

December 2, 2010

Larry M. Keeton, Director
Kitsap County Department of Community Development
619 Division Street MS 36
Port Orchard, WA 98366-4682

Dear Mr. Keeton:

The purpose of this letter is to provide you with my observations on the Kitsap County Shoreline Master Program Update Task Force – of which I am a participating member.

First, let me provide a vignette from my background to establish my credentials. In a former life I worked for Naval Sea Systems Command in Washington DC. One of my jobs was the coordination of EPA and Navy efforts to develop Uniform National Discharge Standards for Navy ships and other Department of Defense vessels. This was a science-based program intended to ensure the allowed discharges would not adversely impact the marine environment – especially in ports and harbors.

I have a letter signed by both EPA's Director of the Office of Wetlands, Oceans, and Watersheds, and EPA's Director of the Office of Science and Technology that expresses EPA's thanks for my professionalism and, in particular, my success in fostering an excellent working relationship between the EPA and the Department of the Navy.

I bring this up, not to blow my own horn, but because, in joining the county's SMP task force, I thought I might be able to use my experience in science-based environmental rulemaking to help the county develop a first class product in their SMP update.

But my experience over the last several months has been that the county is not really interested in having me or other members of the task force suggest anything that might require significant change to the work in progress.

In fact, much of the major work had already been scoped, funded, and accomplished before the task force was even assembled. Some examples are the Battelle Marine Science Laboratory's nearshore studies and the county's Draft Shoreline Inventory and Characterization Report – and there are others. These studies are the foundation for the SMP work. The Inventory and Characterization was a complete draft before the Task Force saw it and the Battelle studies were not even presented to the Task Force.

The problem is that these documents have flaws that need to be examined in detail and corrected before they can be accepted as the basis for extensive shoreline regulation. For example, the characterization report appears to incorrectly assume that much of the developed shoreline requires restoration – something that is clearly beyond the intent of the Shoreline Management Act.

"The small landholders are the most precious part of a state." - Thomas Jefferson

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Also, the rationale behind the county's shoreline management planning is an assumption that proposed environmental stressors identified in the shoreline Inventory, such as docks, floats, stairways to the beach, bulkheads, outfalls, and pavement near the shore, have been shown to have clear negative effects on nearshore ecology. However, this is not true. The Battelle study of the East Kitsap shoreline, on which the entire rationale and methodology of the Inventory is based, contains only an extremely brief and wholly inadequate attempt to link shoreline development to any kind of environmental harm. This "validation" study used a cursory examination of proposed measures of environmental health on only 14 shoreline study areas (out of over 1000 in the final Inventory), in an attempt to document the idea that proposed stressors have a negative impact on the environment.

This validation is flawed for the following reasons. Fourteen study areas is a wholly inadequate sample on which to base regulations for Kitsap County. In this regard, it is interesting to note that this small sample does not even include several important Kitsap beach geomorphologies. In addition, the 14 study areas were not chosen randomly, which makes any conclusions based on this sample scientifically completely suspect. The data from these beaches was not treated statistically and, based on visual inspection, does not even appear to provide any strong support for the idea that proposed stressors harm the environment. Yet the County appears to be using the rationale from this validation as the basis for sweeping shoreline regulation.

Based on established criteria for acceptable science, the science in the Battelle reports does not meet even the most basic standards for credible scientific work – standards such as adequate sample size, random sampling, and statistical analysis. Instead it consists mostly of conventional wisdom based on largely unsupported assumptions and conjecture and defended as "professional judgment".

On a personal note, I have worked with Battelle scientists on several projects over my career, and they always met the highest professional standards. The Battelle East Kitsap nearshore report should be an embarrassment to this fine institution.

As we have seen in task force meetings, the county is reluctant to make even minor changes or, in some cases, to even provide answers to some specific questions. They have made presentations where it was announced up-front that their decisions were off the table for discussion – for example the decision to incorporate the GMA critical areas into the SMP update, something which is legally questionable and fraught with problems. At least two of us on the task force tried to raise this issue for consideration but were unsuccessful in attracting the county's attention.

Other issues raised by the Task Force, such as a need to show how the characterization report was developed from original scientific source data, received no county response. But the Department of Ecology, in their September 8, 2010 comment letter, raised this same "original source" issue and asked for a summary of additional information on such things such as dominant ecological processes and functions – indicating the need for more specific information on drift cells or about NAUs (nearshore assessment units) to indicate which factors influenced the report's shoreline's degree-of-disturbance color coding (red, yellow, green).

The issue of scientific data gaps, raised and dismissed in a Task Force meeting, was also part of Ecology's comments, for example feeder bluff mapping to identify important sources of sediment for nearshore habitat. Indeed, Ecology's eight pages of comments indicate a general

lack of the scientific detail needed to understand the “condition” or “quality” of Kitsap County’s shoreline ecological conditions.

Another issue is that the SMP process requires that citizens be able to examine and review the logic behind shoreline management, yet the SMP process has not provided any serious opportunity for the citizens to examine the flaws in the methodology of the science used in the Inventory.

I have seen this movie before. The local government bowing to the environmental activist interests at the expense of the private property owner; the general lack of any real science to back up decision-making; the hiring of a professional facilitator to sell the government’s position to a carefully selected group of people; and the attempt to ignore or marginalize people who constructively criticize the county’s work.

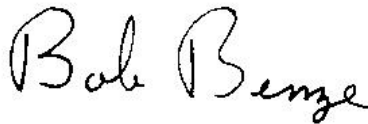
In this regard, Dr. Flora comes to mind. His integrity, his credentials and his review of shoreline science that was provided to the county are above reproach. Yet, rather than doing the hard work of responding to his scientific observations, the response is either to ignore him, or to attempt to discredit him and his work. (When we get to buffer science, I will present the work of another recognized scientific expert. It will be interesting to see how his observations are handled by the county.)

Being an optimist, I still hold out hope that the county will entertain a genuine and constructive dialogue on some of these issues – but the results so far are not encouraging.

The reason I raise these issues is that the SMP update is serious business – defining the rules that will prohibit thousands of shoreline homeowners, owning property worth billions of dollars, from certain uses and enjoyment of their property. The Shoreline Management Act allows local governments significant latitude in these rules. The county has a responsibility to its citizens to ensure these controls are not more stringent than required by law and that any restrictions placed on private property are based on defensible science. This is not currently the case.

Your attention and timely response would be greatly appreciated.

Respectfully,

A handwritten signature in black ink that reads "Bob Benze". The signature is written in a cursive, slightly slanted style.

Bob Benze