Received 10/15/2026
Ashley Fernandez

# SHORELINE MANAGEMENT PERMIT
# ACTION SHEET

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| **Application #:** | SDP 26-126 & SV 26-127 |
| **Administering Agency** | Chelan County Community Development Department |
| **Type of Permit:** | ■ Substantial Development Permit |
| | ☐ Conditional Use Permit |
| | ■ Variance Permit |
| **Action:** | ■ Approved in part and denied in part |
| **Date of Action:** | 10/15/2026 |
| **Date Mailed to DOE/AG** | |

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

**William Buckley & Tammy O'Connor**
**3780 US HWY 97A**
**Chelan, WA 98816**

to undertake the following development: **an after-the fact Shoreline Substantial Development Permit for a 60 sq. ft. access trail that has been constructed within the shoreline buffer. This request is approved.**

**The applicant also applied for a Shoreline Variance (SV) to permit an existing 4 ft. retaining wall and concrete patio associated with the existing pool. This request is denied based on the variance criteria of the Chelan County Shoreline Master Program not being satisfied, but the Hearing Examiner recognizes that the Settlement Agreement between the applicant and Department of Ecology (hereinafter DOE Settlement) approved both of these existing conditions on the property upon full compliance with the terms of the DOE Settlement. However, Chelan County was not a party to and not bound by the DOE Settlement. In a later Settlement Agreement with the County (hereinafter County Settlement), based on a separate County action, the applicant and County entered into the separate County Settlement in which DOE was not a party to the agreement or bound by its terms.**

**The applicant is also applying for approval of an existing 2 ft. bulkhead extension with associated fill that has been placed landward of the newly constructed bulkhead within the shoreline buffer. The Hearing Examiner is denying this SDP request because the applicant has not satisfied all of the criteria for a bulkhead expansion as set in the Chelan County Shoreline Master Program. However, once again, the Hearing Examiner recognized that the DOE Settlement approved these existing conditions subject to the applicant satisfying all conditions set forth in the DOE Settlement.**

**The subject property is located within the R-L Single-Family Residential District in the Urban Growth Area of the City of Chelan and holds an 'urban' shoreline environment designation for Lake Chelan, a Shoreline of Statewide Significance.**

upon the following property: located at **3780 US HWY 97A, Chelan, WA 98816, Parcel A of SS# 2314.**

within the **Lake Chelan shoreline** 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 Shoreline Residential Resource shoreline designation.

## I. CONDITIONS OF APPROVAL

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

1. The access trail shall be in strict conformance with the Habitat Management Mitigation Plan prepared by Jessica Pavelka dated April 29, 2026, (Exhibit I).

2. Pursuant to comments received from Colville Tribes an Inadvertent Discovery Plan is to be in place prior to any implementation of this project. (Exhibit H)

## II. FINDINGS OF FACT

1. Pursuant to Chelan County Shoreline Master Program (SMP) Section 7.1.3, the Hearing Examiner shall have the authority to grant, grant with conditions, or deny Shoreline Substantial Development Permits, Shoreline Variances, and Shoreline Conditional Use Permits under this SMP.

2. On May 07, 2026, Pacific Engineering and Design (Agent), submitted for an after-the-fact Shoreline Substantial Development Permit on behalf of William & Tamara Buckley (Owners).

   2.1. The applicant is applying for a Shoreline Substantial Development Permit in order to authorize a shoreline access trail on the subject property. The applicant is also seeking after the fact Shoreline Variances for the existing pool decking and a retaining wall. The applicant is also applying for a Shoreline Substantial Development Permit for the existing bulkhead expansion and fill between the bulkhead and the retaining wall.

   2.2. The bulkhead was extended by approximately 2 ft. using Verti-Block placed atop the existing concrete bulkhead, and placed fill landward of the extension. The development includes a minimum of 10 inches of base course material underlain by non-woven geotextile fabric, with approximately 6 inches of crushed stone placed on the surface. Tieback anchors, installed approximately 7 ft. landward of the bulkhead are connected to the existing bulkhead section via cable through existing week holes and secured with steel plates to improve structural stability.

   2.3. The existing access trail is 12 ft. long by 5 ft. wide and is constructed of compacted soil. The existing trail encompasses approximately 60 sq. ft. within the riparian buffer.

   2.4. The applicant is proposing 802.5 sq. ft. of native vegetation to be installed within the modified 25 ft. buffer as close to the OHWM as possible. The proposed mitigation will improve shoreline ecological functions and values, resulting in no net loss of ecological functions.

