

**SHORELINE MANAGEMENT PERMIT  
ACTION SHEET**

**RECEIVED**  
MAY 27 2010  
Douglas County TLS

**Application #:** SP-10-03  
**Administering Agency** Douglas County Transportation and Land Services

**Type of Permit:**  Shoreline Substantial Development  
**Action:**  Approved  Denied

**Date of Action:** May 24, 2010

**Date Mailed to DOE/AG**

Pursuant to Chapter 90.58 RCW and the Shoreline Master Program of Douglas County, a permit is hereby granted to:

**David Nichols**  
**23665 NE Twinberry Way**  
**Redmond, WA 98052**

To undertake the following development: An application for a shoreline substantial development permit for the construction of a boatlift with a 10X12.5 ft. footprint. This boatlift will be constructed alongside a future community dock two lots downriver from the subject property. A 4 foot wide access corridor comprised of gravel is proposed to be installed on the subject property from the OHWM to the landward edge of the 50 foot buffer. The applicant has submitted a Fish and Wildlife Habitat management mitigation plan to address riparian area impacts for the boatlift, and access trail;

Upon the following property: The subject property is located in the Southwest ¼ of the Southwest ¼ of Section 6, Township 26 N., Range 22 E., W.M., Douglas County, Washington. The site is located in the Rural Resource 5 (RR-5) Zoning District and the shoreline designation is Rural Conservancy. The trail and mitigation are to be located on parcel number 65600000100, the boatlift is to be located between lots 26211210041 and 26211210042;

Within 200 feet of Columbia River and/or its associated wetlands.

The project will be within a shoreline of state-wide significance (RCW 90.58.030). The project will be located within a Rural Resource 5 (RR-5) designation. The Douglas County Shoreline Master Program is applicable to this development.

Development pursuant to this permit shall be undertaken in conformance with the following terms and conditions:

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials on file except as amended by the conditions herein.
3. Prior to building permit issuance, the applicant shall obtain all necessary permits from agencies with jurisdiction. This may include, but is not limited to: the Washington State Department of Fish and Wildlife (Hydraulic Project Approval), the United States Army Corps of Engineers Regulatory Branch (Section 10 &/or 404) the Washington State Department of Ecology (Section 401 Water Quality Certification), Washington State Department of Natural Resources Aquatic Use Authorization and the Chelan Public Utility District.
4. The applicant shall comply with all applicable local, state and federal regulations and the applicant is responsible for securing any and all state and federal agency permits, as may be required.
5. Prior to entering the project area, all equipment shall be checked for leaks and cleaned free of any external petroleum products, hydraulic fluid, machinery coolant, dirt, weeds both aquatic and terrestrial, weed seeds, and/or any other deleterious materials.
6. A copy of this permit and attached conditions shall be kept on-site and provided to the contractor and all others working within the shoreline area at all times. The applicant, contractor, machinery operators and all others working within the shoreline area shall have read this permit and attached conditions and shall follow its conditions at all times.
7. The access trail within the shoreline buffer shall not exceed 4' in width. The trail shall consist of native grasses, crushed rock or gravel material.
8. The project application shall proceed consistent with the Fish and Wildlife Habitat Management and Mitigation Plan dated January 2010, completed by Grette Associates LLC.
9. A permanent means of irrigation shall be installed for the mitigation plantings that are designed by a professional meeting the requirements of Title 20 Douglas County Code. Said design should address the specific needs of riparian and shrub steppe vegetation.
10. A performance surety agreement for each property owner in conformance with Chapter 7 of the RSMP shall be entered into between the property owners and Douglas County Transportation and Land Services prior to building permit issuance.
11. Onsite monitoring and monitoring reports shall be submitted to Douglas County Transportation and Land Services in conformance with the timelines and standards of Section 3.037(I) of Appendix H of the RSMP.
12. Implementation of onsite mitigation must be in conformance with the approved Fish and Wildlife Habitat Management and Mitigation plan dated January 2010, and the performance standards of Section 3.037(I) of appendix H of the RSMP.

13. Where a condition imposed herein may be found inconsistent with the requirements of the Washington State Department of Fish and Wildlife, HPA Permit, or permitting issued by the United States Army Corps of Engineers, the Douglas County Land Services Director shall have discretion to allow for project redesign consistent with the approvals granted by said agencies; if the redesign can be found consistent with the Regional Shoreline Master Program, and the Shoreline Management Act.
14. Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by the permit shall terminate five (5) years from the filing date of the permit.

