SHORELINE MANAGEMENT

Symposium Proceedings

Everett, Washington

December 13-14, 1991

Barbara Null, Editor

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Support for this workshop and publication of the Proceedings was provided in part by grant number NA89AA-D-S6022, project A/FP-7 (Marine Advisory Services), from the National Oceanic and Atmospheric Administration to the Washington Sea Grant Program. Additional funding was provided by a grant to Washington Department of Ecology from the National Oceanic and Atmospheric Administration and appropriated for Section 306 of the Coastal Zone Management Act of 1972.

KEYWORDS
1.Estuary 2.Harbors 3.Public Trust Doctrine 4. Riverfront 5. Shoreline Master Program 6. Urban waterfront 7. Water-dependent use 8. Proceedings

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WSG-WO 92-01
April 1992 $5

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Preface

Twenty years ago, some far-seeing citizens of Washington drafted an initiative to protect and manage the State's shorelines. Initiative 43 and a legislatively drafted alternative, Initiative 43, were placed on the ballot. Washington's voters affirmed the need for statewide shorelines management and chose the Legislature's alternative to achieve it. The public spirited efforts of those citizens, the responsiveness of their Legislature, and the leadership of their governor resulted in one of the nation's pioneering shoreline management programs.

Twenty years later, on December 13 and 14, 1991, more than 200 Washingtonians gathered at a symposium in Everett to celebrate two decades of shoreline management in their state, and to honor some of those responsible for the passage and implementation of the state's Shoreline Management Act of 1971. Participants in the Shorelines Management Symposium had the opportunity to learn about and assess what had been achieved under the Shoreline Management Act. They also looked ahead to the challenges the state's shoreline managers will face over the next 20 years, and considered whether or not the 20-year-old Shoreline Management Act was sufficient to meet them.

On the following pages are some of the stories, ideas, and observations which symposium participants heard during one and a half days of plenary and break-out sessions. Not all the speakers' comments are included, since many spoke from outline notes, or straight from the heart. None who attended will soon forget former Governor Dan Evans' warm personal recollections of those pivotal days in Olympia when shoreline management was, as yet, an unrealized hope; nor Justice James Dolliver's closing oration, peppered as it was with thoughtful advice for those who would lobby for environmental legislation. These special moments are missing from the record. And that is perhaps as it should be: the words of those two special guests were spoken for the ears (and hearts) of the symposium participants, rather than the eyes of some detached future reader.

The Shoreline Management Symposium is not finished. The appendix to these proceedings contains the record of four concurrent workshops which were designed to critique the experience of the past 20 years and suggest what will be necessary for the next 20. No attempt has been made to edit these materials, except to move them under a more fitting general topic if they appeared to be out of context. To ensure accuracy, the editors carefully compared the written record with tape recordings made at the workshops. Here are to be found the raw materials for future debate over shoreline management in Washington state. There is praise for communities whose shorelines are well-managed, and exhortations to others where improvements could be made; there are some specific as well as very general suggestions for improving the efficacy of shorelines management; and, inevitably, a wide range of views are recorded on what should be the respective roles and relative powers of state and local units of government to manage our shores.

The views presented are those of the participants, and not necessarily those of the symposium sponsors. Whether these proceedings become grist for some future legislation, or simply the record of a set of stimulating presentations and some profoundly moving speeches, is a decision which is left to the symposium participants and the organizations which represent them.

Robert F. Goodwin
Washington Sea Grant
Marine Advisory Services

James W. Scott
Washington State Department of Ecology
Shorelands & Coastal Zone Management

Opening Remarks

Celebrating 20 years of Washington's Shoreline Management Act

by Christine Gregoire
Director Washington Department of Ecology

Welcome

Today we are here to celebrate 20 years of state shoreline management. With passage of the Shoreline Management Act in 1971, which was sanctioned by the voters in 1972, the newly created Washington Department of Ecology became the lead state agency for developing a program to manage the state's shores.

The shoreline management program, however, is unusual - it is a state/local partnership, giving each county and city the lead for issuing shoreline development permits. It is unusual because development permits are guided by locally prepared master programs, which, because they are adopted by the Department of Ecology, have the power of state law. This unique partnership placed the state of Washington at the cutting edge nationally in managing shoreline resources. Now 20 years later, Washington is still recognized as a leader in shoreline management.

Purpose of the Symposium

Today our purpose is twofold - we want to recognize those people instrumental in making the state of Washington a leader in shoreline management. We will do that this evening at the banquet which starts at 7 p.m. Before we begin the accolades, however, we want to begin a dialogue about shoreline management. We want to look at the last 20 years, examine how well this state/local partnership has worked; and, tomorrow, look at how well we are set for the next 20 years.

Shoreline Management Act

The Shoreline Management Act (SMA) is a unique piece of legislation. Imagine what controversy you would stir if you went to the members of the public and told them you were not only going to regulate their land use, but, whenever they proposed to develop their property, you were going to give their neighbors, in fact anyone, the right to review their plans and file an appeal with a state quasi-

judicial board (Shorelines Hearings Board)? Moreover a state agency was going to oversee the whole process.

The SMA, as created and approved by the voters, is a model of a local/state partnership for land use regulation. Many of its novel concepts have been incorporated in subsequent legislation, not only in this state, but in other parts of the country as well.

The SMA provided such a strong base for managing shoreline resources that Washington was able to use it as the foundation for establishing the first federally approved Coastal Zone Management Program (adopted in 1976) under the Coastal Zone Management Act of 1972.

Pondering the future

Given that brief overview, there are some questions you should ponder as we proceed through these next two days:

How well has this Act served the people of Washington over the past 20 years?

Have we obtained significant protection of our shoreline resources?

Have we secured the public interest in our waters and shoreline areas?

Have we lessened the threat of incompatible development along the shore?

Are there other less obvious accomplishments?

And, perhaps the most important question of all, how well is the Shoreline Management Act equipped to deal with the next 20 years?

We have tried to assemble panels and speakers to give a balanced view. We also want to hear about the Act's shortcomings - we want to hear about those areas where our program is weak, and we want your ideas for improvements. We also want to know what's good and shouldn't be changed.

We do intend to give some pats on the back. Tonight we will recognize those people who played significant roles 20 years ago in creating the Act and those who were especially influential over the years in implementing shoreline mangement. We believe you will find this evening's program entertaining as well as an important bit of history.

Panel presentations

Today you will have an opportunity to listen to panel presentations from across the state on case studies of how the SMA has influenced local planning and decision making. Some of these case studies are excellent examples of shoreline management in action. Others may not showcase the Act so well, but our intent is to provoke your thinking.

As you listen to the presentations, ask yourself if it were not for the SMA, what would these case study areas be like today? I would submit that you will conclude the SMA has had a significant influence on the character of Washington's shorelines. The SMA, in conjunction with the other environmental legislation of the period, such as the Environmental Policy Act, provided a foundation for environmental protection that made the state of Washington the envy of many other states.

Discussing the future

Tomorrow, you will have the opportunity to be involved in discussions of what the future holds:

Are the political compromises that went into the Act in 1971 still valid today?

Are there features as applicable today as they were 20 years ago?

Are there provisions in the Act that we would just as soon not have today?

Is this 20-year-old Act sufficient to deal with the 1990s and problems of the 21st century?

Environment 2010

Your discussion and consideration of the future of shoreline management is similar to the process we have gone through with the Washington Environment 2010 Program. In 2010 we have been concerned with all the state's resources, not just shorelines. Washington Environment 2010 envisions the state's landscape to be every bit as rich, colorful and diverse as it is today.

We are hopeful the state of our shorelines, building on the strengths of the Shoreline Management Act, will also be as rich, colorful and diverse as they are today. But, perhaps that is not enough. Maybe we need to concentrate on improving the state of the state's shorelines. We need your input on this point.

Challenge of the future

As population grows, people will demand more access to shorelines; they will demand more water related recreational opportunities, and they will want views of the waters to be unimpaired just as much as they rightfully expect the waters to be clean and bountiful. But, they will also demand more opportunities for shore-side dining, places to moor their boats and sites to build their private homes on the shore. They will need jobs - some of these jobs will be water-dependent, such as marine commerce.

To what degree should we allow non-water-dependent job opportunities in the shoreline zone? Can we afford to squander precious shoreline resources on non-water-dependent uses? Can we afford not to? What will the public settle for?

Public Trust Doctrine

Some legal scholars argue the Shoreline Management Act embodies the ancient legal doctine called the "public trust doctrine." Under the public trust doctine certain resources are held in trust for all the people. While there have been some recent State Supreme Court decisions (Orion v. State of Washington and Caminiti v. Boyle) on this topic, there are still many unanswered questions about the scope of the public trust doctrine. Some of these unanswered questions may alter the way we do our shoreline management business, when and if they are ever answered. In the meantime, we are obligated, in fact mandated, to operate our regulatory program in accord with legislated state law.

The resource allocation decisions we make in the future will no doubt pale even the toughest ones we made in the past. Clean water and air are no longer assumed in the state of Washington. We now have to work and work hard to make sure our citizens have clean water to drink and clean air to breathe.

Ample shoreline recreation and access to water opportunities are also no longer a given in the state of Washington. We have to work hard to make sure there will be shoreline resources for our citizens to enjoy. We face the toughest challenges now that we have ever faced. Can we and the Act measure up?

Notion of public interest in a state of flux

Some would argue that all the water, air and land resources should be preserved and managed in the public interest, that private interest should take a back seat to public interest. Others argue that private economic development is more important and that the jobs and financial benefits - tax revenues - it derives are more important than preserving shoreline resources. What is the right answer? Caught in the middle are the public agency resource managers who must administer legislatively mandated programs such as the Shoreline Management Act.

In one sense the Shoreline Management Act is public interest protection legislation - it protects shoreline resources. The Act states, "unrestricted construction on the privately owned or publicly owned shorelines of the state is not

in the best public interest." But it also provides a means of allowing shoreline development which means some compromise of shoreline resources. Administering this dichotomy is the challenge. We are charged with allowing shoreline development while protecting the public interest in the waters and shoreline areas of the state.

Sustainability must be the goal

We can't ignore the interdependence of environment, economy and quality of life. This means meeting the needs of the present generation without compromising the needs of future generations. Sustainability requires "whole systems" thinking, where we focus on interrelatedness and the long term, rather than disconnected or short-term, parochial concerns.

Conclusion

Our mission with this symposium, and your task during the next two days, is to look at the Shoreline Management Act, consider its adequacy to meet these challenges so that we as shoreline program adminstrators can better make judgments as to how well this tool we call the Shoreline Management Act of 1971 will serve us to meet the goals of Washington Environment 2010.

Friday Keynote

Shoreline Management
the First 20 Years

Shoreline Management
The First Twenty Years

by Joan K. Thomas
Washington Environmental Council

My first sight of Puget Sound -
February, 1955, foot of King Street in Seattle.

The Legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their management, protection, restoration and preservation ...

Ch. 286, Laws of 1971

"The history of shorelines legislation goes back to the 1967 legislative session, when conservation and outdoor groups proposed a bill to identify and manage natural rivers. Wild, scenic and recreational rivers were being rip-rapped, channelized, dredged, filled and built upon at an alarming rate, but the zeal of the proponents was no match for the economic and development interests and a Legislature not attuned to environmental concerns.

"The next session, 1969, the wild river enthusiasts were back, and they were joined by citizens concerned about protection of our saltwater beaches. A new citizen's organization born of the 1967 legislative failure, the Washington Environmental Council, carried the banner of wild rivers and saltwater beaches. The legislative response in 1969 was more positive, and a proposal for seacoast management was considered but not enacted. A committee of legislators worked on this proposal with conservation and development interests during the interim and came back to the Legislature in the 1970 extraordinary session with a Seacoast Management Act that looked as if it had a chance. Environmentalists considered it a barely acceptable beginning, but they were willing to support it. However, by the time the opponents of any regulation and the development interests worked their way through the legislative process, the Seacoast Management bill had been amended into what Jack Robertson, president of the Washington Environmental Council labeled a *Seacoast Giveaway*, and it was defeated in the closing days by and all-out effort of the Council and other citizen groups."

I wrote those words sometime around 1973 or 1974 as text for a Shoreline Atlas. It is a true account but I'd probably choose my words more carefully today. I will spare you the rest of the text, although it's a handy memory aid.

Increased public awareness of shorelines

Meanwhile, we were becoming aware of what was happening to our shorelines. Consider: Residential buildings were intruding into the tidelands and bedlands of Puget Sound and inland lakes. A deepwater port was proposed for the Nisqually Delta. A dam was proposed on the last free-flowing stretch of the Columbia River. And let's talk about fills - after all, isn't that what shorelines were for? Think about the cities on the Columbia River that turned their back to the shore and used it for railroad, garbage dumping, junk yards. And in Seattle, I was still taking my trash to the Ravenna Dump - now known as the U. of W. Ecological Reserve or the Montlake Fill to bird watchers. And in Tacoma a whole yacht club sits on fill composed of slag from a copper smelter.

Before we get to the 1971 session, two events must be described. First, the Washington State Supreme Court in 1969 told the owner of a trailer park on Lake Chelan that he not only did not have the right to fill the shoreline to expand his park; he jolly well had to remove the fill. The significance of Wilbur v. Gallagher cannot be exaggerated. The public's right to use of navigable waters could not be interfered with. Would all fills or overwater building be brought to a screeching halt? Would existing fills be challenged?

The Initiative process

After the 1970 session, the Washington Environmental Council gathered its forces and drafted the Shorelines Protection Act to be submitted as an initiative to the Legislature. Washington's constitution provides for enactment of legislation by the initiative process in two ways: initiative to the people and initiative to the Legislature. By using the second method, the Washington Environmental Council gave the Legislature another chance to act on shorelines legislation. WEC, with the help of many other citizens and groups gathered over 160,000 signatures on I-43 petitions in a 10-week period (this time of year, too). When the Legislature met in 1971 it was confronted with the action of the people in I-43. Washington's constitution allows the Legislature three choices: 1) enact the initiative directly into law without change; 2) take no action, thereby referring the initiative automatically to a vote of the people at the next general election; 3) enact an alternative measure to be submitted to the people alongside the initiative for their choice.

The 1971 Legislature was also confronted by the aftermath of Wilbur v. Gallagher. It was interpreted to mean that the public's right to use navigable waters could be restricted or interfered with only as a result of legislative action based on some kind of planning for the shorelines of navigable waters. Thus, many of those who had favored unrestricted development or had opposed any management of shorelines found themselves beseeching the Legislature to take the kind of action invited by the Wilbur decision. The 1970 Legislature had been unable to agree on a solution.

HB 584 - a good starting point

The House of Representatives took as its starting point a bill that had been drafted by Governor Dan Evans. HB 584 in its original form contains the basic framework for the Shoreline Management Act as we know it today. It contains the finding I opened with. It distinguishes between shorelines of the state and shoreline of statewide significance. It spells out the state/local relationship, giving primary administration to local government but reserving to the Department of Ecology responsibility for shorelines of statewide significance. It called for the development of master plans, use regulations and a permit program. It was a good starting point, and its course back to the Governor's desk represents the legislative process at its best. The Chair of the House Natural Resources Committee, Hal

Zimmerman, appointed an ad hoc committee of four legislators (Representatives Alan Thompson, John Martinis, Axel Julin and himself) plus agency staff (DNR's Don Lee Fraser, Ecology's Charlie Roe, the Legislative Council's Vic Moon; Jack Rogers for local government and Ralph Johnson and myself.) The Board of the Washington Environmental Council authorized my participation because we wanted the alternative to I-43 to be a good one.

The major issues addressed by the ad hoc committee were the state/local relationship, defining the shoreline, creating exemptions and how to deal with Wilbur v. Gallagher. When the bill went to the Senate, some improving touches were provided by Senators Durkan and Gissberg. The Governor exercised his item veto by deleting a provision that would have given management of its own lands to the Department of Natural Resources; the provision of a seat on the Shoreline Hearings Board for DNR was retained. The bill took immediate effect through an emergency clause and it was also designated as 43B, the legislative alternative to I-43 on the November, 1972, ballot.

Differences between 43B and Initiative 43

Let's look at the differences. In its proposal, the WEC amalgamated the ideas of the rivers people and the saltwater beach people into a unified program of planning and management for all fresh and saltwater shorelines. The underlying philosophy of the Shoreline Protection Act was one of state management of a valuable and endangered state resource. The measure set up state policies for all shorelines, regulated development within 500 feet of defined bodies of water by a state permit system and required local government plan for and regulate shoreline activity on smaller bodies of water, required the state Ecological Commission, with the advice of regional citizen councils, to adopt a statewide regulatory plan based upon considerations of conservation, recreation, economic development and public access. It also provided for civil and criminal penalties and for direct citizen enforcement.

43B provides for a program of planning and management which involves partnership between state and local government. It regulates development within 200 feet of shorelines by a local permit system under state guidelines. It names shorelines of statewide significance and provides the Department of Ecology a slightly stronger role in review and approval for those shorelines (Remember, the Governor's proposal would have given Ecology direct management responsibility for shorelines of statewide significance). The management scheme consists of locally developed master programs which designate shoreline environments and use regulations within each. As I wrote in 1973, the two bills represented different approaches to the same goal.

In the campaign preceding the November, 1971, election, the major issues were: management versus no management; state/local relationships in the planning and management process; and the amount of shoreline covered in each act. There were two questions on the ballot: 1) Are you FOR or AGAINST any shoreline regulation? 2) Do you prefer Initiative 43 or 43B?

Environmental community worked together

The environmental community joined forces with the proponents of 43B to get a FOR vote on the first question and campaigned hard for I-43. We did not have a high level of confidence in the willingness or capability of local government - we wanted the Department of Ecology to manage all shorelines and we provided for the direct involvement of citizens in the planning process. We also emphasized the broader coverage of I-43 - all lakes and streams and a distance of 500 feet. We did not prevail on the preference but shared in the victory of the vote FOR shoreline management. Proponents of both measures had to fight off the private

property claque. (The Governor's original bill had a provision for raising the issue of "taking" in court and would have invalidated any shoreline regulation on that petitioner's property if the court found "taking." My copy of that bill has a marginal notation in my handwriting: "delete").

One of the decisive factors in the victory of 43B was its already being the law of the state. Statewide guidelines were in effect - these constituted the regulatory scheme until local master programs had been developed and approved. The fact that the world hadn't come to an end certainly contributed to the favorable vote on shoreline regulation. And people do tend to prefer the known to the unknown - hence a preference for 43B.

State/local partnership works

A few questions and observations: Which model would we choose now? I know there are many in the environmental community who think I-43 would be doing a better job of protecting shorelines today. I am not one of them - I believe that the state-local partnership embodied in the Shoreline Management Act of 1971 has stood us in good stead, and I invoke it as a model for wetlands protection. However, I do believe that the promise of the SMA has not been fulfilled - for a whole lot of reasons.

I'll start with myself. It's fun to legislate but it's kind of boring to monitor implementation. Actually, the environmental community was very involved in the development and review of the first state guidelines. I found a copy of the draft that went to the Ecological Commission for review and it has WEC's comments written into it. For the period of time that state guidelines were in effect, the act worked. There was a unified framework within which local governments administered the permit program. The Act directed that local governments inventory their shorelines, develop master programs by December, 1973. Master programs were to include designation of shoreline environments and use regulations. The Act mandated citizen participation in the planning process - how many people here today were or are on a Shoreline Advisory Committee? It kept us busy and in many cases it was contentious.

Full potential of SMA to protect resource lost

I have thought about this carefully over the years as I have seen my expectations frustrated. We have lost the full potential of the SMA to protect a valuable resource through fainthearted administration. I know and understand the reasons. I have talked to those involved - there was a very real fear that the whole thing would be lost if Ecology were strict in fulfilling its review and approval obligations. Local master programs were subject to many pressures and local government officials in many parts of the state were reluctant or hostile to restrictions on development. The environmental community (WEC) went along with weakening amendments pertaining to docks as the price for continued support of the act in the Legislature. I know and understand but I no longer accept. I see this 20th Anniversary as an occasion to rededicate ourselves to the original meaning and intent of the Act. I believe this can be done without legislative amendment - I do retain the fear of opening it up, but perhaps this conference will change my mind.

Let's talk about specifics:

Approval of master programs that do not meet the policy requirements of the act. I have seen many letters from Ecology to local governments that point this out, but the programs have been approved anyway. Some local governments did not adopt master programs in a timely manner and Ecology has not exercised its authority to do so for them. To this day, Stevens County does not have a master program.

Loss of the distinction between shorelines of the state and shorelines of statewide significance. Cases in point - inappropriate use designation in the City of Dupont (an old dock grandfathered by an urban designation now proposed to become a gravel shipping facility in a shoreline of statewide significance); an urban/industrial designation at the mouth of the Hamma Hamma River that allowed the proposal of a gravel shipping facility in another shoreline of statewide significance on Hood Canal. These two cases illustrate the worst and the best of administrative and judicial action with respect to shorelines of statewide significance.

Loose interpretation of water-dependent and water-related uses. When I see Ruston Way in Tacoma today, I can't believe it was the intent of the Act to allow over-water offices and restaurants, even though I applaud the shoreline walkway provided by the City. And Salmon Beach is even more outrageous. In the place of shacks built over the water with no sewage collection, much less treatment, we now see luxury homes built over the water. If there was one thing I thought the SMA would do, it was to prevent further construction over water.

Aquaculture. When the SMA was written in 1971, aquaculture meant oysters and clams and one salmon raising operation. This activity was recognized and protected as water-dependent. I do not read the original intent or the original guidelines to promote the industry as we know it today. In fact, the guidelines specified that navigational access not be restricted and that visual access of upland owners be considered. Aquaculture has become a sore point between local governments and the Department of Ecology - a fraying of the partnership.

Exemptions to the requirement for a substantial development permit and raising of the dollar amount for substantial development. In a recent case on Whidbey Island a hearing examiner ruled that a substantial development permit was not required to building of a road into a pond where the portion of the road that was within 200 feet would not cost $2,500 to construct, according to the applicant.

Shorelines Hearing Board decisions that have undermined what I believe to be the intent of the act Again, I'm talking about the interpretation of water-dependent and water-related and the special protection intended for shorelines of statewide significance. There have been good decisions, too. Many of these decisions have gone all the way to the state Supreme Court and the results have been mixed. Some cases that will come up in the workshops are Orion, Padilla Bay; Dupont, Nisqually Delta; Hayes v. Yount, Snohomish Wetlands; the Wenatchee Highway case, in various river sessions.

Other setbacks - other tools

Meanwhile, the world has moved on since 1971 and we have other setbacks to be concerned about and some other tools to use in protection of the shoreline resource. The SMA ties in with federal Coastal Zone Management and brings resources with it. We are trying to figure out a way to protect wetlands in this state and are looking to the shoreline management model. Footnote: In 1972 a wetlands protection bill known affectionately as the "lily pad" bill was introduced but went nowhere. We need a state/local partnership in wetlands protection so we won't be swept away on a tide of federal dithering. We have seen rekindled interest in the Public Trust Doctrine - I'm as bullish on it as Ralph Johnson and Benella Caminiti. The Orion and the Caminiti cases give me hope. We have also developed programs of resource protection that involve acquisition and conservation easements. We are also seeing the resurgence of the private property/wise use agenda movement.

Putting Public Trust Doctrine to work

This has been a long trip down memory lane. Now I'm going to put my two cents worth in on the next 20 years. First of all, I do think we made the right choices in 1971 and 1972. The SMA would not be what it is if the WEC had not written I-43 and obtained the signatures to put it before the Legislature. I believe the concept of local administration within a state framework is a good one. I've seen local governments get stronger and smarter before my very eyes. I have also seen the wearing away of the strong state framework. How can we get back on track?

We can rededicate ourselves on the 20th anniversary - citizens, planners regulators, legislators and the executive branch. Let's put the public trust doctrine to work - Ralph Johnson has pointed the way, let's follow with some specific application that would restore protection of the resource. It's scarce and it's not being made anymore. We have experienced a lot of population growth since 1971 and will gain another 40 percent by the year 2010 - and the shoreline is finite. In my professional work I hear a lot about the premium that buyers place on waterfront and on view. We need to find ways to make a scarce resource a shared resource - nothing is more central to our quality of life.

Let's restore the eminence of shorelines of statewide significance - the Nisqually Delta and the shoreline from Tatsolo Point to DeWolfe Bight - protected from uses that do not provide the optimum implementation of the policy of the act to satisfy the state-wide interest. What a wonderful 20th birthday present!

Let's protect access and not settle for a walkway around or a seat within a restaurant or a yacht club. And let's identify water access and let's plan corridors that maximize visual and physical access to the shoreline.

Let's get cracking on wetlands protection - I believe the SMA is a good model and I'm tired of fighting about definitions and delineations while losing sight of the resource we want to protect and, in fact, are mandated to protect under Chapter 90.48 of the Revised Code of Washington and the federal clean water act.

I'd like to find the right case to reaffirm Wilbur v. Gallagher - and by that I mean a case where a violation of the SMA, the public trust doctrine, has occurred and the perpetrator is forced to remove the offense and restore the shoreline at his/her own expense.

Estuary Management
Grays Harbor Estuary

In addition to the speakers whose papers appear in this section, we acknowledge with gratitude the presentation made by Sue Patnude, Planning Director, Grays Harbor Regional Planning Commission.

Grays Harbor Estuary Management Plan

A Balance Between Economic Development and Resource Protection

By Stan Lattin
Port of Grays Harbor
Presented by Diane Ellison
Grays Harbor Economic Development Council

A productive society has many worthwhile, but often conflicting goals. One example is economic development versus resource protection. How do we deal with these conflicts to insure making reasonable decisions? By case-by-case decision making or by comprehensive planning. State and federal laws put the emphasis on case-by-case decision making *in the absence of comprehensive planning.*

Legislation has been in place for some time now authorizing agencies of local, state and federal government to participate in and develop comprehensive plans. These include the Shorelines Management Act, Coastal Zone Management Act and special area management planning under the Federal Clean Water Act. (Recently the State Legislature added certain inventory and planning requirements under the Growth Management Act.) Grays Harbor Estuary Management Plan was created within the framework of these comprehensive planning programs.

What advantages does comprehensive planning have for economic development?

Quality of life - More and more, prospective developers are looking at quality of life issues as they make their siting decisions. Comprehensive planning can be the best tool to develop a balance between economic development and environmental values.

Predictability - Nothing is more frustrating and costly than false starts, misguided actions, inappropriate land acquisition and wasted time. Comprehensive planning is a very effective way to make macro-level decisions on future land use, therefore on economic development siting opportunities.

What advantage does comprehensive planning have for resource protection?

Predictability - Should biologists spend much of their time as policemen, or should they be able to engage in higher and better use of their time;

i.e., resource enhancement. Just as in economic development, resource management and enhancement can benefit from predictability regarding future economic development possibilities.

Cumulative Environmental Impact - Under the case-by-case decision-making system, there is no opportunity to anticipate cumulative environmental impact. It is only through the comprehensive planning process that resource needs can be anticipated and these needs factored into a plan.

What advantages does comprehensive planning have for an economically distressed area such as Grays Harbor?

Incentive for economic development - Businesses everywhere are experiencing frustration over what they consider burdensome permitting requirements. Grays Harbor is in a position to market the predictability afforded by the Grays Harbor Estuary Management Plan to businesses looking for a home. As congestion continues to build in areas like the Puget Sound/I-5 corridor, with the Grays Harbor Estuary Management Plan, Grays Harbor can offer alternative siting possibilities, potentially creating new basic industry jobs for unemployed timber industry workers and a much needed tax base for the cities and county.

Growing up on Grays Harbor

by Lou Messmer
Grays Harbor Community College

I see many parallels between my life on the Harbor and the growing public awareness of its importance.

A great place to grow up

I came to Grays Harbor in 1924 at the age of three and have lived here mostly ever since. I was raised on the south side of Aberdeen in a real estate development created at that time by diking wetlands. I can remember during a big storm and high tide watching the water breach the dike and flood our place and others. The city had cut the dike down two feet to put a road and bridge over it. We used to swim in the Chehalis river at a sandy beach that was created by dredge spoils. At that time there was no sewage treatment and it all went into the river. We lived near the river, and I can still hear the pocka - pocka - pocka of the one-lunger engines of the salmon gill netters. We would watch the men unloading fish traps along the river. It was a great place in which to grow up.

I early decided that I liked biology and went through the local junior college and on to the University of Washington for degrees in zoology and botany. I don't remember hearing the word *ecosystem* in those days. I've taught biological subjects at Grays Harbor College for over 35 years.

Growing awareness of the estuary

As I learned more about the estuary, the community was learning, too. Gradually, sewage treatment was installed for domestic and industrial wastes. There was a growing perception of the interconnectedness of it all. In the early 1970s a big study financed by the U.S. Army Corps of Engineers assessed the effects of dredge spoil disposal on the estuary. It was the first real inventory of the biota of the Harbor. It produced five fat volumes of information.

In response to the Shorelines Management Act, the local authorities began to build the Grays Harbor Estuary Management Plan. Part of the rationale was, "If we don't do it, they'll do it for us." Some people envisioned it as a one-stop permitting system. It wasn't, and it hasn't worked out that way. One can sympathize to some extent with the permittees working their way through the agencies. However, my experience has convinced me that these marvelous natural resources are so valuable that anyone contemplating alteration or development should expect to spend considerable time and effort to make the case that their

proposed project will not harm or change the environment of this very important estuary and its shorelines. The Shorelines Management Act is a sign of growing maturity and care by the people of the State of Washington

Estuary Management

Padilla Bay
and *Orion*

Padilla Bay National Estuarine Research Reserve

by Terence C. Stevens
Director, Padilla Bay National Estuarine Research Reserve

I appreciate the opportunity to be present at this 20th anniversary symposium, and hope to share some insight into the SMA/CZMA cooperative program of estuarine research reserves. As Bob Goodwin announced earlier today, this was originally scheduled to be a presentation on the Padilla Bay v. Orion case, but due to ongoing litigation, a fee/cost award issue is being heard in Skagit County Superior Court today and Chuck Lean and Jim Ragen had to cancel. Being somewhat unqualified to speak to the details of the case, I will touch on it only briefly. My main topic is the National Estuarine Reserve Program and Ecology's management of the Padilla Bay Reserve, this state's only site in the national program.

