

Linda Ann Kuller

From: Ken/Miki Brostrom <xnw@att.net>
Sent: Thursday, January 30, 2020 1:36 PM
To: Rick Hughes; Bill Watson; Jamie Stephens; Ingrid Gabriel; Lynda Guernsey; SMP
Comments; Erika Shook; Linda Ann Kuller; Colin Maycock
Subject: Comments on the SMP Periodic Update Ordinance

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am writing with concern regarding a proposed addition to San Juan County shoreline regulations. Specifically,

Draft Ordinance Section 9.1 (SJCC 18.50.550 Section H.1):

Temporary barge landing sites require a certificate of exemption but are exempt from a shoreline substantial development permit. These sites shall not exceed 12 landings in any 24-month period and must be operated in a manner that will result in no net loss of shoreline ecological functions. Existing nonconforming temporary barge landing sites do not require a certificate of exemption if the proposed use is consistent with the historic transport of cargo at the site and frequency of the historic use.

The added new language, underlined above, would constitute an “Exemption-Exemption” to an already-codified exemption process. Here are my questions and concerns:

1. Why is this necessary? Where is the justification? Who proposed it and why? Where is the oversight? Who keeps track of the number of landings? Who monitors the impact on shorelines? The rolling 24-month period would allow perpetual use of a given site. This appears to be a free-pass, as if the county is saying, Do whatever you want, we don't care.
2. How is the proposed new section consistent with the SMA/ECY mandate to protect shoreline natural resources against adverse environmental effects and preserve the natural character and aesthetics of the shoreline?
3. How is this consistent with the SMA/ECY mandate to limit use of tidelands and shorelands, to maximize and protect the public's right to access? Are these sites for use only by the adjacent upland landowner or are they available to others? Many – if not most – of these nonconforming sites are on publicly-owned tidelands. Has this preemption of public use been considered?
4. How is this consistent with the current San Juan County code? A permit exemption application currently under consideration by the Planning Department for use of a nonconforming barge landing site as a log transfer (barge) site has been determined by the Planning Department to be a “temporary use” even though San Juan County Code has specific permit requirements for log transfer sites and this site has never been used as a log transfer site. In addition, the site is on shorelines designated “Natural” and this

use would be prohibited under current county regulations. This new language and its creative interpretations would make proposals such as this even more problematic.

5. What is the process for determining an “Exemption-Exemption”? Or is there one? How would it differ from the process for an “Exemption”? Or will it just be up to the landowner to decide the site’s previous allowed use, type of use and frequency of use? Or up to the constant (and often adversarial) vigilance of neighbors?

6. Where in the code is there a list of the “existing nonconforming barge landing sites” and their “historic transport of cargo ... and frequency of the historic use.”? There is a 2004 Public Works list of 96 identified barge landing sites, but it is out-of-date, inaccurate, and lacks specific description and detail as to historic use and frequency. For the pending exemption application referenced above, the Planning Department is not using the 2004 inventory, but a list from 2002, which is even more incomplete, inaccurate and lacking in specificity.

7. Where is there a definition of “barge”? Is use of these nonconforming sites limited in type and size of barge to self-powered landing craft like the *Pintail*? 23-feet wide by 48-feet in length? Does it include non-powered barges like the *Heavyweight*? some 33-feet in width and 110 to 130-feet long, requiring a tugboat to maneuver and hold in place on the beach, and which I have seen used on nonconforming barge landing sites?

I am not a land-use attorney, nor a land-use planner. I am an interested and concerned citizen who has been involved in both SEPA and SMA since their inception in the early 1970’s. I have been a shoreland owner in San Juan County since 1973. I know that the original and primary purpose of SEPA and SMA (which seems to be largely forgotten over the past nearly 50 years) is to thoughtfully and thoroughly understand the environmental impacts of our land-use actions and to consider cumulative impacts of these actions.

Allowing “exemption-exemptions” to 96 – or more – already nonconforming shoreline barge landing sites throughout San Juan County without a finite list, without detail as to type and frequency of use, without thoughtful and thorough consideration of environmental impacts of individual sites and cumulative impacts of multiple sites is antithetical to the purpose and intent of both SEPA and the SMA.

Please withdraw this newly proposed “exemption-exemption” provision from this SMP Update until there is a discrete list of all “existing nonconforming temporary barge landing site” and a complete and detailed description for each site of the historic transport of cargo, type of cargo, and frequency of use.

And, please reconsider the use and purpose of shoreline “temporary uses” and “shoreline permit exemptions” to more clearly reflect their purpose, procedures and protections, and not simply codify artificial means of avoiding mandated and necessary regulations.

Respectfully submitted,

Miki Brostrom