

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant: East Sound Water Users Association
PO Box 115
Eastsound, WA 98245

File No.: PSJ000-12-0012

Request: Shoreline Substantial Development Permit

Parcel No: 271124010

Location: Nina Lane
Eastsound, Orcas Island

Summary of Proposal: Desalination facility

Shoreline Designation: Eastsound Residential

Hearing Date: January 9, 2013

Application Policies and Regulations: SJCC 18.50.350

Decision: Approved subject to conditions.

S.J.C. COMMUNITY
JAN 29 2013
DEVELOPMENT & PLANNING

1 **BEFORE THE HEARING EXAMINER FOR THE COUNTY**
2 **OF SAN JUAN**

3 Phil Olbrechts, Hearing Examiner

4 RE: Eastsound Water Users Association 5 Shoreline Substantial 6 Development Permit 7 (PSJ000-12-0012)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.
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8 **INTRODUCTION**

9 The Applicant has applied for approval of a shoreline substantial development permit
10 to construct a desalination facility. The proposal is approved subject to conditions.

11 **TESTIMONY**

12 Julie Thompson stated that the application is for a shoreline substantial development
13 permit to expand a desalination and river osmosis facility on the northside of Orcas
14 Island. The site is located in the service and light-industrial land-use district. The
15 Applicant needs to expand the capacity of the facility because the current facility is
16 close to being maxed out based on growth projections. The Department of Natural
17 Resources submitted guidelines for proceeding with the water development. Staff
18 recommends approval.

19 The Applicant noted that a new site plan was created in response to FAA comments,
20 and the new plan meets all setback requirements. He submitted a site plan map
21 (exhibit 12) which denotes the wetland buffers. The wetlands are categorized 1 by the
22 county, and 2 by the department of ecology. The wetland area that will be affected is
23 all homogenous, thus it is the least sensitive area. The wetland site below was
24 previously used for agriculture. The applicant has continued to mow the area to
25 control the scotch-broom. The planned construction area was never used for
26 agriculture. The Applicant has met with the FAA four times, and the most likely
27 mitigation measure will be a red-light on top of the new building. The building will be
28 visible from the shoreline. The site is along a shoreline president's channel with huge
29 tidal influences and moving volumes of water; therefore, there is plenty of flushing
30 ability at the site. The water discharge will be connected to the sewer treatment
31 discharge. The sewer flow is continuous (24/7). The two discharge volumes will be
32 approximately equal.

33 Kyle Loring, Friends of the San Juan, asked if the red light will be shining towards the
34 wetland.

1 The Applicant stated that the light will probably go around 360 degrees.
2

3 **EXHIBITS**
4

5 All documents are admitted as identified in "Exhibits for EWU Desal" attached to the
6 12/19/12 staff report for this application. In addition, the following exhibits were
7 admitted during the hearing:

8 Exhibit 11 11/20/12 letter from DNR

9 Exhibit 12 site plan
10

11 **FINDINGS OF FACT**

12 **Procedural:**

- 13 1. Applicant. The Applicant is the Eastsound Water Users Association.
14 2. Hearing. The Hearing Examiner conducted a hearing on the subject
15 application on January 9, 2012.

16 **Substantive:**

17 3. Site and Proposal Description. The Eastsound Water Users Association
18 (EWUA) is proposing to install a reverse osmosis desalination system on Orcas
19 Island, on the shoreline of President Channel at the northwest corner of the Port of
20 Orcas Airport in Eastsound. The plant will consist of a single story metal equipment
21 building of about 1000 square feet that will house reverse osmosis treatment
22 equipment and control panels. The building will be approximately 14 feet above the
23 existing grade at its highest point and will have a shed-style roof with earth tone
24 coloring that blends in with the project site. There will also be an underground
25 seawater intake pump station of approximately 100 square feet and an underground
filter flush tank approximately 190 square feet constructed adjacent to and on the
north side of the equipment building. Installation of the intake and discharge pipes
for the plant will be by horizontal boring which will require only a small amount of
excavation in the shoreline and no excavation below the ordinary high water mark.

