

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Application #: SP-06-05A
Administering Agency Douglas County Transportation and Land Services
Type of Permit: Shoreline Substantial Permit
Action: Approved Denied
Date of Action: February 24, 2014

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:

**Beebe Ranch
Gary Piro
3234 S Lakeshore Rd
Chelan, WA 98816**

To undertake the following development: An application for the amendment of an existing shoreline substantial development permit for the resolution of a shoreline violation. Violation activities include fill and grading outside of permitted area, in a drainage way, and on a parcel not included in approved permits; fill placed waterward of OHWM; placement of fill in greater amount than proposed in permit applications; removal of native plants and vegetation outside of permitted area; and possible impacts to cultural resources on Lot 1 Plat of The Beach at Corral Creek.

Upon the following property: The subject property is described as Lot 1 Block 4 Plat of Beebe Orchard Tracts and Lot 1 Plat of the Beach at Corral Creek. and located within the NW Quarter of Section 9, Township 27N., Range 23 E., W.M., Douglas County, Washington. The Douglas County Assessors Numbers are 45700400100 and 45800000100.

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 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 of file submitted on October 4, 2013 except as amended by the conditions herein.
3. The applicant shall comply with all applicable local, state and federal regulations and is responsible for securing any and all state and federal agency permits, as may be required.
4. The applicant shall obtain all necessary permits from agencies with jurisdiction and provide copies of the permit approvals to Douglas County. This may include, but is not limited to: 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.
5. 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.
6. Mitigation plantings and revegetation plantings for the violation shall be installed and the installation report from the biologist of record shall be submitted to the County by May 31, 2014.
7. A temporary erosion and sediment control plan shall be implemented throughout project work and until the shoreline has been stabilized.
8. The temporary erosion and sediment control plan shall be implemented and maintained until the site has been stabilized.
9. The project application shall proceed consistent with the Wetland Management and Mitigation Plan prepared by Grette & Associates, dated October 4, 2013.
10. 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 vegetation.
11. The mitigation site shall be maintained to ensure the management and mitigation plan objectives are successful. Maintenance shall ensure 80% survival during the 5 year monitoring period and shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.
12. A five year monitoring period shall commence upon placement of the planting materials and irrigation system. A performance surety agreement in conformance with Title 14 of Douglas County Code shall be entered into between the property owner and Douglas County Transportation and Land Services. Douglas County must approve quotes for the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and 3 monitoring visits and reports by a qualified biologist, and the quotes shall include Washington State sales tax.
13. Onsite monitoring and monitoring reports shall be submitted to Douglas County Transportation and Land Services 1 year after mitigation installation; 3 years after mitigation installation; and 5 years after mitigation installation. Monitoring reports shall be submitted by a qualified biologist, as defined by Douglas County Code. The biologist must verify that the conditions of approval and

provisions in the fish & wildlife habitat management and mitigation plan submitted by Grette & Associates, dated October 4, 2013 have been satisfied.

14. Sequential release of funds associated with the surety agreement shall be reviewed for conformance with the conditions of approval and the management and mitigation plan. Release of funds may occur in increments of 1/3 for substantial conformance with the plan and conditions of approval. If the standards that are not met are only minimally out of compliance and contingency actions are actively being pursued by the property owner to bring the project into compliance, the County may choose to consider a partial release of the scheduled increment. Non-compliance can result in one or more of the following actions: carry over of the surety amount to the next review period; use of funds to remedy the nonconformance; scheduling a hearing with the Douglas County Hearing Examiner to review conformance with the conditions of approval and to determine what actions may be appropriate.
15. 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 Douglas County Code, the Shoreline Master Program, and the Shoreline Management Act.
16. Construction of the project for which this permit has been granted must be commenced within two (2) years of the effective 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 Beebe Ranch, Gary Piro, 3234 S Lakeshore Rd, Chelan WA.
2. General Description: An application for the amendment of an existing shoreline substantial development permit for the resolution of a shoreline violation. Violation activities include fill and grading outside of permitted area, in a drainage way, and on a parcel not included in approved permits; fill placed waterward of OHWM; placement of fill in greater amount than proposed in permit applications; removal of native plants and vegetation outside of permitted area; and possible impacts to cultural resources on Lot 1 Plat of The Beach at Corral Creek.
3. The subject property is described as Lot 1 Block 4 Plat of Beebe Orchard Tracts and Lot 1 Plat of the Beach at Corral Creek. and located within the NW Quarter of Section 9, Township 27N., Range 23 E., W.M., Douglas County, Washington. The Douglas County Assessors Numbers are 45700400100 and 45800000100.
4. Douglas County issued the following permits for shoreline development on the subject property; SP-06-05 (dock, beach, and trail), SR-13-01 (relocation of mitigation plantings), and BPC-13-004 (dock).
5. The Comprehensive Plan Designation is Rural Resource 5 acres.
6. The subject property is located in the RR-5 zoning district.
7. The Columbia River Shoreline section of the subject property is designated as "Rural Conservancy" by the Douglas County Shoreline Master Program.

