She submitted a letter from DNR officials,  
15 supporting the project (*Ex. 13*) subject to certain conditions, including one requiring the discharge  
16 diffuser to be located at tidal elevation -2 feet (MLLW) or lower, with follow-up documentation  
17 and photo-evidence regarding biota present at the discharge location, before installation,  
18 immediately after installation, 6 months after installation, and 12 months after installation.
- 19 4. David Honeywell, applicant, was present for the entire hearing, and spoke briefly near the end, to  
20 clarify his understanding of additional water treatment that occurs after the desalination system  
21 generates potable water, noting that he is now going through the licensing process to receive state  
22 approval to serve as a water operator for his system.

23 No expert testimony was offered to rebut professional opinions provided in the  
24 application materials and/or testimony provided by the applicants' witnesses. No one  
25 appealed the SEPA MDNS issued for the project on November 13, 2019. The deadline for  
26 such appeals was 4:30 p.m. on December 18, 2019. (*Ex. 2, SEPA MDNS, appeal language*  
*found on page 2; Follow-up communication by Examiner with Mr. Maycock, after appeal*  
*deadline expired, to confirm no appeals were filed*).

The Examiner has had a full and fair opportunity to consider all evidence and  
testimony submitted as part of the record, has visited the shoreline area where the proposal  
would occur on several occasions over the last few years, reviewed and researched relevant  
codes and caselaw, and is fully advised. Accordingly, this Decision is now in order.

#### IV. FINDINGS OF FACT.

Based on the Record, the Examiner issues the following findings of fact:

1. All statements of fact included in any other section of this Decision, are hereby  
incorporated by reference and adopted as Findings of Fact supporting this Decision and the

1 attached Conditions of Approval.

2 2. On August 9, 2019, David (Dave) and Nancy Honeywell (Orca Dreams LLC),  
3 submitted a package of application materials seeking the above-captioned shoreline  
4 substantial development permit for a desalination system to serve their 38+ acre property on  
5 San Juan Island. (*Staff Report, pages 1 and 6; Ex. 4, application materials*). Staff requested  
6 additional information from the applicants on or about October 10, 2019, and received  
7 materials in response to such request on October 25<sup>th</sup>. (*Staff Report, page 6; Exs. 5 and 6a-*  
8 *c*).

9 3. The pending application for a shoreline substantial development permit would  
10 authorize development and use of a Reverse Osmosis Desalination System to generate  
11 potable water from seawater, serving up to six single-family residences, including irrigation  
12 around the applicants' main house, all located on three tax parcels, TPN Nos. 353344008,  
13 340411003, and 340411005. (*Staff Report, page 1; Applicants' Project Description, included*  
14 *as part of Ex. 4, their application materials; Ex. 15, large site plan*).

15 4. The Honeywell properties are sometimes described as a residential compound,  
16 located at 57 Island Marble Lane, along the southwest shore of San Juan Island. The property  
17 was formerly known as the old Mar Vista Resort. (*Staff Report, pages 1-3*). Groundwater  
18 wells on the applicants' property are no longer working, and have been in such a condition  
19 for over a year. As of the date of the hearing, the applicants have had to rely on "hailed  
20 water" as a water supply source, meaning they have paid for trucks to come and go delivering  
21 water to the site, storing water in their existing water tank. (*Testimony of Ms. O'Day*). These  
22 costs are not insignificant, financially, or environmentally. Potable water is limited on the  
23 San Juan Islands, so water trucks may be transported by ferry or barge from Anacortes. (*Ex.*  
24 *6b, updated BA, at page 18, re: discussion of alternative actions pursued by the applicants*  
25 *to provide a continuous supply of potable water and to reduce potential environmental*  
26 *impacts*).

5. The Honeywell's proposed desalination project will include: a) two reverse osmosis  
("RO") desalination systems working in tandem with one another, using the same  
intake/discharge routes/locations; b) an existing 40,000 gallon water tank; c) a 4' x 4' x 4'  
vault at the base of a bluff to house the intake access port, used for servicing a submersible  
pump; and d) intake and discharge lines, conduits and valves. The RO desalination 'plant' /  
machinery itself will be installed and maintained in a pre-existing barn structure on the  
Honeywell's property, which is located approximately 600 feet landward of the shoreline and  
is not vulnerable to tidal events, including sea level rise. (*Staff Report, project details*  
*summarized on pages 1-5; Ex. 4, application materials, project narrative and site plans; Ex.*  
*5, item 2, requesting additional information, including size of proposed concrete vault to be*

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1 constructed below the OHWM; Exs. 6, 6a, 6b and 6c, updated project information,  
2 particularly Ms. O'Day's Oct. 25, 2019 transmittal letter, noting size of vault, and Intake  
3 Details drawing prepared by Hart Pacific Engineering, dated 9/9/2019, Attachment page 8  
4 of 8 to Fairbanks Environmental Updated Biological Assessment; Ex. 6b, page 25).

