

BERNICE STERN

NO. 75 - 564

MOTION NO. 2163

1
2 A MOTION expressing concurrence in comments
3 on proposed changes to Chapter 173-14 WAC
4 pertaining to administration of the Shoreline
5 Management Act of 1971.

6 WHEREAS, the Washington State Department of Ecology is
7 proposing amendments to Chapter 173-14 of the Washington State
8 Administrative Code pertaining to Application and Permit
9 Procedures for Substantial Development Permits authorized under
10 the Shoreline Management Act of 1971, and

11 WHEREAS, King County has submitted to the Department a
12 Master Program in compliance with the Shoreline Management Act of
13 1971, and

14 WHEREAS, King County government as well as King County
15 residents will be affected by the proposed changes to Chapter
16 173-14 WAC, and


17 WHEREAS, Edward B. Sand, Director of the Division of Land
18 Use Management has prepared comments on the proposed changes and
19 the Planning and Community Development Committee of the Council
20 has reviewed those comments,

21 NOW THEREFORE, BE IT MOVED by the Council of King County:

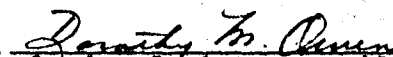
22 The King County Council hereby concurs in the attached
23 comments.

24 PASSED this 15th day of September, 1975.

25 KING COUNTY COUNCIL
26 KING COUNTY, WASHINGTON

27 
28 Chairman

29 ATTEST:

30
31 
32 Clerk of the Council
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LAND USE MANAGEMENT DIVISION
EDWARD B. SAND, DIRECTOR
W217 King County Courthouse
Seattle, Washington 98104
206 - 344 - 4292

September 4, 1975

Washington State Dept. of Ecology
Attn: Dale Ferrier, Hearing Officer
Lacey, WA 98504

Re: Proposed Amendments to WAC 173-14

Dear Mr. Ferrier:

Please include these comments from King County in the hearing record on the Department of Ecology's proposed changes to WAC 173-14. The King County Council has reviewed, and concurs with, this letter (see attached motion).

1. WAC 173-14-030 DEFINITIONS

WAC 173-14-030(3) - Final order to include exemptions as well as permit actions.

COMMENT: We see nothing in RCW 90.58.140(5) which gives the Department of Ecology authority to review exemptions from the permit requirement of the Shoreline Management Act.

Here in King County, we exempt literally hundreds of building permits, and projects which don't even require building permits, every year. The proposed requirement to submit these exemptions to the state would result in an unconscionable increase in red tape, delay in serving the public, and cost of government.

In addition, nothing in RCW 90.58.140(6) appears to give the State the right to appeal exemption decisions to the State Shoreline Hearings Board, so the increased paperwork involved would not even result in increased State control over local decisions, unless the State really contemplates

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taking any and all such administrative decisions directly to court.

King County maintains a chronological file of exemptions apart from those requiring building permits. We suggest that a central exemption file kept up-to-date by the local government and subject to periodic audit by the Department of Ecology might be a more reasonable requirement than proposed. In any event, according to our reading of the Act, exemption decisions are not appealable to the State Shoreline Hearings Board.

If inconsistency of interpretation of the Act on the part of various local jurisdictions is the motivating concern behind this proposed change, then we suggest that a better method (and one within the scope of the Department's authority) would be to interpret and explain fully the exemptions set forth in RCW 90.58.030 (3) (e). This comment applies to proposed WAC 173.14.040 as well (see below).

2. WAC 173-14-040 EXEMPTIONS FROM PERMIT SYSTEM

COMMENT: This section could refer to, rather than repeat verbatim, RCW 90.58.030(3)(e). It would be extremely useful to have a section like this define once and for all such terms as "normal protective bulkhead." This would encourage greater consistency of administration of the Act by the various jurisdictions.

3. WAC 173-14-064 REVISIONS OF PERMITS

COMMENT: Minor revisions should not be subject to review by the state or reopened to appeal. The circumstances under which an amendment to a permit shall be subject to such review and appeal should be limited and well-defined in terms of cost, physical changes, etc. If an approved project is reduced in scope and impact, why subject it to this cumbersome procedure?

In addition, the requirement for transmittal of permit amendments via certified mail would impose unreasonable additional costs on either jurisdictions or applicants, both in terms of direct postage costs and clerical workload.

This Division would be happy to work with the Department in developing detailed criteria for requiring review of permit revisions.

4. WAC 173-14-070 NOTICE REQUIRED

COMMENT: We applaud the flexible approach to a difficult problem shown in this section. Flexibility will allow local governments to experiment and

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find the most effective and efficient methods of informing interested persons of applications.

5. WAC 173-14-090 FILING WITH DEPARTMENT OF ECOLOGY AND ATTORNEY GENERAL

COMMENT: Our comment on proposed WAC 173-14.030(3), which would give the Department review and appeal authority over exemptions, also applies here. In addition, it is unfair to the applicant to depend on the U.S. Postal Service to insure that the 45-day review and appeal period begins promptly. Filing of permit actions (not including exemptions) should be considered complete at the date of postmark, not the date of receipt by the Department of Ecology.

6. WAC 173-14-100 JUDGEMENT CRITERIA FOR PERMITS

COMMENT: This amendment is unclear, both in title and content. The references to SEPA are unclear - are we correct in assuming that it is intended that the adequacy of an Environmental Impact Statement, if required, be within the scope of review of the permit granting authority as well as the State Shoreline Hearings Board? It is our understanding that SEPA requires an adequate assessment for all such official actions anyway, so perhaps this amendment is superfluous.

7. WAC 173-14-110 APPLICATION (form)

COMMENT: The applicant, not the local official, should be responsible for obtaining and presenting all required data. A site visit by the responsible official permits verification of all important facts.

Local governments must be able to require all necessary information from the applicant before acting on a permit request.

The information items required in question 11 and in the last item (narrative description of vicinity land use) are unclear and unreasonable - land use information on abutting shoreline properties is a reasonable requirement.

8. WAC 173-14-115 LETTER OF EXEMPTION (format)

COMMENT: The only information needed by the Department of Ecology is the U.S. Army Corps of Engineers permit number and the rationale for exemption in the form of the proper citation from RCW 90.58.030(3)(e). The

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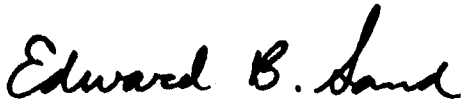
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simple form letter currently used by King County can provide this information adequately with minor revision.

In sum, King County feels that administration of the Shoreline Management Act must be oriented toward the minimum effort required for adequate review of permit applications and exemption requests.

Yours very truly,

A handwritten signature in cursive script that reads "Edward B. Sand".

EDWARD B. SAND
DIRECTOR

EBS: 25:jl