When fully operational, the plant will treat approximately 433,000 gallons of salt
water per day, discharging approximately 288,000 gallons of brine effluent per day.
The brine effluent will be discharged via an upsized discharge line from the
Eastsound Sewer and Water District treatment plant. The existing sewer district's
effluent discharge line is located immediately to the east of the water treatment plant

1 site. The sewer district is in the process of obtaining approvals for a larger discharge
2 line which would accommodate the brine effluent flows from the proposed water
treatment plant.

3 The subject parcel is 1.25 acres in size, is undeveloped and is relatively flat and
4 vegetated with shrubs and grasses. If the proposal is approved, the water treatment
5 plant building will be located 100 feet south and landward of the ordinary high water
6 mark and 10 feet east of the west property line. There is a Category I wetland buffer
covering a large part of the property. There are no existing paths, trails, docks or
beach access structures on the site.

7 Part of the proposal involves a request to reduce the required 150 foot buffer of the
8 Category I wetland to 75 feet for placement of the 1,000 square foot equipment
9 building. The wetland buffer takes up the southern portion of the site and the
10 remaining northern portion of the site is within 100 feet of the ordinary high water
11 mark ("OHWM"). The rationale for placing the equipment shed within the wetland
12 buffer appears to be at least based in part upon the belief by the Applicant that
13 shoreline regulations prohibit the placement of desalination facilities within 100 feet
14 of the shoreline. This assertion was made in the environmental checklist and
15 confirmed by the Applicant at hearing. There actually does not appear to be any such
16 restriction for desalination facilities. Shoreline regulations prohibit the construction
17 of commercial structures within 100 feet of the OHWM in the Rural, Conservancy
18 and Shaw Conservancy shorelines, see SJCC 18.50.220(B), but there do not appear to
19 be any regulations that impose this setback requirement for utility structures within
20 the Eastsound Residential shoreline designation.

21 4. Characteristics of the Area. The parcels to the west are developed for
22 single-family residential use. The Eastsound Airport occupies the parcel to the east.
23 The Strait of Georgia is to the north. The property to the south is undeveloped and is
24 mostly wetland.

25 5. Adverse Impacts of Proposed Use. The proposed project will have no
significant adverse impacts. The effluent from the plant will be at saline
concentrations that are less than that of seawater, since it will be combined with the
effluent of the sewage treatment plant at volumes of approximately 1:1. However,
the Applicant's project narrative, Ex. 4, contains a contingency that if unforeseen
problems prevent the connection to the sewage effluent line that a separate effluent
line will be constructed to discharge effluent directly into President Channel. The
impacts of discharging such large volumes of high concentration salt water into the
channel have not been addressed. However, SJCC 18.50.350(B)(7) provides that
desalination effluent will not be considered harmful to water quality or aquatic life if
all state and federal regulations are met. Staff have determined that federal and state
requirements will be met and compliance will further be made a condition of
approval. As conditioned and legislatively decreed, the proposal will not create any
adverse impacts to shoreline resources if the effluent is directly discharged to

1 President Channel instead of first connecting to the effluent line of the sewage
treatment plant.

2 Soiled water filters will be taken off-site for cleaning by a professional filter cleaning
3 business. The only visible part of the structure will be a 1,000 square foot metal
4 building with a maximum height of fourteen feet. FAA regulations will mitigate any
5 impacts of the structure to the adjoining airport. The Applicant has submitted notice
6 to the FAA of its construction plans and is determining what is required for
compliance, which appears to be the placement of a navigation light on top of the
1,000 square foot equipment building.

7 Placement of the equipment shed in the wetland buffer will not create any significant
8 adverse impacts. The site of the proposed equipment building is currently mowed
9 grass and other portions of the wetland buffer are severely degraded by past
10 agricultural practices and the proliferation of scotch broom, which is not native
11 vegetation. Wetland impacts created by the proposal are mitigated by the creation of
12 a buffer enhancement zone located between the wetland edge and gravel road on the
parcel, as depicted in detailed in the wetland report, Ex. 5. Removal of scotch broom
is also recommended in the report and the report also contains a three year monitoring
program. The recommendations of the wetland report will be made a condition of
approval.

13 The wetland report, Ex. 5, asserts that buffer averaging is not practical for the
14 proposal given the shape of the parcel and the existing buffer alterations. From the
15 aerial photograph supplied in the report, it is unclear why enlarging the buffer on its
16 eastern half would be "impractical". Given the absence of vegetation along the
17 eastern half it does appear that there would be no benefit to such an expansion. At
any rate, since the Applicant was not questioned about this issue during the hearing
and staff have concurred with the wetland analysis it is determined that buffer
averaging is not possible due to site constraints.