3. CCSMP 3.6 Shoreline Use Matrix

   3.1. Pursuant to Table 3.6-a Shoreline Use Matrix the parcel is categorized as an 'Urban' shoreline environment. Upland Fill, Shoreline Stabilization, and residential appurtenances such as an access trail can be permitted, subject to an approved Shoreline Substantial Development Permit

or Shoreline Exemption.

4. SMP Section 4.2 Ecological Protection and Critical Areas

4.1. Pursuant to the Chelan County SMP mitigation shall be required for all projects within shoreline jurisdiction that have adverse impacts remaining after application of mitigation sequencing which result in a net loss of ecological function.

4.1.1. Pursuant to the Habitat Management and Mitigation Plan (HMMP) supplied with the application materials mitigation sequencing has been applied and is addressed. No adverse impacts will remain after applying mitigation sequencing.

4.2. The applicant has provided a Habitat Management and Mitigation Plan dated April 29, 2026 prepared by Jessica Pavelka a qualified professional. (Exhibit F)

4.2.1. Pursuant to the Habitat Management and Mitigation Plan approximately 802.5 sq. ft. of native vegetation is to be planted on site for compensatory mitigation. The native vegetation plantings will result in an overall increase in shoreline habitat functions and values on site and will result in no net loss of ecological value or function.

5. SMP Section 5.9 Upland Fill & Excavation

5.1. Pursuant to the application materials fill was placed landward between the bulkhead and retaining wall. Approximately 15 cu. yd. of topsoil was placed landward of the seawall extension and between the pool and the concrete retaining wall for mitigation plantings.

5.2. Pursuant to the application materials, with implementation of the proposed mitigation the project will improve shoreline conditions relative to pre-development conditions and will result in no net loss of ecological value or functions.

5.3. No aquatic fill and excavation has occurred, or is proposed with the application.

5.4. Fills and excavation upland of the OHWM are permitted as part of an approved shoreline use or modification.

5.5. Fills or excavation shall not be located where shoreline stabilization will be necessary to protect materials placed or removed, except when part of an approved plan for protection of cultural or historic resources.

5.5.1. Pursuant to the application materials the bulkhead extension and fill modification was necessary to maintain the pool elevation above lake levels influenced by wave action, ensuring structural integrity of the pool. However, as the Hearing Examiner finds, the criteria in the SMP have not been satisfied.

5.6. Fills, beach nourishment and excavation shall be designed to blend physically and visually with existing topography.

5.6.1. Pursuant to the application materials the bulkhead extension raised the height more closely match the height of the surrounding bulkhead on the adjacent parcels. The fill landward of the concrete retaining wall matches the height of the single-family residence. Compensatory mitigation through the planting of native vegetation within the buffer is proposed.

Nevertheless, the Hearing Examiner finds that the applicant has not satisfied all criteria in the SMP for shoreline stabilization construction which includes the placement of the fill.

5.7. The Hearing Examiner finds that the fill was placed between a vertical bulkhead extension and vertical concrete retaining wall. A geotechnical engineering analysis has not been provided.

5.8. A temporary erosion and sediment control (TESC) plan, including Best Management Practices consistent with the Stormwater Management Manual for Easter Washington, or approved equivalent shall be provided for all proposed fill and excavation activities, and approved by the Shoreline Administrator prior to the commencement of activity.

5.8.1. Because this is an after the fact permit for the bulkhead extension and fill, no temporary erosion and sediment control plan was provided or approved by the Shoreline Administrator prior to the development.

5.8.2. Pursuant to the application materials, during construction activities, TESC and BMP measures were imposed. The bulkhead extension raises the height of the existing bulkhead, in an effort to reduce the ability of waves from overtopping the bulkhead causing shoreline erosion and is an attempt to maintain the pool elevation above lake levels influenced by wave action, ensuring structural integrity of the pool. However, the Hearing Examiner finds that the applicant has not complied with SMP 5.18 (D). See Finding of Fact 7 below.

6. SMP Section 5.16 Residential Regulations

6.1. (B)(7) Trails, ramps, and stairs including handrails may be places within the shoreline buffer and landward of the OHWM, when associated with a water dependent development or use and shall require a Shoreline Substantial Development Permit or a written Shoreline Exemption, as applicable. Trails, ramps, and stairs within the buffer are limited to five feet in width. The total area of trails, ramps, and stairs within the buffer is limited to 5 times the standard buffer width.

