

## NOTICE OF DECISION

### BEFORE THE SKAGIT COUNTY HEARING EXAMINER

**Applicant:** Washington State Department of Transportation (WSDOT)  
c/o Liz Kriewald/Alan Soicher  
15700 Dayton Avenue North  
PO Box 330310, MS 138  
Seattle, WA 98133-9710

**Request/File No:** Shoreline Substantial Development/ Conditional Use Permit,  
PL09-0116

**Location:** East of Highway 530 on shore of Sauk River between mileposts  
55.5 and 56, within Secs 17 & 20, T33N, R10E, W.M.

**Shoreline Designation:** Conservancy

**Summary of Proposal:** Placement of rock and log groynes for shoreline stabilization.

**SEPA Compliance:** WSDOT issued Determination of Non-Significance (DNS) on  
July 7, 2007; Addendum on December 22, 2008. No appeals.

**Public Hearing:** May 26, 2010. No public testimony. Planning and Development  
Services (Staff) recommended approval.

**Decision:** Approval, subject to conditions

**Appeal/Reconsideration:** A Request for Reconsideration may be filed with PDS within 5  
days of this decision. The Decision may be appealed to the Board  
of County Commissioners by filing an Appeal with PDS within  
5 days of the date of the decision, or decision on reconsideration,  
if applicable.

**Online Text:** The entire decision can be viewed at:  
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

## **FINDINGS OF FACT**

1. The Washington State Department of Transportation (WSDOT) seeks a Shoreline Substantial Development Permit for shoreline stabilization work on the banks of the Sauk River.
2. The request was for an after-the-fact permit relating to work carried out late 2007 and early 2008. This request was supplemented during the instant permit processing to encompass additional work of a similar nature at the same location.
3. The initial shoreline protection was undertaken under an emergency shoreline exemption in response to an imminent threat to State Route 530 from rapid bank erosion. Adequate evidence was presented to substantiate the threat to the highway from high water and erosion. A Hydraulic Project Approval was obtained from the State Department of Fish and Wildlife.
4. The project location is east of Highway 530 on the shore of the Sauk River between mileposts 55.5 and 56, near the confluence of the Sauk and Suiattle Rivers. The area is within Secs 17 and 20, T33N, R10E, W.M. The Shoreline environment designation of the stream reach is Conservancy.
5. The initial project consisted of the placement of 12 groynes comprised of angular rocks and embedded logs, beginning in October of 2007. The groynes were buried in the streambank, with some extending into the stream channel about 10 feet. Native soil was placed over the top of the rock groynes and riparian forest vegetation was replanted with native species.
6. On December 3, 2007, a large storm event resulted in high water flows that exposed six of the shortest buried groynes and eroded the shore between the groynes to the edge of the road prism. The response was a repair effort that extended the shortest groynes by five to twenty feet using large rocks to increase their effectiveness as flow deflector structures. In addition, the eroded areas between the groynes were reinforced with ballast rock matrices composed of rocks and logs. Again riparian vegetation disturbed by construction was restored.
7. Now, WSDOT seeks to add more large woody debris between three of the groynes and has presented appropriate engineering drawings showing the additional work.
8. The shoreline of the Sauk River is primarily commercial and private forest land. Some single family residential development and recreational cabins are located inland and south of the project.
9. Notice of this application was posted, published and, mailed as required by law in April of 2009. No comment letters were received.
10. A Determination of Non-Significance (DNS) for the project was issued by WSDOT on July 7, 2007 for the work that commenced in October of 2007. An addendum to the DNS

covering modifications to the project was issued on December 22, 2008. There were no appeals of the SEPA threshold determination.

11. WSDOT prepared an Emergency Site and Reach Assessment in July of 2007, and a Fish and Wildlife Site Assessment, dated August 23, 2007. The County Staff deemed the proposal to be in compliance with the Critical Areas regulations based on the Site Assessment.

12. In the current permit process, consulted County departments had no concerns. Public Works commented that compliance with SCC 14.32.060 (erosion and sediment controls) is necessary.

13. The project was designed by WSDOT engineers using recognized geohydraulic principles to minimize upstream and downstream impacts. The intent of the design was to slow the water speed along the western shore of the river to protect SR 530 by controlling erosion. It is recognized that the project may potentially result in increased erosion along the east bank of the Sauk river down stream of the confluence with the Suiattle River.

14. By using woody debris within the groynes, replacing soil and replanting the upland native vegetation, WSDOT has made an effort to minimize impacts on habitat and aesthetic values. Overall, the possible impacts have been balanced against the need to protect public roads.