18 19 **CONCLUSIONS OF LAW**

20 **Procedural:**

21 1. Authority of Hearing Examiner. The Hearing Examiner issues final
22 decisions on shoreline substantial development permit applications after holding a
public hearing. SJCC 18.80.110(E) and SJCC 18.80.020.

23 **Substantive:**

24 2. Shoreline Designation. Eastsound Residential. The shoreline also
25 qualifies as a shoreline of statewide significance under the Shoreline Management
Act, Chapter 90.58 RCW.

1 3. Permit Review Criteria. The costs of the development presumably exceed
2 those of the exemption levels set in WAC 173-27-040(2)(a) so the project must
3 acquire a shoreline substantial development permit. SJCC 18.50.350(C)(7) authorizes
4 desalination facilities in Eastsound Residential shorelines. SJCC 18.80.110(H)
5 establishes the criteria for approval of shoreline substantial development permits.
6 The criteria include the policies of the Shoreline Management Act (Chapter 90.58
7 RCW), the policies and use regulations of the San Juan County Shoreline Master
8 Program, and the requirements of the San Juan Municipal Code and Comprehensive
9 Plan. The applicable policies and regulations are quoted in italics below and applied
10 through conclusions of law.

11 **RCW 90.58.020 Use Preferences**

12 *This policy (Shoreline Management Act policy) is designed to insure the development
13 of these shorelines (of the state) in a manner which, while allowing for limited
14 reduction of rights of the public in the navigable waters, will promote and enhance
15 the public interest. This policy contemplates protecting against adverse effects to the
16 public health, the land and its vegetation and wildlife, and the waters of the state and
17 their aquatic life, while protecting generally public rights of navigation and corollary
18 rights incidental thereto.*

19 4. As discussed in the findings of fact, the project will have no appreciable
20 adverse impacts and will provide needed urban services to the Eastsound community.

21 **RCW 90.58.020(1)**

22 *Recognize and protect the statewide interest over local interest;*

23 5. The project has been found to have no significant adverse impacts and as
24 such the statewide interest in the preservation of the shoreline and surrounding
25 habitats is protected, in addition to the local interest of providing usable potable
water.

RCW 90.58.020(2)

Preserve the natural character of the shoreline;

6. There will be no discernable impact on natural character. The project will
not be visible from the shoreline except for the equipment building.

RCW 90.58.020(3)

Result in long term over short term benefit;

7. The project will provide needed urban services to the Eastsound
community with no corresponding adverse impacts. Given these circumstances, the
project results in long term over short term benefit.

1 **RCW 90.58.020(4)**

2 *Protect the resources and ecology of the shoreline;*

3 8. There are no adverse environmental impacts to the shoreline associated
4 with this project.

5 **RCW 90.58.020(5)**

6 *Increase public access to publicly owned areas of the shorelines;*

7 9. The project does not pertain to a publicly owned area of the shoreline.

8 **RCW 90.58.020(6)**

9 *Increase recreational opportunities for the public in the shoreline;*

10 10. This project will have no impact on recreational opportunities for the
11 public in the shoreline since the only above ground structure will be a 1,000 square
12 foot equipment building located 100 feet from the OHWM.

13 **San Juan County Code Regulations**

14 **SJCC 18.50.350(A)(1):** *In shoreline areas, utility transmission lines, pipelines, and
15 cables must be placed underground unless demonstrated to be infeasible. Further,
16 such lines must utilize existing rights-of-way whenever possible. Proposals for new
17 corridors in shoreline areas involving water crossings must fully substantiate the
18 infeasibility of existing routes.*

19 11. The intake and outtake pipes will be underground.

20 **SJCC 18.50.350(A)(2):** *Utility development must, through coordination with
21 government agencies, provide for compatible multiple use of sites and rights-of-way.
22 Such uses include shoreline access points, trails, and other forms of recreation and
23 transportation systems, providing such uses will not unduly interfere with utility
24 operations or endanger public health and safety.*

25 12. Since this is a private project, public access and use of the subject property
cannot be constitutionally required unless necessary to mitigate project impacts.
There are no impacts that require this type of mitigation for this proposal. However,
the proposal will provide water services to numerous residents and the site is
strategically located to connect into nearby conveyance lines and the sewage
treatment plant effluent line.

