



Citizens' Alliance for Property Rights

June 8, 2004

King County Council Members:

We submit the following as official testimony from our organization on the changes being proposed to the King County Comprehensive Plan, Critical Areas Ordinance, Stormwater Ordinance, and Clearing and Grading Ordinance. We may submit additional testimony in the future. This is the first testimony that Citizens' Alliance for Property Rights has given on these amendments.

Many of us as individuals go all the way back to the original focus groups. Most of our objections along the way seem to have been used to find ways to "spin" the objections while not substantively changing the actual impacts of the ordinances. We have only had the final text of the proposed ordinances since late March. Ron Sims has saddled everyone not on his staff with the task of making sense of his proposal in a very abbreviated time frame. You are being asked to make decisions with devastating financial and quality-of-life impacts to a minority of King County property owners to achieve questionable public benefits. The alleged public benefits will be covered in-depth in a later section but there is no consensus on the actual benefits that might be achieved. Even if there were consensus about those benefits, the cost should be born by those who receive the benefit in proportion to the value of the benefit to them.

The matters being considered are far too important to be rushed through your legislative arm of King County government. The Executive has had years to concoct his proposals. If you rush to rubber stamp them, we will spend years and countless millions of dollars while the judicial branch sorts out the mess. You need to slow this process through the Council. King County will not be in violation of the GMA if you do not make any changes by December 1, 2004. You simply must recognize that wise regulations take time and thoughtful input from all sides, not just the side currently represented by the Executive. The Sensitive Areas Ordinance

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was rammed through the King County Council by executive departments and special interests, and it has been an absolute disaster for rural King County. The land use regulations currently in place in King County are the most restrictive in the state. There is no emergency that mandates that you rush the next 500 pages of regulations into place. You must simply review them, make no changes, and then take the time to do the job you are being paid to do. Find the creative way to meet the needs of **all** of the people of King County. The current proposals will continue to rip us apart at the seam called the urban growth boundary. There are only 130,000 people in rural King County. **It is simply wrong to make those few pay for the benefits of the many.** The 1,600,000 in urban King County have benefited enormously from the development of and ongoing use of their properties. Why must the rural few now provide further benefits to them by giving up what the urban many are unwilling to give up — the use of their property?

Governments by their very nature have no integrity. The definition of integrity that we refer to is “steadfast adherence to a strict moral or ethical code” and can only be achieved by humans, not their institutions. We therefore must rely on the personal integrity of individual politicians, judges and bureaucrats for ethical behaviour as they run the institution we call government. Without personal integrity the greed and self interest of a controlling majority, or a vocal minority, can easily overwhelm the basic principles of honesty, fairness and the rule of law. That may, indeed, be what is happening in King County and the State of Washington as you contemplate these massive new regulations that will continue to enforce a vocal minority's vision on an even smaller minority, the rural landowners.

This is not the first time that government would be the willing accomplice in unethical acts. The federal government side-stepped well-developed common law principles with a series of treaties that effectively stole land from Native Americans. In the South, state and local governments created voting laws specifically designed to withhold voting rights and political power from African Americans. Washington State's Growth Management Act that is the force behind these new rules strips most of the rights of property ownership from rural property owners, making them second class citizens. All these acts have occurred because individual men and women running the government have been willing to lay aside their personal integrity and make an unethical choice.

Because of the schizophrenic way that the government of King County is organized, you as individuals find yourselves asked to codify into law what is, in fact, extremely unethical

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treatment of one small portion of your constituency. These proposals only effect the unincorporated areas of King County, unlike most of your legislation that is regional in nature. Most of you have few, if any, unincorporated constituents. It would be easy to put your integrity aside for a moment and vote for these new proposals. Your constituency will not be affected and most don't care or don't even know what is being proposed. Those of you who are Democrats are being asked to lay aside your integrity and vote with Ron Sims, the head of your political party, and his special interests.

If you do that, you will be continuing the Culture of Control and Conflict that has been tearing this county apart for years. The Cedar County movement was the result of the unethical bullying of rural King County by the urban King County elite. The merger of Metro and King County has only exacerbated the problems. The residents of unincorporated King County virtually have no local government. Incorporations and annexations have been happening at a rapid rate as people bail out of King County so that they have a local government that looks out for their interests. The rift becomes wider each day that King County departments such as DNRP and DDES force their urbancentric rules down the throats of rural residents at the point of the sheriff's gun.

The committee that reviewed the King County Charter in the mid 1990s recognized the enormous disconnect of King County's local government function from its unincorporated citizens. Three new things were thrown into that gap. Several existing community groups were brought under the County wing as "Unincorporated Area Councils." Not all of the unincorporated area is represented by an area council and the councils have no authority or responsibilities. They have served primarily as a way for King County to pretend that the unincorporated areas have some actual voice in their local affairs.

Unincorporated referendum and initiative were added to the charter at that time. They can be used when dealing with matters that only affect unincorporated King County. A referendum to undo these new proposals, should you pass them, would be a slam dunk in unincorporated King County. Unfortunately, the Washington Supreme Court has ruled that the GMA trumps local referendum rules for land use regulations. Since land use regulations are really the only matters that apply only in the unincorporated areas, unincorporated referendum and initiative are rendered impotent and are just one more wound to fester.

Who benefits from this adversarial environment and these massively inequitable new laws? Only the bureaucrats, lawyers, and consultants. How many additional permit dollars and

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new bureaucrats will be generated by these ordinances? What is the estimated increase in the budget of DDES, the principal author of and benefactor of these regulations? Why is the executive branch of government drafting law instead of the legislative branch? That violates the concepts of separation of powers that governments in this country are built around. DDES's budget is whatever they can extort from the citizens in fees for permission and fines for not obtaining permission to use our property. To have them crafting the regulations is lunacy. We are amazed that they have only come up with 500 or so pages. It benefits them directly, and no one else, to have a permit fee tied to every use of property in rural King County. Personal integrity at DDES has disintegrated steadily since they were taken off budget and allowed to spend whatever they can take in. DNRP collects hundreds of millions of dollars in surface water management fees and spends those dollars on staff, not flood control or wetlands purchase or conservation easements.

You have before you the issue that will have the largest impact on King County in this decade. It falls to you to decide if the Culture of Control and Conflict will continue in this County. We implore you to keep a firm grasp on your integrity and do what is right for the constituency affected by these rules. We agree that the current rules need to be changed, as they are in large part the cause of the existing conflicts. We would like you to take your time and actually repair this county, not continue to tear it apart.

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We begin our exploration of the details of these ordinances with some excerpts from Washington State's Growth Management Act that we believe that you should keep foremost in your mind as you consider and then vote on the ordinances before you.

RCW 36.70A.020 — Planning goals

- 1) **Urban growth.** Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- 2) **Reduce sprawl.** Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
- 3) **Transportation.** Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
- 4) **Housing.** Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.
- 5) **Economic development.** Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.
- 6) **Property rights.** **Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.**
- 7) **Permits.** Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.
- 8) **Natural resource industries.** Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.
- 9) **Open space and recreation.** Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.
- 10) **Environment.** Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.
- 11) **Citizen participation and coordination.** Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

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- 12) **Public facilities and services.** Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.
- 13) **Historic preservation.** Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

These goals call for the management of our state's [private](#) natural resources and land primarily for the public's benefit. That is a dramatic shift in policies from those of the founders of the United States and Washington as reflected in the Constitutions written by those founders. These goals reflect the will of the 1990 Washington legislature and governor, not the people. Initiative 547, upon which the GMA was based, was defeated 3 to 1 by the people. Only goals 4, 6 and 8 address any benefits of the actual landowner. While all of the GMA goals are supposed to guide comprehensive plans, there are no overt references to individuals' property rights in the mandatory elements for these plans. As a goal of growth management, protecting property rights has taken a backseat to attempting to contain sprawl and enhancing wildlife habitat. There is a clear tension between some of these goals and protection of the rights of individual property owners. It is your job to see that the legislation that you pass meets the intentions of the state law as set out in all the goals as well as meet the explicit statutory requirements of the law. You must also factor in the private property guarantees of both the federal and state constitutions as those guarantees take precedence over the GMA. We implore you to also do what is fair and just.

The GMA mandates that the Attorney General publish annually a guideline for local governments to use in reviewing GMA plans and, hopefully, avoid unconstitutional takings of private property. These guidelines assist "agencies which exercise regulatory authority impacting private property rights" through the identification of "warning signals" that can "determine whether a proposed regulatory action may violate a constitutional requirement." [See Appendix 1 for the complete text of that document.] The latest guideline was published in 1995. So much for state mandates! We ask that you pay special attention to paragraphs numbered 3, 4 and 11 in the "Warning Signals" section. Dedications of property such as 300-foot wetland buffers and 65% set-asides must be reasonable and proportional to the impacts from use. It does not seem to us that a variance of 300%, in wetland buffers for instance, from urban (100 feet) to rural (300 feet) is reasonable or proportional when applied to identical use of property.

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Please recognize that these regulations would be imposed upon property owners who, in many cases, have already been down-zoned out of 95% of their “reasonable investment-backed development expectations” when their zoning went from 1 unit per 9800 square feet to 1 unit per 5 acres. Pile on another 65% reduction and can we really say that they have not had a “Severe Impact” on their economic interest? While it may be possible for Ron Sims et al to morally justify anything that can be sneaked past the courts, are you ready to help him commandeer the moral low ground?

Recognize that there have been substantive rulings since the Attorney General’s document was prepared that narrow the scope of acceptable regulations. [See Appendix 2.] Also recognize that, though mostly ignored, the Washington Constitution does call for payment for damages to private property by government, not just outright physical takings as the Attorney General would lead you to believe. Property rights are guaranteed by our constitutions for valid reasons that have not changed in the years since those constitutions were drafted. Property rights are the bedrock upon which our other rights rest and without which we are simply pawns to be sacrificed by whomever has the power to rule us. Pragmatically, strong property rights are a key prerequisite for economic development in a market economy. Businesses only invest where the expected rate of return is sufficiently high to compensate for the risks that they face. Insecure property rights increase risks and decrease willingness to invest. Property rights in Washington State have been evaporating at a high rate in the last couple of decades. Businesses are leaving this state and taking their jobs with them. It is not an accident that we have our high unemployment rate while other states are rebounding.