15. The repair and maintenance of existing highway transportation facilities within shorelines is consistent with the health, safety and general welfare of the public and with the policies of the Shoreline Management Act.

16. The project has had no adverse impacts on public access to shorelines. The use of a public boat launch located 1/4 mile downstream has not been affected.

17. Other uses in the area, including shoreline protection structures upstream and downstream of the project site, have not been impacted.

18. The embankment protection structures have caused no unreasonable adverse effects to the shoreline environment. Erosion has been arrested. Within one season after the construction, more woody debris had accumulated and sandy beaches had formed in the hydraulic shadow, providing habitat complexity for aquatic species.

19. Societal benefits accrue from maintaining a vital transportation corridor between the City of Darrington and the SR20 corridor. This proactive project likely avoided the need for later emergency fixes involving larger rock revetments and significant disruption of transportation.

20. To date the stabilization work has held up well. However, installing additional large woody debris between three pairs of existing groynes, as proposed, should improve the function of the project. WSDOT reports that the situation at the site is close to stabilization.

21. The groynes and logs installed must be viewed as new permanent protective structures for the purposes of permitting. In circumstances here, nonstructural means of stabilization are not feasible.

22. WSDOT will continue to monitor this site to determine whether the project will succeed over the long haul or whether the road will ultimately need to be relocated.

23. There were no public comments on the application and there was no public testimony at the hearing.

24. Staff review determined that the completed stream stabilization activities and the proposed additional installation of large woody debris are consistent with the policies and regulations of the local Shoreline Master Program (SMP). The Examiner concurs and adopts the Staff's analysis. The Staff Report is by this reference incorporated herein as though fully set forth.

25. Any conclusion herein which may be deemed a finding is hereby adopted as such.

## **CONCLUSIONS OF LAW**

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding. SMP 8.07.

2. When new permanent protective structures are installed under an emergency shoreline exemption, the permits that would have been required absent the emergency must eventually be obtained. WAC 173-27-040(d).

3. The project involved here is a "substantial development" as defined by the Shoreline Management Act. Therefore, a Shoreline Substantial Development Permit is required. RCW 90.58.140.

4. The Staff reviewed this project under the SMP policies and regulations for "Shoreline Defense Works, Chapter 7.15, Shoreline Stabilization and Flood Protection, Chapter 7.16, and Transportation, Chapter 7.17. Apparently because the project involves some minor channel direction modification, Staff review included evaluation under the shoreline conditional use criteria. See SMP 7.16(2)((A)(4)(c).

5. The project, as conditioned, is consistent with the policies of the Shoreline Management Act, the provisions of the local master program and the regulations adopted by the

Department of Ecology. Accordingly, the criteria for approval of a Shoreline Substantial Development Permit are met. SMP 9.02(1).

6. The project, as conditioned, does not interfere with the normal public use of public shorelines, is compatible with other permitted uses in the area, will have no unreasonable adverse effects to the shoreline designation involved, and will not be detrimental to the public interest. Thus, the criteria for approval of a Shoreline Conditional Use Permit are met. SMP 11.03(1).

7. Any findings herein which may be deemed conclusions are hereby adopted as such.

### **CONDITIONS**

1. The applicant shall conduct ongoing maintenance and evaluation of the project in order to insure that its stabilization purposes are being met.

2. For new construction, the following shall apply:

- a. Temporary erosion and sedimentation control measure shall be used in accordance with Chapter 14.32 SCC (Drainage).
- b. The applicant shall comply with all applicable State and local regulations, including but not limited to, Chapter 173-201A WAC (water quality), Chapter 173-200 WAC (groundwater), Chapter 14.24 SCC (critical areas), Chapter 14.16 SCC (zoning).
- c. Aesthetic impacts shall be minimized.

3. New construction shall adhere to the project information submitted. If the applicant proposes any modification, he/she shall request a permit revision from the Department of Planning and Development Services.

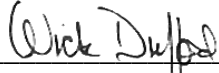
4. Construction on newly permitted work shall commence within two years of the final approval of the subject permits, and shall be completed within five years thereof.

5. Failure to comply with any permit conditions may result in permit revocation.

## DECISION

The requested Shoreline Substantial Development/Conditional Use Permit is approved, including the installation of additional large woody debris as proposed. The approval is subject to the conditions set forth above.

**DONE** this 16<sup>th</sup> day of June, 2010

  
\_\_\_\_\_  
Wick Dufford, Hearing Examiner

Transmitted to Applicant on June 16th, 2010.

See page 1, Notice of Decision, for Reconsideration and Appeal information.