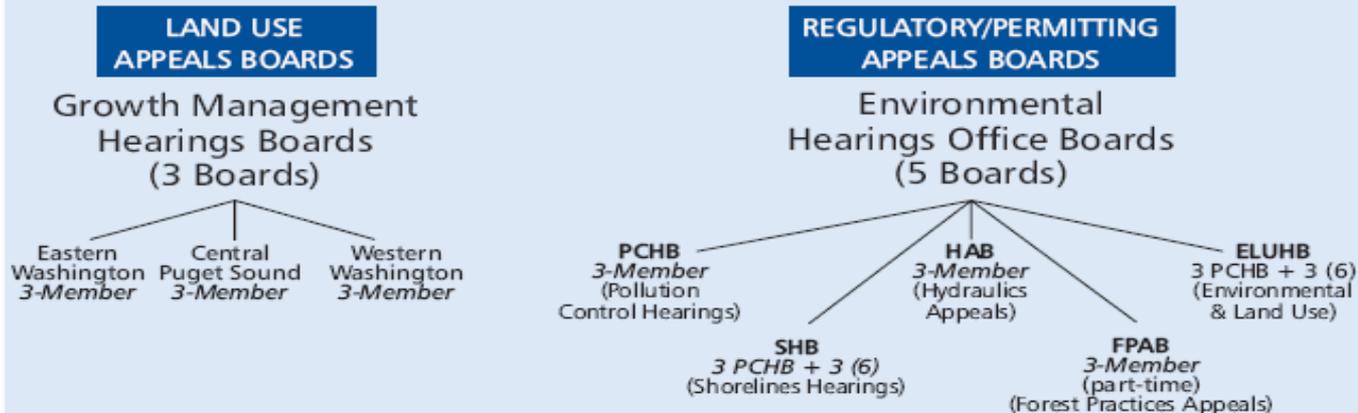


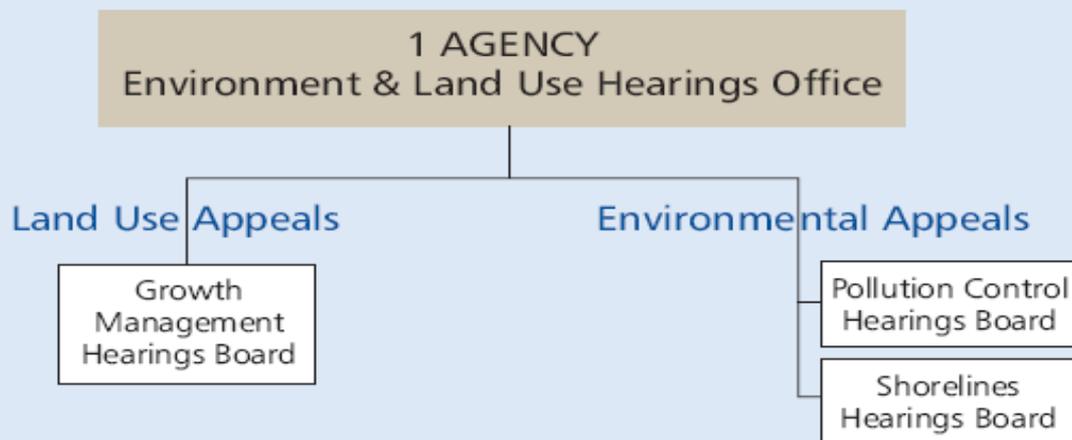
SHB 2935: New definition of Shoreline permit appeal timeframe

- SHB 2935: Gov.-request “NR Reform” bill. Assumption: Consistency is good.
- Boards: Eight existing hearings boards consolidated into 3 boards in new “Environmental and Land Use Hearing Office” (ELUHO). Shifts to a single GMHB.
- Appeals procedures: Amends RCW 90.58 (and lots of other statutes).

Before Natural Resources Reform: Quasi-Judicial Organization*



After Natural Resources Reform: Single Quasi-Judicial Environmental & Land Use Agency*



* Enactment of SHB 2935 and SSB 6214 on 3/25/2010

Section 36: RCW 90.58.140 on permit appeals

- New starting point for SMP permit appeal: “~~Date of filing with the department~~” replaced with common “**date of receipt by the applicant.**”
- Multi-layered definition: Adds that “Date of receipt has same meaning as... **RCW 43.21B.001.**” Section identifies three options (5 days from mailing; applicant receipt; 40 days of mailing.) **Resolved only upon appeal to SHB.**

- **SDP appeals:** Timeframe set by **receipt by applicant**. Deletes requirement that ECY notify local government
 - Local gov'ts and other parties will know SDP appeal date only if they ask ECY
- **CUPs and VARs: Both** applicant and local gov't are "recipients"
 - Can have two distinct timeframes (parallel universe)

- **Linkage of appeal period to initiating construction** (unique to SMA?):
 - SHB 2935 does not set a clear, common date that work can begin on the permitted project.

Proposed new Ecology procedures effective 7/1/10:

- Use return receipt mailings to document “date.”
- SDPs: Continue to include local government in SDP mailing (but appeal period set solely by applicant receipt.)
- CUP/VARs: Track *both* applicant and local gov’t “receipt” dates. Ecology: No judgment about “dates”. Any issues resolved by SHB.

Ecology approval of SMPs

- **Sec. 38.** RCW 90.58.190 (2)(a) The department's final decision to approve or reject ~~or modify~~ a proposed master program... The department's written notice must conspicuously and plainly state that it is the department's final decision and that there will be no further modifications under RCW 90.58.090(2).

Unresolved concerns: Further action needed?

- Erodes permit predictability
- Miss-match with unique features of SMA permitting (broad public interest in shoreline; dual use of timeframe for appeal and prohibition on construction.)
- “Final SMP approval” not entirely clear.
- **Develop Ecology-request legislation for 2011** to harmonize HB 2935 with SMA?