



## Meeting Summary



# Shoreline Stabilization and the Permit Process: Focus on Single Family Residential Properties

**March 31, 2016**

**Shoreline and Coastal Planners Group**

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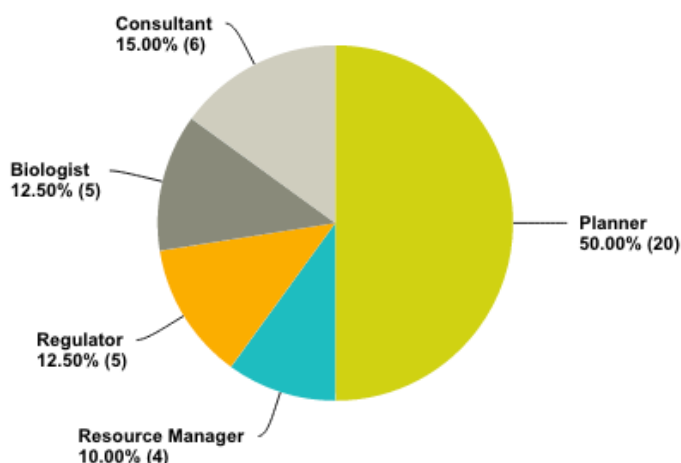
# Shoreline Stabilization and the Permit Process: Focus on Single Family Residential Properties

On March 31, 2016, the Shoreline and Coastal Planners Group sponsored a forum on Shoreline Stabilization and the Permit Process: Focus on Single Family Residential Properties, held at Edmonds City Hall, Brackett Room. More than 95 people attended the meeting in person, with another 15–20 people participating by webinar format.

A follow-up survey completed by approximately 50% of the participants provided insight into the background and interests of those who attended.

## What best describes your job category?

Answered: 40 Skipped: 7



The majority of the participants were either state (34%) or county (28%) employees with approximately 15% each from cities and the private sector. Most participants (65%) found the meeting to be a good use of their time and 98% stated they would apply what they learned to their work or to future decisions.

The day was divided into two parts, with presentations in the morning and breakout sessions in the afternoon. The morning portion of the meeting included presentations on projects and topics related to tracking and monitoring shoreline permits as well as projects for various jurisdictions in the region. Phill Dionne from the Washington Department of Fish & Wildlife (WDFW) and Kathlene Barnhart from Kitsap County spoke about the TACT report (Trouble shooting, Action planning, Course correction, and Tracking and monitoring approach to reviewing and renovating shoreline-permitting systems); Kollin Higgins and Laura Casey from King County reported on their efforts in Watershed Resource Inventory Area (WRIA) 9 to identify permitted and non-permitted

armoring projects; and Christian Geitz from Kirkland reported on the city's tracking and monitoring procedures. Dave Herrera of the Skokomish Tribe explained the recent Salmon Recovery Council report that documents factors allowing shoreline modifications to occur in the Salish Sea. Heather Trim of Futurewise described cost-effective compliance ideas and Aimee Kinney from the Puget Sound Institute provided examples of resources that shoreline planners can use to address a range of shoreline stabilization issues. Elene Dorfmeier of the Puget Sound Partnership provided an overview of what seems to be working effectively with our permitting system to protect nearshore property and fish habitat.

A link for all presentations from the meeting are found on the Shoreline and Coastal Planners [website](#). In addition, a recording of the presentations portion of the meeting is located on the Encyclopedia of Puget Sound [website](#).

The afternoon session provided an opportunity for participants to discuss three topics:

**Topic 1: Demonstration of Need**

**Topic 2: Monitoring and Tracking Permits**

**Topic 3: Voluntary Restoration Permits**

Participants had the opportunity to engage in conversations about two of the three topics during two breakout sessions. The following text describes each of the topics and includes comments from each breakout session.

**TOPIC 1: Demonstration of Need/Evaluation of Soft-Shore Feasibility**

**Purpose Statement**

The purpose of this session was to identify what tools jurisdictions can use to assess the need for armoring as a method of single family residential shoreline stabilization. Tools are being developed that provide an opportunity to determine which of them have been tried and how well they work for staff involved in the permit review process.

**Questions Posed to the Group for Discussion**

What is your jurisdiction or agency's existing process for determining if a project has (1) demonstrated need for armoring and (2) determined the "softest" approach feasible for the site?