5 6. The Staff Report explains that the maximum production of the reverse osmosis  
6 desalination system will be 8,000 gallons of (potable) water per day (GPD). The production  
7 of 8,000 GPD will require an intake of 21,600 GPD of sea-water and a discharge of 13,600  
8 GPD of brine.

9 7. For frame of reference, seawater has a salinity of 30 parts per thousand, but the  
10 discharged brine will have a salinity of 40 parts per thousand. Obviously, dispersal/mixing  
11 of the discharged brine is a key consideration in this application.

12 8. A 6-inch High Density Polyethylene (HDPE) intake line will be installed in a trench  
13 that stretches approximately 115 feet waterward of the Ordinary High-Water Mark to minus  
14 2 MLLW and will house a 15 gallon per minute (GPM) submersible pump (accessed from  
15 the well cap vault). There will be two 4,000-gallon reverse osmosis systems housed in an  
16 existing utility building approximately 615 feet inland from OHWM. The potable water will  
17 be pumped to the applicants' existing storage tank. The brine will be pumped back into Haro  
18 Strait, at the discharge point described in the updated application materials, subject to  
19 modification to comply with requirements included in the DNR comment letter, primarily the  
20 requirement to place the diffuser discharge at minus 2 MLLW or deeper. (Staff Report, pages  
21 4 and 5; Ex. 6b, Updated Project Description on pages 18 and 19 of the updated biological  
22 assessment; Ex. 13, DNR Letter).

23 9. The 2-inch HDPE discharge line will be in an existing trench alongside a private road  
24 and seaward of the pavilion and tea house. The discharge pipe will be secured in crevices on  
25 a rocky shoreline approximately 650 feet from the intake line, far to the south/southeast of  
26 the "pocket beach" area where the intake point will be located. The discharge line will be  
fitted with a diffuser and will terminate at some point at or lower than -2 MLLW. The Staff  
Report and original proposed design had the discharge point at MLLW, but the Washington  
Department of Natural Resources (DNR) submitted a letter supporting the pending proposal,  
subject to certain conditions, including without limitation a requirement that the brine  
discharge diffuser must be located at tidal elevation -2 feet (MLLW) or lower. In any event,  
the discharge pipe will be anchored to the seabed. (Staff Report, page 5; Ex. 6b, updated  
project details; Ex. 13, DNR comment letter and requirements).

10. Conditions of approval have been written so as to accommodate DNR's final  
determination on the subject of the final discharge point depth, meaning if the final DNR

1 lease for this project mandates a longer pipe and a deeper outfall, the project can still go  
2 forward.

3 11. Washington state law expressly provides an exemption from state permit  
4 requirements for domestic water withdrawal of up to 5,000 gallons per day (GPD) of  
5 groundwater from a well. (See RCW 90.44.050, which provides in relevant part: "*any*  
6 *withdrawal of public groundwaters for stock-watering purposes, or for the watering of a lawn*  
7 *or of a noncommercial garden not exceeding one-half acre in area, or for single or group*  
8 *domestic uses in an amount not exceeding five thousand gallons a day, or as provided in*  
9 *RCW 90.44.052, or for an industrial purpose in an amount not exceeding five thousand*  
10 *gallons a day, is and shall be exempt from the provisions of this section [requiring permits*  
11 *from the Dept. of Ecology], but, to the extent that it is regularly used beneficially, shall be*  
12 *entitled to a right equal to that established by a permit issued under the provisions of this*  
13 *chapter... "*).

14 12. The existing house and other legal structures on the site were all previously served by  
15 a well-water system that drew from the same groundwater supply that serves many other  
16 residents on San Juan Island. The old wells are no longer working. With upgrades to pipes  
17 and pumps, it is conceivable that the property owners could seek to boost their draw on the  
18 groundwater supply up to 5,000 GPD per well. After all, the record shows that the  
19 exploratory 'beach well' dug to provide seawater for the proposed desalination system came  
20 up with fresh water. (*Ex. 4b; Testimony of Ms. O'Day*). That would not be in the best  
21 interests of other Island residents, who share the same water supply source. Moving the  
22 Honeywell compound of residential structures away from reliance on the island's limited  
23 groundwater supplies would be in the public interest.

24 13. County codes expressly permit desalination systems as the primary water supply for  
25 new and existing land divisions or other development projects within the shoreline, subject  
26 to specific regulations found in SJCC 18.50.560.B. The most stringent standards apply to  
systems that have an intake greater than 100,000 GPD. (*Id., at subsection B.6*). The  
Honeywell's system will be far below this threshold, at 21,600 GPD.

