

## Theresa Rice

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**From:** Roz Lassoff on behalf of Council  
**Sent:** Friday, August 23, 2013 8:32 AM  
**To:** Kathy Cook; Ryan Ericson  
**Cc:** Theresa Rice  
**Subject:** FW: Bainbridge Island SMP Update  
**Attachments:** SMP Testimony 8\_18\_11.docx; SMP letter to COBI.DOCX; SMP Testimony 6\_20\_12.docx; Environment

*Roz Lassoff*  
Rosalind D. Lassoff, City Clerk  
City of Bainbridge Island  
280 Madison Avenue North  
Bainbridge Island, WA 98110  
(206) 780-8624

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**From:** Don Bennett [mailto:chron2@comcast.net]  
**Sent:** Thursday, August 22, 2013 4:35 PM  
**To:** Barbara.Nightingale@ecy.wa.gov  
**Cc:** Council  
**Subject:** Bainbridge Island SMP Update

August 20, 2013

Barbara Nightingale  
Washington State Department of Ecology  
Northwest Regional Office  
3190 – 160th Avenue SE  
Bellevue, WA 98008  
(425) 649-4309

Dear Ms. Nightingale,

For many, many months, several dedicated citizens of Bainbridge Island have expended an immense amount of energy studying SMP-related issues. We believe that the Bainbridge Island proposed SMP update that DOE is now reviewing is excessive with respect to scope, complexity, & restrictions on the use of shoreline residential properties. Sadly, it was city-council-approved by a vote of 4-3.

***We urge you to reject proposed SMP update elements that exceed DOE SMP guidelines & return it to the City of Bainbridge Island for significant revision.***

The reasoning behind our plea to you personally & to DOE generally includes:

... We are very concerned about the health of waterways in Washington State & wholeheartedly support the overall balanced objectives of the SMP state law. As owners of a residential shoreline property, we certainly do not want to unnecessarily compromise the quality of life for any flora or fauna (including humans) near, on, or in Puget Sound. We enjoy our retirement life at home & in our

garden, including sharing it with a plethora of insects, mammals, birds, & marine life on or near our property. Even during severe storm conditions, the landscaping on our property effectively slows any runoff from it to the Sound, & even slows some public street runoff. We have a state-of-the-art, dual-sand-filter septic system that is inspected annually.

... By state statute, private residential use of shorelines is a "preferred use". We agree. COBI's SMP update proposal greatly restricts that use in several unbalanced ways. Some would say that its long term objective is to eliminate all residential use from Bainbridge Island shorelines. Increased buffers, required plantings, buildings/bulkhead/dock/use/view restrictions, replacement rules, retroactive non-conformity, associated fees, costs, delays, uncertainty for permits, and highly questionable environmentally justified mitigations definitely will devalue all Bainbridge Island residential shoreline properties. Unfortunately, any improvement to Puget Sound's shoreline environment will be very marginal at best.

... We are perplexed with the over emphasis on restricting residential use of shorelines when that use must be very near the bottom of all concerns for the health of the state's waterways. Overfishing has long been recognized as a significant cause of the reduction for some species. Statewide, great progress continues to be made to improve industrial & agricultural pollution of Washington waters. Existing city & county SMPs significantly address other uses of shorelines. At least on Bainbridge Island, there is little evidence that street, storm water & other undesirable upland runoff from private & public properties is being improved much at all. We believe that upland runoff is many times more deleterious to the health of the Sound than the summed effects of all shoreline residential properties combined.

... If applicable at all, the science used in an attempt to justify much of the COBI SMP update proposal is very suspect. Any correlation between additional SMP restrictions to residential use of shoreline properties & benefits to the shoreline and/or to Puget Sound is exceedingly weak, and may in some cases be negative.

... Many aspects of the COBI SMP update far exceed DOE guidelines. If approved by DOE without modification, it will almost assuredly expose the COBI & DOE to years of very costly and highly contentious land use legal challenges. Without a robust science-based environmental benefit for the shoreline, please do not expose individuals and the public to such unproductive & expensive court cases. We have heard some advocates of COBI's proposed SMP update explain their support by using the precautionary principle which says that if not confident that a new regulation will actually benefit the environment, one should error on the side of being overly cautious anyway. We suggest that a fiduciary precautionary principle should be applied as well. Please do not approve new regulations that have a high probability of significant unproductive expenses to COBI, DOE, & individual citizens.