Protecting estuarine resources

The Padilla Bay National Estuarine Research Reserve (PBNERR), one of 20 reserves in the national system, was designated as the eighth reserve in August, 1980. The program was established under authority of the Federal Coastal Zone Management Act, Section 315. Administered by NOAA, it provides for cooperative federal/state management of reserve sites and provides funds - 50/50 federal/state - for acquisition, facility development, operations, education, monitoring, and for a competitive research grant program. The purpose of the federal program is to protect a variety of estuarine resources based on a biogeographic typology, to conduct long-term scientific research and monitoring, and to provide educational and interpretive programs with the goal of improving coastal zone decision-making. Established reserve sites range from Hawaii to Maine and from the Chesapeake to Puerto Rico and the Great Lakes. Four sites are located on the Pacific Coast - Padilla Bay, WA; South Slough, OR; Elkhorn Slough, CA; and Tijuana River, CA.

Padilla Bay National Estuarine Research Reserve is located in North Puget Sound, four miles east of Anacortes. Historically, it's part of the greater Skagit River delta, although diking in the early part of this century has essentially made Padilla Bay an "orphaned" estuary.

In the mid-1970s the Department of Ecology began evaluating potential sites for nomination into the federal program. A study committee narrowed the list to a dozen and in 1979 application was made to NOAA to begin review. Governor Dixie Lee Ray established a steering committee, and subsequently technical

committees and subcommittees were formed. These committees were made up largely of Skagit County based professionals and citizens to get the maximum amount of local input into what would eventually be recognized as a state and national project. After dozens of regional informational meetings and federally-mandated hearings, in 1980, PBNERR was designated. Acquisition of tidelands within the proposed 11,000 acre boundary area began immediately, the state purchasing only from willing sellers, based on appraised values.

Fertile agriculture land - extensive seagrass meadow

Reflecting on why Padilla Bay was selected as the site for national reserve status I will discuss briefly some of the major resources involved and their importance. The bay, largely undisturbed since original diking, is adjacent to some of the most fertile and intensively-farmed agriculture land in the world; fertile due to its being reclaimed delta. An extensive seagrass meadow, totalling some 7,000 acres of Zostera marina and Z. japonica, is the major resource in the bay. These seagrass beds exist because the bay does not regularly receive extensive (turbid) freshwater inflow from the Skagit River. The bay, very gently sloped, is largely intertidal, ranging from -4.5 to over +11 feet. Seagrass beds provide habitat and nursery for such significant species as juvenile Chum and Chinook salmon, Dungeness crab, and tens of thousands of waterfowl and shorebirds. Harbor seals, bald eagles, and peregrine falcons are present in significant populations. The bay contains, I believe, the largest contiguous seagrass meadow in the Pacific Northwest, and its value in overall primary and secondary productivity is tremendous to the region.

As I noted earlier, the National Estuarine Research Reserve Program, as authorized by the CZMA, mandates programs in research, monitoring, education and interpretation. Research at PBNERR is carried out by staff and by university personnel via various grant programs. The focus of research and monitoring is on priority issues established by both the Reserve's management plan and federal research guidelines. Most of the research is on environmental characterizations and issues related to the seagrass resource (fishery, habitat, system/species health), in relationship to surrounding land-uses and nearby industry. Padilla Bay does not have a wealth of research data. Current work only began in the mid-1980s. Work of importance is now being published or reprinted in the PBNERR Technical Report/Reprint Series. These studies are available upon request.

Education for all ages

Educational programs at PBNERR are extensive, reaching across all age levels. Estuarine curricula has been prepared and implemented for all school grades, K-12. Approximately 5,000 students attend the on-site programs each year, and in 1991 we had to turn away an additional 5,000 due to staff and space limitations. We are finishing an updated formal high school curriculum and have just begun development of a high school outreach program, which will take our materials into the schools. Since initiation of the educational programs in 1982, 40,000 students have taken part. Other public programs offered, include monthly workshops and lectures for adult audiences, college-credit courses, teacher workshops and training, special children's programs, and field and classroom programs for organized groups.

Much of the activity is possible due to the donation of 64 acres of upland upon which the Reserve offices and public facilities were built in 1982. Named after the Breazeale family and honoring the land donor, Miss Edna Breazeale, the Breazeale-Padilla Bay Interpretive Center provides space for exhibits, aquaria, laboratory, library, theatre, and a special children's learning room for "hands-on" activity. Adjacent facilities provide space for additional offices, meeting rooms, residential areas, and laboratory and maintenance areas. Trails along the bay and

slough and into the upland forest/grassland are heavily utilized by the public, who enjoy the interpretive signage programs.

Having reflected on what the establishment of the Reserve has protected, provided, and on the range of existing programs, I'll attempt to comment on current issues regarding development, property ownership, and acquisition, and identify what the Orion case means in terms of these issues.

Numerous development schemes proposed prior to 1980

Diking of Padilla Bay tidelands, which began in the late 1800s, was completed by 1920 in its present configuration. About this time a major proposal was made to completely dike the bay - from the western tip of Samish Island south to Hat Island, and south to the mouth of the Swinomish Channel. This effort, which started in 1922, was abandoned due to physical and financial burdens. In the 1930s oyster spat was planted in the south end of the bay on one-acre parcels, but the company planting spat disbanded in the 1940s, blaming its failure on heavy sediments, water quality problems from a nearby mill, and oyster drills. Until 1980, various development schemes for Padilla Bay or nearby property were proposed, including a large marina, pulp mill, lime and concrete plants, a huge dredge and fill residential development (Orion), smelter, and even a nuclear plant on the western tip of Samish Island. None, save a small lime plant built on the uplands, ever actually materialized, but the frequency and diversity of the proposals reflect the common perception of the day - that tideflats were of little value unless developed for commercial/economic gain. In fact, a major local environmental issue of the 1960s was zoning for the bay (portions were classified as industrial). However, with the passage of the State Shoreline Management Act in 1971, the classification of Padilla Bay as a Shoreline of Statewide Significance, and the adoption of the Skagit County Shoreline Management Program in 1976, most of these projects were no longer feasible.

Ownership of tidelands

Of major interest in the PBNERR is the ownership of the many tideland parcels within the proposed boundary area. In 1979-80 the steering committee, evaluating several boundary alternatives in light of federal criteria, chose the present limits. Again, our intent was to purchase as much as possible within this area on a willing seller basis. The Department noted in the EIS and management plan that land condemnation was not to be used for acquiring property. At the time the Reserve was established, the majority of the bay was in private ownership, with historic "plats" creating over 1,700 individual tracts within the proposed boundary area. These included the Associated Oyster Tracts (923 one-acre parcels), the Padilla Bay Tracts (846 ten-acre parcels), and other parcels of larger size. Properties owned by the county through tax foreclosures were donated to the state, as were other individual tracts. To date, the Reserve (state) owns approximately 2,700 acres of tidelands and uplands within the proposed boundary area. The remainder is owned by Orion (tidelands) or other private parties. Since the Reserve owns representative parcels throughout the bay, research and monitoring is not incapacitated due to lack of habitat and resources.

In the early 1980s an offer was made to the Orion Corporation to purchase all their tideland parcels at a cost based on the state's appraisal of market value. After consideration of this offer Orion refused and sued the state on the basis of a "taking". To summarize where this case is presently, I will note that after two trips to the state Supreme Court it was found that tidelands, even in private ownership, remain subject to the Public Trust Doctrine. The "taking challenge" was not applicable to those actions prohibited under this doctrine. In addition, restrictions under the Shoreline Management Act and Master Program were also not subject to a challenge on "taking". On issues related to the designation of areas of Padilla Bay

as a Reserve (Sanctuary), and other factual items, the Supreme Court remanded back to County Superior Court for determination by a jury. In spring of 1989, after a three-week trial, the jury determined that the creation of the Reserve (Sanctuary) was the cause of a compensable taking. However, they determined the state had offered proper compensation of $100-125 per acre.

Following this, a judgment for reasonable fees and costs was entered in favor of Orion. This fee and cost issue is being argued before Skagit County Superior Court as we attend this symposium today. The future of this issue is cloudy, at best. But along the way we have seen a major victory for the Public Trust Doctrine and the Shoreline Management Act.

Aquatic Resources Management

Elliott Bay Marina Mitigation Plan;

In addition to the speaker whose paper appears in this section, we acknowledge with gratitude the presentations made by Jeff Layton, Layton & Sell, Redmond, and Rob Otsea, Muckleshoot Tribal Attorney.

Creation of Rocky Intertidal and Shallow Subtidal Reefs to Mitigate for the Construction of Elliott Bay Marina Puget Sound, Washington

by Daniel Cheney, Richard Oestman, Greg Volkhardt, and Jenna Getz
Jones & Stokes Associates, Inc.

Introduction and methods

Many local, state, and federal agencies request mitigation for habitats impacted by coastal development projects. Mitigation generally requires replacing impacted habitats with habitats that are of equal or greater value. Replacement "in kind", or replacement with the same type of habitat, is also usually requested. These types of guidelines have recently been applied in the construction of several artificial intertidal and shallow subtidal habitats for the Elliott Bay Marina, a privately developed 1,200-slip small craft moorage now nearing completion in Puget Sound at Seattle, Washington, (Figure 1). The mitigation habitats were primarily constructed to replace losses of habitats which produced prey organisms consumed by juvenile salmon and resident marine fish. This paper discusses the purpose, approach, and preliminary results of the mitigation for this project.

Six year review

The environmental review process leading to permitting and construction of the Elliott Bay Marina extended over six years, from 1983 to 1989. Development issues included: (1) dredging 10 acres of kelp beds (mainly *Nereocystis, Laminaria,* and *Sargassum*) between 0 and -10 feet[1]; (2) shading 40 acres of a similar kelp community by moorage floats and vessels; (3) filling and losing 10 acres of gravel/cobble beach habitat between +8 and 0 feet; and (4) constructing a 20-acre rubblemound breakwater between -30 and -40 feet (City of Seattle 1984, 1985; U.S. Army Corps of Engineers 1984, 1987a).The significant environmental impacts of the development required that the developer and the resource agencies prepare a strong mitigation response.

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[1]*All depths relative to mean lower low water*

A detailed habitat mitigation plan was prepared in 1987 (U.S. Army Corps of Engineers 1987b, 1988) which outlined a process to ensure completion of the plan objectives.The main elements of the mitigation plan were as follows:

Environmental Goals. This is a statement of the goals and objectives of project mitigation. In general, the primary goal was to offset resource impacts associated with marina construction. Additional goals included enhancement of the overall aquatic system.

Baseline Information.This element includes the collection of physical, chemical, and biological information from the development, mitigation, and reference sites. This information was available, in part, from earlier surveys.

Detailed Mitigation Work Plan.This includes a description of the mitigation construction elements, which were attached to the project permit application. It included a narrative description, as well as conceptual and detailed design drawings.

Performance Criteria.These were physical (total areal coverage) and biological (reef productivity, especially for salmon prey, and other habitat attributes) criteria or standards that were to be met within three to five years after the marina was completed.

Monitoring Program.Sampling, analysis, and reporting methodologies, and a sampling schedule for monitoring the mitigation sites were identified. Monitoring reports were linked to agency reviews to evaluate mitigation success in meeting performance criteria.

Contingency Plan.A contingency plan was developed in case the installed mitigation failed to meet the established performance criteria.

Bonding Criteria.A performance bond of approximately $700,000 was established in a trust to match funds required to construct and monitor the mitigation reefs. This fund would be released only when performance criteria were met.

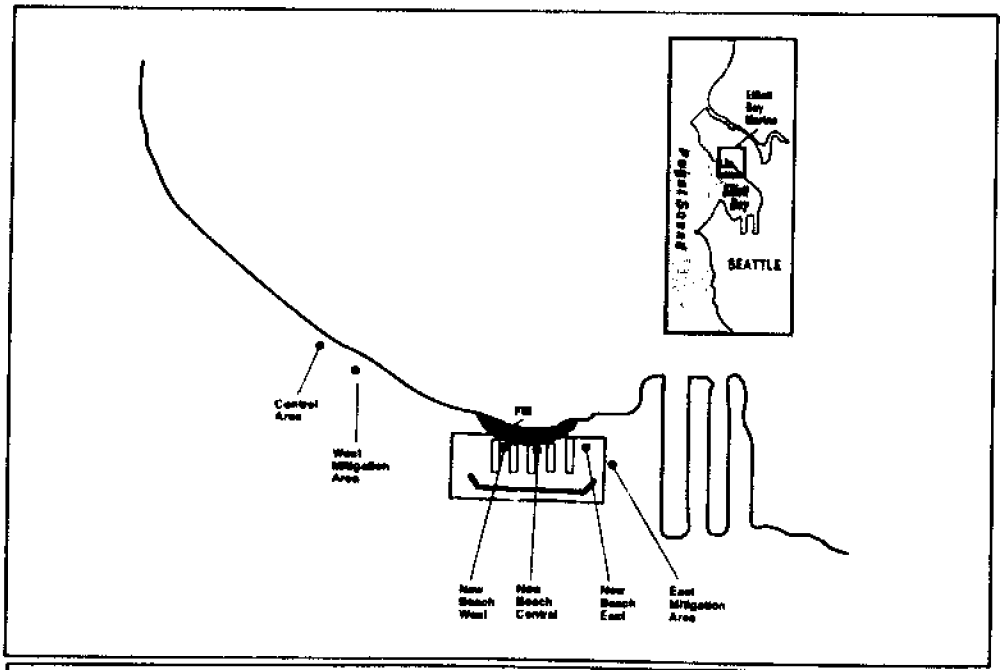


Figure 1. Monitoring Locations for the Elliott Bay Marina Project

The intent of this plan was to ensure that mitigation habitat equaled or exceeded project performance standards. Project performance standards were based on the areal extent of the mitigation habitats and the productive values of those habitats. The principal measure of productivity was the abundance and diversity of certain crustacean species which included ostracods, cumaceans, tanaids, harpacticoid copepods, and gammarid amphipods. These epibenthic species (living on or associated with the bottom) are consumed preferentially and sometimes exclusively by juvenile salmonids, flatfish, other fish, and invertebrates. They colonize in specific types of substrates, are present in large numbers, and can be sampled quantitatively.

Epibenthic food resource values calculated

A process similar to the U.S. Fish and Wildlife Service (USFWS) Habitat Evaluation Procedure (HEP) was used to calculate the epibenthic food resource values for Elliott Bay habitats affected by the marina project. The general approach to this process was as follows.

- Benthic habitat suitability indices (HSI) were calculated for the various substrates and bottom elevations found on the site. Each HSI was derived from epibenthic taxa density and diversity data collected prior to project construction.
- A habitat value (HV) was calculated by dividing the HSI values for specific substrate and depth by optimal HSI values.
- Total habitat units (HUs) were calculated by multiplying the HV by the area of each habitat type (substrate and depth strata) and then summing the individual HU values.
- The areal extent of mitigation or replacement habitat required a minimum of one net unit of enhanced habitat for each net unit of lost habitat. The mitigation plan for the project was designed to potentially result in the replacement of two habitat units for each unit lost.

Resource agency involvement

There was intense resource agency involvement throughout development of the mitigation plan and the HEP analysis. Many elements of the plan were drafted between 1984 and 1987 with the assistance of the Washington Department of Fisheries, the USFWS, consultants, and other specialists. There was not a consensus, however, and the National Marine Fisheries Service and the local Native Tribes (having salmon fishing treaty rights in Elliott Bay) objected to the process. This resulted in a protracted series of negotiations which continued through mid-1989. The mitigation plan was eventually approved with little change from the original plan, and project construction was begun in late 1989.

Mitigation habitats were constructed at the Elliott Bay Marina site in 1990 and early 1991. These included:

- Creation of 7.5 acres of rocky beach and kelp habitat between 0 and -8 ft on the east side of the marina in late 1990,
- Construction of a five-acre beach within the marina in late 1990 and early 1991, and
- Creation of an experimental 0.5-acre shallow rocky subtidal habitat between 0 and -8 ft on the west side of the marina in early 1990.

The rocky habitats were constructed by placing approximately 5,000 cu yds of four- to eight-inch average diameter pit-run aggregate on an existing mud-sand bottom. The artificial beach was constructed by layering 4,000 cu yds of four- to six-inch average diameter aggregate over approximately 450 m (1,500 ft) of fill, and then covering this material with a thin layer of one- to two-inch beach gravel.

Monitoring

Pre-project monitoring was implemented in spring 1987. During this period, baseline data on the abundance of epibenthic fauna were collected in areas which were to be disturbed by construction of the marina and the mitigation areas (Figure 1). Preliminary sampling of the experimental mitigation area to the west of the marina was conducted in 1990. Post-project monitoring of all mitigation and control sites began in early 1991 and will continue through 1995.

The monitoring program was designed to quantitatively sample epibenthic organisms. A surface- or diver-operated epibenthic suction pump was used to vacuum and then filter (through a 0.250 mm plankton net) a 0.1 m^2 area of the bottom. Samples were collected from substrates located between the +8 and -8 foot tidal elevation at six locations including the control area, the mitigation areas to the east and west of the marina, and three locations (east, west, and central) along the mitigation beach. The samples were stratified based on substrate type and vegetative cover, and the bottom elevation range focused on the primary area of concern for small juvenile salmon.

Results

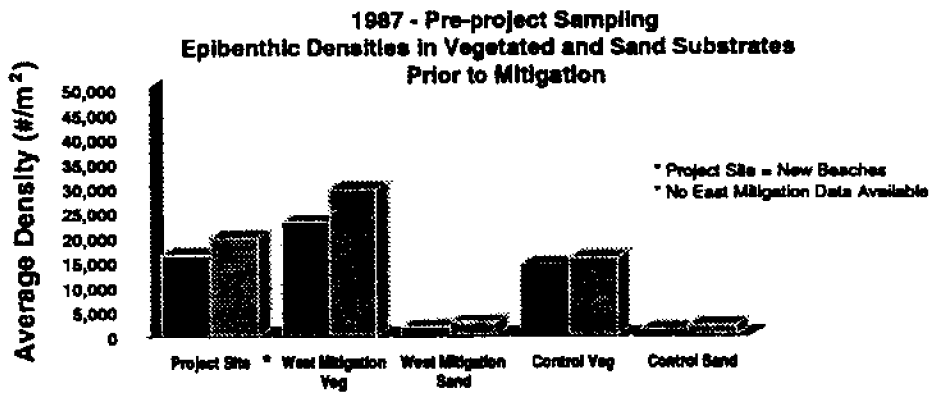
Baseline and monitoring sampling was found to be very efficient over a wide range of substrates, including larger aggregate substrates and substrates with macro-algae and eelgrass cover. Sampling yielded up to 50,000 organisms/m2 (prey and nonprey species) in some areas. When sampling was controlled for substrate and depth, the standard deviations of taxa densities ranged from 10 percent to 50 percent of the mean.

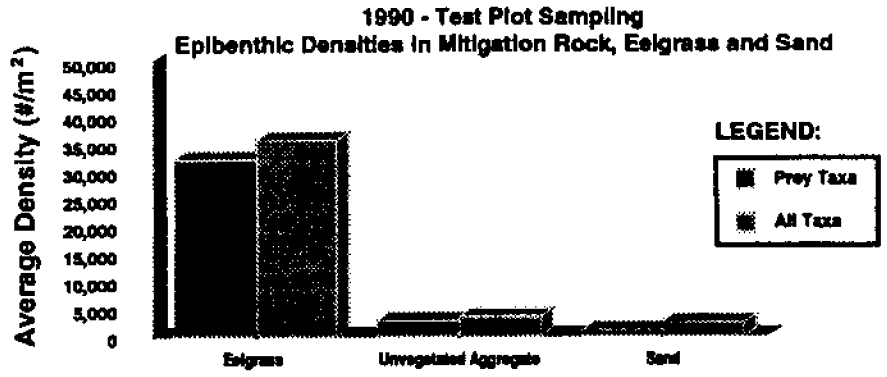
There were significant differences in the density of epibenthic taxa and species composition between substrates and areas sampled, with relatively minor differences between sample periods (Tables 1 - 3 and Figure 2). Areas dominated by natural cobble and aggregate substrates always exhibited higher epibenthic densities than sand-dominated substrata. Epibenthic densities were generally greater on algae or seagrass covered substrates than on unvegetated surfaces. Preferred prey species in 1991 samples comprised an average of 38 percent of the total taxa sampled for all stations and sample periods, and an average of 61 percent of the total densities (organisms/m^2).

The dominate prey taxa inhabiting the mitigation sites were the harpacticoid copepods, *Tisbe*, *Harpacticus*, and *Zaus* (Figure 3).These three genera accounted for an average of 77 percent of the densities reported for all prey species and an average of 52 percent of the densities of all epibenthic taxa. The relative densities of the most abundant taxa varied widely between sample areas. Site-specific differences in substrate type and algal/seagrass cover appeared to account for a large share of the between station taxa variability.

(Figure 2)

(Figure 3)





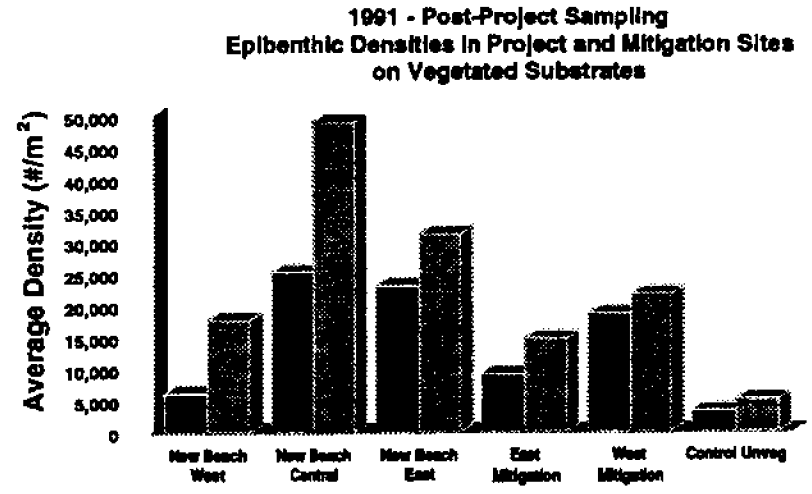


Figure 2. Average Density of Epibenthic Prey Taxa and All Epibenthic Taxa at Various Sites in the Elliott Bay Marina during 1987, 1990, and 1991

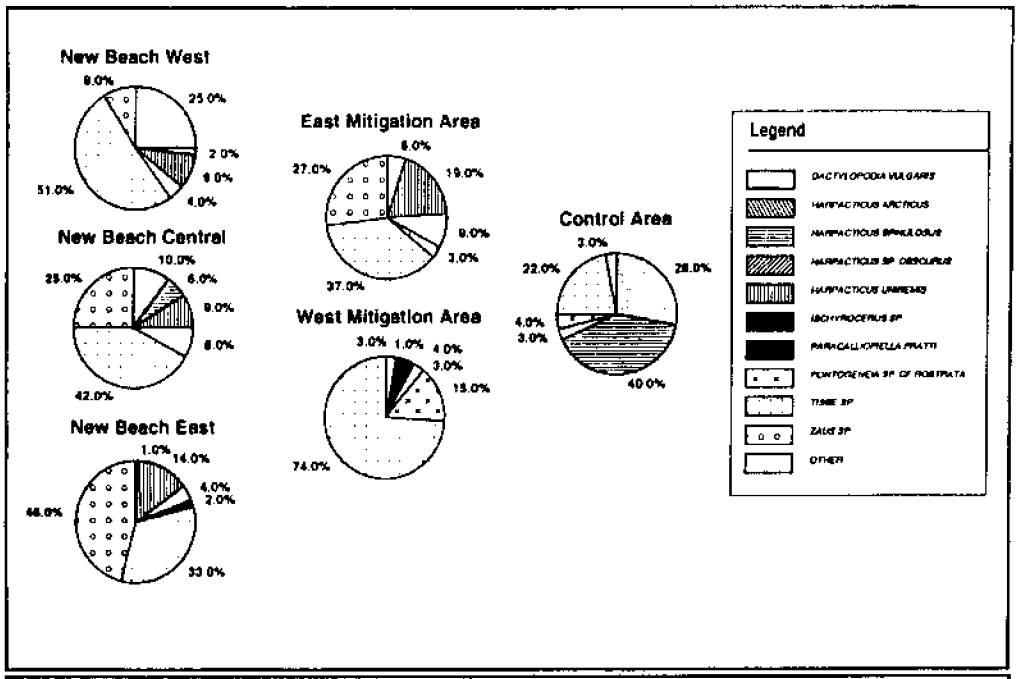


Figure 3. Percent Relative Abundance of Epibenthic Prey Fauna on Vegetated Substrates

Discussion

Creation of the mitigation areas and the artificial beach compensates, in part, for the area of rocky subtidal and beach habitat lost due to construction. Early results from postproject monitoring at the Elliott Bay Marina site indicate that the densities of epibenthic organisms are greater on more complex substrates (cobble and aggregate substrates) and significantly greater on substrates colonized by micro- and macro-algae. In contrast, areas with less complex structure (sand) or low vegetative cover contain relatively few epibenthic species. These findings are consistent with observations from other investigations showing that areas of increased floristic density and habitat structure support a greater diversity and abundance of epibenthic and phytical invertebrates than areas of low vegetative cover or structure (Hicks 1986, Kern and Taghon 1986, Palmer 1988).

Epibenthic prey species are strong indicators of habitat values in coastal and estuarine communities. Harpacticoid copepods and similar meiofauna taxa are important dietary items for some fish, especially juvenile and smaller fish species. Epibenthic meiofauna are also most likely to migrate off the bottom into the water column. The ability to quantitatively sample these organisms from a variety of habitat types, coupled with their extreme abundance and habitat selectivity, makes them an effective tool for mitigation monitoring.

The original mitigation goal was to replace in-kind food resource production on intertidal and subtidal cobble and gravel habitats lost due to marina construction. This restoration method appears to be feasible, at least on the short term. Whether the high levels of epibenthic production will continue once the marina is fully operational remains to be determined during the next four years of onsite monitoring. Nevertheless, there is strong evidence that artificial habitats can be constructed to selectively enhance food production for juvenile salmonids and other plankton-feeding species.

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Table 1. Epibenthic Densities in Sand and Algae/Cobble Substrates in May 1987 Prior to Placement of Mitigation Rock

Station Location	Substrate Type	Average Density (#/m^2)	
		Prey Taxa	All Taxa
Project site	Vegetated cobble	16,294	19,906
West mitigation site	Vegetated cobble	22,940	29,659
West mitigation site	Unvegetated sand	1,728	2,680
Control site	Unvegetated sand	1,198	2,023
Control site	Vegetated cobble	14,350	15,650

Table 2. Epibenthic Densities in Sand, Eelgrass, and Mitigation Rock Aggregate in June 1990

Station Location	Substrate Type	Average Density (#/m^2)	
		Prey Taxa	All Taxa
West experimental site	Unvegetated aggregate	2,889	3,555
Adjacent to experimental site	Eelgrass and sand	32,296	35,852
Adjacent to experimental site	Unvegetated sand	1,185	2,534

Table 3. Epibenthic Densities in Project, Mitigation, and Control Sites in April 1991

Station Location	Substrate Type	Average Density (#/m^2)	
		Prey Taxa	All Taxa
New beach - west	Vegetated cobble	6,210	17,863
New beach - center	Vegetated cobble	25,339	49,120
New beach - east	Vegetated cobble	23,140	31,366
Mitigation site - east	Vegetated aggregate	9,250	14,860
Mitigation site - west	Vegetated aggregate	18,846	21,862
Control site	Unvegetated sand and gravel	3,308	5,219

Aquatic Resources Management
Snohomish River Wetlands

In addition to the speakers whose papers appear in this section, we acknowledge with gratitude the presentation made by Laura Zalesky, Snohomish Wetlands Alliance

Snohomish River Delta

By Ralph Mackey
Snohomish County Parks and Recreation Division

The Snohomish River Delta is the second largest discharge into Puget Sound. Located between Everett and Marysville, it drains 11.2 million acres. Its three sloughs, which carry approximately 70 percent of the water, are important to flood waters, cleaning and habitat.

The area was diked and farmed in the 1870s. However, from the late 1900s through the 1970s, floods broke the dikes and Mother Nature started restoring the land to its original status.

When, in the mid-1970s, a landowner wished to fill his property, the case Hayes v. Yount went to the State Supreme Court. Shoreline Management won and all development was stopped. However, as land becomes scarce, the attack on critical areas will heat up, for example, the current problem with the Federal Manual and proposed federal wetland legislation.

Following a 1985 Snohomish County study on the Delta, several areas were designated for preservation. Public support was needed. County business and political leaders were taken on a tour of the Delta. Citizen activists were enlisted and speeches were given at service clubs. The Everett Chamber of Commerce endorsed the project. News media gave it full coverage and editorial support.

With funding from Washington Wildlife Recreation Coalition, County Conservation Futures and state and federal monies, 1,000 acres of the remaining 2,000 acres of wetlands were purchased. It has taken six years to get half way there.

We will complete the acquisition. Future generations will benefit from the efforts of Snohomish County and shoreline management in preserving this estuary.

Hopes for the Future of Snohomish River Estuary

by Judy Giseburt
Snohomish County Parks and Recreation Division

Ralph Mackey and Laura Zelesky provided background on the planning efforts and property acquisitions that have taken place in the Snohomish River Estuary. I would like to take some time now to inform you of our current efforts and our hopes for the future.

The county currently owns approximately 1,000 acres of land in the Snohomish River Estuary. In November, 1990, the Snohomish County Council transferred management responsibility of the Snohomish River Estuary to Parks and Recreation Division. At that time a new position was created within the department to facilitate this.

Development of a management plan

Our primary focus over the next year will be to develop a detailed management plan for this area. A technical advisory committee and a citizens advisory committee have been formed to assist the department in this effort. The CAC is made up of citizens from throughout the county and includes individuals with affiliations to such groups as the Snohomish Wetlands Alliance, Ducks Unlimited, Washington Wildlife Association, Washington Sea Kayaking Association, the Audubon Society, the Dike and Trail Alliance, and local schools.

The Technical Advisory Committee is comprised of representatives of several agencies including the Department of Wildlife, Department of Fisheries, the Tulalip Tribes, the Snohomish Wetlands Alliance, the City of Marysville Parks and Recreation Department, the City of Everett Parks Department, City of Everett Public Works, Snohomish County Planning Department, and Snohomish County Storm and Surface Water Division. The role of these committees is to review the existing data, identify the key issues and needs which must be addressed in a detailed management plan, gather and review additional data as needed, develop management alternatives, and make recommendations for a final management plan. This process began in June of 1991 and will continue into the summer of 1992. The technical committee will meet periodically after that time to monitor implementation of the plan.

I am going to show you a few slides. One thing that I think both Laura and Ralph probably both found is that once people have experienced the magic of this area it is not difficult to get their support and enthusiasm in protecting it.