You need to be aware that much of the “best available science” that the executive staff is using to justify these proposals is not seen as “best available science” by equally qualified independent scientists. That should concern you both personally and as a member of the Council. Any regulations that are based on faulty science are a violation of due process which is a violation of the Civil Rights Act which provides for serious penalties to those who enact the regulations. You can face prosecution personally for knowingly enacting laws, rules and regulations based on faulty science. Serious monetary consequences as well as jail time are possible. It is you, not executive staff, that will be held accountable for faulty science.

We understand that your job is not easy. The majority of you have very few constituents that own land that will be directly affected by the new regulations. We understand the pressure that you are under to provide possible benefits to your constituents via regulation of the land

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uses of those outside your districts. We call upon you to look for guidance from those Council members that have many constituents that are directly affected, just as they look to you for guidance in matters that mostly affect your district. It will take much moral and political courage for you to stand up to the special urban interests arrayed against rural landowners and make wise decisions concerning these ordinances.

RCW 36.70A.130 — Comprehensive plans -- Review -- Amendments.

- (1)(a) *Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. A county or city shall take legislative action to review and, **if needed**, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. A county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. **Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefore.** The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.*
- (3) *Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas. The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.*
- (4) *The department shall establish a schedule for counties and cities to take action to **review and, if needed, revise** their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chap-*

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ter. The schedule established by the department shall provide for the reviews and evaluations to be completed as follows:

- (a) **On or before December 1, 2004**, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

The GMA excerpts printed above clearly outline what you must do. The GMA requires a review but does not mandate an upgrade. You must make revisions only if the current regulations do not comply with the requirements of the chapter. You need only look to other counties and cities in the state, which must meet the exact same requirements, to understand that the current regulations of King County are in excess of what is required. There is no reason to rush to judgment.

The Art of Distraction

Modern politics is the art of creating a perceived crisis and then pretending that whatever you want to happen is the only possible solution. The nice thing about jousting imaginary windmills is that it distracts the voters from the fact that you are ignoring more difficult real problems. "Growth Management" is a perfect example. King County has been a very nice place to live and work and as that news spread around the country, people moved here. Growth is good for business and the economy boomed bringing even more immigrants. The increased population brings with it increased demand for the services that government is charged with providing.

Unfortunately, as fast as King County has grown, its bureaucracy has grown even faster and that bureaucracy is not organized to provide the necessary new services. It is geared towards pretending to fix perceived problems via study and meetings and the production of words on paper. The largest bureaucracy in King County, the Department of Natural Resources and Parks, is a prime example. Instead of providing service, they are busy divesting themselves of County Parks. One of their divisions, Water and Land Resources, receives many millions of dollars in surface water management fees to manage surface water. They spend most of the money they receive on bureaucrats and paper, not on-the-ground projects that would help manage the increased amounts of water from new development. When citizen pressure forced them to actually clean a clogged stretch of May Creek, the work cost \$141,000 to clean 256 feet of ditch. That is \$550 per foot compared to private sector estimates of \$3 per foot.

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Instead of using tax dollars to build roads and schools and sewers or pay for police and fire protection, we now use those dollars to pay for evermore bureaucrats. Human instincts for self-preservation are very strong. The bureaucrats have figured out that the way to keep the money themselves instead of paying contractors to do actual work is to simply force the work to be done by the citizens via regulation. Roads are no longer built by government but by those who develop property. It has gotten so bad that the bureaucrats and politicians have made it illegal for government to build infrastructure in King County. That is like making it illegal for the sherriff to arrest criminals or firefighters to put out fires!

Now that the bureaucracy has made it illegal to do part of what they were invented to do, how do they solve the problem of demand for those services? What is needed is a distracter to draw attention away from the fact that the bureaucrats are keeping all the money intended for services. The "smart growth" folks have conveniently manufactured the perfect distracter. By manipulating science and promoting a series of little green lies, they have managed to create the great green whopper that "sprawl" is destroying King County. The "smart growth" folks are trying hard to get their trains built so that they don't have to shell out the money for a car. As they get older, it gets harder and harder to pedal their bicycle to all the places they want to go. By legislatively forcing growth to where they live, they hope to some day have the density that justifies their trains.

As you consider the pros (there are only a few) and cons of these new regulations, keep in mind that the manufactured problem here is "growth" whereas the real problem is the unwillingness of the bureaucracy to provide the services required by that growth. The pretense of "saving" the environment has been manufactured to achieve what cannot be achieved directly. By accusing the rural citizens of destroying "nature" the focus is shifted away from the urban areas where the real destruction of nature has taken place. That may be good for those of you with a large urban constituency but it is patently unfair to the rural minority. Tyranny by the majority is not the vision of most who live in this county. Most people's reaction upon learning of the proposed ordinances is that these ordinances can't happen because we have laws against such blatant abuse of power. Unfortunately, many said that in 1990 when the current laws were imposed. The current ordinances were imposed and continue to destroy lives, property values and the environment in rural King County.

Lest you pass that last sentence off as an exaggeration, let us put some real faces with those claims. One life those laws have literally destroyed is that of young Summer Stone who

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was drowned when swept under a King County-placed large woody debris installation on the Cedar River. The efficacy of large woody debris has not been proven. Recent studies even indicate that it may do harm to fish habitat. It certainly is not worth the lives of our children. The loss of property values can be illustrated by the story of Marshall Brenden who owns property in the highlands east of Renton. Mr. Brenden purchased three lots totaling 18 acres. At the time of purchase, they were zoned for 9800-square-foot lots. In hindsight, Mr. Brenden should have subdivided immediately and created 80 lots but he did not. He decided to wait until he retired and had more time and his children were older and ready to build their own homes on the property. He mistakenly thought that King County would honor and protect the zoning that they had created. When the urban growth boundary was invented, it was gerrymandered around Mr. Brenden's property. His land touches that boundary but is on the rural side of the line. Mr. Brenden recently had to fight hard to get permission to build a house on his eight-acre lot. He was forced to set aside 4½ acres of that lot in order to get permission to build. Meanwhile, undeveloped five-acre lots within sight of Mr. Brenden's property but on the other side of the urban growth boundary are selling to developers for one million dollars. Mr. Brenden has lost three million dollars he was counting on for his retirement. He was planning on having land available for his children to build homes on. His American dream was sacrificed so that the smart growth proponents can attempt to justify their train and the bureaucrats can have an excuse for not providing any services. The May Valley Environmental Council has extensively documented the environmental destruction of May Creek due to the restrictions of the Sensitive Areas Ordinance. Agricultural land that began production in the late 1800s has been converted to swamp. Homes have been destroyed by the encroaching floodwaters that rise ever higher each year that May Creek is not maintained. The once-vibrant coho run is gone, victim of the clogged and silted channel. Erosion is rampant in the lower canyon area of May Creek. The bottom of the channel in the section that passes through Cliff Brouard's property has been lowered five feet in the fifteen years the Sensitive Areas Ordinance has been in place after having been stable in the forty preceding years.

Make no mistake: these new ordinances that purport to "save" rural King County have a very real destructive effect on the lives of rural property owners and the very environment they pretend to be saving.

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65% - 35% - 10%

The requirement forcing rural property owners to leave 65% of their land untouched and unmanaged is easily the most egregious of the proposed changes and the most blatant violation of private property rights. In his classic text *The Common Law*, Oliver Wendel Holmes describes property as having two fundamental aspects. The first is possession, which can be defined as control over a resource based on the practical inability of another to contradict the uses of the possessor. The second is title, which is the expectation that others will recognize rights to control a resource, even when it is not in immediate possession. He elaborates the differences between these two concepts, and proposes a history of how they came to be attached to individuals, as opposed to families or entities such as the church or the state.

According to Adam Smith, the expectation of profit from "improving one's stock of capital" rests on private property rights, and it is central to capitalism that property rights encourage the property holders to develop the property, generate wealth, and efficiently allocate resources based on the operation of the market. From this evolved the modern conception of property as a right, which is enforced by positive law, in the expectation that this would produce more wealth and better standards of living. You need only compare the United States to the rest of the world to understand how well that concept has worked. It is sad that as Russia and China work rapidly towards free-market capitalism, King County is working just as rapidly to institute its own brand of collectivism, at least in the rural areas of the County.

Socialism's fundamental belief is centered on a critique of private property rights, stating, in effect, that the cost of defending property is higher than the returns from private property ownership. This is a modern theory of property whose arguments are based on superior utility of result. Those superior results are yet to be achieved for any appreciable time or scale.

Communism argues that only collective ownership through a polity, though not necessarily a state, will assure the minimization of unequal or unjust outcomes, and that therefore all, or almost all, private property should be abolished. The results of that grand experiment are well documented. Two equal standards of living are established; a relatively high standard is achieved for the bureaucracy and ruling class while a much less robust standard is achieved for the majority of common folks. Hardly the desired outcome for a system promoted to minimize unjust outcomes.

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If you pass these ordinances with their 65% set-aside in place, you are removing ownership from the current landowner as surely as if you occupied the property and built a wall around it. Instead of guaranteeing the title (the construct that establishes ownership and control) to the property, which is supposed to be county governments' primary responsibility, [see the paragraph below that begins "We formed governments"] **you are bastardizing the concept of "title" to become the construct that removes ownership and control.** The landowner is left with no positive benefits of ownership of 65% of their property, only liabilities. The landowner must still pay property tax on property she cannot use. The landowner must carry liability insurance in case someone is injured on property over which she has no control. The landowner is left liable to implement whatever scheme the regulatory agencies concoct in the future. Since there is effectively no owner of the 65% portion, there is no way to prevent harm to the 35% portion emanating from the set aside area. We are referring to things like wildfires, flooding from blocked channels, noxious weeds, clandestine methamphetamine labs and homeless squatters. If the 65% were truly privately owned, common law would provide remedies to such problems. Landowners would, in fact, be better off if you simply expropriated the 65% and removed their liability for it.