- Do you have a standardized form, criteria or document for geotechnical consultants to follow?
- Has your jurisdiction used the WDFW Marine Shoreline Design Guidelines' decision tree and risk assessment (Chapter 5)? Have you used the Washington Department of Ecology's (Ecology) Shoreline Stabilization Handbook?

- Does your jurisdiction approach demonstration of need differently for *new* bulkhead projects than for *replacement of existing bulkheads*?
- How do you review geotechnical reports in your jurisdiction?
  - Geotechnical engineers on-staff?
  - Third-party review?
  - Accept recommendations without review?
  - Other?
- Do local geotechnical consultants raise concerns about the approach that is used?
- Have you had problems with conflicting guidance or direction from other regulatory agencies?
- Do you have a need for additional review capacity: for example, a “circuit rider” geotechnician?

What are other tools you might use for this analysis?

- Are there tools and approaches for improving up-front evaluation of options before the permit process even begins?
  - Technical tools such as map products?
  - Training/education materials?
- What standardized approaches are available for geotechnical analysis to improve consistency of the evaluation process and quality of reports?
  - Statewide risk assessment tools
  - Tools for geotechnical consultants?
  - Tools for jurisdictions to aid in report review?

## Comments from Breakout Group #1 Participants

### Need for Guidance

- Clear guidelines are needed for consistent applications.
- Tools and approaches for improving up-front evaluation of options by staff before the permit process are definitely needed. Examples that came up in the discussions include the following:
  - Pre-application meetings to discuss the preliminary risk assessment tool.
  - Maps that identify the obvious answers; for example, “Red Zones” where you would need a geotechnician, “Green Zones” where it is acknowledged replacements will be needed.
  - Example from critical area codes: One jurisdiction has a process defined in their code where, if a jurisdiction questions a wetland delineation, the city has the option to require a third-party review, half paid for by the city and half by the applicant.
  - Designate areas for types of armoring and setback rules.

- Some jurisdictions tend to avoid reviewing the demonstration of need. Local planners need more guidance to understand how to make a “determination of need.”
- Planners are usually generalists lacking the tools to address complex permitting scenarios.
- The [Marine Shoreline Design Guidelines](#) (MSDG) are not being used, partly because they are not codified in the local Shoreline Master Programs (SMP). Therefore, there is no legal obligation to use them and there is concern they may conflict with local SMPs.
  - One option would be to have a local interpretation of code that says the MSDG process is a way to show need. This would avoid the need to codify MSDG.
- One county’s code treats replacement of more than “50% functional value” as if it were a replacement rather than “repair.” But the county has not clarified exactly how that is determined.
- Streamlined permitting would be an incentive for the property owners.
- Built-out cities are dealing almost exclusively with replacements. In rare cases of a new application coming in, jurisdictions have had success with informal pre-application meetings. In most cases just explaining all the hoops and scrutiny of getting a new bulkhead will deter property owners who really don’t need a bulkhead from even applying. (This is an “avoidance” step that is never tracked or acknowledged in any of the statistics.)
- Consider expert presentations to local councils on these issues on a quarterly basis.

### **Geotechnical Support**

- The new SMP armoring regulations have many new provisions that are untested. There is no standardized form for geotechnical consultants to follow at this time. Jurisdictions acknowledge there is a need for “tools for generalists.”
- There is a need to avoid a “battle of the experts.”
- Some geotechnical options for jurisdictions include the following:
  - Direct people to an accredited regional third party.
  - Develop consultant certification or training.
  - Deliver a menu of options people are trained in providing to get an analysis that participants can “count” on.
  - Develop a system for the jurisdiction and applicant to share the cost of a third-party review.
  - Consider a “circuit rider” geotechnical consultant to help local governments.

### **Liability**

- Liability is a huge consideration in reviewing reports asserting need for a bulkhead. Without a licensed engineer on staff, administrative permit staff will not second-guess expert opinion.
- What are the legal implications for a jurisdiction if regulation that requires removing a bulkhead or pulling it back affects neighboring properties? Is the jurisdiction liable for damage?

### **Contractors**

- Outreach with contractors is needed to encourage them to bring their clients in for pre-application meetings.
- It is important for planners to know the contractors in their jurisdiction and understand who is capable of applying concepts such as those found in MSDG. Contractors who are not known by a jurisdiction may receive more scrutiny.
- A list of “approved” or “certified” contractors is needed.