Previous reports done by Shapiro and Associates identified parcels for potential acquisition, researched the characteristics of these parcels and made recommendations for management of these particular areas. They also established general goals to guide the management of these lands. As we are developing a comprehensive management plan for the estuary we will refer to these reports and utilize a great deal of this information. We will evaluate the recommendations made in these reports, identify areas which may require additional work, and determine how recent changes or new information will effect our recommendations. The final product will be a report which will contain goals and policies which will be used as a guideline for the county's actions concerning the Snohomish River Estuary.

Several goals have been identified as the primary focus for this plan:

Wildlife Habitat Preservation - for areas given the role of strict habitat preservation. Any other uses will be prohibited which would interfere with maintaining the habitat in its present state.

Wildlife Habitat Enhancement - enhancing habitat in areas where appropriate to increase the wildlife habitat value and aesthetic value of particular areas.

Provide Public Access - either via roads and parking areas, boat launches, docks or observation decks accessible either by trail or by boat from sloughs.

Appropriate Recreational Uses - limited to low-impact activities, compatible with general goals of preserving wetland habitat and wetland functions. These may include hiking, canoeing, kayaking and bird watching.

Interpretive Education - Education information should be provided to the public covering topics ranging from broad orientations to specific elements of wetland functions.

Scientific Research - Research opportunities exist for study of such subjects as wetland ecology, plant succession, water quality, fisheries, and wildlife.

Cultural Resource Preservation - appropriate to units potentially or actually containing archaeological and culturally significant features; i.e., Indian tribes, historical agriculture and farming.

In summary we face many challenges managing these lands. We enjoy a great deal of support and enthusiasm from the many people who have been involved in the estuary over the years. As you might expect, our primary challenge is to find funding for the acquisition of future projects and to take advantage of these opportunities as they arise.

Also challenging is the coordination of the many agencies and interest groups involved in the Snohomish River Estuary. A great deal of knowledge and enthusiasm exists and it is essential that we coordinate these efforts to maximize our ability to protect and enhance this beautiful estuary.

The County has demonstrated a real commitment to this project, not only through the acquisition of these properties, but by funding a full time position to coordinate this project.

Intergovernmental Relations
The Shorelines Hearings Board's Role

In addition to the speakers whose papers appear in this section, we acknowledge with gratitude the presentation made by Les Eldridge, Thurston County Commissioner

Role of the Shorelines Hearings Board in the Formative Years of the Shorelines Management Act

by Glenn J. Amster
Attorney

When first invited to speak about the role of the Shorelines Hearings Board (SHB) over the past 20 years, I projected a somewhat critical presentation. After all, I could recall counseling clients proposing development projects to avoid encroaching on the shoreline at all costs for fear of becoming entangled in a permit process which, perhaps unlike any other, afforded great deference to project opponents. Conversely, I have advised individuals and organizations opposing developments to search for some nexus with a state shoreline in the hope that we could invoke the jurisdiction of the Shorelines Management Act (SMA) and, if necessary, take our case to the SHB.

Upon further reflection, however, it became clear to me that these initial notions of disaster for the project proponent and blessing for the project opponent had far less to do with the Board's decision making than I originally thought. To be sure, the perception remains that the SHB defers all too much to the Department of Ecology, which has over the years asserted some very interesting - read that "broad" - interpretations of the SMA. And the hammer afforded project opponents in the form of an automatic stay of the development permit effective upon the filing of a request for review with the Board is a constant reminder of the perils of engaging in any kind of shorelines activity.

Process tries patience

But it is the process itself, rather than the risk of a particular result, that serves to diminish the enthusiasm of even the most patient project proponent. In the early years, for example, it seemed that every shorelines permit came before the SHB as applicants, local governments, state agencies and the public struggled to discern the meaning of the significant policies embodied in the SMA. The backlog of cases pending before the SHB could easily tack up to a year on to an already cumbersome permit approval process. Often wrestling with the views of not just two parties, project proponents and opponents, but also local government and the Department of Ecology, the Board tinkered with permit conditions imposed by local government in an attempt to reach a middle ground. Even today, defending a

permit before the SHB can be a painfully expensive experience given the Board's tendency to provide the utmost opportunity for hearing to even the most unsophisticated appellant regardless of the merit of the appeal or the cost to the applicant. But these observations aside, the SHB has generally served the citizens of this state well, in what is by definition a contentious setting, through its application and interpretation of the SMA over these past 20 years.

In the early 1970s, immediately following passage of the SMA, there were cases like Ballard Elks Lodge (SHB No. 22)(1972), in which the Board first enunciated the proposition that despite popular belief, and undoubtedly to the dismay of some, the SMA did not prohibit development on the shorelines. In its decision affirming the Board's order, the Washington Supreme Court emphasized that the SMA called for management of the shorelines of the state through coordinated planning "for and fostering of all reasonable" uses with due recognition and protection of property rights. Department of Ecology v. Ballard Elks Lodge, 84 Wn. 2d 551, 556, 527 P.2d 1121 (1974).

Board adheres to Legislature's intent

Subsequent cases demonstrated the Board's sensibility in resisting the temptation to extend the SMA and its policies beyond the Legislature's intended scope. In Weyerhaeuser v. King County, (SHB No. 155) (1975), the Board affirmed permit conditions on the applicant's forest practices within the shorelines, but refused to sanction the local government's attempt to impose conditions on activities outside the 200-foot reach of the SMA. Some may criticize this restraint, but this decision was consistent with the legislative compromise, and was affirmed by the Supreme Court. Weyerhaeuser Co. v. King County, 91 Wn.2d 721, 592 P2d. 1108 (1979).

In a case in which I was personally involved, the SHB affirmed issuance of shorelines conditional use permits for the Weyerhaeuser export facility at Dupont, extending the Ballard Elks reasoning to a shoreline of statewide significance. Nisqually Delta Association v. City of Dupont (SHB No. 81-8) (1982). In my view, this case finally resolved that development could be permitted on these designated shorelines when properly planned for and managed and, more importantly, that only local master programs and not individual permit decisions were subject to review under the order of use preferences for shorelines of statewide significance set forth in RCW 90.58.020.

These are just a few examples of the Board's work over the years. The record reflects a fair degree of consistency, at least after the early years, as well as a general understanding of the balanced approach envisioned by the legislation. Despite pressure from many interests, the Board has taken its quasi-judicial role seriously in adhering to legal principles and statutory directives in its application of the SMA. Perhaps because of these qualities we find very few cases in which the courts have disagreed in any significant way with the Board's interpretation of the SMA. The meaning of the SMA's legislative findings and statutory objectives has taken shape as a result of the Board's work. Clearly, the SHB has played a significant role in the formulation of shoreline policy in Washington over the past 20 years.

Shoreline Hearings Board's Role

by Wick Dufford,
Attorney

The Shoreline Hearings Board was established as an independent hearing tribunal, unconnected to either the State Department of Ecology or any of the local government entities issuing permits pursuant to the Shoreline Management Act. Over its 20 years in existence, the Board has functioned in an atmosphere removed from the political arena in which shoreline management implementing agencies inevitably find themselves.

Its decisions must be made on the record of evidence presented in light of the policies of the Act and the specifics of the individual master program. In a large majority of cases, the Shoreline Hearings Board has been the final stopping place for disputes brought before it. In the few cases that have been appealed to the courts, Board decisions have been consistently upheld. Thus, over the years, the Board has developed a considerable body of law which is, in a practical sense, the controlling interpretation on numerous shorelines issues.

The Board has, by and large, accomplished what it was intended to do. Its opinions are respected. It has prevented further congestion of the already crowded Superior Court dockets. It has provided a state-wide overview of the shoreline management process which simply could not be provided by the 39 county Superior Courts.

Debate over the Board's function

The achievement of the Board, however, has not been attained without controversy. That controversy, is really only a continuation of the original debate about the Board's function.

The debate is rooted in resistance to a state override of local decisions. At bottom, this is an academic matter, because the Board's power to override local decisions is not functionally different from the appeal of local decisions directly to court. In either case, a tribunal independent of politics makes the ultimate decision.

Thus, efforts to alter the Board's function have focused on procedures. When the Board hears cases *de novo*, a certain amount of evidence is a repeat of what was heard at the local level. But sometimes the Board hears additional or different evidence. Numerous proposals have been made to limit the Board's function to review the record made before the local government. This change would make the Board a truly appellate-type tribunal, essentially eliminating its

fact-finding. Such a change would be contrary to the basic reason for establishing administrative tribunals: specialized fact-finding expertise. Beyond that, however, such a change would impose burdens of additional process and record-keeping on local governments, burdens many might not be in a position to shoulder, either financially or organizationally.

Board's quasi-judicial function

The Shoreline Management Act does not require a hearing at the local level before a permit is issued. Even in those jurisdictions with a Hearing Examiner system, the hearing function on shorelines permits tends to be information gathering, leading to a recommended decision for the governing body of the local government and not a full-blown adjudicatory proceeding. However, the Shoreline Hearings Board is, by law, functioning quasi-judicially, providing elaborate due process protection typical of trial proceedings. Redundancy, therefore, could be eliminated by simplifying local procedure, rather than altering the Board's function.

If local governments were to take over the quasi-judicial function in the Shorelines area, they would be taking on considerable costs simply in the necessary preparation of the record. In addition, they would increase the legalistic complexity of proceedings held at the local level. Shoreline appeals (which occur in only a small number of cases) sometimes take as much as a month for the Shoreline Hearings Board to hear. Most local governments cannot readily accommodate trial-type hearings of this length and intricacy.

The ultimate effect of limiting the Board to a record prepared locally, would probably be to penalize local citizen groups who wish to oppose projects. A key feature of the Shoreline Management Act, as conceived, was citizen involvement. In many cases, citizen response to projects does not truly become mobilized until after a local decision has been made. The Shoreline Hearings Board, in effect, provides citizen groups with a chance to put together a coherent case after the details of the project have come clearly into focus through the local process. The present procedure provides a "second look" at shorelines development proposals, a time citizens can put together a fully informed presentation.

The notion that developers will "lie in the weeds" and fail to present significant evidence at the local level, only to do so before the Hearings Board, defies common sense. It is to the advantage of any developer to present its case thoroughly and convincingly at the local level so that the local decision will be final. The last thing a developer wants is an appeal. To suggest that the strategy of developers is to save their best shots until they get to an appeal phase is to impute to them a level of subtlety (and a deepness of pocket) not supported on the basis of experience.

Tension over aquaculture

The tension between the local government process and the Shorelines Hearings Board surfaced in the late 1980s with the advent of proposals for aquaculture in the Puget Sound. In many cases, applicants for aquaculture projects (such as pen-reared salmon operations) ran into a virtual barrage of local opposition, principally from shorefront landowners who did not want such businesses located in the water near their homes. Sometimes local permits were acted on before substantial technical information relevant to the issue was developed. Therefore, in some cases, the Shoreline Hearings Board record did reflect significant newly-acquired information not available during local hearings. This, however, was an anomalous situation which, in the experience of the Board, had not happened before and has not happened again. Oddly enough, the

perception that local interests were being overridden by some sort of state conspiracy favoring aquaculture were made in the context of a system which provides more local control over state resources management than had been previously enjoyed.

The primary instrument for implementing the Shoreline Act's policies is the local master program. The Shoreline Act itself does not call for the location of aquacultural activities in residential neighborhoods. Local governments have a wholly adequate tool for controlling the siting of aquacultural projects through their master programs. Ironically, one of the hotly contested features of Shoreline legislation at the outset was the subservience of state government agencies, particularly the Department of Natural Resources, to the local decision-making process.

In aquaculture, the real source of decisions unpopular at the local level has been the failure of master programs to reflect truly appropriate locally-developed siting policies. The aquaculture controversy represents a misunderstanding of the Shoreline Hearings Board's function. The Board, while it provides a state-wide perspective, is not instituted to implement other state government-backed management programs. State agencies and local governments appear before the Board on an equal footing.

Board makes no policy

The Shoreline Hearings Board functions like a court. It does not make policy. Its function is to apply policy made by others through the planning process set forth by the Shoreline Act. During the history of the Board, there has been no instance of an effort by the executive branch to put pressure on the Board to reach a particular decision.

Over the years the Shorelines Hearings Board's state-wide perspective has enabled it to fashion a generally consistent and coherent approach to the Shoreline Management Act's underlying policies. If experience is a good guide, and the Board's jurisdiction is not altered, it should continue to function faithfully as an independent applier of controls developed through the shorelines planning process.

Intergovernmental Relations
Working out State/Local Relations under the SMA

In addition to the speakers whose papers appear in this section, we acknowledge with gratitude the presentation made by Bob Martin, Director of Planning, City of Walla Walla.

Improving State/Local Relations

by Tom Cowan
San Juan County Commissioner

Sometimes, local governments' working relationship with state agencies can be analogous to running a 10K road race. In the beginning, you're excited and focused on achieving your goals. You start off with a lot of energy and high expectations, but after the first few miles you start to tire and realize there is still a long way to go. You begin to ache, question why you even started, and agonize that you'll never finish. Does that scenario sound familiar to some of you local planners? Maybe to some of you state folks as well? I would like to spend the next few minutes describing what I see as a problem in the area of intergovernmental relations and explore a couple of ways of addressing it.

Shoreline issues big in San Juan County

As background, you should know that in San Juan County we spend a lot of time on shoreline issues. There are 375 miles of saltwater shoreline in San Juan County, the highest number of any county in the nation. To put that in perspective, when you combine all of Washington and Oregon's Pacific Ocean shoreline, there are only 432 miles of ocean front.

For my part, I first became involved with local issues in 1974 as a member of the San Juan County Citizens Advisory Committee which helped write our Shoreline Master Program. I remained active in various shoreline issues throughout the 1970s, and I have been continuously involved with shoreline issues as a County Commissioner for the past nine years. Like most local governments, our interaction with state agencies revolves around SEPA, permit review, enforcement and grants administration.

Although periodically San Juan County has had major disputes with the Departments of Ecology, Natural Resources, Agriculture, and Wildlife, I feel we generally enjoy a good overall relationship with these departments. Nevertheless, after talking with my counterparts around the state, I often feel like we are in the fortunate minority.

State agencies reactive

We know that carefully crafted into the Shoreline Management Act is recognition that statewide interests must be protected while providing discretion and flexibility for local Master Programs. This is all well and good, but the process

for achieving this is flawed. As one of the Peter Principles states, "If you don't know where you are going, you will probably end up somewhere else." Typical comments from local officials and planners regarding state agency review are that they contain "useless statements," and "poor understanding and analysis." I believe the primary reason for this dissatisfaction is that the agencies are nearly always in a reactive role.

Typically, state staff is unaware of the often difficult decisions that take place at the local level prior to their involvement, and are therefore unable to recognize the effects of their review. Local government then perceives state review as cursory, off point and often counter productive. To illustrate, let me give a quick review of San Juan County's experience with Aquaculture amendments to our Shoreline Master Program.

In 1986, San Juan County was the first county to enact a moratorium on aquaculture development. This followed approval, in quick succession, of three development permits which made us realize that our policies and regulations were badly deficient. The regulations were largely ineffective because, like most counties, we wrote them in the early 1970s when we hardly knew how to spell aquaculture! We diligently pursued amendments but experienced very contentious hearings within the county.

Nevertheless, we finally approved the amendments only to have them rejected by DOE as too restrictive. We proceeded to negotiate with Ecology to resolve our differences, but didn't realize they were being squeezed primarily by the Department of Agriculture and the Department of Natural Resources. The amendment process was most controversial in San Juan County. Both pro- and anti-industry were very angry with the county, and we were getting zero cooperation from the state. Finally, after another year and a half, with some special assistance from Ecology staff, we passed amendments Ecology felt comfortable approving.

However, the battle wasn't over. Based on behind the scenes lobbying by industry and the Department of Agriculture, the Ecological Commission promptly denied our amendments. Now, with full support from Ecology, we finally, in 1989, prevailed on an appeal to the state Shoreline Hearings Board. The Ecological Commission appealed to Superior Court, where we again prevailed. With our new regulations in place, we became the first county to lift our aquaculture moratorium. Since there was never really any strong argument of noncompliance with the Shoreline Management Act, we felt abused by the state agencies.

State has expertise to provide help up front

Could this frustrating experience have been avoided? Perhaps not entirely, since our amendments did not embrace the Governor's economic agenda which promoted the salmon net pen industry. But there is no question that local and state governments can do a better job representing the public. As I said earlier, I believe the main problem in the relationship is that the state normally works in a reactive mode - reviewing the work done by local government. I suggest state agencies actually are much better equipped to provide help up front in the processing of local regulations, permit reviews, and enforcement. State agencies have the expertise to provide technical assistance from the beginning. They should provide resources rather than primarily review, comment, and approve or reject local government's work.

Let's use the aquaculture example, since at least six or seven counties were struggling with the same issues. Think of the positive consequences that could have been achieved if Ecology, Natural Resources, and Agriculture had assigned a resource person to help the counties write goals, policies, and regulations that would be in compliance with statewide interests. Granted, with the limits on

budgets, this would require a reprioritization of the agencies' existing programs, but if more technical assistance were provided earlier in the process of SEPA, permit review, enforcement and Master Program amendments, there is little doubt that statewide interests would be better protected and the potential for frustration and conflict with the local government could be reduced. In this manner, we are more likely to achieve the state and local partnership envisioned by the Shoreline Management Act. Using the analogy of the 10K runner, when the finish line is finally crossed, rather than feeling sheer exhaustion, we should have the sweet satisfaction of accomplishing our goals.

San Juan County and several neighboring counties are being asked by NOAA to support a Northern Puget Sound Marine Sanctuary. I would have preferred a process for developing goals and objectives similar to the model I have just described. Uncertainty breeds fear and resistance. Unfortunately, after years of work, we are just now finding out the potential parameters of the Sanctuary Plan. There is no question that with earlier, active coordination of the county governments involved, a more positive relationship with NOAA could have been fostered.

I would also make a strong pitch to the state agencies for consistent liaison representation. Frustration at the local level often is caused by working with state staff unfamiliar with local issues and individual personalities. Sometimes state staff is not adequately trained for their areas of responsibility.

The Puget Sound Water Quality Authority, although quite small when compared to other state agencies, specifically dedicated a staff person to be assigned liaison with each county. We meet on a regular basis, which provides the opportunity for us to know their position on issues and for them to understand our local priorities better. This is a good model.

Improved communications could eliminate friction

I've attempted in this short time to describe a couple of ways that we may improve relationships between local government and state agencies. These ideas don't require any legislative action. I am simply suggesting that by officially and programmatically improving when and how we communicate, we may eliminate some of the friction and resistance that leaves both sides disappointed. Sometimes it's the little things that count. As Edward Simmons said, "The difference between failure and success is doing a thing nearly right and doing a thing exactly right." It is my hope that we all continue to make the system better so that we may truly achieve the partnership between local and state government that was envisioned by the Shoreline Management Act.

Intergovernmental Relations

by Dwain Colby
Island County Commissioner

Island County's relationship with the state in the area of Shoreline Management has been volatile. The impression at the local level during the early years was that Ecology was badly biased in favor of the aquaculture industry. The Legislature classified aquaculture as a primary use of state waters and as a result, Ecology insisted on favorable language in our Shoreline Master Program. This put us at a distinct disadvantage in trying to defend decisions against aquaculture where they were appealed to the Shorelines Hearing Board. It seemed like local efforts to protect the shoreline were being thwarted by the very state law passed to help us protect it.

Process leaves local citizens frustrated

The Hearing Board's mandate to hold its hearings *de novo* has damaged the credibility of the system. Local people appear en mass at shoreline related hearings before their own elected officials. When judgment is rendered they think they have been part of the system. The Shoreline Hearings Board's *de novo* hearing process proceeds as though the local hearing had never happened, rendering the local process meaningless and the local citizens frustrated.

If anything needs to be changed in the administration of the Shoreline Management Act, it is the *de novo* mandate before the Shoreline Hearings Board. Where an adequate record has been generated at the local hearing, any appeal should be heard on that record.

While our early relationship with Ecology was strewn with rocks and shoals, the past three years or so have found the situation much improved. When the prospect of salmon net pens appearing out in front of every waterfront home was suddenly thrust upon us, we reacted by putting a moratorium on aquaculture projects in the county. Everyone got in the act trying to solve the aquaculture problem. Representative Sayan gathered a bunch of us together without result. A big facilitated conference held at Shoreline Community College only made the problem worse. Even Brian Boyle got into the act. In the meantime, Island County appointed an Aquaculture Review Committee to make recommendations for changes to our Master Program that would adequately address the siting of salmon net pens. Ecology provided staff to attend most of those meetings during the one and a half year review period. They also:

Reviewed and offered suggested changes to three early drafts of the aquaculture amendments
Conducted a public hearing on the proposed amendments in Coupeville
Supported the county's position during the formal review period and before the Ecological Commission
Defended the county's position from last minute attacks by the Departments of Fisheries and Agriculture

Our relationship with Ecology had come a long way!

Back to the Shoreline Hearings Board. Although *de novo* hearings undercut local procedures and participation, the actual decisions by the Shoreline Hearings Board have generally been favorable to the county. The people serving on the Board are knowledgeable and sensitive to local government's concerns in protecting the shoreline.

Relationship now cooperative

So, what started off being a highly contentious relationship we now consider to be a cooperative and helpful relationship. We recognize that the SHB can't do anything about their *de novo* mandate but the Legislature could and should. The entire process would gain credibility.

We see a number of problem areas in our future. Among them are: increased hardening of the shoreline by the construction of bulkheads; proliferation of docks and piers; no rules or regulations to control deforestation of shoreline bluffs; increasing non-point source pollution from storm water discharges; failing septic systems endangering shellfish resources and increasing development pressures on conservancy and natural designated shorelines.

We are very pleased that today we can count on Ecology to be part of the solution to these problems instead of part of the problem itself. I don't want to close without addressing the Puget Sound Water Quality Authority. People attending this symposium are all likely to be familiar with the Authority's "Puget Sound Water Quality Management Plan". The Shoreline Management Act is, of course, unaffected by the Plan yet it would seem to me that local Shoreline Management Master Programs should be more reflective of the Plan than they are at present. PSWQA has done a good job ensuring local government input into its plan. This helps to ensure a plan that local government has a reasonable chance to implement. I applaud them for their effort.

Federal government now in picture

While it would seem we have pretty well covered the bases between the Shoreline Management Act and the Puget Sound Plan, there is another level of government gearing up to provide additional regulation. The United States Department of Commerce through NOAA is seriously working on a Northern Puget Sound National Marine Sanctuary Management and Action Plan. What with EPA's adoption and designation of the 1991 Puget Sound Plan as a Comprehensive Conservation and Management Plan for Puget Sound, we have the first opportunity in the country to develop a process for ensuring consistency between federal activities and the estuary management plan. Indeed, we now have reasonable assurance of coordination between all levels of government.

Given this situation of integrated planning and coordination for the protection of Puget Sound and its shorelines, the question has to be asked: Is the Marine Sanctuary effort redundant? Perhaps the money going into the Marine Sanctuary idea would be better spent implementing the Puget Sound Plan.

Harbor Planning

Port Angeles Harbor Plan

Port Angeles Harbor Resource Management Plan

(From a slide show)

By Kenneth W. Sweeney, AICP
Port Planner for Port of Port Angeles

My portion of today's presentation will be to acquaint you with the geographic setting in which the study took place. As we tour the study area, I will point out the key issues and some of the natural features, existing activities and uses.

For anyone not familiar with Port Angeles, the city is located on the North Olympic Peninsula, about 60 miles west of us here in Everett. It is approximately 20 miles across the Strait of Juan de Fuca from Victoria on Vancouver Island, British Columbia. The single most distinguishing feature of the Port Angeles harbor is Ediz Hook, a three-mile spit of land which provides protection from waves and prevailing westerly winds.

The study area, which begins near the east city limits about one mile to the east of the ITT Rayonier pulp mill, includes all of the relatively limited, low-lying waterfront land area around to the tip of Ediz Hook. It includes the ravines through which streams flow to enter the harbor, and, finally, the water surface throughout the entire harbor.

The city's sewage treatment is located at the extreme eastern edge of the harbor at the mouth of Ennis Creek ravine. Immediately west of the sewage treatment plant is ITT Rayonier pulp mill, one of the largest employers in the city, providing 430 jobs. The mill is water oriented because 60 percent of its products are exported over the mill dock by barge. Chips used in production arrive by barge and by truck. Logs are boomed in and stored west of the mill.

Between the mill and the city's downtown area, there are no significant offshore activities. Because of a high bluff close to the shoreline, there are no major onshore activities either, but when the railroad that served Port Angeles between 1915 and 1984 abandoned its right-of-way at the base of the bluff, the city and several local civic groups seized the opportunity and are converting it into a hiking/bicycling trail.

Port Angeles' downtown waterfront is the city's primary visitor zone, the area where most visitor attractions and services are concentrated. They include:

City Pier, which has a viewing tower, transient moorage for small boats, and a marine laboratory where the public can view samples of marine life. The pier is the permanent berth of the Coast Guard cutter, *Active*.

The Landing, a shopping mall

Blackball Dock, the terminal for the passenger ferry, *Coho*, which transports people and vehicles to and from Victoria.

Downtown waterfront uses include motels, restaurants, shops, tour services and the Port Angeles Chamber of Commerce visitor information center. The block of waterfront west of the *Coho* ferry, at present under-used, has been identified in our plan as presenting opportunities for further attractions. Potential uses might include additional transient guest moorage and a cruise ship pier.

The single block most controversial on the entire Port Angeles waterfront is Oak Street to Cherry Street, a transition area between the downtown commercial and visitor activities and the industrial, working waterfront to the west. The question involves the location of the dividing line. The speakers following my presentation will characterize the controversy. I will describe existing uses.

The block is filled tidelands. The Port of Port Angeles owns the southern half; the northern half is owned by the state and managed by the port under a harbor management agreement. On the shoreline is a port-owned commercial fish pier where fishing boats land their catches. The eastern portion of the block is used by Clallam Transit as a bus staging area and private parking lot. The western portion of the block is leased, short term, to K-Ply, a plywood manufacturing plant, for log storage.

The character of the waterfront west of Cherry Street is not in doubt. It is industrial. The K-Ply plywood manufacturing complex occupies about 20 acres of the area. Adjacent to K-Ply is the Port of Port Angeles marine terminal with berths for up to five ships, which allow timber companies on the North Olympic Peninsula to ship their product to overseas markets. Adjacent to the marine terminal, the port provides a public log receiving, storage, rafting and booming area.

West of the log dump is the Port Angeles Boathaven, permanent moorage for 563 pleasure and commercial boats. Also in this area is a small public boatyard for maintenance and repair of small vessels. Several boating-related businesses are located in the Boathaven vicinity, including charter boat offices, fish retail, fishing tackle and supply stores and a boat hardware store.

From the Boathaven west, 4,000 lineal feet or so of shoreline is leased or owned by Daishowa America, which produces printing grades of paper, most of which is used in telephone directories. Daishowa also produces wood chips for export. A conveyor system loads ships at their private chip wharf.

West of the chipping operation is a parcel of approximately 50 acres, currently used for log storage. Daishowa announced in 1988 it would spend approximately $600 million to expand the mill on this site. The expansion was to have included two new paper machines. Those plans have now been placed on hold due to worldwide market conditions. However, those concerned with Port Angeles' economic base and employment hope the project will move forward in the future.

A prominent natural feature at the base of Ediz Hook is a lagoon. The lagoon was formerly used for log storage, but that use has been discontinued. Daishowa mill's secondary industrial wastewater treatment facility is located between the lagoon and the Strait of Juan de Fuca at the lagoon's southwest corner. Additional uses in the vicinity of the lagoon were proposed as part of the mill's expansion plans. However, opposition during the draft environmental impact statement phase caused the plan to be revised. Its projected use is now strictly as a conservation area.

Beyond the lagoon stands the existing mill complex. At the north side of the mill are petroleum storage tanks. Fuel from these tanks is delivered to a 15,000 barrel-capacity lighter barge. The barge and an accompanying tug bunker ships anchored in the harbor.

Ediz Hook is primarily recreational with one major exception - a log truck unloading operation for a private timber company. Logs unloaded from trucks are placed directly in the water by a lifting device. Recreation facilities on Ediz Hook include waterfront parks, boat launching ramps, picnic areas, public beaches, etc. Limited existing commercial activities include the Thunderbird Boathouse, which offers charter fishing, tackle and grocery items, and the Port Angeles pilots association headquarters.

The tip of the hook is occupied by the Port Angles Coast Guard base and air station.

The final study area is the 1,340 acre open water areas of the Port Angeles harbor. The waters adjacent to Ediz Hook are used extensively for log booming, a temporary storage before moving the logs elsewhere. One use, that shows up from the air but is not apparent from ground level, is the salmon rearing operation. Atlantic salmon are raised from smolt to market size in pens anchored in open water.

In the outer harbor we find the bunkering mentioned previously, ships at anchor, barge and tug movement, recreational boating and fishing, float plane operations, scuba diving, pilot boat operations, crew transfers, ship supply and ferry operations.

Now that you have been introduced to the Port Angeles harbor's physical setting, I will pass the baton to Paul Carr who will describe why planning for the harbor was undertaken.

The Port Angeles Harbor Resource Management Plan: How It Came To Be

by Paul Carr
Former Planning Director, City of Port Angeles

Port Angeles Harbor is one of the deepest protected harbors on the west coast of America. It has supported and attracted activities and developments in every economic climate. Historically the harbor has supported log storage, sport fishing, commercial and governmental shipping activities, recreational boating, ferry service and water related industries such as pulp and paper mills. Beginning in the 1970s , the harbor began to encounter significantly different types of proposals. In 1976 the Northern Tier Pipeline Company proposed a 1.3 million barrel per day oil port in the harbor. In the 1980s the harbor experienced land-based and non-land-based bunkering operations, mixed use commercial developments, increased demand for public access, and aquaculture operations.

Multiplicity of goals and regulations

Deciding how best to use the harbor, while protecting the environment and complying with a multiplicity of overlapping and conflicting goals and regulations, was on a project-by-project basis. This was an inefficient use of staff, time and money. It also resulted in conflicting and occasionally contradictory decisions over time.

The multiplicity of regulations was paralleled by a multiplicity of actors in the harbor. The City of Port Angeles, the Port of Port Angeles, the Department of Natural Resources, the Department of Ecology, Clallam County, and the U.S. Coast Guard were the major governmental entities. Business interests included four major mills, downtown merchants, longshoring companies and unions, and a pilots association. The Chamber of Commerce and the Clallam County Economic Development Council were other development oriented actors. Sports fishermen, boaters, environmental and other citizens groups were active participants as well.

There is historical distrust among these actors - distrust stemming from each actor's pursuing individual goals and interests.

Many of the legislatively mandated goals and requirements that the actors were pursuing did not adequately address the changing nature of urban harbors and

waterfronts and the changing nature of harbor activities and businesses. Knowledge and technology changed rapidly, while regulation changed slowly, if at all.