6.2. Pursuant to the application materials the existing trail is 12 ft. long by 5 ft. wide and constructed of compacted soil. The subject property is designated as Urban with a 50 ft. buffer form the OHWM. Maximum disturbance of 250 sw. ft. is allowed. The existing trail is 5 ft. wide and encompass approximately 60 sq. ft. within the riparian buffer. 190 sq. ft. less than the allowable limit.

7. SMP Section 5.18 Shoreline Stabilization Regulations.

7.1. Pursuant to the application materials the bulkhead extension enhances long-term stability of the bulkhead, and reduces the ability of waves from overtopping the bulkhead causing shoreline erosion. The modification was also necessary to maintain the pool elevation above lake levels influenced by wave action, ensuring structural integrity of the pool. The fill between the bulkhead and retaining wall was part of the effort to enhance the stability of the bulkhead.

7.2. Enlargement of existing structural shoreline stabilization shall include additions to or increases in size (such as height, width, length, or depth) to existing shoreline stabilization measures shall be considered new structures.

7.3. New or enlarged structural stabilization measures shall not be allowed except when necessity is demonstrated.

7.3.1. Pursuant to SMP 5.18(D)(1) To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself without or geotechnical analysis, is not demonstration of need. The geotechnical analysis shall evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization.

7.3.2. As of the date of the hearing on this matter, no geotechnical analysis has been submitted to prove necessity for the 2 ft. extension of the existing bulkhead or the fill. Therefore, the provisions of SMP 5.18 have not been satisfied.

8. SMP 7.8 Shoreline Variance Permits

8.1. SMP 7.8 sets the criteria that an applicant is required to prove in order for a shoreline variance to be granted.

8.2. SMP 7.8.2 (A) sets forth the general provision that shoreline variances should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. RCW 90.58.020 generally provides the state policy of protecting shorelines for public use understanding that much of the shorelines of the state are held in private ownership and therefore "coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest."

8.3. SMP 7.8.2 (C) (1-3) provide the three specific criteria an applicant must prove in order to receive a shoreline variance.

8.3.1. The first criteria states "How would the strict application of the bulk, dimensional or performance standards set forth in this SMP preclude all reasonable use of the property?" The applicant cannot prove that the application of the dimensional standards would preclude "all reasonable use" of the applicant's property. First, the applicant chose where to place their house and then where to place the pool. While the Hearing Examiner found in his decision on SV 2022-230 that the applicant's misunderstanding of setbacks based on incorrect representations made by staff to the applicant, was a basis for granting that shoreline variance, the Hearing Examiner now determines that finding in SV 2022-230 was legally incorrect. There is no basis in Washington law that receiving and relying on incorrect information from the local jurisdiction is a basis for the granting of a shoreline variance. Or any variance for that matter. The applicant is allowed to reasonably use their property without the shoreline variance. What complicates this finding, as well as the Hearing Examiner findings below on the other two specific criteria, is the DOE Settlement. In that settlement agreement, Sections B 1, 4 and 5 recognizes (relevant to this application) that the installed pool, deck, retaining wall and ramp, bulkhead extension, and fill between the bulkhead extension and retaining wall may remain upon satisfaction of the other requirements of the DOE Settlement. While the DOE Settlement is certainly a complication, it is not controlling against the County, and the County is not bound by the DOE Settlement terms because the County was not a party to the DOE Settlement, and, in fact, later brought their own code enforcement action against the applicant and entered into a separate settlement (County Settlement) with the applicant with separate and distinct settlement terms. Additionally, DOE denied SV 2022-230 and that denial was not specifically reversed by the DOE Settlement, (although the DOE Settlement does allow certain pre existing improvements to remain upon compliance with the DOE Settlement

terms).