We formed governments — federal, state, and local — in the United States in large part to provide for the common defense of property. Our Washington State Constitution begins:

ARTICLE I — DECLARATION OF RIGHTS

SECTION 1 — POLITICAL POWER

All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

"... governments ... are established to protect and maintain **individual rights.**" Protection of Individual rights, not collectivist rights, is government's job. That is your job as our elected representatives. If you are not going to do that job, but rather be the very entity from which we need protection, then we are better off with no government. The five hundred pages of new attacks on our uses of our properties fly in the face of the fundamental premise that this country, state, and county were built upon.

Do you really have enough faith in the intelligence, knowledge and good intentions of Ron Sims' bureaucrats to throw away 200 years of superior results and opt instead for a collectivist system? What if your ideological opponents should gain control of that system and

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suddenly say that “for the public good” Seattle and the other urban areas should be leveled and returned to 1850 conditions? The best available science argument for that solution is much stronger than the one that proposes “saving” just the rural area. The urban area is larger than the rural area and has a much more devastating effect on fish and wildlife.

The “smart growth” concept that says it is okay to live in cities and destroy “critical areas” as long as you force someone else to “save” their pristine critical areas is infantile rationalization and incredibly hypocritical. Forced environmentalism at the point of government’s gun is no different than state-mandated religion. There is probably more disagreement by scientists about the best available science of environmentalism than there is among theologians about mainstream religions. You are being asked to set policy for a few of us based on the faith of “scientists” employed by the bureaucracy, most of whom do not have property that will be affected. You are being asked to dramatically change the policies of ten years ago that were based on the faith of those same scientists. You will be asked in another seven years to once again change the rules based on changes in the faith of scientists within the bureaucracy. Real science is predictable and repeatable. It puts men on the moon, doubles life expectancy in a mere century, and finds the replacements for candles, whale oil and petroleum.

Most of environmental science, as it is currently practiced, is not repeatable and therefore cannot be predictive. It requires faith, primarily in statistics. Joel Best, author of the book *Damned Lies and Statistics*, gives us an interesting perspective of statistics:

“There are cultures in which people believe that some objects have magical powers; anthropologists call these objects fetishes. In our society, statistics are a sort of fetish. We tend to regard them as though they are magical, as though they are more than mere numbers. We treat them as powerful representations of the truth; we act as though they distill the complexity and confusion of reality into simple facts. We use statistics to convert complicated social problems into more easily understood estimates, percentages, and rates. Statistics direct our concern; they show us what we ought to worry about and how much we ought to worry. In a sense, the social problem becomes the statistics as true and incontrovertible; they achieve a kind of fetish-like, magical control over how we view social problems. We think of statistics as facts we discover, not as numbers we create.”

The estimates, percentages, and rates of statistics are the “ranges” that King County staff tell you in briefings are the message of science. They are not. They are the messages of statistics. They are no substitute for the facts themselves. Statistical analysis can be a useful tool to figure out where effort might be best placed in the search for scientific fact. Statistical analysis can identify possible correlation between events and actions, but only re-

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peatable, predictive science and true understanding should be considered when setting policy that will be enforced at the point of government's gun.

One problem with statistics is that the same set of statistics can be viewed from more than one perspective. During the Cold War, a two-car race (one American, one Soviet) took place. An American headline read "American car beats out Soviet competitor." A Russian newspaper headline read "Soviet car finishes second; American car is next-to-last." Much of the bureaucrats "best available science" is really just statistics with the Soviet slant applied.

Another problem that can creep into popular use of statistics is inappropriate extrapolation. Just because modern technology can identify solutions containing a few parts per trillion of some questionable compound, we cannot automatically extrapolate a crisis that requires more government intervention to solve. Mark Twain pointed out the problem rather humorously in his book *Life on the Mississippi*:

"Now if I wanted to be one of those ponderous scientific people, and 'let on' to prove what had occurred in the remote past by what had occurred in a given time in the recent past, or what will occur in the far future by what has occurred in the last year, what an opportunity here! In the space of one hundred seventy six years the Lower Mississippi has shortened itself two hundred forty five miles. That is an average of a trifle over one mile and a third per year. Therefore, any calm person who is not blind or idiotic, can see that in the Old Oolitic Silurian Period, just a million years ago next November, the Lower Mississippi River was upward of one million three hundred thousand miles long, and stuck out over the Gulf of Mexico like a fishing rod. And by the same token any person can see that seven hundred and forty two years from now, the Lower Mississippi will only be a mile and three-quarters long. **There is something fascinating about science. One gets such wholesale returns of conjecture out of such a trifling investment of fact.**"

We regret to inform you that, if anything, statistics are more misused now than they were in Mark Twain's day. They certainly proliferate at a higher rate. While listening to staff tell you what science says and what it dictates that you force others to do, you might ask yourself whether they are relaying scientific fact or merely their spin of the best available statistics that support their point of view. You might also ask if they are living their life based on the statistics they are promoting. Those who really believe in saving the rural area will have purchased five or ten acres and be well on their way to saving it via the policies they promote. When they tell you that they can't afford to do that, see item 6 of the list of Warning Signals of unconstitutional takings in Appendix 1.

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It is somehow ironic that those who live in the concrete jungle of Seattle and surrounding cities would demand that their rural neighbors have no more than 10% impervious surface. We are currently allowed 20% on 5-acre lots. If the urban area lived by the rules they promote, a typical one quarter acre building lot would be allowed 1,089 square feet of house, driveway, access easements, etc. That's about the size of a small three-car garage. Some people move to the country so that their neighbors will not hassle them if they have more cars than will fit in that three-car garage. DDES soon informs them that any and all vehicles must be parked on impervious surface. We think it has something to do with ensuring that the oil that might drip from the vehicle moves to the nearest stream as quickly as possible when it rains. Evidently the experts that thought up the rule don't want the oil broken down by the microbes that inhabit our lawns. It is all a neat Catch-22. The only way to have and enjoy cars is to be able to afford to house them indoors in the urban area on the 50% of the lot that has both impervious concrete and impervious roof. Cars are anathema to "smart growth" so we guess that it makes as much sense as forcing all the people into the city.

Buffers

Sixty-five percent set-asides are the camel's nose under the tent. Buffers are the whole camel. As you read this section, remember that buffers are not wetlands, aquatic areas, steep slopes, landslide hazard areas, or channel migration zones. They are the perfectly useable and productive lands that happen to be near such critical areas. They are being condemned not because of what they are but where they are.

The aquatic area and wetland buffers get most of the press but the real sleepers are the wildlife buffers. Imagine, if you will, owning a ten-acre rural lot on which a spotted owl chooses to procreate. Most rural folks (in the absence of stupid laws) would be very happy that Mrs. Owl had chosen to accept their hospitality and raise her kids in their tree. But, at the insistence of King County, Mrs. Owl will prevent their use of any of their ten acres. The prescribed buffer for a spotted owl nest is 986 acres. The only pragmatic solution for most landowners faced with such a situation is "shoot, shovel, and shut up." The actual effect of the regulation then becomes the exact opposite of what was intended as far as the owl is concerned. Entire valleys or hillsides will be made off limits to humans by a single bird. The same bird, by the way, nests in power line towers in New Mexico with nary a tree in sight.

The wildlife buffers range from the absurd 986 acres of the spotted owl to a mere 7.6 acres for a rural red-tailed hawk. Urban red-tailed hawks, such as Pale Male who has lived and

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raised his kids at 927 5th Avenue, New York City for the past 12 years, must get along without any buffers. Peregrine falcons such as the pair that have been nesting on the Washington Mutual Tower in Seattle since 1994, get 72 acres. That poor old osprey family that is nesting in the cell phone tower in Bellevue gets a piddling 3.8 acres.

Where rural landowners really start losing ground (no pun intended) is when King County starts connecting all the isolated buffers together into “wildlife corridors.” That concept is straight out of the Wildlands Project, a concept being pushed by former Earth First! leader Dave Foreman and Dr. Reed Noss. We quote directly from their web site:

“We are providing a science-based agenda for establishing large-scale wildlands networks. We’ve distilled the vast body of science generated by the disciplines of landscape ecology and conservation biology into their essence—if the goal of conservation action is to sustain Nature in all its buzzing, blossoming, howling glory, then: Bigger is better. Connected is critical. Carnivores are key. But even **large wilderness cores are not enough; to facilitate the flow of life across the entire landscape, these cores must be linked by corridors of wild habitat that allow the unimpeded movement of wildlife and natural processes such as wildfire and spring floods.**”

The science director of the Wildlands Project is Reed Noss. His writings are included in the volume of Best Available Science provided by King County bureaucrats as justification for their proposals. He is defended vigorously by them in the “Official King County Response to Comments For Critical Area Ordinances, 2nd Round,” page 54. Dr. Noss has designed the science of the Wildlands Project to be consistent with their mission statement:

“The mission of the Wildlands Project is to protect and restore the natural heritage of North America through the establishment of a connected system of wildlands. The idea is simple. To stem the disappearance of wildlife and wilderness we must allow the recovery of whole ecosystems and landscapes in every region of North America. Recovery on this scale will take time—100 years or more in some places. This vision for continental renewal rests on the spirit of social responsibility that has built so many great institutions in the past and acknowledges that the health of our society and its institutions depends on wildness. The land has given much to us; now it is time to give something back—to allow nature to thrive once more and to restore the links that will sustain both wilderness and the foundations of human communities.”
[http://www.twp.org/inside_wp/index_mission.html]

Key to the implementation of the Wildlands Project is the return of large meat-eating predators to the landscape as stated in their “Vision”:

“We are ambitious: we live for the day when grizzlies in Chihuahua have an unbroken connection to grizzlies in Alaska; when wolf populations are restored from Mexico to the Yukon; when vast forests and flowing prairies again thrive and support their full as-

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semblage of native plants and animals; when humans dwell with respect, harmony, and affection for the land; when we come to live no longer as conquerors but as respectful citizens in the land community.”