... In addition to many other excesses, the entire Chapter 7 of the update appears draconian and significantly outside the jurisdiction & intent of Washington State SMP statutes. It seems that an SMP permit would be needed by any shoreline property owner before a weed could be pulled or a broken window repaired. Severe financial penalties & possible jail time are threatened for failing to do so. Chapter 7 was added to COBI's submittal after all public reviews of the proposal. Uncertainty of "discretionary" decisions from city staff is definitely another area of concern, which will likely lead to further contentiousness.

... The development of the COBI SMP proposed update has already driven much discord amongst the citizens of our community. It is very disheartening for us to see these schisms, especially since

almost all of us enthusiastically support the objective of environmental stewardship for Washington State's shorelines & waterways.

***Once again, we urge you to reject the proposed SMP update elements that exceed DOE SMP guidelines & return it to the City of Bainbridge Island for significant revision.***

Please see attachments for some of our public contributions during the development of the COBI SMP update.

Sincerely,

Donald J. Bennett  
Harriet W. Bennett

3230 Point White Drive NE  
Bainbridge Island, WA 98110  
[chron2@comcast.net](mailto:chron2@comcast.net)  
(206) 855-8319

August 18, 2011 .... Public Testimony To COBI Planning Commission

Don Bennett

My wife & I are shoreline homeowners on Point White Drive

We consider ourselves to be conservationists & do our best to live light on the earth.

We certainly do not consider ourselves to be enemies of our environment.

Of all human uses of a shoreline, it seems to us that individual residences must rank near the bottom w.r.t. environmental damage.

Government controlled storm drains & runoff from roadways must be near the top.

When we rebuilt our home 8 years ago, we certainly adhered to COBI building codes. We now have one of the very few homes along our stretch of Point White that rates as conforming with the COBI SMP. Because we acted in good faith less than a decade ago, it would be very disappointing to see our as non-conforming with any updated SMP.

A few years ago, WSF made yet another attempt at running fast ferries thru Rich Passage. Out of necessity, shoreline homeowners from BI & from the Kitsap peninsula were ultimately successful in protecting our shorelines from the wakes of the fast boats, but not before major kelp beds were destroyed that had sheltered fish & their prey for decades, perhaps centuries. That short-lived government sponsored transportation initiative resulted in more environmental damage than decades of residential uses of Rich Passage shoreline.

Rather than making significant changes to residential uses in the SMP update, it seems to me that addressing other more damaging uses of Puget Sound should be our first priority.

The staff/committee recommendations for COBI SMP update that you are considering include many aspects that go well beyond property restrictions in the current COBI SMP, as well as beyond the Washington Dept. of Ecology SMP Guidelines. Additional proposed restrictions on residential uses of shoreline properties would bring certain increased costs &/or loss of use or value to shoreline property owners.

**I recommend that you minimize any changes to the current COBI SMP & include nothing that goes beyond that required to satisfy Department of Ecology SMP Guidelines.**

To: Bainbridge Island City Council  
Bainbridge Island Planning Commission

March 29, 2012

Subject: Shoreline Master Program Update

We are shoreline property homeowners & are also strong conservationists very interested in seeing Puget Sound & all of nature's waters maintained as cleanly as possible. We were actively involved with keeping Washington State Ferries' passenger-only fast boats from continuing to erode beaches & damage wildlife in Rich Passage. Unfortunately, those shoreline homeowner driven successful efforts came too late to save major long-lived kelp beds along both shores of Rich Passage. We also routinely "patrol" the beaches in our neighborhood to remove unnatural debris dumped into the Sound by others, almost none of whom we believe are shoreline property owners. When we rebuilt our home 9 years ago, we certainly adhered to COBI building codes. We now have one of the very few homes along our stretch of Point White that rates as "conforming" to the COBI SMP. Because we acted in good faith less than a decade ago, it would be very disappointing to see our property rated as "non-conforming" with any updated SMP. We recommend that the designation of any lawfully built shoreline residence NOT be classified as "non-conforming" because of an SMP update.

It seems to us that individual residential use of a shoreline property is near the bottom of the list when ranking environmental damages of anthropocentric shoreline uses & related activities. Controlling rapid runoff of rainwater into the Sound is a very valid objective with which most shoreline property owners agree. Almost all shoreline owners are actively involved with minimizing runoff from their properties, often at significant personal expense. That said, we do not understand the focus on "native vegetation" as one of the required remedies. Various kinds of plantings are used effectively by shoreline and upland owners, many of which are non-native & non-invasive as well. No one disagrees that onsite septic systems must perform at their highest level and not pollute the Sound.