Master Program unchanged since early 1970s

The City's Shoreline Management Act Master Program had not changed since it was developed in the early 1970s. It did not address changes in the city's goals for the community, nor changes in how harbors and urban waterfronts were being used. The City under a new Comprehensive Plan had emphasized urban waterfront redevelopment with a commercial and public access focus in the shoreline adjacent to the downtown.The master program classified the entire harbor shoreline as one homogenous area - an urban environment. Even with an adopted master plan for a public access waterfront trail, there were still conflicts with applicants during substantial development permit review because the Master Program did not provide specific guidance on how to resolve conflicts with water-dependent uses. Aquaculture and bunkering were new uses that were not specifically addressed by the master program, but for which permits were issued. Mixed uses were not specifically addressed.

In fact, a mixed use, commercial retail, public access, water-oriented project on a Department of Natural Resources Harbor Area lease controlled by the Port of Port Angeles using state grant funds obtained by the Clallam County Economic Development Council and passed through the Port and the City, opposed and supported by downtown businesses about equally, was the catalyst for the broad based harbor planning effort that resulted.

The catalyst project stimulated interest in a planning department comprehensive study of the harbor that had been authorized by the City Council. That study was intended to be the basis for revising the Master Program and proposed to be funded by a Department of Ecology grant. Accordingly, the Shoreline Management Act provided the general parameters for the study. Without the grant, the project would not have been able to proceed on the scale that it did. However, much of the investigation and the study focused on potential uses for two reasons - we were in the midst of a weak economy and the environmental information collected during the Northern Tier project was still valid.

Public access and water-dependency

The goals of the Shoreline Management Act were presented as being able to enhance responsible community and economic development. A plan providing better predictability and unpredictability had almost killed the mixed use project. While water-dependent uses have priority, they were being encroached upon by non-water-dependent uses. The priority for water-dependent uses in the Shoreline Management Act and in Department of Natural Resources Harbor Area regulation set the stage for discussing the encroachment of the commercial downtown upon the industrial area to the west. While this particular problem was not resolved, priority to water-dependent uses in the rest of the harbor was generally accepted.

Correspondingly, the Shoreline Management Act priority for public access set the stage for the discussion on public access competing with other harbor uses. Public access was accepted as a valid use in the harbor by industry, although everyone acknowledged that site specific disagreements could occur.

Public access and water dependency were issues in which the Shoreline Management Act and the Department of Natural Resources Harbor Area regulations differed. Increased public access could make projects that were more water-oriented than water-dependent more compatible with the goals of the Shoreline Management Act. However public access was not considered to have such an enhancing effect upon those projects under DNR's requirements for water-

dependent commerce. In many ways DNR was perceived as more of an enemy by the local actors than the Department of Ecology. Their participation and expertise were essential to a comprehensive approach and a successful plan.

Fortunately, the Department of Natural Resources wanted to participate. Participation in the harbor plan provided the agency an opportunity to address a local problem and develop a potential planning model for use in other urban shoreline communities. DNR contributed funds and assigned high level officials to the planning study.

And that is a brief description of how the plan came to be. Where the plan is today and where it will be in the future is the subject of the current City Planning Director's presentation.

Future of Port Angeles Shoreline Master Program, Harbor Plan and Comprehensive Plan

by Brad Collins
Planning Director, City of Port Angeles

The Port Angeles Shoreline Master Program adopted on August 5, 1976, was simply a copy of the urban environment section of the Clallam County Shoreline Master Program. On April 3, 1990, the Port Angeles Harbor Resource Management Plan was accepted, but it relied on the Comprehensive Plan for implementation. The implementation process was initiated immediately, but it will not be completed until 1993 or later. The time it has taken from the start of the Harbor Plan in 1984 to its complete implementation more than nine years later gives rise to doubts about the effectiveness of years of harbor planning.

Short and long term benefits

The harbor planning process is so long that to consider short term benefits seems an oxymoron. Similarly, except where long term benefits can be clearly demonstrated, the Harbor Line Commission process supports the status quo. While long term benefits, even in my opionion, should be of greater importance in harbor planning, this planning process seems not only to preclude short term benefits but also to defeat any long term benefits by being so difficult to accomplish.

Conflicting goals and jurisdictional cross purpose

A primary goal of the Shoreline Master Program, the Harbor Resource Management Plan and the Port Angeles Comprehensive Plan is to enhance public access to waterfront areas. But other goals of each plan take divergent directions. The Shoreline goals focus on public interests; the Harbor goals facilitate navigation needs; and the Comprehensive Plan goals address land use relationships. What makes sense in shoreline planning may be contrary to harbor planning or land use planning and vice versa.

Legal requirements enunciated in U.S. and State Supreme Court decisions on when public access becomes a taking or when zoning can exclude certain land uses are very complicated. Now the Attorney General is required by the Growth Management Act to prepare a process test for when a regulation becomes a taking. Similar legal tests on when navigation and commerce are or are not served by a change in the harbor plan have not been outlined.

As a consequence of these conflicting goals and legal constraints, state and local jurisdictions are often working at cross purposes in planning for harbor uses. Should we forget all this time-consuming, frustrating, disagreeing and nothing but conflicts, harbor planning? No, these are the reasons harbor planning is essential. In fact, the Harbor Plan brings policy conflicts to the fore, where decisions can and should be made long before someone's ox is to be gored.

Harbor Planning

Everett Harbor Planning

City of Everett Waterfront Planning

by David Koenig Manager
Long Range Planning and Community Development

History

One hundred years ago, in 1891, the construction of the Great Northern Railroad along Port Gardner and across the river mouth became the first of many activities to affect Everett's waterfront. Construction of the jetty was completed around 1899 and a protected harbor was formed along the west side of Everett.

Everett has always been a timber dependent city, which is apparent not only from the numerous mills, but from the vast expanses of log rafting facilities. Log rafting on mud flats in the port area adjacent to the jetty, which dates back to the early 1900s, still exists today for logs being exported.

Many patterns of development and much of the shoreline development were established in Everett's first 20 years. After World War II, more than 40 lumber mills dotted the Everett coastline and the entire waterfront was in private hands with little or no public access. Our economic dependence on the waterfront decreased and the community diversified. Since the majority of the shoreline had been industrially developed, the shoreline itself was almost void of a natural setting. Man-made Jetty Island was a natural environment and the Port of Everett envisioned locating its facilities on the island.

Shoreline Master Program and Everett's plans

With the passage of the Shoreline Management Act of 1971, interest and community involvement in revitalization of Everett's waterfront began. Private industry and the port were brought under city review authority, essentially halting their abilities to act without regard to public access and recreation on the Everett waterfront. A 26-person citizen's committee was formed to determine the location of future port growth and to delineate what types of development could and could not occur on city-owned shoreline areas. The citizens' committee worked with port officials through a mediation effort and consensus guidelines for future port development were determined. The committee started its work in August, 1973, and the Shoreline Master Program was approved by the Department of Ecology in January, 1976.

The first shoreline committee members, the pioneers, had to deal with a whole variety of issues:

Private property rights
Navigational needs
Public right to access and use of the water
Utilization of a limited resource
State-wide-important resources
Protection of unique natural features

After the Shoreline Master Program was adopted, the next significant study of waterfront use was the Everett central city development plan. The central city development plan concluded the downtown central business district would benefit from development of both harborfront and riverfront shorelines at either end of Hewitt Ave. The idea was to create more activity and redevelop the waterfront with access for Everett citizens and visitors.

The Port of Everett wanted the harborfront area solely for the purpose of "traditional" port industries. This demonstrates the different points of view the port and city had for improvement of Everett. The city was interested in improving public access and the aesthetics of the harborfront area. The Urban Design Plan for Everett harborfront set forth standards for development of street and public access improvements, including a concept for pedestrian access from the bluff to the marina area. Through port leadership, this has been funded and is in the process of being designed and built.

The next city plan was pedestrian and bicycle access for Everett's Snohomish riverfront, which proposed two alternate routes for pedestrian and bicycle access along the riverfront, connecting with the harborfront. The Everett 2000 Committee vision statement reaffirmed this idea and expressed a desire that the trail continue along the water to Mukilteo. This trail is proposed to connect with a Snohomish County developed trail along the river to the east.

Next, the city updated its General Plan which called for creating waterfront zones, encouraging redevelopment of the waterfront, and primarily allowing water-related or water-dependent uses. These zones were developed when we updated our zoning code and created both a Maritime Use Zone and a Waterfront Commercial Zone.

As permits were processed, the port and city continued to be in conflict regarding public access requirements. In a cooperative effort the City of Everett and Port of Everett developed and adopted the Everett Harborfront Public Access Plan. It serves as a blueprint policy document for future public access improvements, some of which have been accomplished, others still in the design stage.

We currently are in the process of updating our Shoreline Master Program. A committee formed to do this is nearing the completion of its work. The main issues it is addressing are: public access, wetlands/critical areas, use designations, and policy/standards.

The Everett Planning process developed locally approved plans which give policy and project direction to the SMP permit process. The plans have dealt primarily with public access. In some areas of the shoreline, land use has been narrowed to reserve areas next to the water for water-dependent uses. The Shoreline Master Program forced us to consider these uses, something we might not have done otherwise. A good example in Everett is man-made Jetty Island which at one time was considered prime industrial land by business interests. The original SMP preserved that natural asset for wildlife and public access, a different use than Everett considered before the SMA.

Issues of the future which will affect Everett's shoreline

Future of log exports
Need for fishing fleet
U.S. Navy affect on Everett's waterfront and demands it will generate
Marina expansion and its effects on environmental and Indian concerns
Redevelopment of industrial sites
Public access and the railroad
Effects of development on freshwater Silver Lake and the design of roadway and public access improvements
Growth Management Act requirements and implementation

Conclusion

The shoreline planning process is dynamic and ongoing, becoming more detailed and specific as time goes on. The need of the public and community to see the vision of the community is important. The community demands more detailed planning. The SMP should be the framework from which more detailed local plans are developed and implemented.

Shoreline Planning on Everett's Harborfront

Public Access Planning as a Comprehensive Planning Tool in a Rapidly Changing Development Environment

by John Owen
Partner, MAKERS Architecture and Urban Design
Robert Cooper
Director Everett Parks and Recreation Department
Dennis Gregoire
Director of Planning, Port of Everett
David Koenig
Manager of Long Range Planning and Community Development, City of Everett

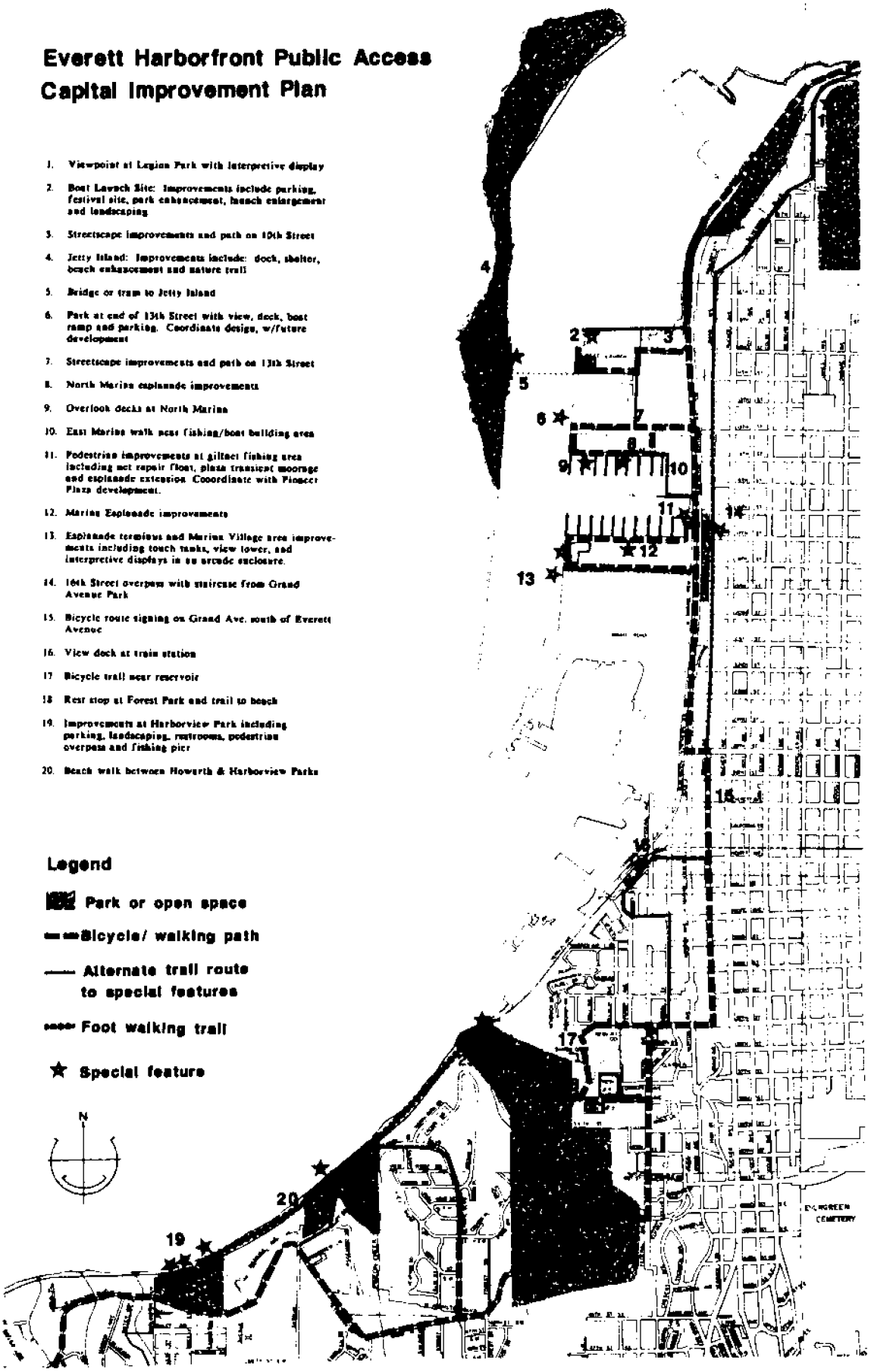
In an ideal world, shoreline planning takes place in a comprehensive, top-down fashion. Starting with broad, general goals and an analysis of existing conditions, the rational comprehensive shoreline planning process involves the exploration of alternative scenarios and the development of a preferred planning concept based on the most desired components of each alternative. This concept then serves as the framework for specific policies and actions which, in turn, direct a strategic program of specific projects and resource management programs. In this way, individual regulatory policies, development projects and capital improvements may be undertaken with the assurance that they support a broad vision and a rational strategy for shoreline management. Unfortunately, such a logical comprehensive process is not always possible. Often, port districts must retain the flexibility to respond to unforeseen opportunities. Also, new developments can emerge at such a rapid rate that comprehensive planning efforts cannot keep pace. Finally, conflicts between competing organizations and goals can prevent the building of a public consensus necessary for developing an effective plan.

A changing marine economy

Such was the situation on Everett's harborfront during the late 1980s when the local marine economy was rapidly changing from its traditional wood products mill industries to a broader mix of log export, recreational boating, smaller water-related industries and the development of a US Navy battlegroup homeport. In response to these demands, the Port of Everett pursued the development of the

Everett Harborfront Public Access Capital Improvement Plan

1. Viewpoint at Legion Park with interpretive display
2. Boat Launch Site: Improvements include parking, festival site, park enhancement, launch enlargement and landscaping
3. Streetscape improvements and path on 10th Street
4. Jetty Island: Improvements include: dock, shelter, beach enhancement and nature trail
5. Bridge or tram to Jetty Island
6. Park at end of 13th Street with view, dock, boat ramp and parking. Coordinate design, w/future development
7. Streetscape improvements and path on 13th Street
8. North Marina esplanade improvements
9. Overlook decks at North Marina
10. East Marina walk near fishing/boat building area
11. Pedestrian improvements at giltnet fishing area including net repair float, plaza transient moorage and esplanade extension. Coordinate with Pioneer Plaza development.
12. Marina Esplanade improvements
13. Esplanade terminus and Marina Village area improvements including touch tanks, view tower, and interpretive displays in an arcade enclosure.
14. 16th Street overpass with staircase from Grand Avenue Park
15. Bicycle route signing on Grand Ave. south of Everett Avenue
16. View deck at train station
17. Bicycle trail near reservoir
18. Rest stop at Forest Park and trail to beach
19. Improvements at Harborview Park including parking, landscaping, restrooms, pedestrian overpass and fishing pier
20. Beach walk between Howarth & Harborview Parks



central harborfront for heavy industries. At the same time, the City of Everett adopted a central city development plan that saw the harborfront as one of downtown Everett's primary development resources and envisioned increased public access and a mix of uses along the shoreline. Also, Everett's Park and Recreation Department was pursuing a series of shoreline park improvements throughout the city, and the harborfront was a keystone in their plan. These competing visions led to conflicts in which the Port was not able to secure the shoreline permits and the City's redevelopment efforts were stymied. At the same time, this conflict prevented the formulation of a comprehensive shoreline plan. What was needed in this situation was a process to achieve cooperation between the City and the Port to promote strategic coordination of individual development actions in response to rapidly changing conditions.

Harborfront public access plan

The unlikely planning tool used to attain these goals was a harborfront-wide public access plan. There are several reasons that the public access plan , normally considered a relatively minor component of a comprehensive plan, was key in achieving a comprehensive vision and cooperative working relationship. First, the public access plan itself was comprehensive in that it conceived of the improvements as a system of recreational and access features linked by a city-wide pedestrian and bicycle pathway. Connections were made between Everett communities and a wide spectrum of shoreline amenities, public features and recreational resources. Figures one and two illustrate how the individual elements were located and connected to take maximum advantage of the shoreline resource while ensuring compatibility with proposed water-oriented development.

Second, the plan balanced access goals with the need for industrial development. In situations where personal safety and intensive water-oriented development would not be incompatible, it was determined that off-site public access improvements would be appropriate. Public access improvement projects were identified to which the Port could contribute in lieu of on-site features at inaccessible or unsafe industrial areas.

Third, the access plan included visual design, landscaping and environmental enhancement features that pursued the City's redevelopment goals. The plan identified areas where a mix of industrial, commercial and recreational uses are encouraged. Schematic designs, implementation strategies and budgets were set for public access improvements which will serve as capital infrastructure for desirable, water-oriented development.

Fourth, the plan was a joint effort between the Port and the City. Staff members from the City's planning and parks departments as well as the mayor's office played a key, hands-on role in developing policies and identifying projects. The public participated at key points to help determine the priority for recommended projects.

Because the plan itself was a joint effort, it served as a cornerstone for cooperative efforts between the City and the Port. Soon after the plan's adoption, the Port voted to continue its policy of dedicating two percent of the total cost of each development for public access improvements. The two percent policy is intended to be the initial point of discussion regarding the Port's public access contribution and does not limit the Port from contributing more, if the situation warrants. Two things make this policy effective. First, since the plan is comprehensive and at the same time identifies specific improvements that will maximize the public's enjoyment of the shoreline, the nexus between the public access requirement for an individual industrial development and the corresponding off-site improvement is established. This means that the Port's two percent contribution will provide a maximum benefit as well as satisfying the legal public

Everett Harborfront Access Elements

Listed below are the capital improvement elements recommended in this plan with construction budget estimate for each. These elements are located on the map on the following page and described in the attached design information sheets.

The construction budgets include taxes, design fees and contingency. The contingency and fees vary from element to element depending upon complexity of the work and the number of unknowns affecting the design.

ELEMENT	COST	POTENTIAL CONTRIBUTORS: Port: Operational Improvements	Port: On-Site Mitigation	Port: Off-Site Mitigation	City of Everett	Developer Mitigation	Utilities	State & Federal	Other	IMPLEMENTATION STRATEGY
1. Interpretive display at Legion Park	$ 2,000				●				●	Library/Parks Dept. Program
2. Boat launch - o Parking/festival site, park enhancement, launch enhancement & landscaping	$ 806,000	●	●		●			●		Part of Port's boat launch improvement program
3. Streetscape and path on 10th Street	$ 132,000		●		●	●	●			Part of boat launch improvements
4. Jetty Island o Dock o Shelters, beach enhancement & Nature Trail	$ NA			●	●	●		●	●	Management study needed, coordinate recreation improvements w/wildlife enhancement program.
5. Access to Jetty Island	$1-4 M		●	●	●	●		●	●	Alternatives: bridge/tram/boat
6. Park at end of 13th Street with deck, cartop boat launch, parking & coord. w/ future development	$ 678,800	●	●		●	●		●		Coordinate w/ Port's North Marina redevelopment plans
7. Streetscape and path on 13th Street	$ 321,300	●	●		●	●	●			Coordinate w/ Port's North Marina plans
8. North Marina Esplanade improvements	$ 448,000	●	●			●				Coordinate w/ Port's North Marina plans
9. View decks at North Marina	$ 387,800		●	●		●				Coordinate w/ Port's North Marina plans
10. East Marina walk near fishing/ boat building area	$ 497,800	●	●							Coordinate w/ Port's East Marina industrial area plans
11. Ped. and fishing activity at gillnet fishing area	$1,378,000	●	●			●				Integrate fishing industry facilities and public access.
12. South Marina Esplanade improvements and Yacht Club development	N/A	●	●			●				New commercial developments should add access amenities.
13. Esplanade terminus improvements o Touch tanks and arcade o View tower	$ 172,000 $ 109,500	●	●	●	●	●			●	Coordinate with Marina Village business
14. Overpass and stairs from Grand Avenue area	$ 496,800		●	●	●	●	●			Perform cost/benefit analysis
15. Bicycle route signing south of Everett Avenue	$ 4,000			●	●	●			●	Coordinate with Public Works
16. View deck at train station	$ 54,000			●	●	●			●	Secure approval of railroad
17. Bicycle trail near reservoir	$ 63,000			●	●		●	●	●	Coord. with Public Works Dept.
18. Rest stop at Forest Park and trail to Pigeon Creek Beach	$ 12,800			●	●	●	●	●		Coord. with Parks Dept. Forest Park Masterplan
19. Improvements at Harborview Park o Parking, landscaping and shoreside improvements o Pedestrian overpass & fishing pier	$ 579,000 $1,551,500			● ●	● ●	● ●	● ●	●	● ●	Secure control of land first. Use funds from several sources. Good opportunity for off-site mitigation.
20. Beach path between Howarth & Harborview Parks	N/A									Retains as long term goal. Land ownership, construction and environmental issues prevent immediate development.
21. Signage & misc. site elements	$ 10,000		●	●	●	●			●	

access requirement. Secondly, Port funds have been used as seed money and matched with funds from other sources. For example, the Jetty Island Dock project funding consisted of:

Port: $150,000 (two percent =$110,000. In kind = $40,000.)
City: $150,000.
Inter Agency Committee for Outdoor Recreation: $150,000

Through this funding mechanism, several of the projects proposed in the plan have been completed or are currently underway. At the same time, the agreement between the City and the Port achieved through the public access plan, has allowed several major industrial projects including the development of the South Terminal, the US Navy homeport, and improvement of the alumina transshipment facilities.

Shoreline Master Program

In addition, the City and the Port have undertaken major policy and regulatory actions including an update of the Shoreline Master Program and a management plan for Jetty Island. The draft shoreline master program update is currently being finalized and will be submitted to the Department of Ecology for review in the Spring of 1992. New shoreline management provisions include:

- Policies and regulation for public access requirements that pursue the harborfront access plan as well as public access plans of the Snohomish Riverfront and Silver Lake. Key public access projects and standards are included in the appendix of the draft SMP.
- Urban environment sub-classification to designate area where maritime and mixed-use development is given priority. Urban-Riverfront, Urban-Estuarine, and Urban-Silver Lake environment designations refine management policies and use regulations for the unique characteristics of these shorelines. The basic use patterns laid out by the public access plan served as the basis for the new designations.
- General provision that reflect the City's new Environmentally Sensitive Area Ordinance.
- Clarification of procedures for environmental mitigation measures.
- The establishment of an aquatic environment with policies for aquaculture and off-shore moorage.

Everett Shoreline Planning Process

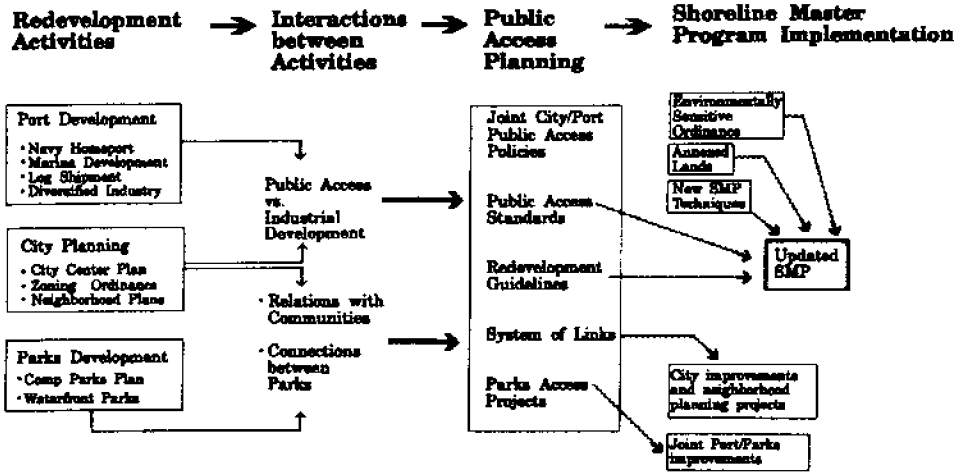


Figure 3 diagrams the Everett shoreline planning process, illustrating how the different and sometimes conflicting development activities were coordinated through the public access plan, which in turn led to a series of capital improvement projects and regulatory measures.

Conclusion

The conclusion that may be drawn from Everett's experience is that a public access plan, if undertaken in a comprehensive and cooperative manner, can serve a useful function in coordinating individual actions into a unified shoreline management strategy. Rather than being an isolated component of a broader harborfront plan, a public access plan can be a catalyst for addressing comprehensive planning issues and can provide a framework for integrated and responsive harborfront redevelopment. On the following pages are illustrated several of the plan's recommended public improvement actions which have been completed during the past two years or are currently in progress.

(Figure 4) Jetty Island habitat berm

During the past three years the Port of Everett, in conjunction with the U.S. Army Corps of Engineers, constructed habitat berm on the westward side of Jetty Island. Over 250,000 cubic yards of clean sand were placed to form a 1,500 long foot protected embankment. The berm now provides additional wave protection along with dune grass and salt marsh habitats. The first planting of grass was largely destroyed by grazing and water action, but the 1991 planting has been successfully established and an evaluation of fish population will be undertaken in 1992.

(Figure 5) Jetty Island dock

The Jetty Island Days program, operated by Everett Parks Department, transports over 13,000 citizens to Jetty Island to enjoy the swimming beach and natural areas. The old wooden dock and sanicans serving the program were insufficient to meet these needs. In 1990, the City of Everett, Port of Everett, and Interagency Committee for Outdoor Recreation joined efforts to build a 150-foot concrete access pier, a 350-foot floating dock and a floating restroom amounting to $450,000 worth of construction. These new facilities have greatly increased the site's capabilities and added to visitors' comfort. Further improvements will pursue the Jetty Island Management Plan that balances recreation with wildlife habitat enhancement.