SJCC 18.50.350(A)(3): *Sites disturbed for utility installation must be stabilized
during and following construction to avoid adverse impacts from erosion.*

13. As conditioned.

1 **SJCC 18.50.350(A)(4):** *Immediately following the completion of utilities installation*
2 *or maintenance projects on shorelines, disturbed areas must be restored to project*
3 *configurations, replanted with local vegetation, and the vegetation maintained until it*
4 *is firmly established.*

5 14. As proposed and as conditioned.

6 **SJCC 18.50.350(A)(5):** *Utility lines, pipes, stations, plants, and other apparatus*
7 *shall not be installed in shoreline areas unless there is no feasible alternative.*

8 15. There is no feasible alternative – the project is dependent upon acquisition
9 of seawater.

10 **SJCC 18.50.350(A)(6):** *Utility lines shall be installed underground. Desalination*
11 *intake and discharge lines shall be located underground wherever feasible, except for*
12 *that portion located underneath or along any docks, piers, walkways, stairs, or other*
13 *shoreline improvements located on the site.*

14 16. As proposed.

15 **SJCC 18.50.350(A)(8):** *Where installation of utility lines, pipes, or other apparatus*
16 *in shoreline areas is approved, clearing shall be confined to that which is absolutely*
17 *necessary to permit the installation and to prevent interference by vegetation once the*
18 *system is in operation.*

19 17. As conditioned.

20 **SJCC 18.50.350(9):** *Where utility lines, pipes, or other apparatus must cross*
21 *shoreline areas, they shall do so by the route which will cause the least damage to the*
22 *shoreline, both physically and visually.*

23 18. The pipes will cause inconsequential damage to the shoreline and the route
24 appears to be the least damaging, since it is directed away from the wetland and runs
25 through an area largely devoid of any vegetation. Since the pipes will largely be
underground, there are no significant visual impacts associated with the proposal.

SJCC 18.50.350(A)(10): *Drainage and surface runoff from utility installation areas*
shall be controlled so that pollutants will not be carried into water bodies.

19. As conditioned. As discussed by the Applicant in its letter to the
Washington State Department of Ecology, the Applicant will be using an on-site
infiltration system to eliminate direct discharge to surface waters.

SJCC 18.50.350(A)(11): *Applications for outfalls and underwater pipelines that*
transport substances harmful or potentially harmful to aquatic life or water quality

1 shall not be approved unless the applicant has demonstrated that no significant
2 adverse impacts will result. Desalination and reverse osmosis brine discharge is not
3 considered to be potentially harmful to aquatic life or water quality provided all
4 required state and federal requirements are met.

5 20. The project is for desalination and is conditioned on meeting all required
6 state and federal requirements.

7 **SJCC 18.50.350(B)(1):** *Desalination lines must be located along existing paths,*
8 *trails, or connected to existing docks and beach access structures wherever feasible.*

9 21. There are no existing paths, trails, docks or beach access structures on the
10 site.

11 **SJCC 18.50.350(B)(2):** *Desalination and reverse osmosis systems on shorelines that*
12 *are known or demonstrated to be eroding bluffs, unstable bluffs, eroding beaches, or*
13 *exposed cliffs, will require design and engineering which will assure that no*
14 *significant visual or environmental impacts will be created and that effects on the*
15 *natural shoreline conditions will be minimized.*

16 22. There is no bluff or eroding beach on the site.

17 **SJCC 18.50.350(B)(3):** *All desalination and reverse osmosis production equipment*
18 *and necessary pumping equipment, utility connections, and pipelines must be located*
19 *and designed to blend in with the natural surroundings to the extent feasible to*
20 *reduce visual impacts. Existing vegetation and terrain features must be used*
21 *whenever possible for screening.*

22 23. The only above-ground structure will be the 1,000 square foot equipment
23 building, which is proposed to have earth tone coloring that will blend in with the
24 site.

25 **SJCC 18.50.350(B)(4):** *Desalination and reverse osmosis facilities must not*
impede public access to public tidelands or materially interfere with normal public
use of public waters.

26 24. There is no public access over the project site.