Dr. Noss himself has said, "Many ecologists (myself included) would just as soon see huge areas of land kept off limits to human activities of any kind." (Noss, R. 1995. Maintaining Ecological Integrity in Representative Reserve Networks, World Wildlife Fund Canada Discussion Paper. p. 12.) "The **only hope of the Earth** is to withdraw huge areas as inviolate natural sanctuaries from the depredations of modern industry and technology. **Move out the people and cars. Reclaim the roads and the plowed lands.**" [Dave Foreman in his 1990 book, *Confessions of an Eco-Warrior*] "**Does all the foregoing mean that Wild Earth** [the official magazine of The Wildlands Project] **and The Wildlands Project advocate the end of industrialized civilization? Most assuredly. Everything civilized must go...**" [John Davis, editor of Wild Earth magazine]

Is The Wildlands Project also the "Vision" of King County? It may be the vision of the bureaucrats and Mr. Sims, but we don't believe it is the vision of the majority of the voters in King County. We know for sure it is not the vision of the residents of rural King County where these rules will actually apply.

Viewed against the backdrop of the wildlife buffers, the aquatic areas and wetland buffers of 165 feet and 300 feet respectively, seem almost innocuous. That is hardly the case. Consider that a typical one-acre bog or fen will consume an additional 11.5 acres of perfectly useable land for its buffer. A two-foot wide fish-bearing stream will consume an additional 330 feet of buffer plus two additional 15-foot no-development zones.

The disparity between the size of the buffers in the rural areas as opposed to the urban areas is criminal. King County bureaucrats would like you to believe that the Growth Management Act's requirement for Best Available Science (BAS) to be used when setting land use regulation is responsible for the disparity. That is not true and they even admit it in the fine print. See page 39 of the Official King County Response to Comments For Critical Areas Ordinances, 2nd Round (KCRC) for the following quote, "Best available science is the process of identifying the current, most applicable (to King County conditions) science from a wide range of literature and its findings. Best available science (**BAS**) **does not differentiate between rural and urban areas.**" The truth is that science does indeed differentiate between poor quality watersheds as commonly found in urban areas and better quality watersheds as commonly

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found in rural areas. "Critical area protection is particularly necessary in watersheds of poor environmental quality," – KCRC page 18. "... **for wetlands in general within an urbanizing area, BAS suggests that wetland functions will definitely decline** with only fixed buffers of 25 to 100 ft." – Best Available Science, Volume II, page 2-55.

The proposed ordinances include a map of King County Basin Conditions. The map shows that the basin conditions of the far western portions of King County are low. These are generally the urban areas. The basin conditions of the eastern portions of King County are high. These are generally rural areas. If the intent of the ordinances were to protect and enhance the environment, restrictions would be strengthened on the urban areas where the condition of the basins is low. Restrictions would be maintained constant, or relaxed, on the rural areas where the condition of the basins is high. Instead the ordinances keep restrictions in urban areas essentially constant and greatly increase the restrictions in rural areas.

From the King County web site news for May 27, 2004 we read:

"Among smaller monitored lakes, the rural lakes were in the best condition, with 62.5 percent of them classified in very good condition, and just 37.5 percent in moderate condition. None were in poor condition. About 20 percent of city and non-city "urban" lakes were in poor condition, while half were classified in moderate condition, and one-third were in very good condition."

So the urban areas where the worst environmental damage has occurred get the least costly regulations while the rural areas where the landowners have taken the best care of their land get stuck with the regulations that cost the most. If BAS didn't decide that, who did? **It was decided by** the Critical Areas Ordinance Policy Group – **Stephanie Warden**, Director, DDES; **Wally Archuleta**, Managing Engineer, DOT; **John Briggs**, Deputy Prosecutor; **Linda Dougherty**, Division Director, DOT; **Daryl Grigsby**, Division Director, DNRP; **Mark Isaacson**, Assistant Director, DNRP; **Joe Miles**, Division Director, DDES. Guess where they live? The rules certainly won't affect their properties.

While property owners in the rural area are forced to give up 65% of their property and live with massive regulation of the rest, the urban majority of this democracy enjoy the fruits of the environmental destruction of their critical areas. Their house values continue to rise, their businesses and industries continue to thrive, and taxes paid by rural residents help them to build new infrastructure. People from around the world flock to the cities of King County where they can enjoy all the benefits of urban life while being only steps away from communing with

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nature in the wonderful open space their rural servants are forced to provide. Seattle is the only city in the world where you can move to the city to enjoy the country.

It is a sad day to be in the rural minority in King County. After a long history of providing the food, coal, and timber to make Seattle and its sister cities of King County what they are, rural residents are being made to appear the villains in order to assuage the environmental guilt of the urban elite and justify the malfeasance of the bureaucracy. It makes us yearn for a good king or benevolent dictator.

Meanwhile, the currently evolving science of buffers is finding that no-touch buffers are, in fact, harmful. If you don't have time to read the review of best available science in Appendix 4 of this document, make the short drive out to May Valley. Fifteen years of no-touch buffers there have obliterated the once plentiful run of coho salmon that were planted there in 1939 by the Issaquah hatchery. Dredging of that valley by the WPA in 1939-40 changed May Creek into a year-around stream and uncovered the gravel necessary to support spawning. The fish flourished while the landowners were able to manage their riparian areas. The Sensitive Areas Ordinance in 1990 and the no-touch buffers mandated by that law have turned May Creek into a vegetation- and sediment-choked swamp that no longer supports a coho run of more than a handful. No-touch means noxious weeds such as reed canary grass and blackberries dominate. Wet areas become willow swamps. The willow grows in and across the channel, traps any sediment coming downstream and turns the cool flowing stream needed by salmon into a warm-water swamp. The preceding is not conjecture or hypothesis. It is exactly what has happened in numerous watersheds in King County as a result of the current regulations. The bureaucrats are correct when they say the regulations need to be changed, but the restrictions need to be eased to allow better management, not added to, as proposed. No-touch in the drier areas means voluminous scrub/shrub growth interspersed with noxious, invasive weeds and the increased likelihood of wildfires.

Science: The Good, The Bad and The Quasi

When governments make traditional uses of private property illegal, organizations such as ours are born. The executive departments would like you to believe that science is on their side. The Growth Management Act requires counties and cities to "include" the best available science in developing policies and regulations that deal with critical areas.

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“RCW 36.70A.172

Critical areas -- Designation and protection -- Best available science to be used.

(1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.”

It does **not** require that such science be the only substantive item used in developing those regulations. Social, economic, political, and legal considerations should carry as much or more weight than science and are in fact required by the same law. Those other aspects are conspicuously absent in King County’s currently proposed Critical Areas Ordinance.

“**Science** \Sci"ence\, n. [F., fr. L. scientia, fr. sciens, -entis, p. pr. of scire to know. Cf. Conscience, Conscious, Nice.] 1. Knowledge; knowledge of principles and causes; ascertained truth of facts.

“2. Accumulated and established knowledge, which has been systematized and formulated with reference to the discovery of general truths or the operation of general laws; knowledge classified and made available in work, life, or the search for truth; comprehensive, profound, or philosophical knowledge.

“3. Especially, such knowledge when it relates to the physical world and its phenomena, the nature, constitution, and forces of matter, the qualities and functions of living tissues, etc.; -- called also natural science, and physical science.

“Note: Science is applied or pure. Applied science is a knowledge of facts, events, or phenomena, as explained, accounted for, or produced, by means of powers, causes, or laws. Pure science is the knowledge of these powers, causes, or laws, considered apart, or as pure from all applications. Both these terms have a similar and special signification when applied to the science of quantity; as, the applied and pure mathematics. Exact science is knowledge so systematized that prediction and verification, by measurement, experiment, observation, etc., are possible. The mathematical and physical sciences are called the exact sciences.”

Source: *Merriam-Webster Medical Dictionary*, © 2002 Merriam-Webster, Inc.

“Real science” to most of us is knowledge and understanding gained via the formal procedure known as the scientific method. It proceeds in an orderly fashion from observation to hypothesis to experiments. The results of the experiments lead either to a changed hypothesis or to the hypothesis becoming theory and thus a usable basis for human management or applied technology. Real science is predictive and testable and repeatable. It puts men on the moon and food on our tables.

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There is simply not enough real science available to make relevant land use decisions based solely on science. There is neither the time nor the money to develop that science. The very nature of land uses and the infinite variety of variables involved make repeatability impossible. Data gained from one area under one set of circumstances may not be relevant in similar but different areas. Often the variables that cause the disconnect are obvious even to laymen and cause the original science to be labeled “junk science” when it is indiscriminately applied.

Since there isn't much applicable real science, land use planners are left using a second level of science based upon observational studies and surveys. Such observational studies can prove helpful but caution must be used when writing regulations based upon them as they can never be truly predictive of outcomes. King County **loves** studies. We have heard Pam Bissonette expound at length to the state legislature about how much money DNRP spends to commission them.

Because observational science is not good at predicting outcomes, any regulations based on that science must be reviewed regularly and modified appropriately to have any chance of success. King County is proposing massive new regulation in the Critical Areas Ordinance without even pretending to review the effects and outcomes of the current law.

The limitations of available real science are bad enough without ignoring the good science that is available. The Washington State Office of Community Development publishes a document called “Citations of Recommended Sources of Best Available Science” for cities and counties to use when complying with the GMA. Dr. James Buell reviewed the latest edition and had this to say. “Of more than 80 annotated sources having to do with fresh water and riparian systems and wildlife habitats, including uplands, a mere handful would qualify as ‘science’. However, there are many valid and applicable scientific studies ‘out there’, which should have been included in this annotated bibliography. This list is anything but a comprehensive collection of Best Available Science”. Other credible scientists have made similar statements about the science listed as the basis for the CAO. The people who work for King County are human and have agendas of their own. They obviously have been unable to resist the temptation to wrap themselves in the cloak of scientific credibility in order to achieve their personal political agendas.

One of the traps that King County seems to have fallen into is the use of reviews and compendiums as their science instead of using the source documents of those who actually did the research. The Washington Department of Fish and Wildlife publishes a document enti-

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tled "Management Recommendations for Washington's Priority Habitats: Riparian" which illustrates this problem well. This document is the buffer bible. It contains a table that purports to give the buffer widths needed to accomplish various desirable outcomes and lists the source documents used. Unfortunately, it has three major problems:

It averages the buffer widths from the various source documents. There is no scientific or technical basis for the use of averaging. The best way to use the research is to choose one or more scientific studies which apply particularly well to the site-specific resources involved and use those studies for guidance.