(Figure 6) North Marina public access improvements and Yacht Club building renovation

The Port of Everett has pursued the comprehensive redevelopment of the North Marina Area by studying the ways a mix of marina, commercial, and recreational uses can be accommodated at this central location. Proposed shoreline master program provisions have been formulated to encourage this mix of water-oriented activities. Key to the Port's comprehensive development strategy is the flexibility to accommodate new uses as the demand arises. At the same time, capital improvements must be programmed to support new development. The Port has used the Harborfront Access Plan as the basis for their improvements. Most notable are the renovations to the former yacht club building and public access improvement at the promenade's south west point. The yacht club renovation, completed in 1991, included the remodel of an existing 18,000 square-foot building to accommodate parties, receptions, large public gatherings, and business hospitality functions. A public facility of this type is much needed in Everett and the former yacht club's prime location effectively uses the shoreline as a public amenity. In 1992, the Port will construct a new continuous pathway around the

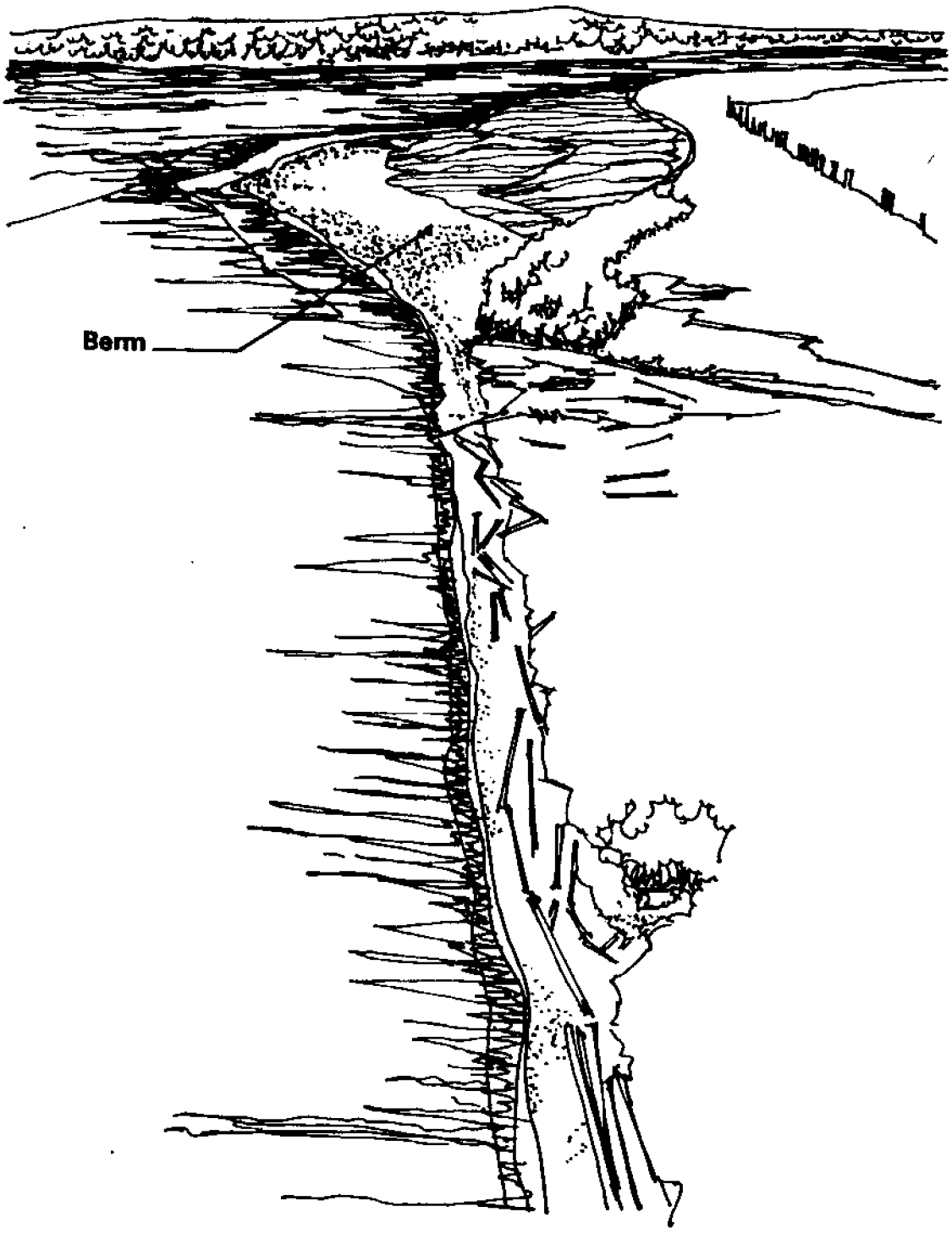


Figure 4

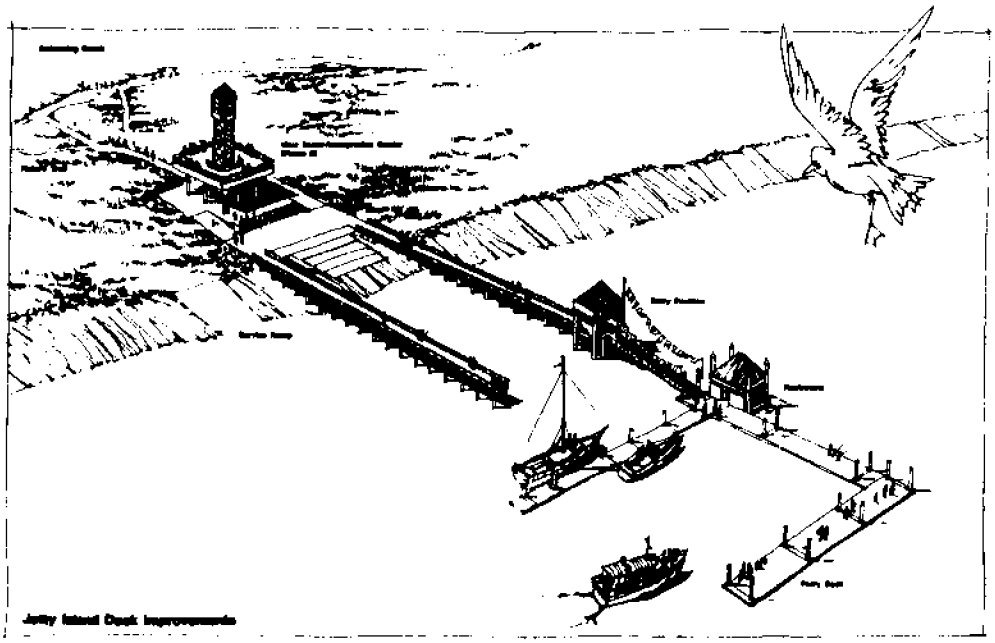
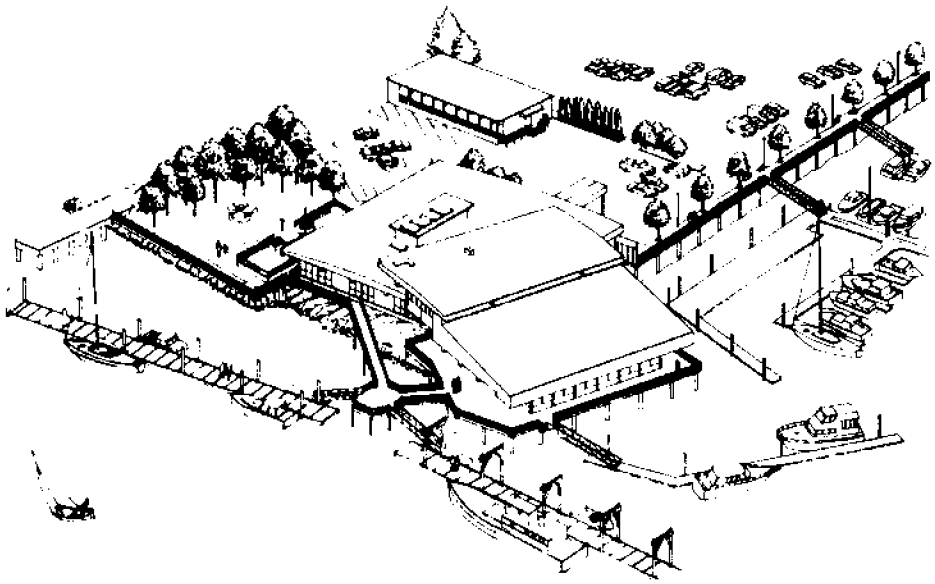


Figure 5



Conceptual Illustration of Everett Yacht Club Improvements

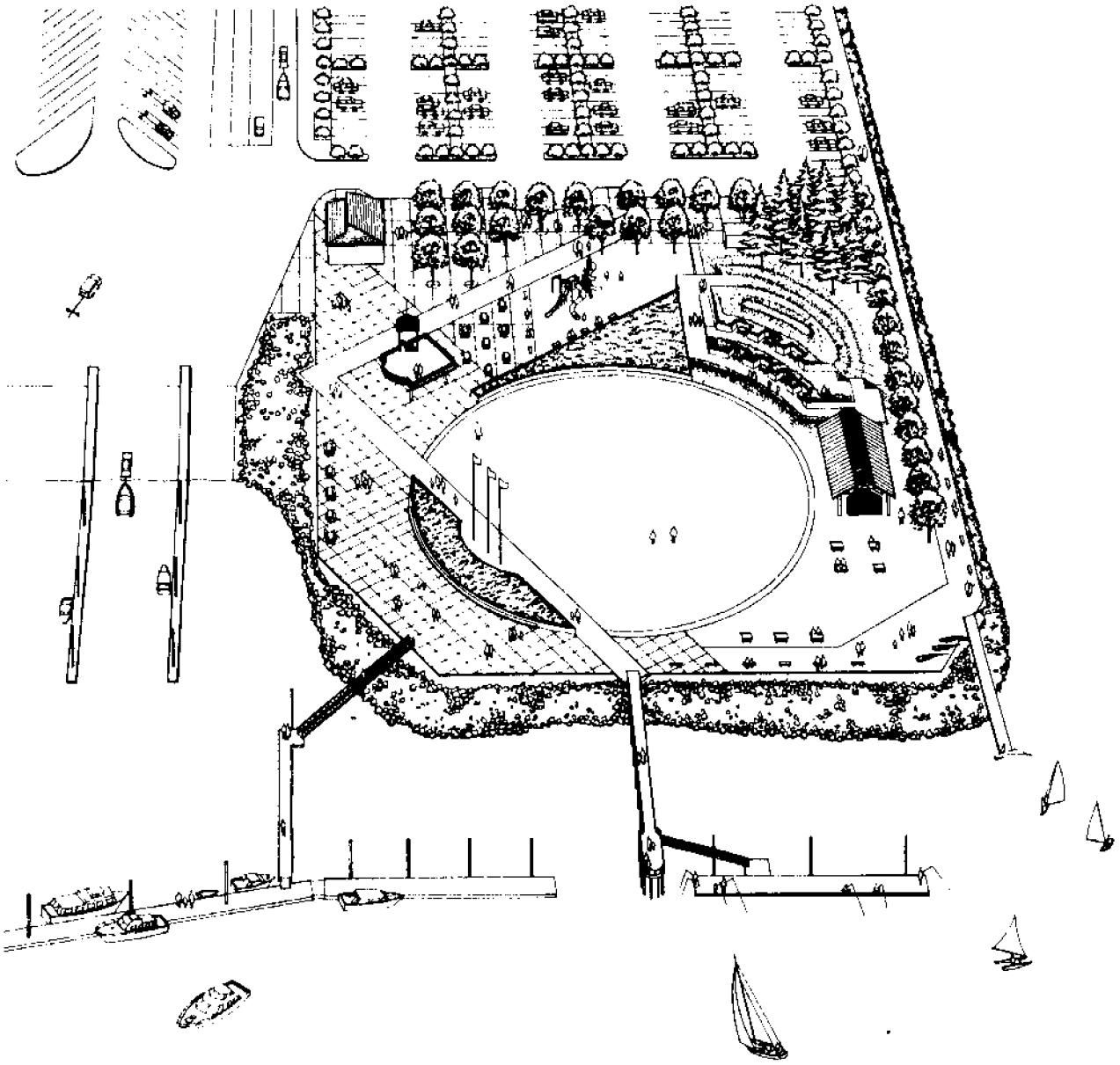
Figure 6

building's perimeter, completing a critical link in the esplanade system.

(Figure 7) Tenth Street boat launch and park

In 1976 the Port constructed a public boat launch at the end of the 10th Street right-of-way. By the late 1980s, the facility had become so popular that expansion was necessary. Together, the Everett Parks and Recreation Department, the City Planning and Community Development Department, and the Port of Everett successfully applied for $150,000 Interagency Committee for Outdoor Recreation (IAC) grant to upgrade the boating and fishing facilities. A project is scheduled for 1992 that will significantly upgrade the existing launch and park site. The IAC grant will be matched by $300,000 from the Port and $150,000 from the City to construct:

An additional six launch lanes, raising the total number of lanes to 12.
A large, grassy multi-use area for "Salty Sea Days" festivals, kite flying, and overflow parking.
A new fishing pier and float.
An expanded and improved park.
Landscaping and pedestrian improvements including connections to the harborfront esplanade.



Conceptual Plan
10th St. Marine Park
Port of Everett
City of Everett Prepared by MAKERS Architecture & Urban Design

Figure 7

Riverfront Planning

Spokane Riverfront Plan

Spokane Shoreline Master Program 1974-1991

by Marion B. Hess
Senior Planner, City of Spokane Planning Services

This picture shows an aerial view of the Spokane-Coeur d'Alene urbanized area with the Spokane River flowing westerly from Lake Coeur d'Alene to the Columbia River. Spokane's urban area has a population of 300,000, Couer d'Alene-Post Falls, Idaho, area, a population of 40,000.

Prior to the 1970s, the Spokane community did not focus on preserving water quality or the shorelines. The Great Northern and Union Pacific railroads were built around 1900. Cities and industry dumped waste into the river for 70 years. Washington Water Power and the city of Spokane built dams on the river from Post Falls, Idaho, to the Columbia River to generate electrical power.

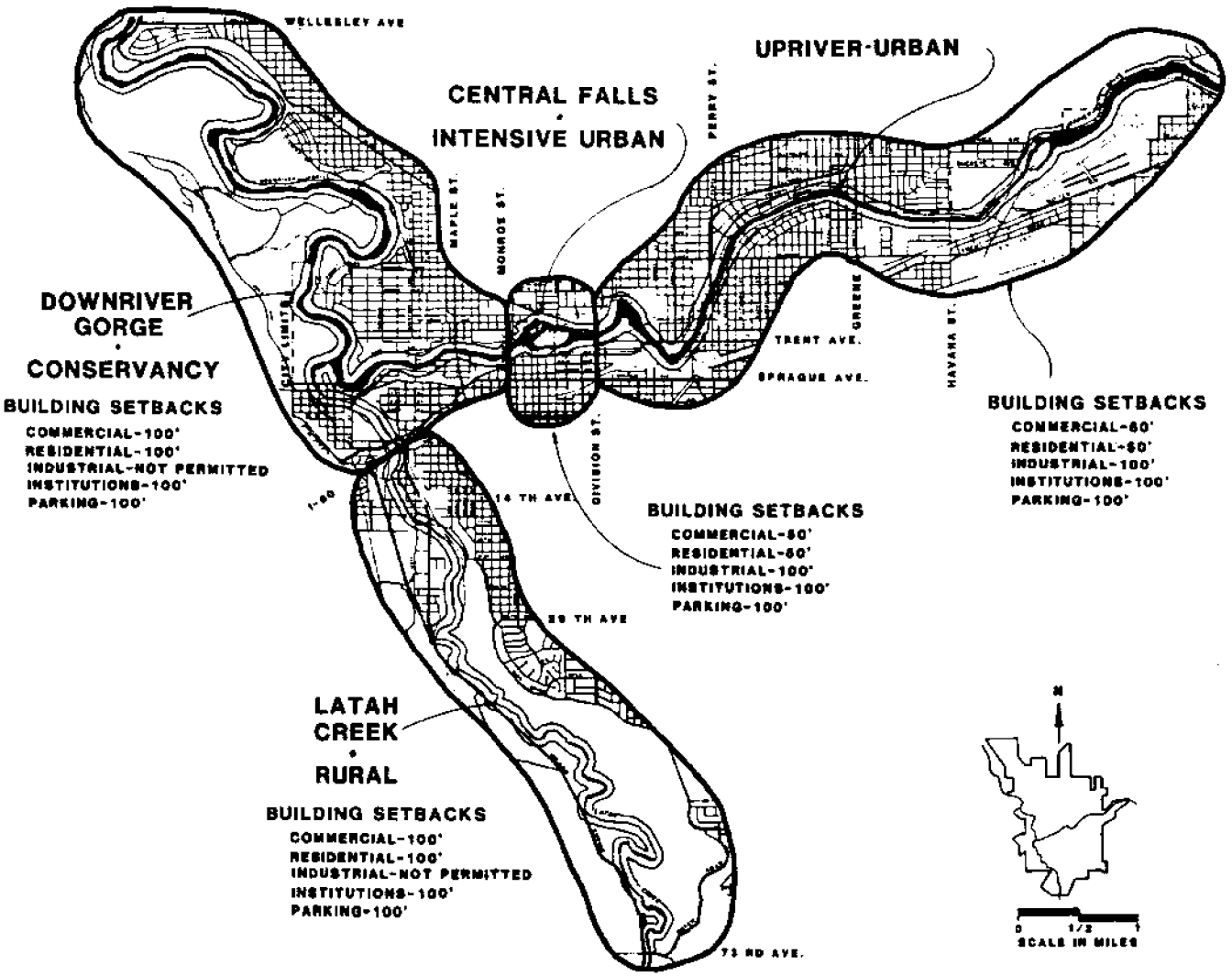
The city of Spokane now has 16 miles of Spokane River shoreline and eight miles of Latah Creek shoreline. During the 1960s, city planning staff and consultants began planning for open space, parks and pedestrian pathways along the Spokane River. Spokane River Falls were to be cleared of railroad bridges and opened for public viewing.

The Spokane Planning Department developed a Spokane Riverfront Development Program which contained generalized maps and development guidelines. The report was produced in three phases and a combined publication printed in 1975. The program divided the river into:

1) Central Falls Urban
2) Upriver Urban
3) Downriver Conservancy.

Latah Creek was later designated "Rural." The riverbanks/shoreline were designated appropriate for greenbelts, parks, open space, pathways, and a park drive. Expo '74 implemented the plan in the heart of the city by establishing a large park area adjacent to the downtown business core.

The city's Shoreline Master Program (SMP) was prepared and adopted in 1974 and amended in 1976. A supplement to SMP regulations adopted in 1976 was passed by City Council in 1982. In 1988, the City Planning Commission began its update of the original SMP and is about to receive a new SMP draft from a Citizens Shoreline Update Committee. Goals and policies have been prepared and public workshop meetings held.



A GENERALIZED MAP OF THE

ENVIRONMENTS OF SPOKANE RIVER AND LATAH CREEK

PREPARED BY THE

CITY PLAN COMMISSION

NOTE: ENVIRONMENTS EXTENDS ONLY TO 200' BOUNDARY. SEE TEXT FOR DETAILS.

LEGEND

- SPOKANE RIVER
- LATAH CREEK
- 200' SHORELINE BOUNDARY
- ENVIRONMENT BOUNDARY

SHORELINE MASTER PROGRAM
OF SPOKANE, WASHINGTON
1982

Spokane River Centennial Trail

by Robbi Castleberry
Friends of the Centennial Trail
Richard L. Fankhauser
Washington State Parks

Centennial Trail beginnings

The idea for a trail along the Spokane River corridor was conceived in the mid-1970s. In the late 1980s, the idea was revived by a group of six local citizens, primarily members of the Spokane Valley Chamber of Commerce. The "Committee of Six," as they were called, explored the feasibility of establishing such a trail as a state centennial project. Their exploration found that Inland Empire Paper Company owned a majority of the land along the Spokane River in the valley east of Spokane. The Committee of Six, which became the Steering Committee, approached State Parks with the idea of a land exchange to bring approximately 10 miles of the river corridor into State Parks ownership. Land to exchange for the riverfront property was available on Mount Spokane. Through a lengthy negotiation process, a successful exchange was completed. Value of lands exchanged was $3 million each.

In 1989, the Steering Committee approached Congressman Tom Foley for a congressional appropriation for construction of the trail. Later that year, $3.6 million was appropriated to State Parks through the U.S. Forest Service in the form of a grant for Phase One trail construction. In 1990, a similar grant was made for an additional $3.546 million. Construction by this time was in full swing.

The Steering Committee worked long and hard to put the trail together. One main goal was that there should be a continuing organization to make sure the trail was completed and that continuing maintenance would be provided; thus, a non-profit organization was formed - the Friends of the Centennial Trail. The goals of the Friends organization are to:

Form a coalition of users in an Adopt-A-Mile program. The Adopt-A-Mile program is available to civic groups and organizations interested in adopting a mile of the Centennial Trail. Their commitment is to pay for amenities such as benches, signs, etc. and to agree to provide cleanup work on the trail.

Work with state and local parks to maintain a first class trail.
Interface with local agencies in development of other trails in and around Spokane.

The trail, when complete, will be 39 miles long, stretching from the Idaho border through Spokane, through Riverside State Park and ending at Spokane House in Riverside State Park. The trail passes through Department of Transportation, State Parks, County, City and some private ownerships. Management of the trail will be by State Parks with operation and maintenance divided between State Parks, the City of Spokane and Spokane County. Responsibilities are set forth in an interagency cooperative agreement. To coordinate maintenance activities, use activities, law enforcement, emergency access, etc. a coordinating council has been established, including representatives from State Parks, City of Spokane, Spokane County and Friends of the Centennial Trail.

Key players and their roles

Steering Committee - The Steering Committee was the original Committee of Six, with additional local citizens added. This group was the force behind the trail and encouraged, if not pushed, State Parks into becoming involved as well as the City, County, Congressman Foley, etc. Under the auspices of the Steering Committee, a Technical Advisory Sub-Committee was established representing many interests in the Spokane area. The Technical Advisory Sub-Committee advised design consultants during planning.

Inland Empire Paper Company - Another key player was Inland Empire Paper Company.who provided nearly 10 miles of trail right of way through the land exchange with State Parks.

State Parks - Included from State Parks was the seven member Parks Commission and executive staff who picked up on the steering committee proposal, endorsed it and directed staff to carry through with the land exchange, planning, construction, etc. Staff was involved in project management, coordination of activities in Spokane, the environmental permit process, advice on the federal archaeological 106 process and review of construction documents through completion. Staff was also involved on input and review of the management, maintenance and law enforcement agreement as part of the interagency agreement and on-going management. The Attorney General's office provided advice and direction on various legal matters.

Congressman Tom Foley's office - Instrumental in providing the federal funding for construction.

The U.S. Forest Service - Administered the grant and provided assistance in obtaining the archaeological clearance.

Consultants including Robert Perron in Spokane, the primary firm on Phase One trail design and construction management; CH2M Hill engineers; David Evans and Associates, engineers, and Jongejan/Gerrard/McNeal, landscape architects and planners, of Bellevue. Phase Two consultants included Taylor Engineering of Spokane, the primary firm, with the assistance of Arvid Grant Associates, engineers, Olympia, and Jones and Jones, landscape architects and planners, of Seattle.

Washington State University and Eastern Washington State University - Performed the archaeological and cultural work assisted by the State Historic and Preservation Office and the Advisory Council on Historic Preservation, the federal overseers of the 106 process.

The Department of Ecology - Provided permitting assistance and advice.

The Spokane County Board of Commissioners - Provided support for the trail project. The County Parks and Recreation Department helped with coordination, land acquisition, the interagency agreement, garbage removal, etc. County Engineering provided consultation, review, input, paving and improvements and pass-through construction and Spokane County Planning also provided permitting assistance.

The City Council of Spokane, through the city manager's office, provided much support the Centennial Trail project. Public Works provided consultation, review, input, construction administration and pass-through construction. The City Parks and Recreation Department provided coordination, land, input to the interagency agreement, operation, etc.

The Spokane Regional Council - provided office space and support.

The Interagency Committee for Outdoor Recreation - provided support and funding.

The citizens of Spokane and Spokane County were a tremendous support, almost too much. There has been very little negative reaction from the citizens of Spokane regarding the Centennial Trail. The problem is the reverse. So many people are so excited, they all want to be involved.

The Friends of the Centennial Trail - Provide much support and encouragement.

American Telephone and Telegraph Company - Provided $550,000 worth of sub-grade preparation in exchange for the right of way to lay their fiber optic cable under the trail.

The Washington and Idaho Departments of Transportation - Provided right of way leases and permits for construction of the trail.

What major obstacles has development of the trail had to overcome?

A 39-mile linear park, consisting primarily of a 12-foot wide asphalt paved trail along a shoreline through an established metropolitan area, just naturally would have many obstacles. One obstacle was right of way. This included ownership, routing 39 miles and deciding where exactly in that corridor the trail should be located. Continuity of the trail between Washington and Idaho needed to be determined. The trail, which will continue on into Idaho for an additional 20 miles, ending east of Coeur d'Alene, will have a total of 59 miles.

The archaeological clearance and federal 106 process was something new to our agency and took some time to work through. This required much work on the part of our own staff as well as those listed above.

To protect the river corridor, various permits are required and going through that process over a 39-mile segment provided many challenges. Permit requirements included water quality, U.S. Army Corps of Engineer permits, hydraulic permits, State Environmental Policy Act compliance, shoreline permits, 208 drainage, etc.

Other obstacles included the public's and some government officials' impatience with the process:

Significance of shoreline - Some felt that the shoreline was more significant than others and needed to be protected to a greater extent.

Significance of archaeology - Again, some felt that the archaeology was very significant while others were impatient with the cost of the archaeological work and felt there was nothing there to protect.

Need to protect both - Again, people's impatience with the process and the need to protect both the shoreline and the archaeology.

The cost of determining the significance of the shoreline and the archaeology and protecting both as well as other planning design and construction costs.

Other - With or without SMA, we are interested in fitting the trail into the shoreline with as little disruption as possible and it was disturbing to us who worked closely with the trail that the perception was any different than that.

Relatively speaking, the obstacles were few for a project as large as this. Reflecting back on a day or two when obstacles seemed overwhelming, a quick trip out to the trail and seeing a family walking or riding bicycles, or an elderly gentleman coming up onto the trail from the river with his fishing gear, or seeing an elderly couple walking hand in hand along the trail, made it all worthwhile.

Riverfront Planning
Wenatchee Riverfront Plan

In addition to the speaker whose paper appears in this section, we acknowledge with gratitude the presentations made by Bob Parlette, Wenatchee Attorney; Jim Pope, Recreation Planner, Chelan County PUD, and Jerry Litt, Planning Director, Douglas County Regional Planning Commission.

Wenatchee Riverfront Plan

by David House
Department of Transportation, Wenatchee

The highway corridor in Douglas County on the east side of the Columbia River in the Greater Wenatchee Area was identified in the late 1950s and, during that time, the right of way and access control were acquired. During the 1960s, a transportation study revealed the most pressing transportation needs of the time. The outcome of the study was the construction of a new bridge across the Columbia River in the Olds Station area, which included a full interchange on the west side of the river and a partial interchange on the east side in the area of the proposed corridor. Construction took place in 1974 and 1975.

Opposition to highway in proposed corridor

In early 1983, Department of Transportation (DOT) decided to conduct an environmental assessment for a two-lane highway in the proposed corridor. That summer, during a public meeting, opposition was expressed concerning the highway and its location. DOT then decided to write an environmental impact statement (EIS). The final EIS was issued in the fall of 1985.

During the period from 1985 to 1988 there were repeated appeals, hearings and decision making - a very frustrating time for DOT. Even after adjustments were made to the design of the highway and its adjoining features, the Shoreline Hearings Board denied two shoreline permits and construction could not take place. DOT then decided to step back and take a fresh look at the needs of the area.

Examining options for sensitive areas

While DOT was retracing its steps to determine what it should do next, in December, 1988, Douglas County Commissioners approved the Greater East Wenatchee Comprehensive Plan. This plan addressed the concerns of the shoreline in the highway corridor and specifically stated that a special shoreline design citizen's committee be set up to examine options for sensitive areas of land and its habitat. The committee was to specify the exact location of a principal arterial to adequately serve the future land use needs within the Greater East Wenatchee area.

This committee began working in May 1989. If I were to choose two positive aspects of the committee, they would be: 1) each person respected the other's point of view allowing everyone freedom to share; 2) everyone became

more knowlegeable in areas new to them allowing better decision making to take place.

The committee was to look at community needs, wildlife, cultural resources, recreation, economic development, and transportation. Recommendations concerning each of these plan elements are now in draft form and await public hearings and final approval by Douglas County.

Early in 1990, as an offshoot of the Shoreline Design Committee's work, several public and private groups cooperated to design, and discuss construction and funding of a bicycle and pedestrian trail along a four-mile segment of the east side of the Columbia River. The DOT provided Douglas County a letter of intent to lease if the county would design, construct and maintain the trail within the requirements of the law. Funding will most likely come from grants and government and private sources. The trail has been designed and fund raising is underway.

Regional traffic study

Since the Shoreline Design Committee would not be looking at regional traffic for the Greater Wenatchee Area, we at DOT knew it was our responsibility to initiate that step. In July, 1990, DOT wrote letters to all the affected counties, cities and port districts and received agreement from them to begin a Wenatchee Area Transportation Study (WATS). The goals of the study are to identify local and regional transportation needs to 2010, identify current land use and future development patterns, and provide a comprehensive multi-jurisdictional transportation plan. To help accomplish the goals, a citizen's advisory committee was formed. The results of this study are probably a year and a half away, but, when received, should provide a good, tangible plan for regional traffic as well as traffic at the local level.

Riverfront cleanup and revegetation

Another outcome of the Shoreline Design Committee was the recognition that the property near the shoreline needed cleaning up and revegetating. Much of the area along the shoreline is not as pristine as one would hope. In April 1991, a grassroots effort in the form of an ad hoc group calling themselves the Riverfront Rehabilitation Task Force cleaned up and revegetated portions of the shoreline area. This, of course, had to be done in cooperation with DOT who set limits on the amount of work to be done.

The volunteers have done a fantastic job of sprucing up the area! They saved the taxpayers a good deal of money while giving the Douglas County people pride in their accomplishments - *Don't Waste Douglas County* and *Take Pride in America*. This action is similar to the *Adopt-a-Highway* program. The DOT fenced and gated several areas to keep motorized vehicles out and the local sheriff cooperated in policing the area when complaints were registered.

Now, you might ask, how has the traveling public fared in all of this? Well, when you look at what could have been in place at this time - an eight-mile, access-controlled, two-lane highway with accompanying trail and viewpoints - you might say we've not fared very well. On the other hand, smaller projects that could readily be accomplished have been put in place, such as the two improvement projects through downtown and the western edge of East Wenatchee. In the near future a signal system and a resurfacing project will be constructed in the rural Douglas County portion of the shoreline design area.

In summary, it may seem like we're not moving ahead with transportation solutions in the Douglas County/East Wenatchee area, but I prefer to think that with the multi-jurisdictional WATS study and citizen input, the answers are just around the corner.

Waterfront Planning
Lake Union Shoreline Plan

In addition to the speakers whose papers appear in this section, we acknowledge with gratitude the presentation made by Wally Trace, Trace & Associates, Seattle.

The Lake Union - Ship Canal Industrial Corridor

by Thomas W. Malone
Seattle Marine Business Coalition

Area of great diversity

The area from Salmon Bay to Lake Union has always served Seattle well with great diversity. From the early days of Seattle, it has managed to accommodate housing, recreation and industry. For a century, Lake Union balanced the various uses without a serious conflict. As Seattle grew, Lake Union grew with it. For its residents, it provided restaurants, hotels, parks, as well as the entertaining panorama of yachts on Opening Day. Monday through Friday, cargo and fishing vessels travelled to and from repair and supply bases out to Puget Sound and then to the Pacific Ocean. Lake Union and Salmon Bay handled it all with a yawn.

But by the 1970s, things had changed. Forces had gathered that threatened to replace industrial facilities with restaurants and condominiums.

Forces for change

There were three main reasons why the Lake Union to Salmon Bay area was subject to a dramatic transformation. First, there was a transformation occurring in the fishing industry. Second, the economic climate favored commercial development, and third, there was a movement in Seattle to link Lake Union to downtown Seattle along Westlake Boulevard.

Changes in the fishing industry. Seattle has had a long and distinguished relationship with the fishing industry. One of its earliest entrepreneurs was none other than Doc Maynard. In one of his early attempts to make a fortune, Maynard decided that San Franciscans needed Puget Sound salmon. Unfortunately, the salmon didn't take well to Doc's salt preservation and the project turned out like Doc's other efforts and San Franciscans had to wait to taste our fish.

But fishing was in Seattle's blood and the earliest bond issues for the Port of Seattle contained monies for a cold storage facility and the purchase of what is now known as Fishermen's Terminal. Over time, Seattle industry expanded. Harvesters of salmon and other fish in Puget Sound and Washington's coastal waters sent ships further out, all the way to Alaska, to catch its salmon, halibut, cod, crab, and other commercial species. Seattle had matured into a city second to

none as a home port for this growing fleet. In the 1970s, Seattle enjoyed a boom as the world's appetite for king crab was matched by a supply in the Bering Sea, caught in part by superbly equipped vessels built in Seattle for that purpose. Gross profits from a single season could finance the construction of a new vessel costing more than a million dollars.

By 1980, things had changed. King crab, so plentiful in the Bering Sea in the 1970s, suddenly disappeared. Scientists and fishermen still debate whether its disappearance was caused by excessive capture, or natural forces beyond our control. The fact remained, they were gone. They have not returned in the same numbers, not in sufficient numbers to support even a downsized industry for a decade.