27 **SJCC 18.50.350(B)(5):** *Desalination and reverse osmosis systems will not be*
28 *allowed for the purposes of providing the primary water supply within new*
29 *subdivisions and short subdivisions. Such facilities may be allowed for the purpose of*
30 *supplying water for an established community water system.*

31 25. The proposal will contribute water to an existing water system that already
32 has substantial surface and groundwater rights to serve its customers.

1 **SJCC 18.50.350(B)(6):** *Desalination intake and discharge lines shall be located*
2 *underground wherever feasible, except for that portion located underneath or along*
3 *any docks, piers, walkways, stairs, or other shoreline improvements located on the*
4 *site.*

4 26. The intake and discharge lines will be underground.

5 **SJCC 18.50.350(B)(7):** *Desalination and reverse osmosis brine discharge is not*
6 *considered to be potentially harmful to aquatic life or water quality provided all*
7 *required state and federal requirements are met.*

7 27. The staff report notes that all applicable regulations are satisfied and there
8 is no evidence to the contrary. The project will also be conditioned to satisfy all
9 applicable regulations.

10 **SJCC 18.50.350(B)(8):** *All desalination and reverse osmosis installations shall*
11 *comply with the following regulations:*

11 a. *The intake and discharge lines must be trenched, run, or located together except*
12 *where necessary to provide adequate separation between intake and discharged*
13 *water.*

14 b. *The intake and discharge lines must be engineered so as to not materially interfere*
15 *with normal public use of public tidelands or navigation. The intake point shall not*
16 *float on the surface.*

16 c. *Intake and discharge lines must not be placed through or over any known or*
17 *discovered archaeological resources, unless the location is approved by the*
18 *Washington Office of Archaeology and Historic Preservation.*

18 d. *The use of existing wells with salt water contamination or intrusion as the intake*
19 *source for desalination or reverse osmosis systems is prohibited unless specifically*
20 *authorized by the County department of health and community services.*

21 e. *The use of pre-filtration beach wells located landward of the line of mean lower*
22 *low water is allowed provided all state and federal requirements are met.*

22 28. All the requirements above are met. The intake and discharge lines will
23 necessarily be separated since the discharge line will run to the effluent line of the
24 sewage treatment plant. The intake line will be buried and will not interfere with
25 navigation. According to the staff report there are no known archaeological resources
on site. No pre-filtration beach wells are proposed.

1 **SJCC 18.50.080:** *When located in an environmentally sensitive area overlay district*
2 *or its buffer, shoreline uses and activities must be located, designed, constructed, and*
3 *managed in accordance with the applicable requirements of SJCC 18.30.110 through*
4 *18.30.160, environmentally sensitive areas.*

5 29. Since the proposal encroaches into the buffer of a regulated wetland, it
6 will be subject to applicable regulations of Chapter 18.30 SJCC as detailed below.

7 **SJCC 18.30.150(E)(3):** *Buffer Width – Decreasing. Decreasing of required buffer*
8 *widths will be allowed only if the applicant demonstrates that all of the following*
9 *criteria are met:*

10 *a. Buffer width averaging pursuant to subsection (E)(2) of this section is*
11 *not possible due to site characteristics;*

12 *b. A decrease is necessary to accomplish the purposes of the proposal and*
13 *no reasonable alternative is available;*

14 *c. The wetland contains variations in sensitivity due to existing physical*
15 *characteristics, and reduction from standard buffer widths will occur only adjacent to*
16 *the area of the wetland determined to be the least sensitive;*

17 *d. Decreasing width will not adversely affect the wetland functional*
18 *values:*

19 *e. In no instance will the buffer width be reduced by more than 50 percent*
20 *of the standard buffer width; and*

21 *f. If a portion of a buffer is to be reduced, the remaining buffer area will*
22 *be enhanced, using native vegetation and fencing where appropriate to improve the*
23 *functional attributes of the buffer and to provide additional protection for wetland*
24 *functions and values. A proposal to enhance a buffer shall not be used as justification*
25 *to reduce an otherwise functional standard buffer width, unless such buffer reduction*
complies with all other criteria for reducing buffer widths.