### **Cost Considerations**

- In one county the avoidance sequence for new and replacements bulkheads is very specific, and moving the house back comes before replacing the bulkheads. There is no provision related to cost, though, and some applicants may not be able to afford to move the house. Is there any information the state could provide on costs of moving houses? If bulkheads must be replaced every 10 years, it might be cheaper in the long run (e.g., 20–50 years) to move a house, but many homeowners may not be living in their houses that long.
- If the cost of alternative soft-shore options is higher, can there be some kind of tax break for doing the right thing that would be tied to the property title as an incentive?

### **Emergency Replacements**

- Questions arose about “emergency” replacements: If there is flooding the county will authorize emergency replacement, resulting in no opportunity to go through the avoidance sequence and geotechnical evaluation to determine if soft approaches are possible. It is hard once a new structure is in place to change the approach.

## **TOPIC 2: Tracking and Monitoring of Shoreline Stabilization Permits**

### **Purpose Statement**

The purpose of this session was to determine what jurisdictions have or could use to track and monitor issued permits. Tracking and monitoring permits is important to collect data to assess the effectiveness of design approaches. To help study these design approaches, three questions can be posed:

1. Was a permit issued with sufficient detail to determine whether construction will result in a design appropriate for the site conditions and satisfy state and local requirements?
2. Did the project proponent implement project construction as specified in the permit?

Then, if the answers to questions 1 *and* 2 are “yes”:

3. Did this process result in the desired outcome of protecting the environment and property?

### **Questions Posed to the Group for Discussion**

- How does/could your jurisdiction ensure each permit satisfies local and state requirements before it is issued?
- Does/should your jurisdiction use a different assessment for different project types?
- What information does your jurisdiction collect and how is it used?
- What additional information do you think you need to track permits?
- What systems do you have in place to monitor whether the permits are actually designed as permitted?

### **Comments from Breakout Group #2 Participants**

#### **Three Major Themes**

- A better permit system and improvement to the Joint Aquatic Resource Permit Application (JARPA) are needed.
- Staffing issues need to be addressed at all levels of government.
- Consistency is needed from beginning of process.

#### **Types of Tracking Used**

- Inconsistencies in reporting were too great to capture standardized information.
- Some examples of tracking uses include:
  - Permit writing (Pacific County).
  - Code enforcement.
  - Long-range planning.
  - Use of Smart Gov software.
- More staff are needed to post all the data collected.
- Some jurisdictions still rely on paper and not electronic tracking.
- SMP updates and methods of tracking data (like Kirkland) should be shared.
- Seattle requires posting of performance bond as security, which is not returned unless project properly completed.

#### **Staffing Issues**

- What are the adequate staff requirements for monitoring and tracking activities?  
Many small jurisdictions are doing well but that is because they have enough manpower to track and stay on top of developments. How can we make sure there is adequate staffing for this work?
- Staff for inspections is lacking.
- Staff often rely on WDFW or Ecology for data collection.
- The coordinated use of a habitat biologist (e.g., local, state and federal permitting agencies) was suggested.
  - Have one person carry out mandates of the U.S. Army Corps of Engineers (Corps), FEMA, WDFW, Ecology, the Washington Department of Natural Resources, local jurisdictions and tribes.
  - Use a common application for all agencies.
  - Use a common database for all projects.
- WDFW does not have time to complete all inspections.
- Instead of hiring a geotechnical expert for each project, the jurisdictions issuing the permit would hire the expert (i.e. the jurisdictions would have an on-call arrangement for technical support).
  - Geotechnical-related issues include the following:
    - Use of third parties for jurisdictions (see examples from CA).
    - Establishment of reviewer certification.
    - Geotechnical licensing.
  - Hire geotechnical consultants to provide technical assistance with monitoring and tracking.

### **Data Collection Issues**

- A common tracking issue is the difficulty in dealing with informational requirements at different scales for different jurisdictions. This means all jurisdictions do not track or collect information in the same way, which presents a huge problem for tracking and monitoring efforts.
- There are concerns over inconsistencies between permits and the information needed for the permitting process (different agencies either asking for the same or different information from homeowners or their contractors).
- The question was raised about revitalizing a centralized permitting, tracking and monitoring tool that fits the needs of local and state agencies.
- A suggestion was made to create a Regional Permit Expert (paid by national, state and local jurisdictions), reducing the number of people who visit each site from three to one.
- Each different jurisdiction has a different computer system, which means we are all tracking in different ways:
  - A way to track more consistently across jurisdictions and agencies is needed.