Washington had developed a commercial fleet to catch salmon in Washington waters. In the 1970s, Washington's native Americans won several federal court cases establishing their right to 50 percent of the annual salmon runs. The consequences to non-native commercial fishermen were devastating. Their fishing seasons were reduced to less than a month a year, and the catch was insufficient to support the cost of doing business.

Needless to say, the critical mass of businesses supporting the industry suffered along with the fishermen. Businesses failed and office buildings in the Lake Union to Salmon Bay area became vacant.

Commercial real estate climate strong. Investments in stocks and bonds during the 1970s did not perform well. The average return on investments in the Standard and Poor Select 500 stocks was 5.9 percent as compared with the average return on a United States Treasury Bill of 6.3 percent. Inflation for the decade was 7.4 percent. (For comparison, in the decade of the 1980s, the respective numbers were S&P 500 - 17.5 percent, T-Bills - 8.9 percent, and inflation rate - 5.1 percent. Source - Ibbotson Associates, SBBI 1990 Yearbook). Investors knew when they were being had. With taxes and inflation, investors on the stock market or in bonds of any sort actually lost money during the 1970s.

Commercial real estate in Seattle was an entirely different story. The 1970s was the decade of tax-sheltered investments. Investors could take tax deductions based, not only on their dollars invested, but on dollars borrowed as well. All the interest on money borrowed was fully deductible, even if the investor was not "at risk" individually on the money borrowed and he or she would not have to repay the loan in the event of default. Even if real estate did not increase in value because of its intrinsic worth, inflation, enhanced by investors looking for any place other than the stock market to put their money, pushed the prices of real estate upward.

When you finally sold out, the maximum tax on capital gains during the 1980s was 20 percent, rather than 50 percent, for ordinary income investments. In addition, Seattle had already weathered its Boeing slump in the late 1960s, and our real estate market was growing with a stronger, more diversified Boeing company. In the six-month period ending in April, 1979, alone, the price of an average residence in the Seattle area increased by 17 percent. (Source - Seattle Real Estate Research Report, Volume 30, Number 1, Spring 1979). Small wonder hungry investors were looking for projects that would provide an increasing population with condominiums and restaurants with water views.

A prettier Lake Union. Fishing boats are generally ugly. Tugboats are uglier. Shipyards with fishing boats and tugs are uglier still. It takes an informed sensitivity to appreciate the romance of a tugboat or vessel with a name like *F/V Bering Catcher.* Informed opinion in Seattle was that there must be something that could be done about all this ugliness around Lake Union. After all, wasn't the United States moving from a low-tech to a high-tech nation? It was only a matter of time until we could rid ourselves of all this ugliness and replace it with freshly painted restaurants, condominiums, and high-tech facilities interspersed with parks

so the citizens of Seattle could enjoy this jewel in its center. (Come to think of it, "Union" itself is pretty ugly, we should rename it Lake "Emerald").

The south end of Lake Union was particularly scrutinized, and has been the subject of numerous plans over the years. The strongest overall plan with a powerful constituency wanted to connect downtown Seattle and the south end of Lake Union with a revitalized Westlake Avenue. The new Westlake Mall was part of this plan. There is romance in a stroll along Westlake to south Lake Union with beautiful waterfront parks, trendy shops, and good restaurants.

Much of this vision has been achieved. In 1980, there was a sand and gravel plant next to a vessel repair pier. Today, that area is Chandler's Cove and Benjamin's Restaurant. The proposed park is the Naval Reserve property adjacent to the west. It is likely that eventually Seattle will get its park.

These three forces combined to create an almost unstoppable trend favoring the replacement of industrial uses with residential and commercial uses.

The H.C. Henry Pier

But there were other forces at work in Seattle as well, and they coalesced over the H.C. Henry Pier. The H.C. Henry Pier was the vessel repair facility at the south end of Lake Union next to the sand and gravel works. A real estate developer proposed that the pier be demolished and a restaurant/marina complex be constructed in its place. Developers had done their homework and demonstrated that the owners of the real property were losing money and could not expect to make a nickel off the declining fishing industry, and that it was unfair not to allow progress in conformity with the change in Seattle.

Although the developers firmly believed in their project, they knew it would encounter opposition. For example, a proposed condominium development during the 1970s, Roanoke Reef, was blocked by neighborhood residents who did not want Lake Union to become a wall of condominiums built out over the water. The City of Seattle had already shown concern for construction over the water as well as the lack of public access for Lake Union projects. In addition, a group calling itself the Seattle Shoreline Coalition had been organized for the specific purpose of preventing the replacement of marine industrial businesses with non-industrial facilities. But the developer surely knew that its project could satisfy the neighborhood by providing public access, and the marina itself was a water dependent use. The Seattle Shoreline Coalition was not strong enough to block a project favored by those wanting to link up the south end of Lake Union with downtown Seattle.

The Henry Pier was something special. It was one of the few cement piers long enough to service the fishing vessels that were increasing in size. Those knowledgeable about the changing fishing fleet knew that this facility was desperately needed for the new distant water fleet. When the fishing industry learned it might be loosing this pier, it reacted with alarm. Richard Goldsmith, then director of the North Pacific Fishing Vessel Owners Association, a large organization of vessel owners who fished in the seas off the Alaskan coast, began organizing meetings of businesses and organizations involved in the fishing industry. Within months, a newly formed organization, the Seattle Marine Business Coalition, had 160 members. The SMBC, together with the Seattle Shoreline Coalition, the League of Women Voters, and other groups began arguing in favor of industrial uses. They began informing Seattle about the distant water fleet and the coming market in bottom fish.

Distant water fleet

Seattle fishermen have had to be nimble and flexible. They have seen species such as cod grow in abundant numbers, decline, and return in even greater

numbers. They don't know why. They don't believe the marine biologists know why. They know that their job is simply to catch the fish if they are there and if there is a market for them.

In the 1970s, Seattle fishermen were aware there was a new and abundant crop of fish to be caught, fish with unfamiliar names like pollack and yellow fin sole, in addition to the more familiar true cod. The problem was that foreign governments were sponsoring the creation of large trawlers, in excess of 300 feet, to catch these bottom dwelling fish with huge drag-nets. Seattle fishermen did not have these large vessels, and the price of fish was not sufficient to capitalize the millions of dollars required to construct these vessels.

Before the passage of the Magnuson Act in the mid 1970s, the United States did not regulate the coastal waters of the Alaskan shelf beyond three miles. American fishermen knew they were loosing the catch to foreigners, and the Seattle newspapers frequently had stories about our inability to compete with the Russians and Japanese. With the passage of the Magnuson Act, however, the United States could regulate the catching of fish up to 200 miles. By the late 1970s, the United States required foreign trawlers to enter into joint ventures with the smaller American vessels catching the fish. The fish would be processed by the larger foreign vessels. If the foreign vessel owners did not agree to a joint venture, their right to fish within American waters would be severally curtailed. If they agreed to joint ventures, they would also be able to catch a limited, negotiated amount of fish in American waters. American fishermen saw joint ventures as an interim step; eventually Americans would harvest all the fish within American waters. In the late 1970s, no one was certain how long joint ventures would be required, but most thought it would take a minimum of five years.

In 1980, two Seattle fishermen, Konrad Uri and John Sjong converted a World War II mine sweeper to a fish processor. It worked. Soon other fishermen were converting other vessels for bottom fishing and processing. By 1982, fishermen knew they were in the beginning years of what would be a huge new industry. It would require new and bigger facilities if Seattle was to continue to be the home port to a transformed industry. The problem was that almost everybody else, including every public body, was aware only that the fishing industry was in a slump and could not pay its rent.

Elements of change

In 1983, the City of Seattle and the State Shorelines Hearing Board held hearings concerning Henry Pier. The hearings lasted days, and ultimately the developer received the right to build what is now known as Benjamin's Restaurant together with the related marina. It was not a total loss for the fishing industry, however, and at the end of one hearing, a city attorney from Seattle called the president of the Seattle Marine Business Coalition and said that even though the city had supported the developer's application in the Henry Pier case, the City understood the concerns of the fishing industry and wanted to begin working with industry groups on Shoreline policy. Things began to fall into place.

Economic studies. The first breakthrough came in 1983 when natural resource consultants completed their first study of the distant water fleet. That study demonstrated that the Seattle fishing vessels working in Alaskan waters generated $655 million and made an estimated $1 billion contribution to the Washington economy. These figures were presented at a luncheon meeting of the Seattle Marine Business Coalition attended by all but one Council member of the City of Seattle, and by representatives of most governmental groups. The economic impact astounded those more familiar with the pleas of Washington State fishermen who talked about the unfairness of the Boldt decision (the decision which gave native Americans 50 percent of the fishing catch). With the NRC study

not in dispute, all public bodies looked at the fishing industry with new respect. There was a great demand for new studies estimating the number of processing vessels in excess of 150 feet that would be joining the growing fleet. Estimates grew from 20 to 30 in the mid 1980s until finally in 1990, Coopers & Lybrand published *Economic Impacts of the North Pacific Factory Trawler Fleet* which estimated there would be 57 vessels generating $700 million in direct catch. The estimates of the total impact of the fishing industry on Washington have risen to $3 billion

The Port of Seattle also added its support. Fishermen's Terminal had been the heart of the fishing industry since the 1950s. Since private capital was unable to save land facilities from commercial development, pressure grew on the port to expand Fishermen's Terminal and to acquire other property to provide support for a growing industry. The port had already considered redevelopment of Fishermen's Terminal because it was not producing enough revenue. The port commissioned a thorough study of the fishing industry, including the study of commercial moorage available. On October 8, 1988, the Port commissioned its redeveloped Fishermen's Terminal which featured a new, state of the art 900-foot by 50-foot dock, and a large, new, mixed use complex with new tenants, including Arctic Alaska, the largest of the distant water fishing companies. The Henry Pier was more than adequately replaced.

Seattle Shoreline Master Program. The fishing industry needed more than Fishermen's Terminal by itself. So long as the Seattle Shoreline Master Program allowed commercial uses, it was only a matter of time until commercial development would swallow up marine industrial land. In particular, there was Goodwin's Law, named for Robert Goodwin of the Institute for Marine Studies of the University of Washington. Goodwin's Law taught that so long as there was a rising population and growing income, the demand for recreational marinas would increase until the supply was exhausted. In other words, so long as the fishing industry behaved like any other industry with its up and down cycles, in the down cycle a recreational marina would replace an industrial water- dependent use until there was no land available for industry.

In an industry which depended upon a critical mass of industries to remain competitive, the threat of marinas was a fatal threat. Alaskans were already noting the anomaly of a Seattle fleet fishing in their waters, and they were actively seeking a number of changes to remove Seattle vessels from the bottom fishing industry and replace them with smaller Alaskan vessels selling to shore based processors, largely owned by Japanese companies.

The City of Seattle responded with amendments to its Shoreline Master Program and zoning code which prohibited marinas in industrial areas, and preserved existing industrial areas north of Waterway 3 on the east end of Lake Union through the Ship Canal to Salmon Bay.

By the mid 1980s, the city and industrial groups had entered into an informal treaty which allowed the south end of Lake Union to be developed, but preserved other industrial areas in the Salmon Bay - Lake Union industrial corridor. In the early 1980s, every piece of property threatened with commercial transformation was transformed, and the old industrial sites have new names: Metro Water Quality Lab, Crazy Lobster Restaurant, Rusty Pelican Restaurant. In the last half of the 1980s, industrial land was not only saved but developed further for industrial purposes. The Champion Mill Property which is contiguous to Fishermen's Terminal was subject to great commercial pressure, but today has been developed into a significant marine industrial terminal. Fishermen's Terminal was rejuvenated and transformed and continues to serve as the premiere facility for the fishing industry in Seattle.

Conclusion: diversity

The Lake Union to Salmon Bay area today is a model of diversity. The Waterfront Center is a non-profit organization that analyzes waterfront development. On several occasions, Seattle has received special attention for its ability to maintain mixed uses in an urban waterfront environment. The Seattle experience was featured in a seminar in 1985, and in 1989 the Port of Seattle received an award for its redevelopment of Fishermen's Terminal. Officials from New York and Boston have openly expressed envy for Seattle's achievements. Lake Union, once again, handles a variety of uses with ease, and Seattlites circumnavigating Lake Union should be pleased with the variety of experience.

Although there are stresses and strains, the diversity is likely to remain for some time. The fishing industry has matured and no one doubts its contribution to Seattle. Environmental regulation of hazardous waste has become a significant inhibitor of real estate development in the 1990s. The potential of clean-up costs exceeding the fair market value of the property is enough to discourage even the most optimistic investor. The Tax Reform Act of 1986 has further chilled real estate development by removing most tax incentives. The sum of these changes in the investment climate are enough to prevent the commercial development of an industrial site for the immediate future.

Seattle remains a strong, growing city. There will be commercial development, and the south end of Lake Union has one of Seattle's newest hotels, the Marriot Residential Inn. A major medical facility for cancer treatment and research is underway. Seattle can still accommodate commercial development and industrial uses and its citizens are richer for this diversity.

Lake Union Shoreline Amendments Seattle's Lake Union

by Elsie Hulsizer
Former Planner, Seattle Department of Construction and Land Use

Lake Union is located near the heart of downtown Seattle with connections to Lake Washington to the east and Puget Sound to the west through the Hiram Chittenden locks.

The Lake Union shoreline amendments we are going to talk about today are actually only a small portion of a major rewrite of the Seattle Shoreline Master program which was started in 1982 and finally completed in 1987. Because of Lake Union's closeness to downtown Seattle, its combination of sheltered freshwater and access to saltwater, and its diversity of uses, Lake Union can be viewed as a microcosm of the situation confronting all of Seattle's shorelines.

Lake Union has a colorful history as Seattle's working lake. Industrial uses included a gas plant, sawmills, and shipyards. Workers lived in floating homes whose neighborhoods were considered not quite respectable.

By the late 1960s and early 1970s development on the lake was going to highrise offices on landfills, overwater apartment buildings, restaurants, and marinas. The Shoreline Management Act and the Seattle Shoreline Master Program (SSMP) put a stop to the office buildings and overwater apartments.

The SSMP passed by the City Council in 1976 recognized Lake Union's unique history and colorful diversity of uses. A special Urban Stable/Lake Union shoreline environment was created with the stated purpose of preserving that diversity in order to serve water-dependent uses and provide public access.

Lake Union in the 1980s - new problems

By the early 1980s shoreline activists, marine businesses, and city planners in the Department of Construction and Land Use began to realize that the SSMP was not fulfilling its promise in Lake Union. The working lake was becoming a recreational lake. Water-dependent industrial uses were being replaced by marinas, restaurants, and retail with public access

Much of what was proposed could be called "good" development with quality public access, but it only served to accentuate the growing debate of water-dependency vs. public access. Land prices were increasing and property owners claimed that working uses - shipyards and marine terminals - lacked economic return and even marinas would not pay unless the site included a major restaurant.

There was pressure to provide a link to downtown in South Lake Union with talk of a major park and historic seaport. This development pressure was threatening to spill over into the industrial shorelines of the Ship Canal where the commercial redevelopment of Fishermen's Terminal and the Champion Plywood mill site was being discussed.

Problems with Seattle's Master Program

Why was the SSMP failing to accomplish its stated purpose? The regulations of the SSMP did not match its policies. SSMP policies commended diversity, and SSMP regulations permitted that diversity had it been inclined to occur naturally, but there were no tools to combat a development climate that favored not that diversity but a limited range of uses - restaurants, retail, marinas.

Every permit was a battle - developers vs. shoreline activists and water-dependent industries. Although the policies stated that water-dependent uses were preferred over non-water-dependent uses, even with public access, the shoreline regulations themselves allowed restaurant and retail uses outright and provided no guidance on what to do when water-dependent industries were being displaced by water-dependent recreational uses.

Principles of SSMP revisions

With this situation confronting us, not just in Lake Union but throughout the city, the city's Department of Construction and Land Use set out to do a major study and revision of the Seattle Shoreline Master Program.

We started the project with these principles in mind:

Not all goals of the SMA can be met on every lot

All the goals can be met in the city as a whole

Goals and policies must be backed by regulations

Seattle's approach to preserving water-dependency and diversity

Seattle's approach to preserving water-dependent uses and promoting diversity was a comprehensive, deliberate one:

Plan for all Seattle shorelines at once

Inventory the shorelines - site by site

Determine existing uses

Determine physical characteristics - land area, water depth, wave protection.

Identify locational requirements of water-dependent uses

Design shoreline environments that restrict non-water-dependent uses

Designate land suitable for water-dependent uses with those environments

Further encourage water-dependent uses with development incentives.

Expand public access opportunities in some areas by allowing non-water-dependent uses in areas not suited for water-dependent uses and by applying strict public access quality standards to development.

Solution for Lake Union and Ship Canal

The solution for Lake Union was to designate its shorelines with, not one, but several shoreline environments in Lake Union. The Urban Stable/Lake Union environment was replaced with Urban Stable, Urban Maritime, Urban Residential, and other minor shoreline environments which together envisioned a range of uses.

The Ship Canal, whose importance to the fishing industry and maritime commerce was recognized in the planning process, was designated with "industrial" shoreline environments to preserve industrial water-dependent uses.

Potential conflict with recreational marinas was dealt with by giving the marinas a conditional use in those industrial shoreline environments.

A comparison of old shoreline environments and new environments illustrates the old and new approaches to Lake Union planning.

Old Urban Stable Lake Union shoreline environment

- Purpose
  - Preserve maximum open water commensurate with economic development
  - Develop a diversity of uses for:
    - Use and enjoyment of the waterfront
    - Service and maintenance of water-dependent uses
    - Public access
- Uses
  - Floating homes, marinas, shipyards, boatyards permitted
  - Restaurant, retail permitted with public access
  - Offices prohibited
- Development standards
  - 35 percent view corridor for all development
  - 35 foot height limit for all uses
  - 50 percent lot coverage for all uses

New shoreline environments in Lake Union

Urban Maritime

- Purpose
  - Preserve areas for water-dependent uses
  - Provide some views
  - Public access secondary - on public land
- Uses
  - Water-dependent manufacturing
  - Non-water-dependent permitted only by conditional uses with strict limits on percent of lot area occupied
  - Marinas permitted only by conditional use on land not suited for water-dependent manufacturing
- Development standards
  - 15 percent view corridor for water-dependent uses
  - Height exceptions for water-dependent equipment
  - 50 percent lot coverage

Urban Stable

- Purpose
  - Provide opportunities to enjoy shorelines
  - Preserve and enhance views
  - Support water-dependent uses
- Uses
  - Recreational marinas
  - Restaurants, retail, offices above ground floor if provide:
  - Moorage for historic vessels
    - Cruise ship or passenger ferry terminals
    - Fishing vessel moorage
    - Maritime museums
    - Major public open space (public access)

Strict standards were developed, requiring a certain percent of the lot to be occupied by these uses to make sure these uses were real and not just bogus excuses.

Development standards
- 35 percent view corridor for nonwater-dependent uses
- 25 percent view corridor for water-dependent uses
- 30 foot height limit
- 50 percent lot coverage

Waterfront Planning
Olympia Waterfront Plan

In addition to the speakers whose papers appear in this section, we acknowledge with gratitude the presentation made by Nina Carter, Olympia City Council.

Shoreline Planning in Olympia's Harbor

by Pete Swensson
Senior Planner Olympia Planning Department

In my presentation I am going to give a broad overview. I will discuss both the physical setting of the Olympia harbor area, and the role different planning processes have played in addressing local shoreline issues. I will cover the last century of European settlement, but focus on the last 20 years since the Shoreline Management Act went into effect.

The physical setting.

Olympia is at the south end of Puget Sound. Other folks refer to that as the foot of Puget Sound; naturally we like to think of it as the head. The Port Peninsula extends northward into Budd Inlet. It divides Budd Inlet into an East Bay and a West Bay. The peninsula side of the East Bay is devoted to a large marina. The eastern shore of the East Bay is lined with waterfront homes and condominiums. The peninsula side of West Bay supports several small marinas and the Port terminal. The western shore of West Bay supports a marina and a number of waterfront industries.

Capitol Lake to the South was originally a part of West Bay. In the mid-1950s the State of Washington put a dam at 5th Avenue and created the lake from what was once tide flats. The average depth of Capitol Lake is about five feet today.

Early drawings and photos of the city and harbor clearly show the physical setting that we still must recognize in today's planning: steep hillsides plunging down to a shallow tidal estuary. Early-day Olympia struggled for decades against the economic limitations of a harbor that was really just mud-flats. Shallow draft vessels could reach the downtown at high tide, but they had to leave quickly or be stranded. In the 1880s the townspeople tried to overcome this problem by building a mile-long pier across the mud to deeper water. Within ten years the pilings were eaten away by toredoes, a wood-boring species of bivalve.

Early harbor modifications.

In the 1920s the community reached deep into its pockets to undertake a massive dredge-and-fill project. They dug out the West Bay to provide shipping

lanes and a turning basin for ocean-going vessels, deep enough for all levels of the tide. With the dredge spoils they created the first stages of the Port Peninsula. Much of today's downtown was created by that fill project. In fact, this pattern has turned out to be a continuing story over the decades. Again and again, not only shipping terminals, but also industrial and commercial lands have been created using the spoils from the dredging needed to maintain deep water access.

Today's mix of waterfront uses in Olympia's harbor also goes back to very early days. Shipping has already been mentioned. There have been forest products mills on the waterfront for more than 100 years. The Olympia Yacht Club, a water-dependent recreational use, has continuously occupied its current location since the 1920s. Some of the city's oldest historic homes, many of which were occupied by mill owners, are along East and West Bay Drives.

In those early days in the 1920s and 1930s most of the land on the Port Peninsula was occupied by sawmills, shake mills, and other water-related industries. They brought in the raw material in log rafts, and shipped many of their finished products out by ship and barge. The shipping terminals and their backup storage yards took up rather little space; ships were smaller in those days.

The 1970s - the beginning of the end of the old order

In 1967 there was a big crash in the local forest products industry. Two of the three largest mills in town closed; both were on the waterfront. These closures precipitated dramatic evolutionary changes in the harbor uses. By that time the largest share of the harbor waterfront was used for manufacturing, followed by shipping, with recreation (mostly marinas) a very distant third. The Port then started moving in a new direction, diversifying its activities. In the mid-1970s the Port adopted a new harbor plan. The goals were to increase the level of shipping on the West Bay side of the peninsula, and to build a marina on the East Bay side, where once there was manufacturing. To increase shipping, the Port would need more backup storage space. More on that later.

Meanwhile, the western shore of West Bay continued to support small family-owned water-related industries: a veneer plant, a fabricator of large steel tanks, a plywood mill, and a lumber mill. There was also a tug and barge company shipping logs, and by the 1970s a small marina was built.

Olympia's approach to shoreline regulation

The Shoreline Management Act became law in 1971. Olympia's original approach to shoreline planning was similar to that used by Seattle in the Lake Union area. We designated the whole area "urban", allowing the whole range of intense waterfront activities. We made the specific decisions about land uses along the water in the arena of zoning rather than that of shoreline regulation. This simplified our local shoreline regulations. Simplicity was one of our goals; by common consent we share a single shoreline master program and regulations with all other local jurisdictions in Thurston County.

The 1976 *Plan for Olympia* dealt with a lot of waterfront issues. The main area of dispute was what should happen with West Bay Drive. The debate was predictable. The industrialized waterfront is a narrow strip between the water and a wooded hillside; residences are perched above. Homeowners complained about noise from the sawmill, which was not fully enclosed. We also had complaints from the owner and users of the West Bay Marina, which was sandwiched between the log shipping firm and the lumber mill. Truck traffic, fork lifts, and recreational boaters all competed for use of a very narrow street squeezed between piles of lumber and the hillside. In places the right-of-way is only 14 feet wide.

We tried in the planning arena to define the waterfront area as industrial and protect it as such. Back then, in our naivete, we wanted the hillside to stay

primarily as a wooded buffer. Unfortunately, much of it was already divided into small ownerships. Calling it a buffer did not work very well over the years. We zoned most of it to allow either small offices or apartments, assuming that it would develop mainly in offices. Instead, condominiums were built right above the veneer plant, which emits an incredibly loud screaming noise.

This was just one example of conflicting land uses along West Bay Drive. Comparing consecutive aerial photos of West Bay Drive during the last 20 years, one can see that residential, industrial, and commercial land uses all increased in number and intensity in every five-year period. The conflicts have thus continued to grow. We keep looking for ways to allow these competing land uses to coexist comfortably. Hope springs eternal.

The 1980s - the beginning of the new era

Meanwhile, the Port was looking for ways to remain competitive in the shipping business. Log exports have been their mainstay, though they continue to try to expand trade in other commodities. They found the lack of backup space for storage a major constraint. Trucks would load directly to the ship in port, often because there was inadequate space to stockpile the cargo before the ship arrived. Because the dredged shipping channels are still rather shallow, loading activity would sometimes be dependent on the tide schedule. Thus in the early 1980s there was another major fill project, the largest since the one in the 1920s mentioned above. Roughly half of East Bay was filled, mostly with spoils from East Bay dredging. They built a dike, then pumped the spoils over the dike into the middle. They doubled the size of their peninsula property.

With more backup storage space, the Port was able to set records for shipping volume. They even received a Presidential award for the level of exports during the mid-1980s . However, nearly all the shipping was still raw logs, in spite of strenuous efforts to diversify.

During the 1980s other changes took place. The waterfront began to develop in more recreational uses, which the city actively encouraged. The 1976 Comprehensive Plan said that we wanted to try to develop the waterfront for more public access. The private sector built several new marinas and the city built the Percival Landing boardwalk. All of these were along the West Bay side of the peninsula, south of the Port terminal. At the same time the Port built its East Bay Marina on the other side of the peninsula.

Olympia opens its downtown waterfront to public access

The Percival Landing area had previously been in waterfront industrial uses. By the mid-1970s those uses were in serious decline. At the time, the dominant phrase you would hear around town was, "Olympia has turned its back on its waterfront." Olympia had a lot of waterfront, but there was very little public access to it, even visually. It was walled off by warehouse buildings, salvage yards, tug and barge companies, fuel oil storage tanks, and so on. It had in fact been a service entrance -- or "back door" -- to the city since the beginning.

Percival Landing got its start when the Thurston County League of Women Voters discovered that several tideland leases were about to expire for some run-down warehouses on pilings. They advocated their replacement with a public access boardwalk and moorage. They also discovered a source of funding support: the Interagency Committee for Outdoor Recreation, a state agency. The League persuaded the City Commission to pursue the idea. The Washington State Department of Natural Resources, which administers tideland leases, favored the concept.

Thus, in 1977, Olympia built the first phase of Percival Landing with public dollars. In 1983 we built the second phase with a mix of public and private

money -- that is, with a local improvement district (LID). In 1988 we built the third phase the same way. In all, Percival Landing now extends more than a mile along the waterfront.

Shoreline permitting process helps finance Percival Landing

In some cases, Olympia achieved support for the LIDs by conditioning approval of shoreline permits upon agreement to participate in financing the LID. It is, of course, one of the primary goals of the Shoreline Management Act to increase public access to the water. Another goal is to preserve the waterfront for water-dependent and water-related activities. At the time, we had a number of existing waterfront land uses that were neither water-dependent, water-related, nor water-enjoyment by nature. Some of them wanted to expand at their existing locations. Such an expansion would not normally be desirable. But if they participated in financing the Percival Landing public access project, and if they offered activities that enhanced the waterfront environment, we could support them.

A classic example was the approval of a permit to expand an existing grocery store located on the waterfront. It had been there for decades. Not only did they add area to their sales floor, they also added a delicatessen with seating, and contributed to the Percival Landing LID. As a whole, the project has added a lot to the waterfront scene. Another example was the expansion of the members-only Olympia Yacht Club. We also required them to contribute to the LID as a condition of approval. Both these applicants originally objected to the LID condition, but the hearing examiner upheld it.

This approach may still be feasible, in spite of the 1987 U.S. Supreme Court decision on Nollan v. California Coastal Commission. In that case, the Court found that there was not a sufficient *nexus* between the goal of visual access to the water, and the requirement to grant an easement allowing physical access along the beachfront. In our case we had a goal of waterfront public access, and a consequent requirement to provide public access via the boardwalk.

Percival Landing was not the only major investment the city made in the area. We also built our new combined community center and senior center, and a farmers market that is now the second largest in the state. These public improvements have generated a lot of private investment. Along the waterfront there sprang up new marinas, restaurants, and marine supply stores. New offices were also built on upper stories and on nearby blocks back from the water's edge.

The Port also contributed to the overall project. They built a viewing tower at the north end of Percival Landing. It affords an excellent view of the loading activities at the Port terminal, and scenic vistas of Puget Sound, the Olympic Mountains, the marinas, the downtown, and the Capitol dome.

As mentioned, in 1983 the Port developed the East Bay into its own marina. Across from the marina, on East Bay Drive, a number of condominiums were built. Waterfront homes there have skyrocketed in value, as they have throughout the Puget Sound area.

These transitions are still going on. Some of the "tank farms" in the harbor area have relocated to outlying industrial parks with better freeway access. Others have yet to leave, but it is only a matter of time.

1988 Olympia Comprehensive Plan wrestles with same issues

This time there was much more public concern about continuing the dredging and filling that had been going on for a century. The south end of Budd Inlet was seen to be changing little by little from water area to land area. The small Port Peninsula had become a large one, doubling in about a year's time. The

concern was predictably most acute among the citizens of Olympia, for whom Budd Inlet is their front yard.

The U.S. Fish and Wildlife Service was also concerned. In the early 1980s they had required the Port to mitigate the loss of habitat in the East Bay resulting from their massive fill project. The Port dedicated a lagoon on the southwestern corner of West Bay to continued use for habitat.

By the late 1980s there was increased awareness of the importance of the shallow water habitat throughout the western shoreline of West Bay. It is a crucial habitat for juvenile salmon when they first reach the salt water after migrating out of the Deschutes River system. The Deschutes River is a major producer of salmon in southern Puget Sound. Thus in the 1988 Comprehensive Plan, the Planning Commission adopted explicit policies strongly discouraging fill or other activities that would disrupt the salmon habitat.

This set the scene for a major debate between the City and the Port over not only the future of the harbor area, but also who has what authority. Ports have constitutional authority to conduct shipping, and cities may not prohibit them from doing so altogether. Cities have shoreline and zoning regulatory authority by which they may determine where and how dredging, filling, shipping, and other waterfront activities may take place.

City and Port prepare joint urban waterfront plan for downtown harbor area

They preferred that approach to becoming antagonists in court. Originally there was some discussion about addressing all of the waterfront, both over the water and on the adjacent uplands. Eventually we suffered an attack of rationality, and narrowed the discussion to just the over-the-water uses. Even so, it has taken us over two years to work the issues through the original joint task force and then the Planning Commission.