19 14. As explained in the Staff Report, on pages 9 through 14, the proposed desalination  
20 system fully satisfies all applicable shoreline regulations and specific requirements for such  
21 systems, including without limitation those provided at SJCC 18.50.560.B. For instance: the  
22 desalination system will serve as the primary water supply for existing single family  
23 residences and associated facilities on a lawfully developed site; the proposed project, as  
24 conditioned, will not result in a net loss of shoreline ecological functions (*Exhibit 6b, updated*  
25 *biological assessment (BA) on page 2; Ex. 4b, initial BA, Conclusion on page 3*); the system  
26 is located and designed to blend in with the natural surroundings to the extent feasible to

1 reduce visual impacts, noting that the only visible facet of the proposed system is a short run  
2 for the discharge line on rocks, into crevices, minimizing visibility from above; and the intake  
3 line will be buried beneath a gravel beach, on private tidelands, which will not impede general  
4 access to public shorelands. *(All satisfying applicable requirements found in SJCC*  
5 *18.50.560.B(1-5)).*

6 15. This application did not occur in a vacuum. In fact, this application was filed as a  
7 new proposal, with major design changes from a previous project pursued by the same  
8 applicants using the Orca Dreams, LLC entity under their control, assigned File No. PSJ000-  
9 17-0003 (Orca Dreams, LLC Shoreline Substantial Development Permit Application, which  
10 included a desalination system). The undersigned examiner presided over a previous hearing  
11 process that spanned 3 days at the end of 2017, which was consolidated with an appeal of the  
12 SEPA MDNS issued for the applicant's former project. The previous proposal included a  
13 multi-slip dock and other improvements all designed to be placed in a small "pocket  
14 beach"/cove area, on the west side of the Honeywell property, below False Bay to the north.  
15 The appeal was raised by a number of local residents, and the University of Washington,  
16 Friday Harbor Labs, focusing mostly on potential impacts to the UW's False Bay Preserve,  
17 located to the north of the Honeywell's compound. Following review of the extensive record  
18 and lengthy post-hearing briefing materials, the Examiner granted the SEPA appeal raised  
19 regarding the previous project, in a decision dated April 10, 2018. The shoreline permit  
20 application for the dock, desalination system, and navigation buoy were all held in abeyance,  
21 until further environmental review was complete.

22 16. Since that time, the applicants abandoned their previous proposal for a new dock, and  
23 substantially revised their plans for a desalination system, which would be installed as a  
24 stand-alone system, not relying on dock facilities, and without any outfall/discharge in the  
25 pocket beach/cove area. *(Testimony of Ms. O'Day; and Ex. 12, Letter from applicants'*  
26 *attorney, Stephanie Johnson O'Day, to DCD Director Ms. Shook, dated June 1, 2018,*  
*describing intent to pursue "substantially revised desal system", correctly observing that the*  
*Examiner did not issue a final decision on the previous application, and that a new*  
*application would not be barred by claim or issue preclusion. This letter is a duplicate of*  
*item 15, attached to Ms. O'Day's Aug. 9, 2019 application letter, already included in the*  
*record as part of Exhibit 4, identified above).*

17 17. The pending application and desalination system reflect a design based on input and  
18 recommendations from the UW Friday Harbor Labs, which now supports approval of the  
19 requested shoreline permit for the current desalination system proposal, subject to conditions.  
20 *(Ex. 4b, July 24, 2019 application comment letter from Dr. Megan Dethier, Interim Director*  
21 *of UW Friday Harbor Laboratories; and Ex. 7b, November 25, 2019 SEPA comment letter*  
22 *from Dr. Dethier).*

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1 18. Dr. Dethier's July letter (*Ex. 4b*) explains how she met on two occasions with the  
2 applicants, their attorney, and their engineer, "to discuss ways to minimize environmental  
3 impacts on marine resources" associated with a new desalination plant. Her letter describes  
4 a complicated beach well alternative that the applicants explored, and even drilled, only to  
5 find that the designated saltwater intake well drilled near the beach turned out to have only  
6 fresh water, so it could not be used. As a consequence, she explained that she met again with  
7 the applicants in June of 2019 to discuss other options for both seawater intake and brine  
8 removal. Ms. O'Day reiterated the facts described in Dr. Dethier's letter, regarding the  
9 applicants' efforts to work with Friday Harbor Labs, and their unsuccessful attempt to drill  
10 and make use a beach well. (*Testimony of Ms. O'Day*).

11 19. Dr. Dethier explained that the current intake design, with an intake pipe trenched  
12 through the beach in the cove (the location of the former dock proposal) and down into the  
13 shallow subtidal, where it would be buried subsurface, would generate a "temporary  
14 disturbance" due to trenching, but that "marine resources should recover quickly from these  
15 changes and I see no long-term impact." (*Ex. 4b, page 1*).