- Lessons could be learned from salmon recovery plans: each plan was written differently but the Puget Sound Partnership (PSP) implemented a process to enable discussing the plans in the context of a larger recovery effort.
- Ecology needs to develop a basic tracking system with metrics for all jurisdictions to use for reporting on information from local (SMPs).
- Details and specifics for plans are inconsistent.
- An easier way for data input and output is needed.
- A standardized and customized application form is needed.
- JARPA needs to be made available online which can be used to improve data collection and analysis.
- Buffer and setback information need to be added to some forms (e.g., for Island County).
- It may be best to start with local permits to collect data since these include land-use information; however, many jurisdictions lack staffing.
- An electronic database needs to include a checkbox for a geotechnical consulting visit.
- The maintenance permitting process is onerous.
- The longest part of the permitting process comprises extensive data gathering and cultural resource surveys. Each jurisdiction has different requirements.
- A single agency is needed to track armoring and shoreline modifications.
- Monitoring should be tied to PSP methods and tracking.
- To better track permits, use address information instead of or in addition to parcel information.

### **Other Issues**

- Permit costs are a deterrent. Consider scaling fees based on work to help fund staffing.
- Guidance is needed on “no net loss” from Ecology.
- Inconsistent implementation will open the door for lawsuits.
- Inspections during construction are very important.
- Concern was raised about removing illegally built projects.

## **TOPIC 3: Bulkhead Removal and Restoration Permitting**

### **Purpose Statement**

Permitting for installing a new, single-family bulkhead is a fairly established process. The expectations are clear, the rules for a shoreline exemption are clear, and the mechanism for determining need is established. While some general exemptions exist for

restoration, it is not as straightforward when determining which projects qualify, and permits may even cost more in some jurisdictions owing to stormwater review.

### Questions Posed to the Group for Discussion

- Has your jurisdiction been permitting bulkhead removals on private property that have not been sponsored by government or a restoration group?
  - If so, have they qualified for an exemption? How did you determine it was “substantially consistent” with SMP? Rely on WDFW to determine? Was restoration well defined in your jurisdiction?
  - If your jurisdiction does not have private Single Family Residential restoration projects have you been permitting bulkhead removal projects on private property through a restoration sponsor? Have they provided any feedback on the process?
- Have you found any areas where streamlining or cost-savings could be implemented for marine restoration permitting?
  - Coupling stormwater review with the exemption?
  - Creating a new local permit process?
  - Changing the JARPA to include some basic stormwater questions for local reviewers so a separate permit form would not be required?
  - Not charging fees? Do these types of marine shoreline restoration projects need further incentives (no permit fees) similar to watershed restoration projects or fish habitat enhancement projects (RCW 77.55.181)?

### Comments from Breakout Group #3 Participants

#### Issues

- Need definition of “restoration”: what should be the *threshold* for projects?
- For nonprofits or government agencies using grant funds — sometimes from multiple sources — various timelines and deadlines need coordination. With a long permit process, these deadlines are sometimes missed and grant funds disappear. A longer time period is needed to implement a permit after date of issue.
- There is interest in a streamlined permit review, but not in eliminating the review entirely.
  - It should not be so difficult to remove a bulkhead.
  - Some type of formal review, even for exemptions, can be helpful to make sure that steps are not missed.
- Customers need a good technical assistance resource (e.g., extension service) to avoid more complicated local project reviews. For example: fill out a JARPA, then

WDFW and local agency work together as a team to address requirements of the State Environmental Policy Act (SEPA) and other components.

- SEPA, Critical Areas Ordinance and the Shoreline Management Act requirements overlap, making permitting restoration projects difficult.
- Contractor certification is needed! There is a strong sense that there are not enough people who know about shoreline systems; it can be difficult to find contractors who have this kind of training.
- Some informal work going on is not accounted for in the statistics. How can this be captured?
- The best form of education is through landowners talking with landowners; how can we promote this?
- We need to address misinformation about the cost of the permitting process; it may not be as expensive as people think.
- There appear to be “knee jerk” reactions on emergency permits.