What we began with were our shoreline regulations that said the whole area was in the "urban" environment. That meant the area could be used for any of the whole range of urban uses. Local zoning was to establish what could be developed on specific sites. That approach led to uncertainty and conflict. The new approach is to define the types of uses allowed over the water in different areas, which often will drive the types of uses that can occur on the abutting uplands. We also decided to use shoreline regulations to decide more of the basic land use decisions, rather than zoning. Shoreline regulations are more permanent, since the Washington State Department of Ecology must agree to any revisions. Not every interest group thought this was a good idea.

In our Urban Waterfront Plan we are now defining where shipping should occur, where marinas should occur, whether they should have covered versus open moorage, whether to allow restaurants over the water, and so on. We have resolved many of the differences among the various interest groups. A few issues still remain, which the City Council and Port Commissioners will have to work out.

One of the key issues relates to the Port-owned property on West Bay Drive. This site is north of the habitat lagoon, and it is now occupied by the veneer plant. For decades Port plans have indicated their desire eventually to develop another terminal for ocean-going ships at this site. That would require dredging and filling. The Planning Commission recommendation is not to allow shipping at this site. They feel enough shipping berths could be provided on the Peninsula, even adding a new one north of the existing berths if needed. The City Council and the Port Commission have agreed to hold a joint public hearing in early 1992. The final decisions will be up to the City and the Department of Ecology.

To conclude, during the last 20 years we have been to trying to manage the competing interests of valid uses of the waterfront. The Shoreline Management Act established what have turned out to be tried-and-true principles for dealing with these issues:

Preserve areas for water dependent uses - Uses such as ocean shipping terminals and marinas cannot locate anywhere else. But that doesn't mean they have to be allowed everywhere.

Provide public access - One of the guiding premises of the Act is that the public has a right to some kind of access to the waterfront. This may be in the form of boardwalks above the water. It may be direct access to the water, so you can get yourself wet if you choose (very popular with kids). It may include places to launch or board boats. Or it may be just viewing sites, like the Port tower.

Maintain the integrity of the environment - This will always be difficult, since our harbors are among the most intensively used of human habitats.

Over the next 20 years there will be continuing competition for use of the scarce waterfront lands. I am confident the Shoreline Management system we have in Washington State will help us deal wisely with the challenges to come.

Port of Olympia

by Richard Malin
Director of Engineering and Planning, Port of Olympia

The Port of Olympia has a major stake in Olympia's shoreline. The port's two tracts on West Bay and the port peninsula account for approximately 49 percent of the non-residential shoreline in Olympia. Created in 1922, the port operates a three-berth terminal, cargo yards, warehousing, industrial and commercial leases, as well as East Bay Marina.

Land use changes

In the late 1970s, land use on the peninsula was entirely industrial with little or no public access. Current land use has changed, with a reconfigured shoreline on the east side of the peninsula and the development of East Bay Marina - with a capacity of 1,100 boats - which opened nearly a mile of public access where none existed before.

In the mid-1960s, the Port Commission had a vision for Olympia Harbor. The Commission purchased properties and tidelands in East Bay from former sawmill and plywood manufacturers. The vision was to convert East Bay from industrial use to recreational use. Several years of planning, studies, and an extensive permit process resulted in the completion of the first phase of East Bay Marina in 1983. The plan emphasized a new traffic route to the peninsula and pedestrian linkages from East Bay Drive to the Percival Landing area, creating an upland corridor for marina support facilities, buffered by berms and landscaping from the cargo handling area directly to the west.

Upon completion of the first phase, the marina had 550 moorage slips, a floating breakwater, restrooms, and a launch ramp. An undeveloped area in the center is slated to be the Marina commercial area.

A major design feature is a continuous pedestrian esplanade, south from East Bay Drive to the floating breakwater at the north end of the Marina. We wanted the pedestrian experience to be varied and enjoyable. The esplanade was designed to meander in and out from the shoreline, with lawn areas and landscaping providing areas for picnicking, sunbathing, etc. A series of plazas, generally at access points at the moorages and restrooms, was designed with benches, bike racks, phones, and water fountains. At the north end of the Marina is a two-lane launch ramp, transient moorage and pump-out station. This facility was partially funded by Interagency Committee for Outdoor Recreation.

The Marina today gets a lot of use by non-boaters. Special events, such as Harbor Days and Lakefair, draw large crowds to enjoy the facility. We feel this project, which had its origins well before the Shorelines Management Act, exemplifies the basic public access concepts of the Act. This and the city's Percival Landing Project are major milestones in returning the shoreline back to the citizens of the area.

Industrial area provides interest and variety

On the other side of the peninsula is the working area - three deepwater ocean berths, 75 acres of cargo marshalling area, warehousing, rail lines and heavy equipment. Since 1984, the old 1930 facility has been rebuilt to modern standards.

It is a no-nonsense industrial area, offering very little opportunity for public access. The port did, however, see a need for the public to safely view the most interesting activity and, in conjunction with the city's Percival Landing North project, designed and funded a viewing tower at the south end of the port's cargo yard. It is a very popular attraction.

The port believes ocean commerce, in addition to being economically beneficial to the community, provides an element of interest and variety to the urban waterfront. Maritime commerce goes back to the roots of Olympia and takes place in the heart of town, within view of the State Capitol.

The port still faces many challenges for the next decade. In 1992, we will be undertaking a major strategic planning process to take a hard look at all the port district's properties and plan for their use in the next ten years. A major area to be analyzed will be port properties in Budd Inlet, this element of the plan called the "Budd Inlet Initiative."

During planning we will review the most recent city waterfront plans, Shoreline Management plans, environmental and habitat concerns, public involvement and regulatory issues, and Port Commission policy for the utilization of these port properties. One of the areas we will look at is the south end of East Bay. Both the port and the city have had an interest in improving public access and potentially creating some sort of park in this area. At low tide the area provides a definite challenge to a quality experience for the shoreline visitor.

In the Urban Waterfront Plan is an area called the Port Lagoon located on West Bay. It is permanently reserved for wildlife habitat as a mitigation for East Bay Marina. The Urban Waterfront Plan calls for public access along the railroad fill. We will analyze the utilization of this area in the plan.

The undeveloped north portion of the port's West Bay properties is mostly tidelands. The port's 1988 Comprehensive Plan considers this area a potential site for water dependent port uses. In light of current city plans, environmental and habitat concerns, we will review many other options.

What do you do with a major hazardous waste clean-up site? Nearly a quarter mile of the port's shoreline has been fenced off to public access until the former pole treating plant site has been remediated. What will its future use be? And how will it affect the clean-up? These are just a few of the many hard questions to be answered in the strategic planning process.

Port planning to be completed in 1992 includes the Marine Science Center Feasibility Study and more specific planning of upland uses at East Bay Marina. The Port faces interesting challenges and opportunities planning for future use of its resources in Budd Inlet. Olympia Harbor is a vibrant mix of commerce and recreation and it is our job to plan for accommodating these in the most beneficial manner.

Saturday Keynote

Aquatic Lands Management
the Next 20 Years

Shoreline Management and the Public Trust

by Brian Boyle
Public Lands Commissioner

For the average family, a walk on the beach is a free and easy amusement. It's something most of us take quite for granted. To a public land manager, however, that same walk represents the exercise of a right with roots that can be traced back through the foundation of our state, to the foundation of our republic, and beyond that to the laws of England and the statutes of the Roman Empire.

Public Trust Doctrine

Our walk on the beach is, in fact, defended by a legal doctrine more than 1,500 years old - a doctrine that holds that the land between the tides and under navigable water is inalienably dedicated to public use. This is the famous public trust doctrine, and a whole string of court decisions, both at the federal and state levels, have confirmed its validity for the present day.

In the state of Washington, the Department of Natural Resources (DNR) acts as the steward of this public trust, and we take this responsibility very seriously indeed. I believe, in fact, that its use is critical to the effective operation of the department's aquatic responsibilities, and, more significantly, to a successful shoreline access program for all of Washington's citizens.

Two goals of DNR stewardship

Our stewardship has two separate but related goals. The first is the preservation of values inherent in the public trust - waters where we can fish and swim and ecologically healthy bottom lands and beaches. Although much of this effort is carried out by other state agencies, including the departments of Ecology and Fisheries and Wildlife, there is an important difference in emphasis and authority. Those agencies rely on the police power of the state, which is subject to a number of constraints when it affects private property.

For example, when the state limits what private property owners can do with their property, as in zoning restrictions, property owners may object that the state has taken some part of the values of their property without compensation, which is a violation of the constitution. But the situation is very different when the state acts to protect its own property, or the property rights it holds in trust for the

people under the public trust doctrine. Potentially, this is a much more powerful means of securing public rights, against which the "taking" argument has no effect. The Washington Supreme Court held in the *Orion* case that private owners can expect no economic benefit from their lands if obtaining that benefit deprives the public of rights it holds under the public trust doctrine.

This year the Washington Supreme Court ruled DNR can charge for private uses in public waterways. (Salmon Bay Waterway)

Access to shorelines

The second goal of our stewardship effort is to enhance access to our shorelines, so that our citizens can actually enjoy the rights guaranteed by the public trust doctrine. This is often a difficult task, since the uplands overlooking the shoreline are often privately held, and of course the public trust doctrine does not convey the right to trespass on those lands. This obviously requires either purchase of private lands or developing and renovating existing public uplands to enhance access.

The Washington Parks and Recreation Commission, of course, has a major role in this, but it has long been clear that the purchase and construction of large parks is not in itself sufficient to ensure the access to the shore that our citizens expect and deserve. In response, we have embarked on a major program of increasing that access in cooperation with local governments throughout the state.

As we all know, one of the great things about living in Washington is that people can get to water recreation without having to travel for hours. Or rather, they can as long as access is supplied. For that reason, many of our projects are located in centers of population, like Seattle Waterway 19, a small cove near Gasworks Park on Lake Union, or the Arboretum Trail at Lake Washington on Foster Island, or the Port Angeles Waterfront Trail.

By the end of this year we will have more than 100 such sites in development, or completed, at a cost of nearly $7 million not counting the matching contributions from other public agencies and civic groups. We are assembling an inventory of potential sites, and combining it with information we have received from meetings such as this one, to expand this work and expand access in new ways.

Potential sites to expand access

We are assembling an inventory of potential sites to expand this work. We are, for example, focusing on developing access points on land that DNR owns and leases. We are also working closely with other state agencies that own waterfront land. For example, we are working in conjunction with the Department of Transportation to identify sites adjacent to ferry terminals where we can provide public access to beaches and waters. We are, and will continue to be, the creative stimulus behind demonstration projects in this field.

That whole effort is financed through the Aquatic Lands Enhancement Account (ALEA), a special fund set up by the Legislature to enhance access to Washington waters. The account is replenished by income the DNR receives from its stewardship of public trust lands, mainly rents from shoreline properties and fees from the harvesting of shellfish from bottomlands. The income from the public trust thus pays for both the protection of its living resources and the enhancement of public access, a wise use of such funds, especially compared to what they were used for before we set up the account - the enhancement of offices in Olympia. We have just made $1.1 million in ALEA awards for 22 projects for 1992. Adding local contributions, these projects for 1992 will provide $3.7 million worth of new or improved public access sites and interpretive and educational materials.

A grant to the Makah tribe will help purchase a right of way to give public access to the rocky headlands and sandy beaches of Shi-Shi Beach and renovate an existing trail. Another grant will help provide handicapped-accessible fishing on Black Lake near Ilwaco in Pacifc County. In Asotin County we will help acquire land and develop trails that provide access to the Snake River. The Buffalo Eddy project also will protect Indian paintings that have archaelogical significance.

Providing access not enough

With the ALEA fund we are accomplishing some pretty exciting things, but providing access is not enough. The great challenge to shoreline management in the future is the integration of our three major shoreline management tools: the public trust stewardship that I have been describing, the exercise of police power via the Shoreline Management Act and local ordinances, and the exercise of propreitary authority over state-owned tidelands and bottomlands. Unless we do this right, we are liable to end up with plenty of access to a shoreline that's not worth accessing. It is clear that such integration does not exist at present, especially between the local police authority embodied in the Shoreline Managment Act and the state's proprietary and public trust responsibilities. For example, one shoreline county - Kitsap - has acted to prohibit the harvesting of geoducks from state lands that lie within county waters. Since the geoduck harvest represents around 60 percent of our Aquatic Lands Enhancement income, the survival of our whole approach is gravely threatened.

I understand the reasons for such actions. Shoreline property owners do not like to see what they consider commercial operations taking place in front of their homes. Counties are responsive to such objections, and since localities have a central role in managing their shorelines under the Shorelines Management Act, the objections can easily be converted into regulation.

Such restrictions are, in my view, violations of the basic principles of the public trust doctrine, principles upon which the Shoreline Management Act itself is based. The use of intertidal lands and bottomlands belongs, not to the thousands fortunate enough to own upland property, but to the millions - all the citizens of our state. And, in fact, just as private shoreline owners claim that public trust activities are harming their enjoyment of their property, we are also starting to see that private upland property - the private homes that are exempted from the Shoreline Act - can have adverse effects on public property. An unacceptable percentage of our state's shellfish beds are rendered unharvestable each year by leakage from septic tanks and the runoff from developed areas.

I hope that these conflicts between private use and our broader stewardship responsibilities can be resolved, as we have successfully resolved similar conflicts involving state forest lands.

Harmonizing divergent interests

Any shoreline program is going to have to involve the harmonization of many divergent interests - local governments, Indian tribes, property owners, sport and commercial fishing, other maritime industries, the tourism industry, the aquaculture and shellfish industries, boaters and people who just like to walk by the water. That's always the nature of any intelligent and fair natural resource policy.

Nearly a century ago, Justice Oliver Wendell Holmes wrote a famous opinion, one of the first objecting to the flagrant pollution of our nation's waters. In it he said, "a river is a treasure," meaning that it could not be the possession of one person or even one generation. It could not be "used up" like a coal mine or a piece of land. Instead, it was a perpetual gift, destined for the use and enjoyment of all the people and all their posterity. Our shorelines are a treasure in the same

sense. Good stewardship will enable us to enjoy our shorelines forever; vigorous application of the public trust doctrine will ensure that all our citizens have their rightful share in this treasure. Of course, it is not enough if just you or I or all of us in this room, for that matter, believe in that vision. Instead, as an entire state we need to agree on that vision of stewardship if we hope to make it possible for Washington. My charge to you is to help convene that common vision, to help us get beyond those narrow, conflicting, self-interested outlooks, and to help stretch our sights to reach the true public interest.

Shoreline Management the Next 20 Years

In addition to the speakers whose papers appear in this section, we acknowledge with gratitude the presentation made by Rep. Jennifer Belcher, Washington State House of Representatives.

Shoreline Management and the Puget Sound Plan

by Nancy McKay
Director, Puget Sound Water Quality Authority

In 1981, 15 years after adoption of the Shoreline Management Act, the Puget Sound Water Quality Authority was established with the assignment to develop a comprehensive water quality management plan for Puget Sound. This action was based on legislative findings that existing institutions and legal systems were not adequate to protect the sound from harm.

Goals of Puget Sound Plan

The overall goals of the Puget Sound Water Quality Management Plan are to protect biological resources and eliminate harm from pollution. Conditions in the sound form the basis for the restrictive status, almost all due to non-point source pollution. These restricted beds account for close to 45,000 acres of productive growing area. Many additional beds, highly valued for recreational use, have been lost or threatened by non-point sources. Over half of the sound's original wetlands have been lost and concentrations of toxicants in sediments in the sound's urban bays are elevated 100 times or more over the levels in the cleanest rural bays. Sediments from the worst areas are toxic to marine life.

Seeing each of these findings as challenges, the Authority developed a comprehensive plan to clean up and protect the sound. The plan consists of 15 programs. The programs in the Puget Sound Plan share several principles: 1) It has taken over 100 years for the sound to reach its current condition and cleaning it up and protecting it will also require a long-term effort. 2) Prevention and source control are key to that protection. 3) And finally, everyone who lives and works in the Puget Sound basin contributes to the pollution in the sound and everyone has a role to play in cleaning it up and protecting it.

Coordination of efforts is key to protecting Puget Sound and to the work of the Authority. In crafting its comprehensive plan, the Authority has sought to sort out conflicting roles, encourage cooperation and collaboration, and rely on existing structures and laws to carry out the plan's implementation.

In preparing its first plan in 1985-86, the Authority examined existing laws and programs, including the Shoreline Management Act. The Authority concluded that while the Act was providing effective protection for the sound's shorelines

from the direct effects of development, wetlands not covered by the narrow width of the shoreline zone needed additional protections. To solve this problem, the Authority developed a wetlands protection program that would address the entire basin. The Authority decided that the Shoreline Management Act was not an appropriate tool for addressing the major remaining sources of harm to Puget Sound because the sources are dispersed throughout the basin and do not just reside within the shoreline zone. One change the Authority has tried to address through the Shoreline Management Act is better siting and pollution controls at marinas, all of which are located within the act's jurisdiction.

Effectiveness challenged by growth and development

The increased efforts to protect Puget Sound begun in the mid-1980s will likely maintain the existing quality of Puget Sound. Our effectiveness in maintaining and improving conditions in the sound will be ever-challenged by the effects of growth and development. Between 1985 and the year 2010, population in the Puget Sound region is expected to grow by nearly 40 percent. Land use forecasts suggest an increase of 62 percent in the acreage developed for intensive urban uses, and of 73 percent for rural non-farm use by the year 2000.

Both the Puget Sound Plan and the Growth Management Act, as well as changes to the federal Coastal Zone Management Act, offer opportunities to enhance the effectiveness of the Shoreline Management Act. As we celebrate this important twentieth anniversary of the SMA, let me offer several suggestions for the next 20 years:

- Local governments could review and strengthen their shoreline master programs as part of their growth management planning to protect and restore Puget Sound.
- Sections of the Puget Sound Plan should be incorporated into the non-point programs required by amending the Coastal Zone Management Act.
- Local governments in Puget Sound should use the coordinated approaches described in the Puget Sound Plan to take a leadership role in water quality protection.

We must share a common vision that Puget Sound will not be sacrificed. We must address the environmental effects of our basic land use decisions and we must continue to educate ourselves and each other about the inter-relationships of our actions, the environment, and our quality of life. By doing these simple things, we can continue to enjoy Puget Sound without destroying it. After all, Puget Sound is what attracted many of us to this part of the world.

Wetlands and Shoreline Management Where have we been? Where are we going?

by Marc Boule
Shapiro and Associates

Since very earliest human history, wetland and flood plains were popular for many uses. Soils were rich and if winter flooding was a problem, associated moisture in summer was a boon. Flood plains of the Tigris and Euphrates, the Indus and Huang Ho rivers were the site of canal irrigation, while thousands of square miles of the Nile Delta were diked for basic irrigation. Agricultural conversion of wetlands was the foundation of all the earliest great civilizations.

Early use of estuaries for commerce

When the people first started sailing off to sea, they used estuaries as their base of operations. Quiet waters and gentle shorelines were easy to use to launch and bring boats ashore for repair. Fresh water killed many fouling organisms. Biggest difficulty was carrying cargo across soft, saturated shore - they began to build piers and use fill to create fast land.

So much for Ancient History 101. What relevance does it have to today's topic? We saw the same pattern with settlements in the United States, including here in Washington. Almost every one of the major estuaries in Puget Sound experienced early agricultural conversion. Dikes along Nooksack, Sammamish, Skagit, Stillicum, Snohomish and Nisqually provided early conversion to agricultural use.

Agricultural conversion was not being used everywhere - Puyallup, Duwamish went straight to shipping and industrial uses.

Environmental awareness began in the 1950s (forgive oversimplification). It began in earnest in the late 1960s which resulted in regulations in the 1970s - NEPA, SEPA, CWA, SMA, CZMA just to name a few. What had we seen? What issues were these regulations founded upon?

Post 1945 urban development was responsible for loss of wetlands - this is our vision, but this represents only the last 20 percent. The first 80 percent was lost to agricultural conversion and lost agricultural activities are exempt from environmental regulations.

So, what am I saying? That urban development is not so bad? That all our problems were caused by farmers, so let's breach the dikes and flood the land back to swamps? No, I like to eat, too, I just wanted to make a point - while environmental regulations are valuable and important, they may represent shutting the barn door a little late. They may make a villain of urban development while ignoring agricultural impacts.

Before you storm the podium and have me tarred and feathered for heresy, let me explain that I do recognize that many agricultural lands are recognized as wetlands and it's much easier to restore agricultural lands to their prior wetland value. But, I think these ideas remain valid. So much for what got us to 1972. What has happened in the last 20 years?

Wetland losses leveled off as did urban development. Losses between 1977 and 1991 can all be attributed to disposal of dredge material for navigation maintenance. U.S. Army Corps of Engineers has been addicted to using wetlands for this purpose for years. It's been tough to kick the habit, but, in this district, they have succeeded for the most part.

So what do we have? Before World War II, agricultural conversions were responsible for diking more than 80 percent of our tidal wetlands. Since World War II, urban activities, primarily port related, have been responsible for impacts to the remaining 20 percent, but they have not completely eradicated it. Since 1972, regulatory projects have severely curtailed conversion of wetlands to urban uses.

What of the future?

Our population continues to grow, both in the world and in the state. People need a place to live, to work, to play; they need food to eat. Trade, especially in the Pacific Rim, is growing dramatically. We will continue to need land and other resources to fill the demands.

The subject is wide-ranging. Today I will discuss only one element - port facilities. No doubt we will need to use our port facilities more efficiently. That is the challenge to port managers - maximum use of existing facilities before attempting to justify the need for more. But ultimately we will need new facilities. Where will they go? It is unlikely we will allow non-wetlands or diked farmlands to be converted to industrial use in the near future.

I would like to suggest that Cherry Point in Whatcom County offers a model for some port needs. At Intalco and BP, the intrusion into the water is a single long pier. The pier extends into deep water, spanning sensitive near shore areas. There has been no dredging at shallows for deep draft vessels. Facilities are all in uplands - no filling of near shore wetlands. Finished product is exported by rail or truck and because the site is in a rural area, there are no traffic impacts to a city.

Obviously this is not a perfect model. There are significant land use issues concerning conversion of rural lands to industrial uses. Undoubtedly, there were some wetlands on the site, albeit non-tidal. Water quality concerns associated with storm water are also an issue. But no development is impact-free and as long as population increases, there will be a continuing demand for development. The challenge of the future is to meet the demands in the most environmentally sound fashion without ignoring the need to be cost effective.

Pacific Northwest Ocean Management: the Next Twenty Years

by Professor Richard G. Hildreth
Co-Director, University of Oregon Ocean and Coastal Law Center

Introduction

One anecdote illustrates how the ever changing Pacific Northwest ocean management scene never changes. On August 18, I was sitting in the Seattle airport en route home to Eugene after a four and a half month sabbatical leave in Australia, when I picked up a Seattle Times for that day whose section B featured the following two headlines: "Oil Removal at Tenyo Maru Resumes After Delay;" "National Plan on Spill Response is Still Not Done." The point is, as we have learned time and again in the Northwest, federal approaches may not be optimum from a regional perspective with respect to such matters as offshore oil and gas drilling and oil spill prevention.

In a sense those headlines brought me back down to earth from Australia where I had witnessed a high degree of cooperation between the Australian federal government and the Queensland state government in jointly nominating Fraser Island, the world's largest sand island, for world heritage status, and on August 17 on Queensland's Sunshine Coast witnessed a hundred Queenslanders in wetsuits successfully free an adult humpback whale which had beached itself on the sand.

Thus, in speaking today about "Pacific Northwest Ocean Management: The Next Twenty Years," I want to draw both on the inspiration of those recent overseas experiences and ground my remarks in the reality of recent ocean management events in our region such as the Exxon Valdez and Tenyo Maru spills.

This work is the result of research sponsored by Oregon Sea Grant with funds from NOAA Office of Sea Grant, Department of Commerce, under NA Grant No. NA89AA-D-SG108 (Project R/PPA-36). The U.S. Government is authorized to produce and distribute reprints for governmental purposes notwithstanding any copyright notation that may appear hereon. The author gratefully acknowledges the research assistance of Andrea Coffman and the manuscript assistance of Nancy Farmer, both Ocean and Coastal Law Center staff members.

Recent developments with future implications

In our region, there also have been positive developments which have major implications for the next 20 years in Pacific Northwest ocean management. Some examples include:

President Bush's June 1990 decision to delay any offshore oil and gas leasing off Oregon and Washington until the year 2000;

Consistent with the President's decision, the Interior Department's proposed five year schedule of OCS oil and gas lease sales for 1992 to 1997 does not propose any sales off Oregon and Washington (however, several sales are proposed in Alaskan waters, which if major finds resulted, could lead to secondary impacts on Washington's coastal resources from construction and operations in support of Alaska OCS oil and gas development);

With respect to the Presidential and Interior Department decisions regarding postponed offshore oil and gas leasing, I believe all of us in the region owe a huge thanks to the efforts of our state representatives to the joint federal-state Pacific Northwest OCS Task Force and the federal representatives who cooperated with them in developing information, analysis, and recommendations that it was premature based on existing knowledge to schedule lease sales off the Washington and Oregon coasts (Smith 1991).

State legislative moratoria on oil and gas development in state ocean waters off Oregon (1989 Ore. S.B. 1152) and Washington until July 1, 1995 and an additional ban in Oregon on seabed minerals mining in state ocean waters as well;

The formation and operation of the States/B.C. Oil Spill Task Force to coordinate state and provincial and federal oil spill prevention and cleanup responses from the Mexican border north (Heimowitz 1991);

The introduction in several west coast state Legislatures and passage in Oregon of legislation to establish the Pacific Ocean Resources Management Compact to further coordinate oil spill prevention and response in the region and consider regional coordination and cooperation on other ocean management issues (Hildreth 1991c);

The continuing domestication of fish harvesting and processing in the U.S. Pacific and North Pacific exclusive economic zone extending 200 miles seaward in which many Washington and Oregon fishermen try to make a living (Ballweber 1991);

Continued progress toward designation by NOAA of the Olympic Coast National Marine Sanctuary (NOAA Sanctuaries 1991) (and the possible designation of a Northwest Coast/San Juan Islands marine sanctuary as well);

Oregon's completion of an Ocean Resources Management Plan with a regional outlook. The plan identifies knowledge gaps and resource management issues that the region will confront and, in some cases, makes clear recommendations for their resolution (Oregon Ocean 1991).

New steps in Washington

Having participated in the Oregon ocean resources planning effort, may I humbly suggest that it perhaps provides the next step for ocean resources management by the state of Washington. It seems to me that in Washington the ground work has been laid for some state-level major ocean policy decisions by several recent impressive data gathering and analytical efforts whose potential has

not been fully realized in Washington state planning, political, legal, and policy making circles (Cicin-Sain 1990).

Again, because of my personal participation, I go back all the way to 1986 when the Department of Ecology sponsored a Washington OCS Policy Study that provided specific recommendations for planning, legal, and policy responses to federal offshore oil and gas initiatives (Cogan 1986). And then, during 1988-1989, Washington Sea Grant coordinated the Washington Ocean Resources Assessment Program study directed by Glen Ledbetter (Hershman 1988; Kasperson 1989; Landry 1989; Strickland 1989; Washington ORAP 1988). These assembled studies represent, in my view, a state-of-the-art foundation for Washington state and local government involvement in ocean resources management.

The 1989 Washington Ocean Resources Management Act (RCW 43.143.005 et seq.) and the Ocean Use Guidelines (WAC 173-16-064) developed by DOE pursuant to it are fine as far as they go but do not really take full advantage of the information and analysis developed by the ORAP effort (Sorensen 1990).

Other states besides Oregon, including Hawaii, Maine, and Mississippi, appear to have benefitted from recently completed ocean resource management plans and policies prepared without such a firm foundation (Catena 1991; Hawaii Ocean 1991; McLaughlin 1991; University of Maine 1991).

To give you just one concrete example, given the importance of commercial and recreational fishing in Washington, it would seem worthwhile to amend Washington's federally approved coastal zone management program to reflect Washington's policies and laws regarding fisheries, their management and conservation. Legally, this would help strengthen the relatively weak recognition given by the courts to fisheries concerns raised by states in the offshore oil and gas development process (Massachusetts 1979; Tribal Village 1988).

The importance of thinking through and taking such concrete steps is heightened by the amendments Congress made to the federal Coastal Zone Management Act in 1990 which reversed an adverse United States Supreme Court decision and made the so-called consistency process of the federal CZMA broadly applicable to all federal decisions affecting fisheries and other ocean resources within and adjacent to Washington state (Archer 1991). Unfortunately, outside designated national marine sanctuaries, federal multiple-use ocean management capabilities are very weak (Hildreth 1991b). Through aggressive and skillful use of the CZMA consistency provisions, coastal states such as Washington can inject multiple use perspectives into federal agency decisions regarding adjacent ocean resources (Exxon Corp. 1987).

Other 1990 amendments to the federal CZMA (16 U.S.C. sec. 1456b) make possible federal funding for the strengthening of Washington's coastal management program with respect to ocean issues (Washington DOE 1991).

Regional issues

Exactly what would we be preparing for by improving the ocean side of Washington's Coastal Management Program? I have already referred to the several OCS oil and gas sales scheduled for Alaska OCS waters. In addition, if the Arctic National Wildlife Refuge is opened to oil and gas development, transportation of petroleum related products in and out of Puget Sound could further increase dramatically. Furthermore, there is even some risk that the current federal decisions postponing oil and gas leasing off Washington and Oregon could be changed, for example, by legislation such as defeated Senate Bill 1220, and lease sales scheduled before the year 2000.

If the Olympic Coast marine sanctuary does not effectively prevent all oil and gas development off Washington, and OCS lease sales are again scheduled off Washington, the question of the state's share of OCS revenues will become

relevant (Hildreth 1990). Thus, it is not too early for Washington, in coordination with other coastal states, to begin developing a position on the Bush administration's recent proposals to Congress to increase the state's share of any OCS oil and gas revenues from adjacent OCS waters (Nautilus Press 1991).

If the region is to become involved with oil and gas development in Alaska and perhaps even off its own coasts, hopefully we can avoid learning lessons the hard way like state and local governments (especially Santa Barbara County) in California, and be ready to capitalize on the knowledge and experience gained by those governments as fully evaluated in the ORAP studies and elsewhere (Symposium 1991).

Also, Washington is currently contending with a pipeline proposal that brings back memories of the controversy and litigation surrounding the proposed Northern Tier pipeline which would have run from Port Angeles under Puget Sound on its way to the Midwest. The Northern Tier pipeline was supported at the federal level but rejected by the actions of Washington Governor John Spellman and other state officials in the early 1980s.

These issues illustrate the basic point that offshore resource development activities throughout our region can lead to significant development pressures on Washington state coastal resources whose care and wise management is the goal of the Shoreline Management Act whose future is the focus of this symposium.