16 20. Given the UW's strong opposition to the previous desalination proposal based on  
17 potential impacts caused by hypersaline discharge water that could find its way into False  
18 Bay, the Examiner was especially curious to learn of Dr. Dethier's position regarding the  
19 discharge pipes for the current proposal. As discussed below, it turns out that the proposed  
20 outfall pipe for the current proposal is designed to be located and installed based on her  
21 recommendation. Her July letter reads in relevant part:

22 *Environmental impact to marine life is more likely to come from the hypersaline brine. We*  
23 *discussed several options on site, and I discouraged the initial suggestion of having the outfall*  
24 *pipe emptying onto the upper shore near Stairway #2; the brine would likely have long-term*  
25 *negative effects on all the rocky shore organisms it would flow over on its way to the sea. Instead,*  
26 *I recommended running a strong but flexible pipe through crevices (which are plentiful) down to*  
*at least 0' tide level (MLLW); several exact routes were discussed. This pipe would empty brine*  
*directly under water during high and mid tides; during the lowest tides it would either pour out*  
*into the ocean surface or flow over a short stretch of rock during that brief period. In either case,*  
*the location has excellent circulation and the brine would be rapidly diluted, with no impacts*  
*expected. Placing the pipe in crevices and getting it firmly attached would likely kill some*  
*organisms [...] but these are locally abundant, and if the pipe is made of hard and stable material,*  
*it is likely that these organisms would eventually recolonize those new surfaces. Thus, this seems*  
*like an option that would cause few if any environmental impacts but would give the Honeywell's*  
*the freshwater source they need.*

*I found the applicants, attorney, and engineer all very willing to discuss and modify plans to find*  
*a solution that would fill their needs without being environmentally harmful. (Ex. 4b, page 2).*

1 21. Dr. Dethier concluded her July comment letter stating: *"I thus believe that the*  
2 *applicants have come up with a logistically feasible plan that does minimal biological harm,*  
3 *and I support the details of this proposal."* (Ex. 4b, page 2). Her November letter makes  
4 several of the same points as her July letter, reconfirming her belief that the current  
5 desalination system design plans for both the seawater intake-system and the brine-outfall  
6 system will not cause significant environmental damage other than temporary disruption, and  
7 that the applicants *"have done due diligence finding a responsible way to get needed fresh*  
8 *water to their property."* (Ex. 7b).

9 22. The Examiner commended the applicants at the public hearing for their efforts to  
10 work with Friday Harbor Labs to generate a proposal that should be beneficial, and/or  
11 minimize potential impacts, for the applicants, neighbors, and the surrounding environment.

12 23. The Staff Report explains how the proposed desalination system is also designed to  
13 comply with SJCC 18.50.560.B(7)(a) – (f), as republished below, with code language  
14 followed by findings in italics:

15 a) Intake and discharge lines must be trenched, run, or located together except where  
16 necessary to provide adequate separation between intake and discharged water; *The updated*  
17 *project design, described and illustrated in Exhibits 6, 6a, 6b, and 6c, demonstrates how the*  
18 *proposed intake and discharge lines will be placed together to the fullest extent possible, from*  
19 *the RO plant housed in an existing building, to a point where the discharge and intake lines*  
20 *take separate routes to achieve appropriate separation where they meet the tidal zone.*

21 b. Intake and discharge lines must not interfere with normal public use of waters of the state; *The*  
22 *intake and discharge lines will not impede normal public use of the waters of the state. The*  
23 *intake will be buried on private tidelands, and the discharge line will end out along a rocky*  
24 *shoreline area exposed to rough waves and tidal action, with effective 'mixing' occurring*  
25 *within 2 or 3 feet of the discharge point. (See discussion re: tidal mixing zones and data for*  
26 *operational desalination systems in other parts of San Juan County, explained in the updated*  
*BA, Ex. 6b).*

c. The intake point shall not float on the surface; *The intake point will be buried under a gravel*  
*beach, at a depth of -2 MLLW.*

d. Intake and discharge lines must not be placed through or over any known or discovered  
archaeological resources, unless the location is approved by DAHP; *Exhibit 4a indicates that*  
*there are no cultural or archaeological resources present at the site. The comment letter from*  
*the Lummi Nation, included in the record as Ex. 7a, did not note any special concerns*  
*regarding the potential for encountering cultural resources or human remains in connection*  
*with the project. In any event, the project will be conditioned to ensure compliance with the*  
*County's Inadvertent Discovery Plan to protect such resources if they are uncovered during the*  
*construction process.*

1 e. The use of wells with saltwater contamination or intrusion as the intake source for desalination  
2 or reverse osmosis systems is prohibited unless specifically authorized by the County department  
3 of health and community services; *The proposal is to draw raw seawater directly from Haro  
4 Strait immediately adjacent to the applicants' property. The applicants intend to use the treated  
5 water for their household needs. In doing so, the applicants would no longer rely on potable  
6 water to be delivered by trucks.*