30. All criteria are very marginally met. Most troubling is a compelling explanation as to why the equipment shed cannot be simply constructed north of the wetland buffer. As discussed in the findings of fact, there does not appear to be any regulation that prohibits the construction of the equipment shed within 100 feet of the OHWM, so there is sufficient space to construct a shed in that area and any amount of buffer averaging, no matter how minor, would provide additional room for its location. However, since the issue was not raised during hearing and staff concurs with the expert opinion of the Applicant's wetland consultant, the Examiner will defer to the staff finding that buffer averaging is not possible due to site characteristics. For the same reasons it is determined that there is no reasonable alternative¹ on the property

¹ The staff report and the wetland consultant both look to other lots for assessment of alternative locations and least adverse locations. This probably is not a correct interpretation of the ordinance. Allowances for reduction in wetland buffers are usually afforded in order to assure that a property owner is left with reasonable use of their property in order to avoid a constitutional takings. Takings are not remedied by the availability of other lots for development. Consequently, an assessment of

1 for the equipment shed. The area for the proposed equipment building is regularly
2 mowed and across the street from the wetland, such that it cannot be any less sensitive
3 except by being located further from the wetland. The wetland report concludes that
4 wetland functions will not be adversely affected because they already are significantly
5 impaired by the street that bisects the subject parcel, the mowing of the site and
6 agricultural practices that have occurred in other parts of the wetland. The buffer
7 width will be reduced by 50% from 150 feet to 75 feet. The wetland report contains
8 recommends a significant amount of buffer enhancement that will be required in the
9 conditions of approval of this decision.

6 DECISION

7 The proposed project, as depicted in the application materials (Ex. 4) is consistent with
8 all the criteria for a shoreline substantial development permit. The proposal is
9 approved subject to the following conditions:

- 10 1. The Enhancement Planting Plan and Recommended Implementation Schedule
11 and Watering Regime as presented in the September 3, 2012 "Wetland Buffer
12 Reduction Rationales and Buffer Enhancement for EWUA's Desalinization
13 facility property (Tax Parcel No. 271124010000) off of Nina Lane, Eastsound,
14 WA" prepared by Rozewood Environmental Services, Inc. shall be followed.
15 Any proposed changes to the written plan shall be approved by this
16 Department prior to being implemented.
- 17 2. Immediately following the completion of utilities installation or maintenance
18 projects on shorelines, disturbed areas must be restored to project
19 configurations, replanted with local vegetation, and the vegetation maintained
20 until it is firmly established.
- 21 3. Upon completion of the project the Applicant shall schedule an inspection with
22 staff for purposes of verifying compliance with this decision and applicable
23 regulations.
- 24 4. Typical stormwater runoff control measures will be implemented during
25 construction as approved by staff, including straw wattles, seeding and
mulching as needed.

alternative development and the least adverse location must be assessed within the boundaries of the property subject to the buffer reduction request.

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5. Immediately following the completion of pipe installation, disturbed areas must be restored to pre-project conditions and any removed vegetation (excluding macro algae) must be replanted and maintained until it is firmly established.
 6. All required state and federal requirements pertaining to desalination shall be met by the project.
 7. If not done so already, submit a 7460-1 Notice of Proposed Construction or Alteration to the Federal Aviation Administration. If potential adverse impacts are identified, they shall be mitigated.
 8. 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 master program or the terms of permit approval. However, the two-year period shall not include time during which development could not proceed due to reasonable related administrative appears or litigation, nor include time necessary to obtain other required permits for the project from state and federal agencies. The hearing examiner may, with discretion, extend the two-year time period for a reasonable time.
 9. Unless specified otherwise in permit conditions, all development authorized by a shoreline permit shall be completed within five years of the date of permit approval or the permit shall become null and void. A permittee may request a time extension before the permit expires by making a written request to the administrator, stating the reasons. The hearing examiner will review the permit, and upon a finding of good cause:
 - a. Extend the permit for one year; or
 - b. Terminate the permit.
 10. Sites disturbed for utility installation must be stabilized during and following construction to avoid adverse impacts from erosion.
 11. Where installation of utility lines, pipes, or other apparatus in shoreline areas is approved, clearing shall be confined to that which is absolutely necessary to permit the installation and to prevent interference by vegetation once the system is in operation.
 12. Drainage and surface runoff from utility installation areas shall be controlled so that pollutants will not be carried into water bodies.

Dated this 24th day of January 2013.


Phil Olbrechts
County of San Juan Hearing Examiner

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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 requirement 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.