8.3.2. The second criteria states "How is the proposal consistent with the criteria established under subsection 7.8.2.B.2 through B.6 of this section? Sections B 2-6 are discussed below:

8.3.2.1. B.1 states: "How would the strict application of the bulk, dimensional or performance standards set forth in this SMP preclude or significantly interfere with reasonable use of the property?" It is interesting in that this criteria does not qualify "reasonable use" as "any reasonable use" as does criteria 7.8.2.C.1 above. Nevertheless, the applicant has not proven this criteria. The fact that this is an after the fact permit does not allow the applicant to disregard this criteria, and does not require the Hearing Examiner to only look at existing conditions and not the pre development condition of the property. It is true that the current conditions, created by the applicant, would interfere with the desired use of the property without a variance. This would be for the deck around the pool as well as the retaining wall, bulkhead and bulkhead expansion and the fill between the wall and bulkhead discussed above. However, consideration of pre development conditions require a different result. There is no showing by the applicant that they would be denied reasonable use of the property given the pre development conditions of the property. In fact, the Hearing Examiner finds that the applicant knew, or should have known, (based on going thru the process of requesting a shoreline variance for the pool due to its incursion into the shoreline buffer), that any other additional incursion into the shoreline buffer beyond the border of the actual pool (such as the decking, retaining wall, bulkhead extension and fill) would likewise require County and DOE permission by means of a separate shoreline variance. This criteria has not been proven.

8.3.3.2 B.2 states: How is the hardship described in Section 7.8.2.B.1 above specifically related to the property, and is the hardship the result of unique conditions such as irregular lot shape, size, or natural features and the application of this SMP, and not, for example, from deed restrictions or the applicant's own actions? The Hearing Examiner has already found that the applicant's reliance on incorrect representations of the County is not a legally allowed basis for the granting of a shoreline variance. There is nothing about the applicant's property that presents "unique conditions" as contemplated by the code. The waves and potential shoreline erosion is not unique to the applicant's property. There is but one basis for this requested shoreline variance and that is because the applicant has already built improvements to the property and that their location on the property has necessitated the location of the other improvements (deck, retaining wall, bulkhead and fill). The applicant has not satisfied this criteria.

8.3.3.3 B.3 states: How is the design of the project compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP, and will the project design not cause adverse impacts to the shoreline environment? This is an interesting criteria because the only evidence from the hearing was that denying this requested shoreline variance is consistent with other uses one the lake and will, at least in the short run, cause immense damage to the immediate shoreline. This is important to the Hearing Examiner because the ultimate purpose of the SMA and SMP is the protection of shorelines. Additionally there is evidence that there are other decks, bulkhead extensions and fill on properties around Lake Chelan that are located in the shoreline buffer. For these reasons, the Hearing Examiner finds that this criteria has been demonstrated by the applicant.

8.3.3.4 B.4 states: How will the variance not constitute a grant of special privilege not

enjoyed by the other properties in the area? For the reasons set forth in Finding 8.3.3.3 above, the Hearing Examiner finds that this criteria has been satisfied.

8.3.3.5 B.5 states: How is the variance requested the minimum necessary to afford relief? This is an interesting criteria when applied to the facts. Because of the as built improvements of the pool, (which was granted a variance by the Hearing Examiner and later denied by DOE), this would be the minimum variance needed to allow the use. But for the reasons stated in the above findings, it is impossible for the Hearing Examiner to find that this is the minimum necessary to afford relief. If the applicant had presented the need for these variances at the same time that the applicant requested the shoreline variance for the actual pool in SV 2022-230, then these variances could have been appropriately considered in relation to the pool location variance of SV 2022-230. It is the applicant that chose not to advise the County of the need for these variances when submitting the application for SV 2022-230, or when the applicant submitted the building permit request for the pool. While the pool "plans" may show a decking, that decking was not specifically requested in the pool building permit. The applicant has failed to demonstrate this criteria.

8.3.3.6 B.6 states: How will the public interest suffer no substantial detrimental effect? The Hearing Examiner finds that the SMA and SMP have been enacted to protect the public's interest in the shorelines of the State of Washington, and that granting a shoreline variance that does not comply with all of the required criteria would cause the public interest to suffer a substantial detrimental effect. This criteria cannot be met.

8.4 The third criteria in 7.8.2 (C) states: "How will the public rights of navigation and use of the shorelines not be adversely affected?" This shoreline is already in private ownership so the public has no right to use this shoreline. And because the requested shoreline variances are landward of the OHWM, public navigation would not be adversely affected. At the very least, public navigation would not be as adversely affected by these requested shoreline variances as it is by allowed docks and piers extending into Lake Chelan waterward of the OHWM. This criteria has been established.

8.5 The final criteria (7.8.2.D) relates to the cumulative effect of like variance requests. The County has not, to the Hearing Examiner's understanding, required the applicant to submit a cumulative impact analysis by a qualified professional. Therefore, this criteria is not applicable.