7 f. When feasible, all cleaning of desalination systems and equipment must take place off site and  
8 ensure that cleaning chemicals are not inadvertently introduced into marine waters. *Ex. 6b, on  
9 page 23, and the Staff Report on pages 14 and 15, describes a system cleaning process that will  
10 be used, relying on desalinated product water without using chemicals. Contemporary systems  
11 contain components that are regularly replaced rather than cleaned, further reducing the  
12 possibility that cleaning chemicals could affect marine waters.*

13 24. The proposed desalination system is entirely consistent with the County's  
14 Comprehensive Plan Policies that seek to protect the quality and quantity of groundwater  
15 (*Comp. Plan, Sec. B, Element 3, Subsec. 3.2.C. (re: Critical Areas), Goal 5*); and that consider  
16 freshwater along the shoreline a renewable resource of critical importance and control its use  
17 to prevent the intrusion or spread of salt water into vital aquifers (*Id., Policy 9*). The  
18 desalination system will reduce the demand that the current property places on local  
19 groundwater sources. (*See further discussion and analysis of consistency with Comp. Plan,  
20 in the Staff Report*).

21 25. There is no credible dispute that the proposed desalination system satisfies applicable  
22 standards found in current county codes and policies.

23 26. The proposed desalination system on the Honeywell's property has been carefully  
24 designed to determine a specific placement, features, and construction methods that would  
25 minimize, prevent, and/or avoid most impacts on the shoreline environment. There is no  
26 dispute that the only professional reports and expert testimony included in the record were  
not rebutted, particularly the findings and conclusions in the Fairbanks' Biological  
Assessment prepared for this project to the effect that there will be no net loss of shoreline  
ecological functions, so long as the new desalination system is placed where proposed and  
specific BMPs are followed throughout the construction process. (*Ex. 6b, updated BA, on  
pages 2 and 27*).

27 27. The Staff Report and several exhibits confirm that applicable notice, mailing and  
28 publication requirements were satisfied. (*Staff Report, page 6; Exhibits 2 and 8*).

29 28. Unlike a previous proposal for a substantially different desalination system proposed  
30 on the applicants' property, this proposal did not generate any opposition testimony at the  
31 public hearing.

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR THE  
HONEYWELL REVERSE OSMOSIS DESALINATION  
SYSTEM ON SAN JUAN ISLAND –  
FILE NO. LANDUSE-19-0125

GARY N. MCLEAN  
HEARING EXAMINER  
FOR SAN JUAN COUNTY

1 **SEPA review.**

2 29. Following review and consideration of all environmental documentation submitted as  
3 part of the application, including a SEPA Checklist (*Ex. 3*), an initial and updated Biological  
4 Assessment for the project, prepared by Chris Fairbanks (*Exs. 4 and 6b*), County officials  
5 issued a SEPA Mitigated Determination of Non-Significance (MDNS) for the proposal on  
6 November 13, 2019. (*Exhibit 2*).

7 30. The MDNS includes 19 (nineteen) specific mitigation measures that are intended to  
8 avoid or minimize potential adverse impacts on the environment, comprised of BMPs, spill-  
9 prevention requirements, and an inadvertent discovery plan, among other things. (*See Ex. 2,*  
10 *MDNS*).

11 31. The face of the MDNS notification issued by the County specified that the deadline  
12 for comments regarding the MDNS was November 27, 2019, and the deadline for any appeals  
13 of the MDNS expired at 4:30 pm on December 18, 2019. (*See Ex. 2, MDNS*).

14 32. All comments received were considered by staff and are included in the record.

15 33. SJCC 18.80.140(A) provides that a SEPA threshold determination like the MDNS  
16 issued for this project may be appealed within 21 days of issuance. No one submitted an  
17 appeal of the MDNS issued for the project.

18 34. All of the unchallenged mitigation measures included in the MDNS are supported by  
19 evidence in the record, reasonable, and capable of being accomplished. Accordingly, they  
20 are all included as Conditions of Approval for the pending Shoreline Permit.

21 35. No individual or government agency invited to comment on the project application  
22 offered any evidence or information that would rebut or materially challenge the findings and  
23 analysis provided in applicant's environmental analysis and project construction  
24 recommendations that are included as part of the Record.

25 36. Substantial evidence in the record, including without limitation the application  
26 materials, environmental reports, and testimony by Applicant representatives, fully support  
Staff's conclusions in the Staff Report, explaining that the proposed project satisfactorily  
complies with applicable county code provisions, and/or can be mitigated through conditions  
set forth in the MDNS issued for this project, to minimize, reduce, or prevent any probable,  
significant, adverse, environmental impacts associated with the project.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR THE  
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**GARY N. MCLEAN  
HEARING EXAMINER  
FOR SAN JUAN COUNTY**

1 37. For instance, there is substantial, credible, and un rebutted information in the record  
2 and application materials to demonstrate that no net loss of shoreline ecological functions  
3 will occur. These materials include, without limitation, the Biological Assessment prepared  
4 by Chris Fairbanks for the project. (Ex. 6b, pages 2 and 27).