Regional and international responses

In dealing with such issues, Washington state cannot go it alone; ultimately, I believe, we need to develop a true multiple-use regional ocean resources management capability up and down the west coast including British Columbia, building on such efforts as the Pacific OCS Oil and Gas Task Force involving Washington and Oregon and the States/B.C. Oil Spill Task Force, with the political support of such entities as the Western Legislative Conference, Western Governors Association, and Pacific Fisheries Legislative Task Force. (Hildreth 1991c)

Regional attention needs to be given to (1) assessing the cumulative effects of multiple ocean uses in the region on: (a) each use sector including preservation uses, and (b) marine environmental quality, with the goal of promoting sustainable development of ocean resources in the region; and (2) guiding federal and state research activities toward regional planning and management needs. Ultimately, principles and priorities with the force of law for resolving ocean use conflicts may develop along with procedures for applying them to disputes.

In the end I hope we could develop a regional ocean resources management scheme that would reflect three emerging principles of international environmental and resources management law. They are: (1) the "polluter pays" principle, the notion that resources development activities should pay their full costs, reflecting their spillover effects as much as possible; (2) the precautionary principle that in the absence of sufficient knowledge about the effects of a proposed ocean development activity, that we wait for better information rather than proceeding on a trial and error basis; and finally, (3) the emerging notion that sustainable uses of resources are favored over unsustainable uses, and that in case of conflicts between nonrenewable resource development activities and renewable resource uses such as fishing (when properly carried out), priority will be given to the renewable activity.

At the international level, during the next 20 years, the region could benefit from regionally coordinated proposals to the International Maritime Organization to designate sensitive locations such as the approaches to the Strait of Juan de Fuca as special areas meriting the application of stringent pollution controls and navigation requirements applicable to foreign flag as well as domestic vessels. Also, at the

international level, the region may want to take particular interest in the continuing drive to end the use of driftnets in high seas fisheries, especially in the North Pacific.

The priority problem - declining coastal water quality

Already my agenda of action for the next 20 years has grown ambitiously, even if its accomplishment is spread out over the next two decades, and I haven't even touched upon what is perhaps the most critical problem requiring priority attention beginning now and extending throughout the next two decades.

The problem is that despite our best efforts to reduce polluting discharges from vessels, industry, and other sources into our coastal waters, coastal water quality continues to decline. The continued decline in coastal water quality is attributed to the much more difficult to regulate dispersed and diffuse land-based sources of pollution such as urban and agricultural runoff into coastal waters. This, by the way, is a major concern in coastal management in Australia as well (Hildreth 1991a).

With respect to declining coastal water quality, in the 1990 Coastal Zone Management Act amendments, Congress has given state water quality control and coastal zone management agencies and the federal Environmental Protection Agency major marching orders with respect to finally dealing with so-called non-point sources of pollution of coastal waters (Archer 1991).

It is on this issue where shoreline management which has been the focus of this symposium meets ocean management, because, without further improvements in shoreline management, it appears that we are doomed to the prospect of continuing declines in coastal water quality.

If any state could and should lead the way with respect to breakthroughs on this problem, it would seem to be Washington state. On the one hand there are the known problems with Puget Sound water quality, and on the other hand, the tremendous economic value represented by preserving and improving that water quality. With both water quality and coastal zone management housed within the Department of Ecology and a unique regional entity in the form of the Puget Sound Water Quality Control Authority, Washington would seem to have the best institutional capability for real progress in dealing with the non-point source problem. Success in Washington state would not only be important locally, but regionally, nationally, and even internationally where, for example, federal and state governments in Australia are rapidly waking up to the non-point source pollution problems facing Australian coastal waters and starting the search for solutions.

I hope, but obviously cannot be sure, that there will be success during the next 20 years with that critical problem.

Furthermore, I hope there will be time and opportunity to pursue possible solutions to this critical challenge at the various symposium sessions scheduled for this afternoon. I look forward to the opportunity of discussing those and other key problems with you. Thank you for inviting me to participate in your important efforts.

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Perspectives on Coastal Management After Twenty Years

by Marc J. Hershman
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Two trends are of particular interest to me when looking at coastal management after 20 years of experience. The first is the growing use of the concept in other parts of the world, and in the emerging United Nations activities dealing with climate change and the environment. This appears to be a very positive trend that should be watched closely. At the same time a second trend has emerged that may seem contradictory to the first. The coastal management "movement" in the U.S. is not growing relative to the expansion of interest in coastal issues within our own country. Instead, it seems to be stagnating. New and specialized agencies and programs are emerging to deal with particular problems. This trend necessarily raises important questions about the viability of broad-based comprehensive programs like coastal management.

Globalization

Throughout the 1980s there was an expanding level of interest in coastal management in many parts of the world. As of 1991 there were 34 nations and semi-sovereign states engaged in the preparation and implementation of coastal management programs, or conducting national feasibility studies regarding coastal management - 23 of these were developing countries.

The U.S. and other developed countries (the Netherlands and Japan in particular) have led the effort to promote the use of coastal management in the developing world. For example, the U.S. National Park Service initiated a publication series and a newsletter that has created a network of 1,900 officials in the world interested in the development of coastal management programs. The U.S. Agency for International Development (USAID) has active programs in Thailand, Sri Lanka, Ecuador and the ASEAN countries for developing coastal management programs, training in-country officials, designing implementation programs, etc.

In the past few years two particular initiatives have sparked considerable interest in coastal management program development. The first centered on international concerns about global climate change, greenhouse warming and the threat of accelerated sea level rise. These concerns led the UN's Intergovernmental Panel on Climate Change (IPCC) to organize a "CZM Subgroup" to assess strategies for adaptation to accelerated sea level rise. That group, with input from

scores of countries, called for National Coastal Planning and Implementation by the year 2000. As a follow up to their report, a series of vulnerability assessments were conducted for 30 countries, using common criteria, to be presented at a meeting in Venezuela in March, 1992, prior to the UN convention in June of 1992.

The second international initiative that has sparked interest in coastal management program development relates to the United Nations Conference on Environment and Development (UNCED) to be held in June of 1992. A working group within the preparatory committee for the conference has identified "integrated marine and coastal management" as an important issue. There is considerable enthusiasm for putting that issue on "Agenda 21" for action after the conference.

These international developments are important because they raise the hope that benefits from coastal management can be realized in other parts of the world. In addition, developing nations are suggesting new approaches to coastal management that can be useful for practitioners in the U.S. For example, new terminology is now in use among coastal managers as a result of interest in the globalization of the concept - integrative management and sustainable development. Integrative management emphasizes a change in the way of thinking among managers and de-emphasizes new programs and additional costs. Sustainable development emphasizes ethical elements in management - meeting human needs, ecological integrity, future generations, avoiding injustice, increasing self-determination. These concepts are crucial for developing countries and may become of increasing importance in the U.S.

It should be pointed out, however, that "globalization" among developing countries is almost totally dependent on financial and technical aid from the developed world. Interest is high among scientific and governmental officials of developing countries but resources are not available. The challenge is to integrate the principles of coastal management into economic development strategies of the countries so that human and environmental needs can be addressed at the same time.

Stagnation

Within the U.S., coastal management programs have not grown relative to the growth in concern and interest for coastal issues in general. In the past decade there has been an explosion of interest in such issues as wetlands protection, offshore development (oil and gas, mining, sanctuaries, territorial sea, EEZ), coastal hazards, marine debris, coastal water quality, biodiversity/endangered species, and others. These issues easily can fit under the coastal management rubric but have instead been assumed by other agencies or groupings of agencies.

Why has this occurred? When coastal management was first conceived in the late 1960s many of the issues listed above were not yet recognized, or were only nascent. The framers of the national coastal management program argued that organizational and authority problems were the key to more effective management and they assumed that many specific issues could be resolved within the new framework. To address these issues they crafted a comprehensive land use control model emphasizing a top-down, rational model of plan-making, followed by decision-making. States would develop their own list of problems and issues, and change the program as the issues changed.

Over time, certain resource related problems became of such immediate concern that policy-makers and interest groups successfully fought for specialized approaches to these problems and looked to single purpose agencies for implementation. Thus, for example, agencies like EPA and DOI were used to respond to such new problems as estuary protection, coastal water quality, wetlands and hazards. The broad-based, locally oriented, land use control

orientation of the coastal management programs did not suit the interests of policy makers and their constituents.

In addition, the 1980s were tortuous years for coastal managers. On the one hand, the pressures for management and protection were never greater (second home development, offshore oil, water quality, beach debris, wetlands protection, etc., etc.). But political attacks at the national level, and in many states, forced coastal managers to hide and to protect what they had. As a result, policy initiatives shifted to other programs where the focus was more specifically related to the resource of concern.

Wetlands is a good example. The focus of attention for wetland protection is now at the federal level with EPA, FWS, NMFS and the COE in the lead. In most cases, states are playing a secondary role and that role involves many different agencies, only one of which is the coastal management agency. Because of the technical issues relating to species, habitats, water quality, mitigation, restoration, and others, the resource agency, rather than the land use agency, is in demand for solving management problems.

Estuaries is another example. Congress has called upon the EPA to address the wide scope of issues affecting the health of estuaries. Many of these issues can be controlled through better land use management practices. However, it was only in the 1990 amendments of the CZMA that Congress called upon the EPA and NOAA to jointly oversee development and implementation of coastal non-point pollution control programs. Coastal management programs now have a specific mandate relating to water quality protection but it is not clear how far the states will be willing to go to control development activities that generate non-point sources of pollution. Nor is it clear where the real leadership will come from on the water quality issue - state and federal water quality managers or state and local land use controllers.

What can we conclude from this trend? First, coastal programs often were the pioneers in many policy issues, uncovering the scope of the issue, developing public awareness, and putting the issue on the policy agenda. In many cases the child outgrew the parent and went off on its own. This is not bad, necessarily, since many problems require specialized attention to be properly managed. Many coastal programs can take credit for establishing a coastal agenda and elevating it within policy circles.

Second, the number of governmental players involved in aspects of coastal management has proliferated. There is definitely a trend toward the development of specialized programs for specialized problems, and a tendency to avoid letting one agency with comprehensive mandates and powers to simply absorb new policy concerns. This reflects a basic behavioral response of our political system. Legislatures define problems precisely and limit their response to those steps that will directly address the problem before them. This has immediate political benefits and it serves the "limited government" and low taxes ideology that is prevalent today.

Third, the result of this trend is to force coastal management agencies to downplay their "comprehensiveness" mandate and to focus on their particular strengths so as to preserve a niche for themselves. Without the niche, they risk attack as too diffuse and insufficiently focused on real and measurable problems, and thus politically vulnerable. In most cases this niche is shoreland zoning as an aspect of land use control, with an emphasis on public access, building controls, etc. Unfortunately, land use control has always been the whipping boy of anti-government and pro-property rights advocates. I fear there will be difficult times ahead for advocates of stronger land use control. The irony is that most resource-specific controls that we need to address water quality, wetlands and endangered species can be best addressed through land use controls.

Conclusion

The coastal management community should re-examine itself now that the first 20 years is over. What are the major questions we should address?

1) Is our geographical scope still appropriate? Most coastal programs have defined fairly narrow zones in which to operate. This limitation is an asset in that it defines "coastal zone" more precisely and most people have come to accept its legitimacy. However, the problems affecting coastal resources move beyond the artificial boundaries and continually change. The boundary becomes a strait-jacket and a lot of energy is wasted debating boundary and jurisdictional problems. Because of the interest in watershed management and offshore issues, we should seriously discuss alternative ways to discuss coastal resources, rather than through the notion of a "coastal zone."

2) Are we organized properly to get the new jobs done? Is reliance on general purpose local government still correct? Ideally we should integrate coastal management principles into the thinking of local government and build on local political networks as much as possible. However, many problems are beyond the jurisdictional scope of locals, and local government often cannot ignore political pressures. In the future, organizational innovations are going to be needed to link locals with adjacent jurisdictions and higher levels of government so that issues that are estuary-wide, watershed-wide, or regional can be addressed.

3) Are the traditional management tools of planning, standards, regulations and permits still the right way to go? Traditional regulatory tools, centering on the permit process, are still viable but a decreasing part of the management strategies. The issues of the future will deal with restoration and enhancement, land acquisition and banking, regional sectoral planning, alternative dispute resolution techniques, and others. The coastal management community needs to assess how well it has been able to move beyond the traditional forms of management, and what additional steps are needed to facilitate greater breadth in strategies.

4) Can water-area use and management be better integrated into coastal management? The water side of the coastal zone has been the most difficult to address through coastal management programs because of the land use control orientation mentioned above. In the water area, the submerged land owner-agency (state lands, MMS) and the resource management agencies (fish, wildlife, water, power, ports, etc.) have been left out of the planning loop. They review specific projects and devise performance standards, but they have never been forced to do long range spatial allocation planning. This is particularly true in Washington state where local governments have been given lead responsibility in shoreland management, and where local master programs have the status of state law. I propose that Washington state reconsider a decision made 20 years ago that took DNR (the submerged land manager) out of shoreline management. Instead they should be empowered to develop their own master program for state-owned lands, in conjunction with the state's fisheries and wildlife agencies, so that state-wide goals and environmental designations could be articulated for state-owned and managed resources.

Appendix

Notes from Roundtable Discussions

In one and a half hour discussions on Saturday afternoon, symposium participants had a chance to express their ideas on shoreline management - where it's been successful, how it's failed and the direction it should take in the future. Thoughts and ideas expressed that afternoon were recorded and on the following pages can be found the opinions of those present and suggestions they made for the future. Notes on these pages represent the personal views of many constituencies.

Session A: Environmental Protection

Where have we managed our shorelines well for environmental protection?

• Padilla Bay - Good job with show places like Padilla Bay. But while we've done that, there are thousands of smaller places where we haven't done a good job - streams, etc.

• State/local relationship - Excellent job giving deference to local governments.

• Water quality - Water quality has increased since last 20 years - Puget Sound is impeccably clean compared to 20 years ago.

• Secondary treatment of waste water - municipal and industrial.

• Specific areas - Over-regulated private property - backlash to existing regulation - homeowner needs protection.

Where do we need to improve?

• Stormwater - Department of Ecology (DOE) needs to get better handle on discharges of storm water- DOE doing little in storm water control.

• Regulating development - Difficult to regulate development - money talks. Since 1972, counties take it to the mat - there will be a real backlash to increased level of regulation; e.g. when a homeowner's foundation is being eroded away and he's told to put vegetation in instead of a rock bulkhead, it's scary!

Limitations and restrictions being imposed on people - in some counties too restrictive - every county totally separate - last time there was voter imput was 1972. We see an awful lot of discontent and concern - will be backlash. Regulate development/growth in smaller communities. SMA, if county is willing, can protect shores of rivers.

• Budgets - Smaller counties with limited budget - DOE now just starting to give help. How do we deal with diversity of small counties with little money and large counties with little money? Development of master program not dependent on wealth of county.

How to do it together - private property owners have rights -we all have responsibility to preserve the land.

• Growth, cumulative impacts - Can't address cumulative impacts under SMA - go back after fact. Not adequate by itself for environmental protection.

Increasing number of people puts increasing demand on water. We're going to be looking at tremendous back lash from these people.

• Public access, recreation - Should SMA control density of use of public shorelines? SMA can limit number of people in "natural" environmental designations. SMA has no ability to control impact of recreation - dispersed activity - people using the water, but SMA can control recreational structures.

• Public Education - Public needs to be educated on how their behavior effects environment (whether in boats, walking the beach, or in the riparian corridor.) SMA has not been concerned with that. Use of citizen groups, innovative techniques.

• Rivers, Riparian Zones - SMA not addressing the loss of riparian zones along streams (particulary vegetation.) Lack of river management. Counties need to use citizen groups to help monitor river - more creative ways to manage river.

• Master Programs - Lost basic state framework within locals - we voted away that framework (Initiative 43.) How to designate the shoreline - rural, urban, conservancy or natural. DOE has done terrible job requiring local governments to be consistent with own guidelines; e.g., Chelan allowed major hotel in place designated conservancy. Need standards within designations.

Should designations be changed? Review needed. Difficulty in handling local diversity - how to put label on - what are you trying to protect? Protect public access, scenic vistas, habitat - for fish, wildlife. Water dependent industry, ports need to be protected.

• DOE 's role - More funding, technical assistance to local government. DOE has people in Lacey/Olympia - not in the field - needs to de-centralize. Control of dispersed activites - water based. Recognize impact from public use. Include (smaller) lakes and streams. Achieve more east/west Washington balance.

Need the SMA or its guidelines be amended to achieve improvement?

• Destruction of Riparian zone - SMA needs to address particularly vegetation.

• Points of conflict with SMA and GMA.

• Permit no more houseboats.

• Eliminate "water enjoyment use" definition; strengthen guidelines to prohibit restaurants over the water.

• Restrict bulkheads.

• How do we address cumulative impacts? Through better enforcement of SEPA. Look for alternatives ways for compliance - not enough enforcement - citizen involvement.

• Shoreline Hearings Board appeals procedure - When board adopted court rules of procedure - for all practical purposes have to have an attorney by your side when go to hearing board. Reinstate original intent that any citizen could go before SHB. Eliminate dependence on court rules and procedures. Two kinds of hearings - one for individuals one for developers. Eliminate exemption of single family residences from substantial development permit requirement under SMA - leads to SEPA review.

Other approaches for improving environmental protection in shorelines

Recognize impacts of environmental degradation of public access areas; e.g., Pass Island. There is in law, if not in practice, local authority to limit use of these areas by designating them "natural" in the local master program.

Improve/integrate existing laws and plans; e.g, link Puget Sound Water Quality Authority plan and basin plans within state to clean water statutes - state and federal. (Doesn't solve international pollution problems; e.g, Victoria's sewage discharges.)

Stormwater discharge into state waters - DOE needs to improve control; SMA doesn't address this issue adequately by itself.

Session B: Resources Management

What's going well?

Nisqually Delta is a success story. Without the SMA a deepwater port would have been developed in the delta. SMA has prevented things that would otherwise have happened.

Try to picture the shoreline today if SMA hadn't happened. SMA gave us ammunition to go forth - gave us backing. Governments are looking at alternatives to bulkheads, etc.

Where do we need to improve?

Garrett Hardin, human ecologist: "No shortage of anything, only a longage of people." Basic issue is growth: How do you regulate that? No authority to address population growth, or freedom of movement (migration) - you can't regulate that!

Adopt a regional approach - holistic approach - approach problem from whole, instead of bits and pieces (river as a whole, instead of mouths of rivers, wetlands, etc.)

SMA involves too small a part of society (property owners and government.) Outside a small group of people it is not known what shoreline management is, what public rights are, or concepts like public trust doctrine. Public v. Private Rights. Has not resolved the debate between private rights and public rights.

SMA protects property rights - but people don't know it. Educate property owners about their rights - let public know. Private property abutting the public domain - he bought a system. That bluff he bought affects the spit five miles down shore.

Need a system for notifying property owners they own a system. Need public disclosure in land sales; use property sales to inform people of their responsibility.

Tideland rights are confused.

- Public Trust Doctrine. There is total ignorance of public trust doctrine. Educate people about public trust doctrine (PDT.) Public trust - state could never sell tidelands -state could only sell rights.
  An easement - public has right to traverse the beach - ensure the right of public access. Public trust doesn't extend upstream to point of navigability.
  Precedents set - Sweden, Canada, Hawaii. Include PDT in SMA.
- Private Landowner Issues - Owners think their rights extend off shore. Need to let owners and public know people have common law rights of access along beaches. Shouldn't have given up tidelands. Natural system similar to public streets re: responsibility of landowners. Legislators hear only most vocal as preponderant view.
- Single Family Residences -Should never have allowed private dwellings on shorelines - mistake we made a long time ago.

- Natural Systems - Need recognition of natural system involved not just environmental designations. Natural system should be understood by public and everyone and that natural system should be used as basis for the act. 200 feet meaningless! (In a system context.) Need a natural system (e.g, basinwide) boundary. Extend idea of shoreline management to caring for land to make it more holistic. Related to activities -not width of jurisdiction. Our approach is output — Look at the source of inputs. Lawyers promoted the act without understanding the natural resources system. In Oregon, state gave locals two years to identify the resource before writing local plans.
- Awareness of public interest - Public access at Nisqually River gone from 6 to 1 - because of vandalism.
- Enforcement - need enforcement! Rapid response (officers, etc.) Enforcement is sorely lacking - any discussion of more regulation is a waste of time - legislature should fund enforcement. Regulations and enforcers are like stop lights.
- Water Quality, Quantity - Emphasis should be on protecting water (quality,etc.) Public trust is lost if you lose water quality and quantity. Flow irrelevant unless you consider season.
- Shoreline Hearings Board - Shoreline Hearings Board stacked with agencies - citizen comes in short shrift. Only municipalities can appeal WDOE decisions on SMP amendments. Citizens should be able to. Lack of uniformity in SMPs is a problem for the SHB
- State/Local Relations - State policy for local programs - DOE doesn't hold local agencies to those policies. Need a mandatory update of SMPs. Local diversity among master programs is okay if enforced. Common sense laws - major effort on minor issues. Shorelines management has overreached itself in regulating fisheries (aquaculture) at local level.
- Carrying Capacity - Need to consider carrying capacity. Overuse results in more regulations: more congested it becomes, more regulations you have to have.
- Other Issues -
  Need to encourage native vegetation
  Need prohibition against liveaboards
  Have lost some street ends
  Take a look at everyone's values - instead of trying to shove our ideas down people's throats.

Session C: Economic Development and Community Development

- SMA a failure because of local government - should be taken out of realm of local government and given to the state.
- In my hometown they have decimated miles of shoreline in past 20 years.
- Variances, "grandfathering," give too much latitude to circumvent regulations.
- Growth Management Act reaffirms local control. Trying to shift to state or federal government is going contrary to what's happening in the state - growth management providing local authority.
- Who is better able to make decisions than local government - but need to increase public education and increased technical assistance from state agencies.
- Need stronger Ecology support to locals in supporting local efforts - legal, political, enforcment.

- Ecology needs to take more leadership role to provide consistency - have a phenomenal inconsistency - be willing to say no - you can't do it that way - it should be done this way.
- Locals see proliferation of over-water structures.
- Revisit programs for more consistency statewide - initiated by state.
- Too much inconsistency in jurisdictions - need more state policy.
- Maintain local control but with higher standards required.
- Department of Natural Resources (DNR) and other agencies need to be consistent.
- Grays Harbor Master Plan - an example of success.
- Case by case mechanism to gain Master Program improvements is wrong.
- Shoreline (water) planning should gain prominence.
- Larger definition of community.
- Need more public access, more trails, linear access - especially with wealthier waterfront owners.
- Ecology should take the lead in getting more parks and access.
- Revisit master program - make it more current.
- Prohibit building over the water structures. Place farther back from water - 75 foot minimum.
- Better communication between state agencies. DNR and other agencies seem to have different objectives
- Identify and resolve conflicting issues - charges - of different state agencies.
- Focus on original intent of "shorelines of statewide significance."
- Clarification and redefining the meaning of shorelines of statewide significance — what is allowed and what isn't allowed (Editor's Note — Shorelines of statewide significance are determined by state. They include large bodies of water - Puget Sound, Columbia River, Lake Washington. With shorelines of statewide significance classification comes a priority listing on how those will be treated. First is to address long term over short term interests. Second priority is to maintain natural character of the shoreline.)
- Reconstitute Musk-Oxen (Editor's note - Musk-Oxen was an informal interagency environmental permit coordination group, disbanded by Gov. Dixy Lee Ray in 1970s.)
- Identify all harbor areas as shorelines of statewide significance and give DNR further authority to exercise its mission.
- Education is the key - using key local people to further understanding - state staff work closely with locals.
- Locals been fighting SMA for eight years - needs to be in hands of state.
- Better explanation of why shoreline management is necessary.
- In eastern Washington, 80 percent failure - but education the key - can mandate all you want - but doesn't mean anything if people in community don't understand - when need a series of permits - people don't get them - need to educate - can't send brochure from Olympia - need to have people in the community to explain, educate. Why do we need permit? If hear from person who went through process we'll be told don't go to city hall. Need state people interacting with local people who already understand it. Not understandable to local people - why is it needed?
- Need for support from state level - leadership training, technical assistance - political pressure at local level - more uniform guidelines from the state and more technical assistance from the state would be helpful.
- Improving - DOE and Department of Community Development (DCD) coming up with incentive programs that actually work - state people help locals come up with creative ways of development along the shoreline - to deal with property rights issue while protecting shoreline.

- Recognize different shoreline needs of different uses - i.e water-dependent.
- More training and more regulatory - more education on public trust, use that tool on part of state.
- Esthetics from the water impacted by large structures - out in kayak want to see green - not concrete foundation.
- State should ask locals to review master programs - perhaps a checklist of things that work.
- Mandatory review (for example under GMA) rather than taking control from locals.
- Establish similar account to Aquatic Lands Enhancement Account for acquisition of shorelines.
- Focus on acquisition of shoreline property - public land.
- Some counties have very little access. How much access and the quality of access are issues.
- Locals need more technical assistance - want persons in the region - mandatory updates.
- More access for handicapped and elderly, broader public should be considered.
- Recognize variable setback - uniform mandatory setback.
- As planner, I need more information about shorelines - more DOE staff available to me - mandatory plan update.
- Education - what is allowed.
- Get what worked from one community and use it in educational efforts for other communities.
- An ideal ratio of public land? Take population into account. Ratio would have to have quality aspect.
- Mandate from the state on shoreline matters.
- Single family exemption - houses are not water-dependent use - shouldn't be exempt from permit - look into cumulative impact of single family residences. (Editor's note — Single family residences don't require substantial development permit, but must meet master program policies.)
- Economics drives shoreline development - enables us to do good things.
- Economics includes more than industry, but tourism.
- GMA and SMA will tie together.
- Shoreline master plan has to take into consideration growth management
- Consideration of DNR bedlands and fills, etc.
- What's allowed - more education.
- Need to balance competing uses of harbor areas - prioritise those areas.
- All harbors be given shorelines of statewide significance status to give DNR greater authority to exercise its mission.

Session E: Intergovernmental Relations

Success:

Coordinated government regulatory enforcement action - joint effort
Aquaculture amendment to master program - local government prevention
How does GMA and SMA interact? Can state, local and public work together?

Make Improvements:

Educated citizenry
Clarity of process

Cooperation and coordination of state/local process and federal programs
Increase state enforcement staffing
Evaluate cumulative impacts
Non-point pollution and shellfish protection
Use/compare acts and unify shoreline management efforts
Non-water dependent uses are not an appropriate use for shorelines
Non-regulatory - land banking
Stronger state-wide standards and better defined state role
Region-wide guidelines instead of state-wide standards
Collaboration between Puget Sound Water Quality Authority and shorelands program
Local government should incorporate Puget Sound Plan into master programs
Eastern Washington inclusion in SMA and funding opportunities - success - but needs more dollars
Ecology is being helpful with technical assistance (guidelines)
Model orders and ordinances are helpful
Guidance and training to local government

Changes:

Clarify definition of state-wide interest
State-wide comments to local government projects should be streamlined and shared
Compatability of land use and water areas - need for planning process for water areas and estuaries
Recognize regional differences
Environmental pollution from foreign sources (International/state/federal) i.e., Victoria's sewage, Castle Gar pulp mill

Footnote to History

Those involved or interested in shoreline management are aware of the Shoreline Management Act of 1971. However, the footnotes of history are sometimes more interesting. Following are some of the major highlights and footnotes of the development and enactment of shoreline legislation.

1967 - The Scenic Rivers Bill was introduced into the Washington House of Representatives. Because of the heavy interest, an evening hearing was held in the House Chambers. The floor and galleries were packed. While the bill failed to pass, this direct forerunner of the Shoreline Management Act galvanized many to action.

"...the League of Women Voters had some people who spoke for it and some who spoke against it... " Herb Legg

"...call(ed) it *Wild Rivers* because you have a very good understanding of what the term *wild* means when you have half the farmers in the state of Washington, who own riparian land on these rivers...not primarily interested in the environment...." James M. Dolliver

1969 - Representatives Alan Thompson, Pete Francis and others introduce a bill to regulate the uses of the tidelands and shorelands of the state.

"Nobody paid too much attention to it, but it was the first legislative interest that was shown in doing something about the shorelands generally and not simply confining it to scenic rivers or wild rivers or the ocean beaches... " James M. Dolliver

1969 - Governor Dan Evans, legislators and environmentalists met at Crystal Mountain to discuss environmental issues for the 1970 special session. Seacoast Management was one of the topics, although not a priority.

December 1969 - The State Supreme Court handed down a decision on Wilbour v. Gallagher, the "Lake Chelan Case." Suddenly, shoreline issues took a dramatic jump on the priority list.

"...public has a right to go where the navigable waters go...." Wilbour v. Gallagher

"...my recollection is that at that time the fact was that Wilbour v. Gallagher, as it stood, and as it was interpreted, at least by the administration, the Attorney General and the Governor, simply meant the end of any kind of shoreline development in Washington.... " James W. Dolliver

1970 - The Seacoast Management Act failed to pass due primarily to the Washington Environmental Council's (WEC) opposition.

"Our (WEC) decision to lobby against the final version of the Seacoast Management Act which had been so cruelly altered by the Legislature was one of the most difficult we have had to make..." Dorothy Morell

Summer 1970 - The WEC took Initiative 43 to the streets, obtaining sufficient signatures to require the Legislature to either pass it, send it to the voters or pass an alternative and send both to the voters.

"Apparantly sensing little chance of enactment of a bill to their liking..., they (conservation leaders) struck upon a seldom-used lawmaking tool, an initiative to the Legislature... " Charles B. Roe Jr.

1971 - Several alternatives to I-43 were considered, including one essentially limited to protecting views in the Seattle area. On April 5, 1971, the House of Representatives passed the bill after considering more than 40 floor amendments. After negotiations and significant changes, the Senate, under the leadership of Senator Gissberg, passed SHB584, the Shoreline Management Act.

"The practical impact of this legislation may well be to force the statewide planning of land use by all counties of the state... " Robert W. Graham

1971 - On June 1, 1971, the Shoreline Management Act became effective, even though voters would still have to decide whether to keep it, adopt I-43, or throw them both out.

"I talked that over (the initiative and the alternative) with Tom (Wimmer) and he said, 'well, I'm not going to publicly agree with you on anything, but I can support what you're doing...'" John Biggs

November 1972 - The voters approve the legislative alternative; i.e., the Shoreline Management Act.

"...we didn't care , because we helped develop theirs and we didn't fight too hard for ours. We knew either one or the other was going to be good for our state... " Tom Wimmer

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