The title of the table is "Riparian habitat buffer widths needed to retain various riparian habitat functions." But the values in the table are actually the maximum distances studied, and are nearly always significantly in excess of that required for complete or nearly complete protection of 100% of fish and wildlife needs.

The majority of studies relied upon in the table focused on old-growth and late successional forests, but the riparian buffer restrictions in the CAO will apply almost entirely to second- and third-growth wooded lands or agricultural, urban, or industrial areas. Even properly arrived at conclusions from such studies would only be applicable if the objective is that the regulated lands ultimately evolve into old-growth areas; the forest primeval, if you will. Is that how you envision our land ending up?

King County's misuse of the science is blatantly political. It does not stand up to even cursory examination by private sector experts. As Dr. Teresa Zeitler says in her technical review of the CAO: "'Best Available Science' does not mean indiscriminate application of scientific studies to situations where they don't apply. That's 'Bad Science'" She further states that King County's efforts at Best Available Science "truly represent no more than the equivalent of a high school or undergraduate book report."

Dr. Michael Crichton, who arguably writes and speaks better than most scientists, presented a lecture on January 17, 2003, that outlines his observations of how hard science and public policy have degenerated to the sad state they find themselves in today. His lecture is titled "Aliens Cause Global Warming" and should be read at this point as it will be referred to in future text. It is included in Appendix 3.

Perhaps a look at "Best Available Science, Volume I, A Review of Science Literature" would be instructive. The large wetland buffers being proposed for rural King County are one

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of the more contentious points. Open BAS, Volume I to page 9-5 and start reading as we pull a few quotes from that and succeeding pages.

“In general, the scientific literature on buffers is clear and consistent in that there are three primary factors that are critical in determining adequate buffer widths: (1) type of wetland and functions it provides; (2) type of adjacent land use; and (3) characteristics of the buffer (McMillan 2000, per. com.). Consequently, **wide ranges of buffer widths are recommended by scientists** and engineers for the protection of wetlands and respective functions (Brown et al. 1990; Castelle et al. 1992a; Castelle et al. 1994; McMillan 2000).

“Recent literature **suggests** that buffers alone, although important to help minimize impacts, might be **insufficient to fully safeguard** all the varied functions (Correll 1997; McMillan 2000; Thom et al. 2001). Buffer **effectiveness and benefits also have been found to vary** depending on their widths, vegetation, wetland functions, and geographic context (Castelle et al. 1992). Specifically, wetland hydrology, groundwater re-charge/discharge and plant and animal habitat functions may not be well protected by buffers alone because these functions are in large part driven by adjoining area and larger watershed conditions (Reinelt et al. 1998; Azous and Cooke 2001; Richter and Azous 2001b).

“Under some rare circumstances in which buffers have erosive soils and little or no vegetation, **buffers may even be detrimental**, in that they may provide sediment sources to lakes, ponds, and wetlands as opposed to removing them (Dillaha and Inamdar 1997).

“Also, **not all wetland species benefit from buffers that are wooded**. Most shorebirds, for example, shun small wetlands surrounded by trees (Adamus pers. com.) although other species indigenous to the local area would benefit from forested buffers.

“**Many questions remain unanswered regarding the appropriate width, use, and adequacy of buffer zones** (Addiscott 1997). Most **wetland buffers implemented through development regulations** assume that a given type of wetland will support a mix of functions. This assumption **may result in homogenizing wetlands, making it unlikely individual wetlands will continue to sustain any superior or unique functions over time**. Moreover, fixed buffer protection freezes current wetland conditions (or historic conditions) rather than acknowledging that wetlands are dynamic evolving systems in which both short and long-term natural processes combine to create an array of functions that vary over time.

“Currently there are no guarantees of transitional areas between buffers and surrounding land use to minimize “edge effect.” Abrupt edges therefore enable predators (of woodland birds such as cowbirds) to access nests etc.” [What is a buffer if not a transitional area between land uses?]

Does this material sound like it backs up the words of staff when they say to you, “The science says 300-foot buffers are the minimum for category 1 wetlands?” They don’t even have the consensus that Dr. Crichton ridiculed, let alone the repeatable, predictive attributes

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demanded by real science! Let's look somewhere else in case this section is just a big mistake. Turn to page 8-28 and follow along as we quote some of the verbiage about red-tailed hawks. Remember that the buffer for a rural red-tailed hawk nest is 7.6 acres.

“The red-tailed hawk is the most frequently seen large hawk in the Pacific Northwest. Red-tailed hawks **occur and breed in every county in Oregon and Washington** (Gabrielson and Jewett 1940; Jewett et al. 1953; Larrison and Sonnenberg 1968; all as cited in Jackman and Scott 1975). It is the only large buteo regularly found west of the Cascades and is the most abundant one east of them (Jackman and Scott 1975). However, **there are no estimates of population numbers or densities for these regions.**

“Robbins et al. 1986 (as cited in Preston and Beane 1993) report that **breeding populations of redtailed hawks increased during the period 1965-1979 in nearly all regions of North America**, especially Ohio, Kentucky, Wisconsin, Minnesota, California, and British Columbia.

“Nest site characteristics for this species vary widely with vegetation and topography. Preston and Beane (1993) note that “common characteristics of all sites include an unobstructed access to nests from above and a commanding view of the adjacent environment.” **Nest sites are often tall and in open areas** and often close to water. They also note that “typically, several nests from previous years are visited by both members of the pair. Two or more nests are often repaired, and greenery may be placed on these before a single nest is finally chosen (Bent 1937).” **[So rural property owners are going to be asked to give up 7.6 acres for a nest that is not being used!]** Janes (1994) found that “red-tailed hawks abandoned areas with perches at moderate densities (0.3-0.6 perch/ha) more often than expected by chance while preferentially retaining areas with greater perch densities.”

“Stout et al. (1998) described and compared red-tailed hawk nesting habitat in urban, suburban, and rural locations in southeast Wisconsin. They found that **productivity** (defined as one or more fledglings that survive to bandable age, or 20-35 days) **did not differ among urban, suburban, or rural nest sites used by breeding red-tails.**

“Janes (1984b) evaluated the effects of human activity on red-tailed hawks nesting in north-central Oregon by classifying territories as (1) with and without dwellings, (2) with and without paved roads, and (3) with nests placed within 656.2 ft (200 m) of roads, or not so placed. **He reported that “normal human activity” (defined as the presence of dwellings or frequently traveled roads) did not affect red-tailed hawk reproductive success, that the presence of dwellings or frequently traveled roads or the location of nests near roads had no significant effects.** He did not, however, study the effects of more obtrusive activities such as clearing and grading.” [So we are to assume that he would have found significant effects from those activities? Come on. That last sentence is pure deceit.]

“Few studies have documented the response of red-tailed hawks to development, especially in the Pacific Northwest.

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“A study in New York by Minor et al. (1993) showed that nesting densities of red-tailed hawks in an urban/suburban area did not differ statistically from nesting densities in other studies from non-urban areas. Furthermore, there was no significant difference between the mean productivity of the non-urban studies and the mean productivity in this study. The implication of these two sets of statistics is that with adequate nest sites, red-tailed hawks can maintain populations alongside human-made habitat conditions.

“Unpublished data by an informal [Why even read any further?] King County monitoring study indicate that buffers of 25-150 ft are not adequate to protect nesting red-tailed hawks. Eleven nests were observed prior and subsequent to clearing and grading with buffer establishment. The fate of two nests went undetermined, one nest was destroyed during building, and two nests remained successful where construction plans were abandoned. The six remaining nests were all deserted.” **[Would it be possible to infer that maybe the hawks are simply smart enough to move to a new neighborhood while theirs is under construction?]** “In five of these instances, a buffer ranging between 25 and 150 ft was set, and in two of those cases, the actual buffer was significantly smaller (81 versus 150 ft, and 50-75 versus 150 ft). The sixth nest had no development activity within 650 ft; as with the other nests, it is unknown if the construction activities were the sole cause of nest abandonment. It is also unclear at what time frame construction activities were occurring; however, best times for construction tend to coincide with nesting.”

Are you starting to see a pattern? If you don't read the words, staff will be happy to tell you something that isn't supported even by the quasi-science being used. They are really proposing a multi-billion dollar science project funded by rural landowners in the hopes that they can somehow find some real science to support their coercive utopian vision for rural King County.

UW professor Dr. Robert G. Lee, in his book *Broken Trust, Broken Land: Freeing Ourselves from the War over the Environment*, states the following, “This book is a search for truths about how Americans are losing themselves in their attempt to solve environmental problems...I want to show how values and beliefs are embedded in much that passes as ecology, environmental science, or social science. I also want my readers to understand that conflicts over the environment are primarily moral and political issues...”

Environmental land use regulation is about governmental abuse of our property rights, not science. Forbidding our use of 65% of our land is not science, it is government gone crazy. There is no science exception to the Fifth Amendment or Article 1, Section 16 of the Washington State Constitution.

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If you want to read about science that actually meets the criteria of WAC 365-195-905 "Criteria for determining which information is the 'best available science'," we have included a literature review and bibliography as Appendix 4. If you pass these ordinances as written, you will not be able to claim you did not have access to appropriate science when the lawsuits rain down.

The WAC provides for the possibility of inadequate scientific information to support regulations.

“WAC 365-195-920 Criteria for addressing inadequate scientific information.

Where there is an absence of valid scientific information or incomplete scientific information relating to a county's or city's critical areas, leading to uncertainty about which development and land uses could lead to harm of critical areas or uncertainty about the risk to critical area function of permitting development, counties and cities should use the following approach:

“(1) A "precautionary or a no risk approach," in which development and land use activities are strictly limited until the uncertainty is sufficiently resolved; and

“(2) As an interim approach, an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions achieve their objectives. Management, policy, and regulatory actions are treated as experiments that are purposefully monitored and evaluated to determine whether they are effective and, if not, how they should be improved to increase their effectiveness. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. To effectively implement an adaptive management program, counties and cities should be willing to:

“(a) Address funding for the research component of the adaptive management program;

“(b) Change course based on the results and interpretation of new information that resolves uncertainties; and

“(c) Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting critical areas protection and anadromous fisheries.”