5 38. The findings, recommendations and conclusions provided in the environmental  
6 documentation submitted on behalf of the applicants, are credible and well-reasoned  
7 summaries of complicated regulations, conditions, possible impacts and appropriate  
8 mitigation measures associated with the proposed project. The Applicants' proposal has been  
9 designed, planned, and/or conditioned based on input from experts in various fields.

10 39. No one presented any testimony or evidence that would justify denial of the pending  
11 shoreline application.

12 ***The Record includes substantial evidence (far more than just a preponderance of evidence)***  
13 ***showing that the application meets requirements to approve the Substantial Development***  
14 ***Permit.***

15 40. Substantial and credible evidence in the record, including without limitation  
16 un rebutted findings and analysis provided in the Staff Report, the updated Biological  
17 Assessment for the project (Ex. 6b), and the two comment letters from the UW Friday Harbor  
18 Labs (Exs. 4b and 7b), establishes that the applicants have met their burden to prove that the  
19 pending application satisfies all criteria for approval of a Substantial Development Permit,  
20 found at SJCC 18.80.110(H). Specifically, the applicant has met its burden to establish that:  
21 a) The proposal is consistent with the policies of the Shoreline Management Act and its  
22 implementing regulations, Chapter 90.58 RCW and Chapter 173-27 WAC, as amended; b)  
23 The proposal is Consistent with the policies and regulations of the Shoreline Master Program  
24 in Chapter 18.50 SJCC; c) The proposal is consistent with applicable provisions of SJCC  
25 chapter 18.80 and other applicable sections of the SJCC; and d) The proposal is consistent  
26 with the goals and policies of the Comprehensive Plan.

41. Consistent with SJCC 18.80.110(H)(2), the Examiner has conditioned approval of the  
project to make the proposal consistent with the shoreline master program and to mitigate or  
avoid adverse impacts.

42. All findings, statements of fact, and analysis provided in the Staff Report, are  
incorporated herein as findings of fact by the undersigned hearing examiner, except as  
modified herein.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION - APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR THE  
HONEYWELL REVERSE OSMOSIS DESALINATION  
SYSTEM ON SAN JUAN ISLAND -  
FILE NO. LANDUSE-19-0125

GARY N. MCLEAN  
HEARING EXAMINER  
FOR SAN JUAN COUNTY

V. CONCLUSIONS OF LAW.

1  
2 1. The Record, including without limitation the County’s Staff Report, and the  
3 applicants’ environmental and regulatory analysis reports, includes substantial, credible and  
convincing proof that the Shoreline application satisfies the County’s approval criteria.

4 2. The principal purpose of SEPA is to provide decisionmakers and the public with  
5 information about potential adverse impacts of a proposed action. *Save our Environment v.*  
6 *Snohomish County*, 99 Wash.2d 363, 373 (1983). “SEPA is primarily a procedural statute  
7 that requires the disclosure of environmental information. SEPA does not demand a  
8 particular substantive result in government decision making; rather it ensures that  
9 environmental values are given appropriate consideration.” *Glasser v. City of Seattle*, 139  
Wn. App. 728, 742 (2007). In this matter, the Record includes substantial, credible, and  
unrebutted evidence to support issuance of the MDNS, and all of the unchallenged mitigation  
measures that are also included as Conditions of Approval for this permit. The MDNS was  
not appealed.

10 3. The state’s Shoreline Management Act (“SMA”) and the regulatory policies established  
11 thereunder, including those adopted by San Juan County and approved by the Department of  
12 Ecology, does/do not prohibit all development in the shoreline. Rather, its purpose is to allow  
13 careful development of shorelines by balancing public access, preservation of shoreline  
14 habitat and private property rights through coordinated planning. *Overlake Fund v. Shoreline  
Hearings Bd. (State Report Title: Overlake Fund v. Shorelines Hearings Bd.)*, 90 Wash. App.  
746, 761, 954 P.2d 304, 312 (1998).

15 4. The SMA clearly contemplates a balancing approach. “[C]oordinated planning is  
16 necessary in order to protect the public interest associated with the shorelines of the state  
17 while, at the same time, recognizing and protecting private property rights consistent with the  
18 public interest.” RCW 90.58.020. The SMA does not prohibit development but attempts to  
19 ensure that development will occur in such a way to protect the public against “adverse effects  
to the public health, the land and its vegetation and wildlife, and the waters of the state and  
their aquatic life.” *Id.* Lastly, the SMA fosters “all reasonable and appropriate uses” of the  
shorelines of the state. *Id.*

20 5. As shown above, the Record establishes that the proposed desalination system project  
21 has been designed and conditioned in a manner that minimizes potential impacts, with  
22 modifications made based on professional feedback from UW Friday Harbor Labs and DNR  
officials, among others.