### **Ideas**

- Offer technical assistance to property owners and other groups trying to do a restoration project. Conservation districts, cooperative extensions or WDFW could provide such a service.
- Create a threshold for exemption based on size, shape and scale.
- Update the JARPA form to add questions needed to adequately review restoration projects.
- Streamline restoration projects by allowing JARPA/HPA applicants to avoid local permitting with the exception of SEPA.
- Use the SEPA process for local residents to address their potential concerns.
- Fill out JARPA and provide better definition as to elements of project then work with locals to identify HPA and SEPA components.
- Ask for more information through the SEPA process.
- There should be better coordination between Corps and Ecology on the timeline. Maybe a roundtable meeting could be held once a month with every permitting agency to coordinate the permit review instead of doing a linear permit review.
- Consider reducing the fee or paying some fees with state funds. But there are potential loopholes. Restoration would need to be defined precisely; for example, how much of existing hard structure would need to be removed, how much vegetation and what type was installed? It was suggested that we test this idea for five years and revise as needed.
- If you have a restoration project and want to do a pre-application meeting, you should have your fees waived.
- It would be helpful to have a map of each jurisdiction indicating where any hard armoring could potentially be removed or has already been removed.

- Make Fish Habitat Enhancements applicable to marine projects, especially for bulkhead removals.
- Provide restoration technical assistance organizations with shared on-call geotechnical resources. Experts may be needed to confirm that armoring can be removed safely.
- Require shoreline contractors to have more responsibility related to regulatory compliance. Alternatively, require shoreline restoration contractors to receive certification.
- Create WDFW and local government teams to coordinate permit review, system for routing permits, coordinating comments and additional information requests such as need for geotechnical reports.

### **Attachments:**

March 31 Meeting Agenda

# Shoreline Stabilization

Using the Permit Process to Protect Shoreline Habitat and Property with a Focus on Single Family Residential Properties



**THURSDAY, MARCH 31**  
**9 A.M. – 4 P.M.**

**EDMONDS CITY HALL**  
**BRACKETT ROOM**

8:30 a.m. .... **Check-in, Coffee, and Networking**

9 a.m. .... **Welcome and Introductions**

9:10 a.m. .... **Setting the Stage** Tim Gates, Washington Department of Ecology

9:30 a.m. .... **T.A.C.T. Report – Kitsap and San Juan County Examples** Phill Dionne, Washington Department of Fish & Wildlife; Kathlene Barnhart, Kitsap County; Susan Key, San Juan County

10:30 a.m. .... **Break**

10:45 a.m. .... **WRIA 9 Study – King County Example** Kollin Higgins, King County; Laura Casey, King County

11:15 a.m. .... **Tracking and Monitoring – Kirkland Example** Christian Geitz, City of Kirkland

11:30 a.m. .... **Salmon Recovery Council Report** Dave Herrera, Skokomish Tribe

12 p.m. .... **Lunch Break**

1 p.m. .... **Cross-Communications** This is an opportunity to inform participants about projects or emerging issues throughout the region. Each person can speak for up to 3 minutes

1:15 p.m. .... **Cost Effective Compliance with Shoreline Regulations** Heather Trim, Futurewise

1:30 p.m. .... **Analysis Report on Effective Regulations** Aimee Kinney, Puget Sound Institute  
**What's Working?** Elene Dorfmeir, Puget Sound Partnership

2 p.m. .... **Facilitated Breakout Sessions** Provide feedback on new ideas and offer suggestions from your experience that can facilitate improvements to shoreline stabilization permit processes

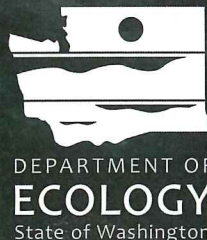
2:50 p.m. .... **Break**

3:00 p.m. .... **Continue with Breakout Sessions**

3:25 p.m. .... **What's Next?**

3:50 p.m. .... **Wrap Up**

4 p.m. .... **Adjourn**





# March 31 Shoreline and Coastal Planners Meeting

## Speaker Bios

### **Tim Gates**, Washington Department of Ecology

Tim Gates has worked for 26 years in shoreline and growth management planning in Washington State. He is currently Shoreline Policy Lead at the Department of Ecology.

### **Laura Casey**, King County Department of Permitting and Environmental Services

Laura Casey works in the Department of Permitting and Environmental Services for King County. She is a professional wetland biologist with many years experience working for King County, reviewing all types of development proposals for impacts on shorelines and aquatic habitat.