King County has been following option number 1 with disastrous consequences. It is time to follow option number 2. You could, in fact, treat rural King County as the large science project that Mr. Sims and his staff seem to be promoting. That experiment should be paid for by all the residents of the County, not just the landowners whose property uses are being confiscated in the name of science.

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Farm and Rural Stewardship Plans

Farm and rural stewardship plans are being touted by Staff as the way around the onerous fixed regulations. They are touted as being highly flexible, allowing substantial reductions in buffer width, for example, or providing the ability to clean a ditch without a Clearing and Grading permit. As with most things, the devil is in the details. And we don't have any; details that is!

The details of the requirements for such plans will only be determined after the ordinances are passed. They will be in the form of "public rules" that will be written by DNRP and DDES. That is in direct violation of state law.

"D. Except for other agencies with authority to implement specific provisions of this title, the department shall have the sole authority to issue official interpretations ((~~of~~)) and adopt public rules to implement this title, ((~~pursuant to~~)) in accordance with K.C.C. chapter 2.98."

The paragraph quoted above is from the top of page 8, "CAO Transmittal Package Part 1." DDES has added a significant underlined phrase to the text that is located in Section 2 – Administration and Review Authority:

The chapter 2.98 compliance wording has not, in the past, prevented DDES' public rules from, in actuality, being new official land use controls. The executive's new proposals offer unlimited scope for DDES to completely control private land use in unincorporated King County, particularly in the Rural Area.

You should read carefully the Planning Enabling Act, RCW.36.70.020.11 and 36.70.550 through 670 [reprinted below]. These RCW sections specifically state that anything and everything that constitutes land use management is an "official control", and that all such controls must be legislatively adopted. And, that legislative responsibility can not be delegated to anyone, including the administrative branch. Official controls must be adopted by ordinance, not by public rule. Public rules are valid only when adopted under the oversight of the legislative body.

"RCW 36.70.020 - Definitions

2 "Board" means the board of county commissioners.

4 "Commission" means a county or regional planning commission.

8 "Department" means a planning department organized and functioning as any other department in any county.

11 "Official controls" means legislatively defined and enacted policies, standards, precise detailed maps and other criteria, all of which control the physical development of a county or any part thereof or any detail thereof, and are the means of translating into

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regulations and ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and adoption of detailed maps.

“RCW 36.70.550 - Official controls.

From time to time, the planning agency may, or if so requested by the board shall, cause to be prepared official controls which, when adopted by ordinance by the board, will further the objectives and goals of the comprehensive plan. The planning agency may also draft such regulations, programs and legislation as may, in its judgment, be required to preserve the integrity of the comprehensive plan and assure its systematic execution, and the planning agency may recommend such plans, regulations, programs and legislation to the board for adoption.

“RCW 36.70.560 - Official controls — Forms of controls.

Official controls may include:

- 1 Maps showing the exact boundaries of zones within each of which separate controls over the type and degree of permissible land uses are defined;
- 2 Maps for streets showing the exact alignment, gradients, dimensions and other pertinent features, and including specific controls with reference to protecting such accurately defined future rights of way against encroachment by buildings, other physical structures or facilities;
- 3 Maps for other public facilities, such as parks, playgrounds, civic centers, etc., showing exact location, size, boundaries and other related features, including appropriate regulations protecting such future sites against encroachment by buildings and other physical structures or facilities;
- 4 Specific regulations and controls pertaining to other subjects incorporated in the comprehensive plan or establishing standards and procedures to be employed in land development including, but not limited to, subdividing of land and the approval of land plats and the preservation of streets and lands for other public purposes requiring future dedication or acquisition and general design of physical improvements, and the encouragement and protection of access to direct sunlight for solar energy systems.

“RCW 36.70.570 - Official controls — Adoption.

Official controls shall be adopted by ordinance and shall further the purpose and objectives of a comprehensive plan and parts thereof.

“RCW 36.70.580 - Official controls — Public hearing by commission.

Before recommending an official control or amendment to the board for adoption, the commission shall hold at least one public hearing.

“RCW 36.70.590 - Official controls — Notice of hearing.

Notice of the time, place and purpose of the hearing shall be given by one publication in a newspaper of general circulation in the county and in the official gazette, if any, of the county at least ten days before the hearing. The board may prescribe additional methods for providing notice.

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“RCW 36.70.600 - Official controls — Recommendation to board — Required vote.

The recommendation to the board of any official control or amendments thereto by the planning agency shall be by the affirmative vote of not less than a majority of the total members of the commission. Such approval shall be by a recorded motion which shall incorporate the findings of fact of the commission and the reasons for its action and the motion shall refer expressly to the maps, descriptive and other matters intended by the commission to constitute the plan, or amendment, addition or extension thereto. The indication of approval by the commission shall be recorded on the map and descriptive matter by the signatures of the chairman and the secretary of the commission and of such others as the commission in its rules may designate.

“RCW 36.70.610 - Official controls — Reference to board.

A copy of any official control or amendment recommended pursuant to RCW [36.70.550](#), [36.70.560](#), [36.70.570](#) and [36.70.580](#) shall be submitted to the board not later than fourteen days following the action by the commission and shall be accompanied by the motion of the planning agency approving the same, together with a statement setting forth the factors considered at the hearing, and analysis of findings considered by the commission to be controlling.

“RCW 36.70.620 - Official controls — Action by board.

Upon receipt of any recommended official control or amendment thereto, the board shall at its next regular public meeting set the date for a public meeting where it may, by ordinance, adopt or reject the official control or amendment.

“RCW 36.70.630 - Official controls — Board to conduct hearing, adopt findings prior to incorporating changes in recommended control.

If after considering the matter at a public meeting as provided in RCW [36.70.620](#) the board deems a change in the recommendations of the planning agency to be necessary, the change shall not be incorporated in the recommended control until the board shall conduct its own public hearing, giving notice thereof as provided in RCW [36.70.590](#), and it shall adopt its own findings of fact and statement setting forth the factors considered at the hearing and its own analysis of findings considered by it to be controlling.

“RCW 36.70.640 - Official controls — Board may initiate.

When it deems it to be for the public interest, the board may initiate consideration of an ordinance establishing an official control, or amendments to an existing official control, including those specified in RCW [36.70.560](#). The board shall first refer the proposed official control or amendment to the planning agency for report which shall, thereafter, be considered and processed in the same manner as that set forth in RCW [36.70.630](#) regarding a change in the recommendation of the planning agency.

“RCW 36.70.650 - Board final authority.

The report and recommendation by the planning agency, whether on a proposed control initiated by it, whether on a matter referred back to it by the board for further report, or whether on a matter initiated by the board, shall be advisory only and the final determination shall rest with the board.

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“RCW 36.70.660 - Procedures for adoption of controls limited to planning matters.

The provisions of this chapter with references to the procedures to be followed in the adoption of official controls shall apply only to establishing official controls pertaining to subjects set forth in RCW 36.70.560.

“RCW 36.70.670 - Enforcement — Official controls.

The board may determine and establish administrative rules and procedures for the application and enforcement of official controls, and may assign or delegate such administrative functions, powers and duties to such department or official as may be appropriate.”

Years ago one of our members was involved in a hearing examiner case in which what was then called BALD [Building and Lands Development – now DDES] admitted to not following correct procedure in the adoption of public rules. She was also involved in a Court of Appeals case in which King County’s ability to deny short plats unless the applicants constructed a mile of public road, was denied. BALD was so anxious that the case not set a precedent, due to a footnote by the court about an unconstitutional taking, that they asked the landowners to join with the county and ask for non-publication of the case so that no precedent could be set. In return the county would not appeal to the Supreme Court and would go ahead and process the short plats. Since the landowners just wanted their short plats, they agreed. The point is, in the past BALD/DDES has not been punctilious about following rules. The Council should keep the control it is allocated by state law.

Force DNRP and DDES to publish the full text of the requirements that farm and stewardship plans will have to comply with now. Let there be debate. If the plans really are an improvement over the fixed regulations, have them prove it. If they are the giant “Gotcha” requiring 85% native vegetation retention as reported by Harry Reinert, you need to know that before you vote.

Critical Aquifer Recharge Areas (CARA)

Official research discloses no significant environmental impacts from hundreds of years of indiscriminate, unsupervised land uses in unincorporated King County. King County's Comprehensive Plan states that, with the exception of a stretch of the Duwamish River, which still supports one of the state’s major salmon runs, "All rivers and streams in the County are classified either A (excellent) or AA (extraordinary)." The area's water quality meets all the primary

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and secondary state and federal drinking water standards, according to the Redmond-Bear Creek Ground Water Management Plan (RBC), which also says that "There has not been a reported incident of groundwater contamination related to pesticides or fertilizer practices in King County". After all those years of unregulated land practices that resulted in no contamination, now - with extreme downzoning and massive regulation - this new Critical Areas Ordinance drops this huge load on us.

At the ag hearing on the CAO, responsibility for regulatory requirements was attributed to state and federal government regulations. The RBC is very enlightening as to the role King County plays in higher-level government requirements: "King County and cities will jointly petition Ecology to designate Ground Water Management Areas as Environmentally Sensitive Areas. . ." Since CARA includes home heating oil tank super-controls, another RBC quote is pertinent: "Local jurisdictions are prohibited by Chapter 90.76 RCW from assessing additional annual tank fees unless an Environmentally Sensitive Area is designated." So now King County will have a new sensitive, or critical, area to slap us with. And slap it does, even though it ignores another state law, RCW 36.36.020, which **requires resident citizens to vote to create aquifer protection districts:**

“RCW 36.36.020

Creation of aquifer protection area -- Public hearing -- Ballot proposition.

The county legislative authority of a county may create one or more aquifer protection areas for the purpose of funding the protection, preservation, and rehabilitation of subterranean water.

“When a county legislative authority proposes to create an aquifer protection area it shall conduct a public hearing on the proposal. Notice of the public hearing shall be published at least once, not less than ten days prior to the hearing, in a newspaper of general circulation within the proposed aquifer protection area. The public hearing may be continued to other times, dates, and places announced at the public hearing, without publication of the notice. At the public hearing, the county legislative authority shall hear objections and comments from anyone interested in the proposed aquifer protection area.