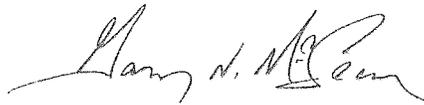
23 6. Any finding or other statement contained in a previous section of this Decision that  
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1 is deemed to be a Conclusion of Law is hereby adopted as such and incorporated by reference.

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3 **VI. DECISION, CONDITIONS OF APPROVAL.**

4 Based on the record, and for the reasons set forth above, the Shoreline Substantial  
5 Development Permit for the Honeywell's reverse osmosis desalination system to serve their  
6 property on San Juan Island is approved, subject to the following Conditions of Approval,  
7 which are attached hereto, and incorporated herein by reference.

8 ISSUED this 22<sup>nd</sup> Day of January, 2020

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11 Gary N. McLean  
12 Hearing Examiner

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**CONDITIONS OF APPROVAL**

**HONEYWELL REVERSE OSMOSIS DESALINATION PROJECT**

*Shoreline Substantial Development Permit*

*File No. LANDUSE-19-0125*

*Location: 57 Island Marble Lane, along the southwest shore of San Juan Island  
Tax Parcel Nos. 353344008, 340411003, and 340411005*

Based on the Record, and under authority of applicable county code provisions, the Examiner imposes the following Conditions of Approval on the above-referenced permit.

1. The Project elements approved by this permit include the applicants' proposed reverse osmosis desalination system and associated features within the County's shoreline jurisdiction, on portions of Parcel Nos. 353344008, 340411003, and 340411005, located along the southwest shore of San Juan Island. The Project shall be developed in a manner and design substantially consistent with that described in the Staff Report and the application materials and site plan details, *Ex. 4*, as updated in *Exhibits 6, 6a, 6b, and 6c*. This permit allows for the construction and operation of a reverse osmosis desalination system capable of producing up to 8,000 gallons of (potable) water per day (GPD). The production of 8,000 GPD will require an intake of 21,600 GPD of seawater and a discharge of 13,600 GPD of brine. The installed system shall not exceed these thresholds. Key features include, but are not limited to: two 4,000 GPD RO systems working in tandem; a 6-inch High Density Polyethylene (HDPE) intake line to be installed in a trench that stretches approximately 115 feet waterward of the Ordinary High Water Mark to minus 2 MLLW; a 15 gallon per minute (GPM) submersible pump (accessed from a well cap vault); the intake will be shielded with gravel and mesh; potable water will be generated and pumped to the applicants' existing storage tank; and discharge lines to pump discharge/brine into rough waters along Haro Strait at the discharge point described in the updated application materials, subject to modification to comply with requirements included in the DNR comment letter, primarily the requirement to place the diffuser discharge at minus 2 MLLW or deeper. (*Staff Report, pages 4 and 5; Ex. 6b, Updated Project Description on pages 18 and 19 of the updated biological assessment; Ex. 13, DNR Letter*). In the event the Washington Department of Natural Resources (DNR) issues a lease or modifies any lease for this project requiring longer linear pipe distances and deeper discharge/diffuser depths, the terms of such lease shall control and serve to modify these conditions of approval to match such terms.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR THE  
HONEYWELL REVERSE OSMOSIS DESALINATION  
SYSTEM ON SAN JUAN ISLAND –  
FILE NO. LANDUSE-19-0125

GARY N. MCLEAN  
HEARING EXAMINER  
FOR SAN JUAN COUNTY

1 2. Although erosion is not expected to occur during the construction process for this  
2 Project, adherence to the following best management practices to control runoff is a condition  
3 of approval. The following BMPs are required:

- 4 • BMP C120: Temporary and permanent seeding to control bare soil.
- 5 • BMP C121: Mulching: cover exposed soils with straw, bark, mulch etc.
- 6 • BMP C123: Plastic covering; cover soil stockpiles if unworked for a  
7 maximum of 7 days during dry weather period, May 1 – September 30, or for  
8 a maximum of 2 days during the wet period, October 1 – April 30.
- 9 • BMP C150: Erosion prevention and sediment control materials to be kept on  
10 site.
- 11 • BMP C230: Straw bale barrier.
- 12 • BMP C233: Silt fencing. Silt fencing shall be installed downslope of the  
13 location of the boring equipment as well as the vault installation per the BMP.
- 14 • Straw mulch shall be spread over disturbed areas to stabilize exposed soil and  
15 disturbed soils shall be restored.
- 16 • Disturbed areas shall be regraded to pre-project conditions and replanted with  
17 native shrubs and grasses as needed.
- 18 • Vegetation shall be allowed to grow over the trenches after installation is  
19 complete.

20 3. Staging for all equipment and materials shall be no less than 200 feet landward of the  
21 OHWM.

22 4. A barge shall hold all construction materials for work waterward of the OHWM.

23 5. Any barge used during any construction, installation or maintenance process  
24 associated with this project shall not ground except to off load and load equipment to be used  
25 on the beach.