### **FINDINGS OF FACT**

1. The applicant is David Nichols, 23665 NE Twinberry Way, Redmond, WA 98052.
2. David Nichols has submitted an application for a shoreline substantial development permit for the construction of a boatlift with a 10X12.5 ft. footprint. This boatlift will be constructed alongside a future community dock two lots downriver from the subject property. A 4 foot wide access corridor comprised of gravel is proposed to be installed on the subject property from the OHWM to the landward edge of the 50 foot buffer. The applicant has submitted a Fish and Wildlife Habitat management mitigation plan to address riparian area impacts for the boatlift, and access trail.
3. The subject property is located in the Southwest ¼ of the Southwest ¼ of Section 6, Township 26 N., Range 22 E., W.M., Douglas County, Washington. The site is located in the Rural Resource 5 (RR-5) Zoning District and the shoreline designation is Rural Conservancy. The trail and mitigation are to be located on parcel number 65600000100, the boatlift is to be located between lots 26211210041 and 26211210042.
4. The Comprehensive Plan Designation is Rural Resource 5.
5. The subject property is located in the Rural Resource 5 (RR-5) Zoning District which allows for single family residences and their accessory structures.
6. The Columbia River Shoreline section of the subject property is designated as “Rural Conservancy” by the Douglas County Regional Shoreline Master Program.
7. The boatlift proposal is subject to the provisions of the Fish and Wildlife Habitat Conservation areas, Chapter 3 of Appendix H of the RSMP. The site buffer width considered for the subject application was established on the face of the plats within 5 years of the applications being determined complete, under the provisions of DCC Chapter 19.18B Resource Lands/ Critical Areas- Wetlands.
8. To minimize impacts according to the RSMP mitigation sequencing regulations, the boatlift will be located adjacent to the future community dock.

9. According to RCW 90.58.030 the Columbia River is a shoreline of statewide significance.
10. WAC 173-27-090 requires that construction must be commenced within 2 years of the effective date of the shoreline permit and that authorization for construction shall terminate 5 years after the effective date of the shoreline permit.
11. WAC 173-27-150 establishes minimum review criteria for Shoreline Management Substantial Development Permits. This criteria states that a substantial development permit shall be granted only when the development proposed is consistent with the policies and procedures of the Act; the provisions of this regulation; and the applicable master program adopted or approved for the area.
12. The subject property is located on the shoreline of the Columbia River and contains fish and wildlife habitat and aquatic habitat regulated under the Douglas County Regional Shoreline Master Program.
13. The wetland rating and delineation was performed in 2003 by Graham-Bunting Associates. The wetland assessment for the shoreline is listed as Category Type IV wetland. DCC Chapter 19.18B.050(B)(7) establishes a 50 foot buffer area for Type IV wetlands as measured from the edge of the wetland.
14. The applicant has submitted a Fish and Wildlife Habitat Management and Mitigation Plan dated January 2010, supplemented on April 5, 2010 completed by Grette Associates LLC., in order to address the requirements of Chapter 3 of Appendix H of the RSMP.
15. Douglas County issued a Determination of Non-significance on May 7, 2010.
16. Surrounding property owners were given the opportunity to comment on the proposals.
17. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
18. Comments from reviewing agencies have been considered and addressed where appropriate.
19. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
20. An open record public hearing after legal notice was held on May 20, 2010. Appearing and testifying at the hearing on behalf of the applicant was Larry Lehman. Mr. Lehman indicated that he was an agent authorized to appear and speak on behalf of the applicant. Mr. Lehman testified that the applicant had no objection to any of the proposed conditions of approval.
21. No member of the public testified at this hearing.
22. At the open record public hearing, the entire planning staff file was admitted into the record.

23. Public agencies with potential jurisdiction over this project were given an opportunity to review the proposal. Agencies that responded with comments were admitted into the record and considered by the Hearing Examiner in rendering this Decision.
24. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

## CONCLUSIONS

1. The Hearing Examiner has been granted authority to render this Decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan and the policies and regulations of the Douglas County Regional Shoreline Master Program.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. As proposed and conditioned, potential impacts of the project can be mitigated.
5. Public interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 “Zoning” of the Douglas County Code.
7. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
8. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

**This permit is granted pursuant to the Shoreline Master Program of Douglas County, as amended, and nothing in this permit shall excuse the applicant from compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).**

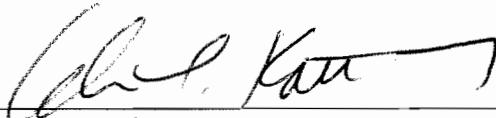
This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

**CONSTRUCTION PURSUANT TO THIS PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).**

Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by this permit shall terminate five (5) years from the filing date of this permit.

Approved this 24<sup>th</sup> day of May, 2010.

DOUGLAS COUNTY HEARING EXAMINER

A handwritten signature in black ink, appearing to read "Andrew L. Kottkamp", written over a horizontal line.

Andrew L. Kottkamp

**Anyone aggrieved by this decision has twenty-one (21) days from the “date of filing” as defined in WAC 461-08-305 and RCW 90.58.140(6) to file a petition for review with the Shorelines Hearings Board as provided for in RCW 90.58.180 and Chapter 461-08 WAC, the rules of practice and procedure of the Shorelines Hearings Board.**

**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A  
CONDITIONAL USE OR VARIANCE PERMIT**

Date received by the Department \_\_\_\_\_

Approved \_\_\_\_\_

Denied \_\_\_\_\_

This conditional use/variance permit is approved/denied by the Department pursuant to Chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

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\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Department Official