### **Heather Trim**, Futurewise

Heather Trim is Science and Policy Director at Futurewise. She works to prevent runoff from entering our waterways, improving shoreline management practices and policies and addressing a range of issues from community sustainability and habitats to climate change. Heather has more than 20 years of experience in environmental work.

### **Phillip Dionne**, Washington Department of Fish and Wildlife

Phillip Dionne is a research scientist with the Washington Department of Fish and Wildlife Habitat Science Team. His current research interests are monitoring effects of shoreline modification on nearshore habitat, assessing the distribution and characteristics of forage fish spawning habitat, assessing new methods of detecting forage fish spawn, estimating spawning stock biomass of ESA listed Eulachon returning to the coastal rivers, and monitoring the implementation of marine bulkhead HPA permits to help inform the development of a more effective permit system. Prior to joining the Habitat Program, Phil's research included work with the WDFW Fish Program using mark-recapture, and acoustic telemetry to assess abundance of ESA listed green sturgeon in Washington and Oregon estuaries.

### **Aimee Kinney**, Puget Sound Institute

Aimee Kinney is a research scientist for the Puget Sound Institute at the University of Washington Tacoma. She previously worked for the Seattle District, U.S. Army Corps of Engineers, and is a graduate of University of Washington's School of Marine and Environmental Affairs.

### **Elene Dorfmeier**, Puget Sound Partnership

Elene Dorfmeier is an Effectiveness Monitoring Analyst with Puget Sound Partnership, helping to distill information about what's working to restore Puget Sound for our regional partners and decision-makers. Elene is an aquatic scientist with a diverse research background and solid statistical experience, with a flair for communications and collaborative work. She has worked in various areas of marine and freshwater research including ecological risk assessment in small streams, effects of ocean acidification on shellfish disease, genomic variation in marine pathogens, disease ecology in southern sea otters, and evaluation of factors influencing adult salmonid survival in the Columbia River system.

### **Kollin Higgins**, King County Department of Permitting and Environmental Services

Kollin Higgins is a Senior Ecologist in the Science and Technical Support Section of King County's Water and Land Resources Division. Kollin received his Bachelor's degree from Humboldt State University in 1992 and his Master's Degree at the University of Washington in 1999. Since graduating from UW in 1999, he has worked for the King County Department of Natural Resources and Parks. Kollin's work for the County has been varied, but has generally focused on supporting salmon recovery and shoreline management efforts throughout the County's various watersheds.

### **Kathlene Barnhart**, Kitsap County, Department of Community Development

Kathlene works for the Kitsap County Department of Community Development as the Watershed Projects Coordinator / Programs Analyst. She has managed and worked on several marine nearshore grants over the years, as well as updating the County's SMP, which has now been in effect for more than a year. Most recently she completed a bulkhead permitting effectiveness review in partnership with San Juan County and WDFW. Kathlene has lived in Seabeck near Hood Canal for the past 10 years, where she and her husband enjoy SCUBA diving and exploring the outdoors with their three year old son.

### **David Herrera**, Skokomish Indian Tribe

David Herrera is a member of the Skokomish Indian Tribe and serves as their Fisheries Policy Representative. David has worked in tribal fisheries and natural resources management for more than 30 years. He is a tribal representative on the Puget Sound Partnership Ecosystem Coordination Board and Salmon Recovery Council. David is also a member of the State Forest Practices Board.

### **Christian Geitz**, City of Kirkland

Christian Geitz is a Planner for the City of Kirkland, where he has spent eight years in current planning and developed a focus on shoreline administration and permitting. He sits on the City's Development Review Committee where he actively pursues creative approaches to interdepartmental permit review, and he recently completed the Green Shores for Homes verifier training. Christian holds a Master of Public Administration degree from Seattle University and Bachelor of Arts degrees in Geography and Urban Studies from the University of Washington.

### **Susan Key**, San Juan County

Susan is the Shoreline Stewardship Coordinator for San Juan County. Since the position was formed in January 2013, she has managed and worked on the Green Shores for Homes EPA grant and is currently doing the same for the Incentives grant from WDFW/DNR. She completed a bulkhead permitting effectiveness review in partnership with Kitsap County and WDFW, the subject of today's forum. Susan has lived in Friday Harbor on San Juan Island since 1992, and is happy to live in the archipelago where she spent 3.5 months during the summer of 1982 completing Geology Field Mapping.