8.6 The reduced setback for the pool allowed by SV 2022-230 simply did not include other additional encroachments into the shoreline buffer that were the result of the building of the pool deck and the retaining wall. As set forth above, the building permit for the pool was only for the pool and did not include the pool decking and retaining wall.

9. An open record public hearing was held after due legal notice on October 7, 2026.

10. The following Exhibits were entered into the record:

10.1. Ex. A Site plan of record, date stamped May 07, 2026

10.2. Ex. B SV 2022-230 Hearing Examiner Decision

10.3. Ex. C SEPA DNS issued August 05, 2026

10.4. Ex. D CE 25-0036

10.5. Ex. E Signed Settlement Agreement

10.6. Ex. F Habitat Management & Mitigation Plan dated April 29, 2026

10.7. Ex. G Agency Comments

10.8. Ex. H Inadvertent Discovery Plan

10.9. Ex. I BP 220513

10.10. Ex. J Staff Report

10.11. Ex K Applicant prehearing submissions identified by applicant as Exhibits A-N which the Hearing Examiner will identify by adding as a prefix "App". So they are App A, App B and so on. They also include 2 Word documents entitled "Staff Report Response with Exhibits" which the Hearing Examiner will label App O and "Buckley Proposed Findings and Conclusions" which the Hearing Examiner will label App N.

11. Ryan Walker appeared and testified on behalf of the applicant. He testified that he was an agent of the applicants and was authorized to appear and speak on their behalf. He testified consistent with exhibits APP O and App N. He argued that the Findings in the SV 2022-230 decision still apply. The Hearing Examiner disagrees with this contention because DOE denied the shoreline variance in SV 2022.230. He testified that the pool requires the decking and that the County knew or should have known this during the application and approval process for SV 2022-230. He stated that for this shoreline variance request that only 206 square feet of the decking, retaining wall and bulkhead are within the shoreline buffer outside of the previously County approved shoreline variance. He argued that the unique condition of the property was, to the Hearing Examiner's understanding, the previous development of the property based on incorrect information provided by the County. Although the Hearing Examiner finds this argument interesting, it is simply not supported by Washington State Law or the facts of this case. SV 2022-230 has been denied by DOE and that denial has not been reversed. He argued that the lowest environmental impact to the shoreline would be to grant the variance and leave the shoreline as it now exists. The Hearing Examiner agrees that, in the short term this would be best for the shoreline environment. However, the Hearing Examiner cannot find that this is the best result for the shoreline environment in the long term. Regarding the extension of the bulkhead, Mr. Walker testified, without any contradictory testimony at the hearing, that the original bulkhead was too low and that waves have in the past gone over the bulkhead and caused erosion behind the bulkhead and that the "wall" was sinking from behind. The Hearing Examiner is unclear if this referred to the retaining wall or the bulkhead. The Hearing Examiner finds he was referring to the bulkhead. He also testified that neighboring properties have extended bulkheads.

12. Testifying from the public was Mike Locatelli, on behalf of DOE. He stated that he is a Shoreline Specialist with the DOE and would be the person responsible for reviewing this Hearing Examiner decision. He stated that because SV 2022-230 was denied by DOE that it was never valid. His testimony was that because of the size of the lot, the house and the pool could have been located further landward, away from Lake Chelan, and therefore avoided the need for any variance. He stated his belief that it was the property owner that decided where to build the house and pool. The Hearing Examiner would agree and also find that it was the property owner's decision as to the size of the house and the pool. He stated that all shoreline variance criteria must be proven by the applicant and that they have not proven them. He stated that DOE told the applicant NOT to build the pool until DOE had completed its review but that the applicant chose to build the pool and other related

improvements before DOE made its decision on SV 2022-230. Further in his written comments (Exhibit G) he states that the terms of the DOE Settlement have not all been satisfied.

13. The applicant's response to Mr. Locatelli's testimony was that the County issued the building permit for the pool before the DOE decision on the variance. However, this act by the County does not in any way, factually or legally, override the final decision of DOE on the shoreline variance.

14. The Hearing Examiner does not have any authority to interpret, enforce or determine compliance with, the DOE Settlement.

15. The Hearing Examiner has not been asked to interpret, enforce or to determine compliance with, the County Settlement.

16. The Hearing Examiner does not have authority to grant any equitable relief based on waiver, estoppel or detrimental reliance.