“After the public hearing, the county legislative authority may adopt a resolution causing a ballot proposition to be submitted to the registered voters residing within the proposed aquifer protection area to authorize the creation of the aquifer protection area, if the county legislative authority finds that the creation of the aquifer protection area would be in the public interest. The resolution shall: (1) Describe the boundaries of the proposed aquifer protection area; (2) find that its creation is in the public interest; (3) state the maximum level of fees for the withdrawal of water, or on-site sewage disposal, occurring in the aquifer protection area, or both; and (4) describe the uses for the fees.

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“An aquifer protection area shall be created by ordinances of the county if the voters residing in the proposed aquifer protection area approve the ballot proposition by a simple majority vote. The ballot proposition shall be in substantially the following form:

"Shall the . . . (insert the name) aquifer protection area be created and authorized to impose monthly fees on . . . (insert "the withdrawal of water" or "on-site sewage disposal") of not to exceed . . . (insert a dollar amount) per household unit for up to . . . (insert a number of years) to finance . . . (insert the type of activities proposed to be financed)?

“Yes.
No ”

“If both types of monthly fees are proposed to be imposed, maximum rates for each shall be included in the ballot proposition.

“An aquifer protection area may not include territory located within a city or town without the approval of the city or town governing body, nor may it include territory located in the unincorporated area of another county without the approval of the county legislative authority of that county.”

Note that this is a fund-raising scheme. The RCW says nothing about actually protecting any aquifers!

“The majority of county land is probably a groundwater recharge area.” (BAS Vol.I, p.6-1) State law and former King County policy limited "protection" to SOLE SOURCE AQUIFERS and WELLHEAD PROTECTION DISTRICTS. Section 23 of CAO's Part 1 deliberately has removed significant wording, thereby allowing DDES/DNRP the ability to exercise their land management to a much greater extent than intended by state law or current county wording. The statement made at the March 23, 2004, Growth Management and Unincorporated Areas Committee meeting that, “a net loss of groundwater recharge with the removal of forest cover,” is refuted by a 1988 Island County aquifer hearing at which three DOE scientists testified “When you remove the trees you get more water - it’s been demonstrated all over the U.S.” Yet CARA requires maximum tree retention even though tree clearing, properly done, contributes to maximum aquifer recharge because trees' canopies prevent rain from reaching the ground, and trees transpire [To evaporate (moisture) from living cells] large amounts of water.

It’s interesting that the very brief CARA assessment on p. 4-8 of BAS Vol. II speaks of stormwater being “transported horizontally”, while BAS Vol. I, Chapter 6, which has 29 pages

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of analysis, speaks only of "downward" and "upward", which is emphasized by the following quote from the Redmond/Bear Creek Valley Groundwater Management Plan of 1994 p. 3-16....."recharge only occurs where water reaches an aquifer by surface water infiltration, and where there is a downward component of hydraulic head. However, the presence of a downward component of hydraulic head cannot be determined without extensive research on water levels...Therefore....a downward component of hydraulic head is assumed to be present in all areas." Are we to assume, therefor, that every inch of King County should be a CARA?

Despite Ecology's saying "No problem" when Metro buses have accidentally spilled hundreds of gallons of fuel, CARA requires both underground, and in many instances above-ground home heating oil tanks, to be removed or decommissioned when "any development proposal in a critical aquifer recharge area" is applied for.

On-site septic systems of less than one acre - this should be 35,000 square feet due to the large number of previously and currently legal vacant unsewered lots of that size outside the urban areas - are prohibited if you can't meet specific requirements for nitrate-nitrogen, even though the government is encouraging throwing thousands of fish carcasses into streams to build up nitrogen.

CARA calls for us landowners to pay for a special, expensive critical areas report, including a hydrogeologic site evaluation, in order to request a removal from the encompassing, non-scientific, blanketing CARA critical area designation. Once again, we private landowners are forced to pay for the science the county skipped or ignored. DDES should hold new hearings later, after all designations are made, maps attached, all reports' criteria set forth, and the public has had time to absorb this over-size new regulatory ordinance.

When executive staff member Karen Wolf said, during the March 18, 2004, meeting of the Natural Resources and Utilities Committee, that the Executive's water policies/regs are "to discourage growth in the Rural Area . . .", she should have said "to discourage growth that complies with Council-adopted Rural Area zoning densities in the Comprehensive Plan." It was also misleading to speak of "allowing" an Exempt Well (under State law) in the Rural Area "to serve up to six homes" without mentioning that the landowner must do that - he must set up a public water system to serve any new rural subdivision - and DDES counts short plats as subdivisions despite short plats being exempt under SEPA, which is one of the drivers for these new policies. That's a huge impact to a rural landowner who, for instance, must pipe water to a new short plat with 10-acre lots.

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The water policies' ambiguous wording is exemplified by the sewer/water ordinance's Section 3.B., which says that new development in the Rural Area may be served by individual private wells, followed by 2½ pages of hard-to-understand prohibiting conditions. Plus there are complan policies F-227b and F-227c and the text preceding those two policies, which talk about exempt wells "creating more holes in the ground that can lead to contamination of entire aquifers." Whoever wrote that knew very well that all new wells must be SEALED and protected by do-nothing recorded radiuses.

During the March 23, 2004 GMUAC committee meeting both Staff and the Prosecuting Attorney cited the case of Ecology v. Campbell and Gwinn (3/28/01) No. 70279-9, as a reason for not allowing short plats (which Karen Wolf includes in the term "subdivisions") to use more than one exempt well when dividing property. Developers Campbell and Gwinn notified Ecology of their intent to drill 20 individual wells for their Rambling Brooks Estates. Upon arrival at the Supreme Court, the court said no. (Page 3) However, FN4 on Page 7 says the following:

"FN4. "... it does make a difference whether the exemption from the permitting requirements is sought by an individual homeowner or a developer. . . . Use of the exemption by developers will predictably and greatly expand unpermitted water use in this state. Individual, single family residential use of the exemption (or group uses not exceeding 5,000 gpd in total) is simply not comparable to what can occur if the exemption is rewritten to allow for multiple wells in large developments."

The Supreme Court's distinction certainly allows a 4-lot short plat in the Rural Area by a landowner of 20 acres who wishes to allow each individual 5-acre purchaser to drill his own well. This represents current practice and should be allowed to continue. The cited case should not be used as an excuse to prevent the continuance.

Ron Sims' Executive Staff has incorrectly interpreted RCW 90.44.050 (exempt wells) to suit itself. It ignores the exemptions in WAC 173-507 through 515. Staff also ignores WAC 365-195: GMA PROCEDURAL CRITERIA FOR ADOPTING COMPREHENSIVE PLANS AND DEVELOPMENT REGULATIONS. Section 510(3)(b) says: "Levels of service should be set to reflect realistic expectations consistent with the achievement of growth aims. Setting levels too high could... result in no growth. As a deliberate policy this would be contrary to the act." Executive Staff admits they are deliberately trying to prevent rural area growth through transportation and water policies that prevent even the rural-density growth that has been adopted by the Legislative Branch which is you, the King County Council!

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Forestry in King County

[This "Forestry in King County" section of testimony has been provided by Preston Drew. Mr. Drew is a Snoqualmie Valley land and timber owner. He has been in the logging business over 30 years and currently serves on the Snoqualmie Valley Land Use Advisory Group.]

The King County Council is looking at a tough new set of rural land regulation known as the Critical Areas Ordinance. (CAO) The voluminous document defines most of rural east King County as a critical or hazardous area of one sort or another, and proposes dramatically increased buffers, setbacks and restrictions for the benefit of open space, fish, wildlife and other amenities.

The Council should consider the CAO carefully. Much of the rural economy is connected to land use. This economy is in a state of stress. Each new regulation, with the increased associated cost, means that much less activity. The economic "buffer" has been used up. More cost can no longer be absorbed.

Other counties and the state as a whole should pay close attention to what happens as the CAO is pondered. In a state with 39 counties, King County alone has one third of the state population and 44 per cent of its total economy. What happens in King County usually has ramifications for the rest of Washington State.

Forestry is mentioned frequently and is heavily supported throughout the Growth Management Act, Countywide Planning Policies, King County Comprehensive Plan and the CAO. Forestry is the practice of growing and maintaining forests. For purposes of this testimony, I will add to that definition—harvesting and marketing of forest products.

1990 Growth Management Act: "Healthy and robust rural economy. Goal 8: Maintain and enhance natural resource based industries."

To understand forestry in King County, it has to be separated into two categories. Industrial forestry is that practiced on a large scale in the eastern part of the county by companies and government on large acreage like the 105,000 acre Snoqualmie tree farm or the Mt. Baker-Snoqualmie National Forest. This portion of the county has been designated the Forest Production District (FPD) by King County planners. King County land use policies, rules and regulations have little to say about these operations. Even if King County were to outlaw all logging in the county, as Seattle has done on the city-owned Cedar River Watershed, it would

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not affect industrial operations. They are governed by a different set of rules by the traditional logging authority, the Washington State Department of Natural Resources (DNR). This testimony will deal with forestry issues King County does govern, which are in the rural areas (RA) generally west of the FPD, east of suburbia, and privately owned. This second category of forestry I will call private forestry.

1992 Countywide planning policy FW9b: "RESOURCE-BASED INDUSTRIES... Commercial and non-commercial farming, forestry, primary forest products manufacturing, mining and fisheries activities shall be encouraged to continue and expand as possible."

Most properties are five-, ten- or twenty-acre parcels. The owner generally lives on the property, and he purchased it on the residential real estate market. That market is currently fifteen to twenty thousand dollars per acre for larger parcels; five-acre lots are about thirty thousand per acre. One high-end five-acre lot at Blakely Ridge on the west basin wall of the Snoqualmie Valley is priced at \$74,000 per acre. Contrast this with the recent sale of the Snoqualmie Tree Farm to Hancock Forest Resources. They paid about \$1750.00 per acre.

King County Comprehensive Plan (KCCP) Policy R-104: "Farming and forestry are vital to the preservation of the rural areas and should be encouraged throughout the rural area."