8. 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.
9. Site development and construction activities were found to be not in compliance with the issued permits. Code enforcement action (CE-13-01) was commenced in regards to the following unauthorized development activities:
 - Fill and grading outside of permitted area
 - Fill of a ravine/drainage way
 - Fill placed waterward of the ordinary high water mark
 - Fill/grading onto parcel 45800000100, which was not included on original permits
 - Removal of native plants and vegetation outside of permitted area
 - Placement of a greater amount of fill than proposed in the permit applications
 - Possible impacts to cultural resources on Lot 1 Plat of The Beach at Corral Creek.
10. A Final Notice and Order was issued on July 31, 2013. This final notice and order was not appealed. The code enforcement action was referred to the Douglas County Prosecuting Attorney on September 18, 2013 for further legal proceedings.
11. An aquatic habitat buffer assessment performed with the development of the Wetland Management and Mitigation plan, dated October 4, 2013, was performed on the subject property pursuant to Appendix H, Section 3.050 of the shoreline master program. The results of the assessment establish a 125 foot buffer on the subject property.
12. The Beach at Corral Creek Subdivision was recorded on December 21, 2010 and is therefore still within the 7 year vesting period. The 75 foot wetland buffer established with the plat is the applicable buffer for this application.
13. A Wetland Management and Mitigation plan dated October 4, 2013 was performed for the project by Grette & Associates. This plan includes analysis and recommendations for compliance with the SMP, Appendix H, Chapter 3 Fish and Wildlife Conservation Areas.
14. The planting plan approved by SP-06-05 includes 22,407 square feet of plantings to mitigate for the dock, grading, community grass area and trail. That plan proposed to install 9,159 square feet of mitigation at the dock/community area and the rest (13,248 sq. ft.) was proposed to be planted in a long narrow strip along the OHWM, downstream of the site.
15. The mitigation plantings approved in the original permit have not yet been installed. The downriver mitigation site in the original permit was determined at the time to be a suitable location for plant installation. The biologist of record has determined that since the time of original analysis and permitting that the downriver site has eroded, resulting in an over steepened shoreline consisting of gravel and cobble. Over the past several years, the Chelan County PUD has operated water levels above OHWM for several weeks. These high reservoir levels have eroded the shoreline and have reduced the quality of the permitted mitigation planting area.
16. The Wetland Management and Mitigation Plan has determined that the buffer disturbance on the community lot will require 12,224 sq. ft. of mitigation and Lot 1 of the Beach at Corral Creek will require 3,315 sq. ft.

17. The Wetland Management and Mitigation Plan proposes to relocate the mitigation that was originally approved in the downriver location and place it on the site that is the subject of the unpermitted activities. The size of the original downriver mitigation site is 13,248 sq. ft. The total amount of mitigation required by the unpermitted activity on the community lot is 12,224 sq. ft. A planting plan is proposed on page 6 of 8 thru 8 of 8 in the diagrams in the Wetland Management and Mitigation Plan.
18. Since the mitigation originally proposed for the downstream site has not been installed and that site no longer appears viable; it is appropriate to relocate that original mitigation from the downriver site to the area impacted by the unauthorized activity.
19. The applicant is proposing to mitigate the entire 3,315 sq. ft of buffer disturbed on Lot 1 of the Beach at Corral Creek.
20. The mitigation proposed in the Wetland Management and Mitigation Plan meets the requirements of the Douglas County Regional Shoreline Master Program.
21. Comments from reviewing agencies have been considered and addressed where appropriate.
22. At the request of the Chelan County PUD; the applicant provided a survey exhibit which detailed the original 724.5' elevation line (G Line) and the new 724.5' elevation line which resulted from the grading activity. After review, The Chelan County PUD the minor relocation of the g-line elevation.
23. Douglas County issued a Determination of Non-significance on February 10, 2014 in accordance with WAC 197-11-355 (Optional DNS).
24. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
25. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
26. 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.
27. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
28. The Douglas County Department of Land Services recommended approval of the requested permit, subject to recommended conditions of approval.
29. An open record public hearing after legal notice was held on February 20, 2014. Appearing and testifying at the hearing on behalf of the applicant was Larry Lehman of Grette Associates. Mr. Lehman testified that he and the applicant had reviewed the staff report and proposed findings and conclusions and recommended conditions of approval. Mr. Lehman testified that the applicant did not have any objection to any of the representations contained within the staff report. Mr. Lehman further testified that the applicant did not have any objection to any of the proposed conditions of

approval. Finally, Mr. Lehman testified that the applicant agreed that the code violations contained in code enforcement file CE-13-01 were admitted by the applicant.

30. No member of the public appeared at the hearing.
31. At the open record public hearing, the entire planning staff file was admitted into the record.
32. 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.
33. 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 Douglas County Shoreline Master Program.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. As proposed, revised, 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" and Title 19 "Environment" of the Douglas County Code.
7. 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).

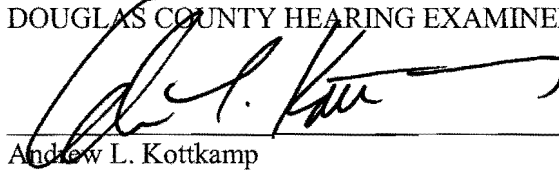
This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

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 24th day of February, 2014.

DOUGLAS COUNTY HEARING EXAMINER

A handwritten signature in black ink, appearing to read "A. L. Kottkamp", is written over a horizontal line. The signature is fluid and cursive.

Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the “date of receipt” as defined in RCW 43.21B.001 to file a petition for review with the Shorelines Hearings Board as provided for in Washington law.

**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:

Date

Signature of Authorized Department Official