In general, the science being used in COBI SMP update proposals is not definitive about cause and effect beyond conclusions that could be reached with common sense. There does not seem to be anything about the effectiveness of increasing shoreline buffers for residential use beyond the need to use plantings to reduce water runoff next to the shore. Without any governmental requirements to do so, almost all shoreline owners already use plantings for that purpose.

The staff/committee recommendations for COBI SMP update that you are considering include many aspects that go well beyond property restrictions in the current COBI SMP, as well as beyond the Washington Dept. of Ecology SMP Guidelines. Additional proposed restrictions on residential uses of shoreline properties would bring certain increased costs &/or loss of use & value to property owners.

**We recommend that you minimize any changes to the current COBI SMP & include nothing that goes beyond that required to satisfy the Department of Ecology SMP Guidelines.**

Sincerely,

Donald J. Bennett  
Harriet W. (Chris) Bennett  
3230 Point White Drive NE  
chron2@comcast.net

Don Bennett  
3230 Point White Drive NE

My comments are about the use of the words "*best available science*" to justify increasing restrictions on residential shoreline properties. Teenagers are taught that the word "*science*" indicates any systematic, knowledge-based, practice that is capable of making a reliable and especially repeatable prediction of outcome. In Bainbridge Island SMP context, the qualifiers "*best available*" apparently do not necessarily indicate "excellent", "*good*" or even "*acceptable*".

During the numerous volunteer hours of SMP update committee work, there were many conscientiously informed opinions that questioned the applicability of most of the scientific buffer studies offered by consultants & ultimately used by the Planning Commission. If you have not already done so, I encourage you to carefully review the substantial criticisms within the SMP working groups related to buffer science. Of particular concern is that almost none of the buffer research concerns single family residential uses of shorelines. Most buffer research is about intensive polluting agricultural uses near fresh water streams where there are identifiable negative effects. Efficient, non-polluting septic or sewer systems are needed whether near shorelines or not. I believe that the reason there is so little research on buffers for residential land use near water is that there is not much evidence that any problem exists for which a buffer is a solution. There is even less scientific evidence that increased width buffers past some small minimum provides any appreciable additional shoreline protection.

Only in the final draft of SMP recommendations did the phrase "precautionary principle" get included as justification in the Planning Commission's transmittal letter to you. Perhaps that indicates that even the majority of the Planning Commission has acknowledged that the "*best available science*" is not very good, while it recommends that you should rely & act on it anyway. In other words, whether science supports it or not, existing shoreline restrictions in the Bainbridge SMP should be expanded because it *might* somehow be marginally beneficial to Puget Sound. That is the advisory opinion that you are now being asked to endorse & approve. Since no science has shown that existing SMP residential buffers are inadequate, it seems to me that no science can or will ever be used to show that increased buffers will be any more protective of Bainbridge Island shorelines.

Please do not confuse "*politics*" for "*science*" ... it is a disservice to both honorable disciplines. Thank you for your service to Bainbridge Island.

**Theresa Rice**

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**From:** Don Bennett [chron2@comcast.net]  
**Sent:** Thursday, March 14, 2013 11:55 AM  
**To:** Council  
**Subject:** Environment

COBI Council Members,

Where was the COBI years ago when the shoreline residents along Rich Passage were told to first trust the State Of Washington Ferry system, and currently Kitsap Transit, as passenger only fast ferries were purchased with tax payer dollars and ran regular schedules through Rich Passage? Those of us who attempted to be heard about the environmental damage being caused were told we were over reacting and others really knew what was best for us.

Quickly the extensive kelp beds along both shores of Rich Passage disappeared, and there is no longer any evidence they ever existed. This was an environment that both fish and prey had enjoyed for decades. Shorelines were severely eroded in several locations. Where were the people who wanted to save the salmon then? Shoreline homeowners were left with no other choice but to form a class action law suit. Our family was not looking for financial reimbursement for property damage, but rather asking that the WA State Ferry system and now Kitsap Transit look at applicable scientific data and acknowledge the damage that these fast ferries create.

In an attempt to make a difference, citizens have little recourse but to speak up to persons in power. We are not without the capability to see & understand the applicable science, then politely ask for what seems appropriate. So it now continues with the COBI taking a position on the SMP which does not fit the overall needs of this community.

Please have the courage to rethink all of the issues before your final vote on BI SMP update.

Sincerely,

Donald J & Harriet W (Chris) Bennett  
3230 Point White Drive NE  
B.I. WA 98110