17. The Hearing Examiner finds that the County was not a named party to the DOE Settlement.

18. The Hearing Examiner finds that the State was not a named party to the County Settlement.

19. There has been no evidence or law submitted in this matter that the County is legally bound by terms of the DOE Settlement.

20. There has been no evidence or law submitted in this matter that the State is legally bound by terms of the County Settlement.

21. SMP 5.18 sets forth Shoreline Stabilization Regulations.

22. SMP 5.18 (D) sets the regulations for new or enlarged structural shoreline stabilization. The Hearing Examiner finds that the modification to the height of the applicant's bulkhead and the placement of fill between the bulkhead and retaining wall constitutes a new and enlarged structural shoreline stabilization.

23. SMP 5.18 (D) requires a detailed geotechnical analysis before a new or enlarged structural shoreline stabilization improvement may be built or placed. It requires the applicant, through the geotechnical analysis, to demonstrate that the stabilization measures are necessary pursuant to specific provisions of SMP 5.18. The SMP clearly states "(N)ew or enlarged structural stabilization measures shall not be allowed except when necessity is demonstrated" in a manner as set forth in the SMP.

24. According to the applicant's representative, a geotechnical analysis as required by SMP 5.18 (D) was not provided because it is not needed in this situation (i.e. protection of the shoreline BEFORE erosion occurs and cause damage to property landward of the OHWM).

25. SMP 5.18 does not recognize any exception to the requirement of a geotechnical analysis to support the need for the proposed (or in this case "as built") new and enlarged structural shoreline stabilization improvements.

26. Based on the record before the Hearing Examiner, the Hearing Examiner finds that the applicant knew, or should have known, that any construction within the shoreline buffer, beyond the edge of the pool, would require approval by the County and, ultimately, DOE. This knowledge comes from that fact that the applicant applied for a shoreline variance for the pool (SV 2022-230) and only asked for, and only received, a variance reducing the shoreline buffer to (ultimately) 12 feet from the OHWM for the pool. The Hearing Examiner finds that applicant therefore knew, or should have known, that because of the location of the pool deck and retaining wall, waterward away from the

pool and further into the shoreline buffer closer than allowed by SV 2022-230 would require an additional variance for the deck, retaining wall and other improvements.

27. The Hearing Examiner understands that this has likely been a very frustrating process for the applicant. The Hearing Examiner is concerned as to the effect of this decision should all conditions of the DOE Settlement be fulfilled by the applicant, thereby allowing the development referenced in the DOE Settlement to remain in place. However, according to DOE, the DOE Settlement has not yet reached full compliance by the applicant, so any conflict between this decision and any decision of DOE based on the DOE Settlement does not exist at this time. The County Settlement requires the applicant to obtain all of the after the fact permits that they are requesting in this application. But the County Settlement clearly states that the variance criteria include the requirement that the applicant demonstrate that the claimed hardship was not the result of the applicant's own actions. Because of the building activity taken before DOE acted on the County approved shoreline variance, and because the applicant voluntarily built the decking and retaining wall without requesting and obtaining a shoreline variance, and for the other reasons stated above, the applicant simply cannot prove that the claimed hardship was not created by their own actions or that the hardship is caused by a unique condition related to the property.

28. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

## III. CONCLUSIONS OF LAW

1. As conditioned, the shoreline access trail meets the goals, policies and implementation recommendations as set forth in the Chelan County Comprehensive Plan, the Chelan County Shoreline Master Program, and City of Chelan Municipal Code.

2. As to the request for a shoreline variance, the applicant has not proven that all of the criteria required by SMP 7.8 have been satisfied.

3. As to the SDP for the bulkhead extension and the fill placed landward between the bulkhead and the retaining wall, the applicant has not proven compliance with SMP 5.18.

4. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

## III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Hearing Examiner:

4.1 Approves SDP 26-126 as it relates to the access trail subject to the above Conditions of Approval;

4.2 Denies SDP 26-126 as it relates to the expansion of the existing bulkhead and the fill placed landward between the bulkhead and retaining wall;

4.3 Denies SV 26-127 in its entirety.

Dated this 15th day of October, 2026

THE CHELAN COUNTY HEARING EXAMINER

Andrew L. Kottkamp

This decision is subject to appeal pursuant to the SHORELINE MASTER PROGRAM AND THE SHORELINE MANAGEMENT ACT.

This permit is granted pursuant to the Shoreline Master Program of the Chelan 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 173-14-140(7), 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.

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

Date received by the Department_____

Approved_____ Denied_____

This 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)