26 6. Barge anchors shall not be placed in mapped eelgrass beds.

7. Contractor(s) engaged to perform work in connection with this project shall have a  
Spill Prevention Containment and Control Plan (SPCC). The plan shall address specific  
actions to prevent petroleum products from being discharged into surface waters. The  
Contractor shall also have oil absorbent materials on site to be used in the event of a petroleum  
product spill. If a spill occurs that causes fish or other wildlife obvious distress, project  
activity will immediately be halted and a WDFW Area Habitat biologist will be notified.

1 8. Biodegradable hydraulic fluid will be used in heavy equipment operating waterward  
of the OHWM.

2 9. Construction debris shall be collected in a 20 cubic yard container no less than 200  
3 feet landward of the OHWM.

4 10. Construction debris shall be hauled to an approved upland disposal site.

5 11. Equipment will be kept in good running order and engines shall be run only while  
6 needed to reduce noise and the possibility of deleterious materials entering the water column.

7 12. Excavation waterward of the OHWM shall be carried out by barge mounted backhoe  
8 or hand-held tools.

9 13. Trenching waterward of the OHWM shall take place "in the dry" during periods of  
low tide.

10 14. Trenches dug during the construction process must be backfilled as appropriate before  
11 they are inundated by the tide.

12 15. Installation activities shall take place at compatible tides during daylight hours to  
13 ensure that equipment does not ground out and installation is efficient.

14 16. Soil disturbed during the upland trenching shall be reseeded with native grass mix  
and mulch.

15 17. WDFW-approved in-water work windows shall be implemented and observed.

16 18. A copy of the San Juan County Inadvertent Discovery Plan shall be onsite during  
17 construction, *Exhibit 9*. The applicants must comply with the approved construction plan.

18 19. The project shall be consistent with and comply with the conditions of the Department  
19 of Fish and Wildlife Hydraulic Project Approval, the US Army Corps of Engineers permit,  
20 the Department of Natural Resources lease and the Department of Ecology Water Quality  
Certification.

21 20. The development must be consistent with the stamped approved project plans.

22 21. Disposal of any remaining excavated materials shall be at an approved upland site.  
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1 22. Installation shall take place in daylight hours and within WDFW approved in-water  
work windows.

2 23. The applicant shall obtain any associated permit, license, or approval required by any  
3 state, federal, or other regulatory body with jurisdiction over aspects of the project; any  
4 conditions of regulatory agency permits, licenses, approvals or leases shall be considered  
conditions of approval for this project.

5 24. The project shall comply with all applicable provisions of the Unified Development  
6 Code, found in Title 18 of the San Juan County Code.

7 25. Consistent with SJCC 18.80.110.G.5, construction or substantial progress toward  
8 construction of this project must be undertaken within two years after WDOE's date of  
9 filing. Substantial progress toward construction includes letting bids, making contracts,  
10 purchase of materials, utility installation and site preparation, but does not include use or  
11 development inconsistent with the SMP or the terms of permit approval. However, the two-  
year period does not include time when development could not proceed due to related  
administrative appeals or litigation, nor include time necessary to obtain other required  
permits for the project from state and federal agencies.

12 26. Consistent with SJCC 18.80.110.G.6, all development authorized by this shoreline  
13 permit shall be completed within five years of the WDOE date of filing or the permit shall  
14 become null and void. A permittee may request a time extension before the permit expires by  
15 making a written request to the Director, stating the reasons. The hearing examiner will  
16 review the permit, and upon a finding of good cause:

- 17 a. Extend the permit for a period not to exceed one year; or
- 18 b. Terminate the permit.

19 27. The applicant shall comply with all professional report conclusions and  
20 recommendations submitted in connection with this Shoreline Permit and associated  
21 approvals issued by the San Juan County for this project, as approved, referenced, relied-  
22 upon, and/or modified by the County. Without limitation, this incorporates all mitigation  
23 measures included in the SEPA MDNS issued for this project as conditions of approval for  
24 this permit.

25 28. Failure to comply with these Conditions of Approval shall be grounds for rescission  
26 of the Shoreline Permit. As provided in SJCC 18.80.110(L), captioned "Rescission of  
Shoreline Permits," any shoreline permit may be rescinded by the hearing examiner pursuant  
to RCW 90.58.140(8), upon the finding that the permittee has failed to comply with the terms

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and conditions thereof. In addition, if the permittee is denied any other permit or authorization required by a state or federal agency with jurisdiction over aspects of the Project, the underlying shoreline permit may be rescinded.

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**Effective Date, Appeals, 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/or SJCC 18.80.110.

Decisions of the Hearing Examiner are final and not subject to administrative appeal to the San Juan County Council, unless the County council has adopted, by ordinance, written procedures for the discretionary review of such decisions. See Section 4.50 of the San Juan County Home Rule Charter and 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 any 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 confer with advisors of their choosing, possibly including a private attorney.

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