This value differential makes it obvious that landowners don't buy and own land to conduct private forestry. Trees are a desirable part of the landscape, but people want and pay for land to live on. Logging that is conducted in the rural area is almost always the result of some other activity, mostly construction or property maintenance related. I spent a lot of time prior to 1985 knocking on doors buying timber. Today it would be a total waste of time trying to buy timber in the East King County rural area. Timber values alone are insufficient to interest most owners; but my phone rings often from people looking for a logger or land clearer because they want to build something, remove dangerous trees or clear for a bigger yard.

KCCP intro statement to 'Rural Economy': "It is critically important for the rural area to sustain the farming and forestry industries"

King County planners act like the rural area is an open space resource area. They emphasize farming and forestry to save us all from development. But the reality is that landowners paying big bucks for property want some development and a whole lot less restriction.

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Most small-scale private forestry activity is not even permitted because the process, time and cost make it impossible to conduct business in any reasonable manner. A landowner called me last year after applying for a permit to log two acres of his elderly mother's place prior to selling the property. The county estimated the permit cost at \$1400.00. When I first talked to him, he had already paid \$1600.00, had a current bill for another \$1400.00 and paperwork calling for two expensive studies. He wanted to know what he should do before spending any more of his mother's money. I advised him to forget the whole thing. Timber revenue wouldn't even pay for the permits and studies.

This is a typical story and it illustrates the big disconnect from the wonderful policy statements and the way the Department of Development and Environmental Services (DDES) conducts business. They never think about whether or not the permit cost can be sustained by the economic activity.

KCCP policy R106a: "King County shall develop and implement a rural economic development strategy, which shall be consistent with the character and the service levels of the rural area... This strategy is to include the following components: Identification of rural economic development policies, goals, objectives and implementation tools necessary to bring income to businesses... Establishment of a plan-of-action to produce desired results... -Assessment of strengths, weaknesses, threats and opportunities faced by the King County rural economy.... Identification of the types of businesses that should be encouraged in the rural areas... Determination of current obstacles to overall rural economic development as well as impediments to the location or expansion of favored industries that are consistent with rural character."

The worst element of the CAO is the 65/10 rule. King County planners want to restrict the clearing of 65% of a property while imposing 10% maximum impervious surface limit on that property whenever a landowner must get a permit. The property owner, in order to get a building permit, has to surrender control of 65% of his property in perpetuity. He then has to ask the county for permission when he may want to use the remaining 35% of that property. Uses would be very limited.

One question that has been asked by the Snoqualmie Valley Land Use Advisory Group is about what uses would be allowed. The county asserts that best available science dictates the need for 65% preservation of forest cover for environmental requirements. The 13-member advisory group has asked if logging would be an allowable use. Is this a 'no touch' open space, or a management zone? The wording in the ordinance is confusing.

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My own take on this is that it is 'no touch'. I reach this conclusion based on a careful reading of the proposed ordinance, best available science documents, the knowledge that a logger friend of mine was denied a logging permit in the Bear Creek drainage zone because more than a certain percentage of the land had already been cleared, and the amount of time that has gone by waiting for the county to not answer the question. This is an interesting dilemma for the county. If they restrict logging on 65% of private land in the rural area, how can they possibly be supporting the economic requirements of forestry activities in all the policy statements?

A logging ban of this magnitude also creates a public safety problem. Forest fire potential due to excessive fuel loadings per acre in Western Washington is a growing problem. Carnation had a scare last summer when a fire got started that burned about ten acres and a shed. The fire threatened a neighborhood but there was minimal loss due to a great fire department response. Forestry professionals have long been advising homeowners about the need to think about defensible perimeters with regard to fire or hazardous trees. People love their trees and it is sometimes hard to change minds, but certain events often bring about almost instantaneous mind change. A 150-foot fir tree crashing through a house or hot cinders descending on a cedar shake roof are life- and property-threatening events.

The 65/10 rule should be completely eliminated from the CAO proposal. It does not support required economic policies, it creates a public safety problem and it abrogates private property rights.

I have an example of a forestry project that has gone very well. The 21-acre property is heavily timbered with one house and an access road. The main environmental issue is a category 1 wetland along one border of the property. I contacted a county forester with a short description of the project and the issues involved. He responded in a timely manner and we had a very short meeting on the site; professional forester and professional logger. Due to technical reasons with regard to the property segregation, the permitting options were favorable. The thinning project (take some trees while leaving most) will reduce forest fuels, it will allow the remaining trees to grow better while maintaining forest environmental functions. It creates jobs and revenue for the owner, contractor, trucker, mills and taxman. This project is a winning deal all around.

The project requires a 100-foot buffer from the wetland. Under the proposed CAO, that buffer would be increased to 300 feet. With that requirement, this job suddenly becomes a

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non-job. The owner's house is in the 300 feet. How do we address fire issues? If the owner had built after the 65/10 rule were in effect, the job becomes a non-job. Take 65% and/or the 300 foot buffer and there isn't enough volume. And why is a landowner treated so much differently when a lot was created one way or another? The environment doesn't know the difference.

County employees writing rules and regulations have to be held accountable by our elected representatives. The on-the-ground rules have to reflect economic as well as environmental values reflected in policies to achieve a reasonable balance.

Tent Cities, Here We Come

On September 23, 2003, an article by Ron Sims was placed on the King County web site at <http://www.metrokc.gov/exec/news/2003/092303.htm>. The bulk of the article was a self-promotion piece about what a wonderful job Mr. Sims' growth management policies are doing in King County. It also contained the following section:

"King County report reflects solid growth management

"WORKFORCE HOUSING IS STILL IN SHORT SUPPLY

"Creating sufficient housing affordable to the King County workforce continues to be a difficult challenge. There is an adequate supply of rental housing for those above 50 percent of median income, but below that level there are too few affordable units.

"Rental vacancy rates have increased to 7.4 percent, indicating that the supply of rental housing is easing, and that rents are likely to stabilize.

"Buying a first home remains extremely difficult for those under 120 percent of median household income, making less than \$78,500 in 2002. The median price for a single family home or condominium was \$256,000 in 2002. " [the average price is currently \$338,000]

"21 percent of households earn less than half of the \$65,000 median income, but only about 15 percent of King County's housing stock, rental or ownership, is affordable to that group. Only 10 out of King County's 40 jurisdictions have sufficient housing for those earning under 50 percent of median household income. "

This section leads to the obvious question, "For whom are Mr. Sims' policies doing such a good job?" It would seem that only those making in excess of \$78,500 and are thus able to

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buy a home would agree with Mr. Sims. Only 40% of households in King County are at that level; fully 60% of households in King County cannot afford to buy their first home. For a significant portion of those making \$32,500 or less there is **no** affordable housing of any kind. Mr. Sims should be apologizing, not bragging about the wonderful job he is doing.

How did we get to this sad state of affairs? A 2002 study by the Harvard Institute of Economic Research may help us understand the problem. Professors Edward Glaeser and Joseph Gyourko compared the effect of zoning and other land use regulations on housing prices in 26 U.S. metropolitan areas, including Seattle. They used a clever method to figure out the cost of what they call the “zoning cost.”

First, they compared the prices of houses on quarter-acre lots to the cost of similar homes on half-acre lots. The difference gave the “raw” market value of a quarter acre of land. Next, they subtracted the cost of constructing a house from the sales prices of homes on quarter-acre lots. This gave them the value of a quarter-acre of buildable land. The difference in price between the two lots is the zoning tax on a quarter acre of land. The study found that in over 60% of the United States there is no zoning tax. The cost of homes is simply the cost of land plus the actual cost of construction. **In the Seattle area that zoning tax is \$207,000!**

The average home cost in King County is now \$338,000, of which 61% is the cost of government regulation. The cost of \$207,000 over 30 years at 7% interest is \$492,908. If you buy a home in King County today you will pay an extra half million dollars because of Mr. Sims' fine growth management policies. The really bad news is that 60% of the people in King County will pay that extra cost to their landlords and not even have a house at the end of the 30 years. A significant amount will, of course, pay nothing. They will have lived in one of Mr. Sims' tent cities.

There are 443,405 single-family homes in King County with an average value of \$338,000. Their total value is therefore \$149 billion with \$91 billion of that value being the zoning tax. Can anyone, with a straight face, argue that we have gotten \$91 billion dollars of value from the regulations extracting that tax? That money would run the current bloated government of King County for 30 years! Interest alone on that money would fund King County's current expense fund! But instead, we spend it on bureaucrats and studies and pretending to “save the environment.” Who will save us from Mr. Sims and the proponents of “smart” growth?

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The average annual catch of the Pacific commercial salmon fishery is 13,100 metric tons valued at \$22 million at dockside. The value of the sportfishing catch at \$20 per fish is \$13 million. [catch data from "Pacific Coast Salmon" chapter on the NOAA website at <http://spo.nwr.noaa.gov/unit12.pdf>] The \$91 billion dollars of zoning tax would pay for the annual salmon catch for 260 years! But this is not about fish, of course. Saving fish is just a convenient distracter provided by the environmental evangelists. The zoning tax doesn't go to help the fish or the environment. It goes to support the bureaucracy, a welfare system of enormous magnitude. We could pay fishermen, both sport and commercial, the commercial value of their entire Pacific salmon catch to stop fishing with the salaries of Water and Land Resources, a small division of King County DNRP.

The following cost benefit analysis of salmon recovery on the Columbia may serve to put this in perspective. The Columbia fishery is much larger than the Puget Sound fishery. The reviewer repeats commonly held, but scientifically questionable, beliefs about the causes and cures of the salmon's ills which wouldn't change the economic questions significantly even if they are wrong.

"Title: Saving Salmon Stocks: Cost Benefit Analysis

Focal Question: Is saving salmon populations in the Columbia River Basin worth the cost?

Reviewer: Tully Blalock, Washington and Lee University, '00

Note: Unless otherwise noted, all data come from Huppert 1999.

"The Columbia River Basin once supported 10 to 16 million salmon. By 1999 this number had declined to 2 million or fewer. Of the 214 salmon stocks inhabiting rivers in the Pacific Northwest, 101 are at high risk of extinction, and 58 are at moderate risk [27 are actually listed under ESA]. The population of salmon in the Columbia River basin continues to decline, and the six species of salmon found here are in danger of extinction. Economic activities on and around the Columbia and Snake rivers have greatly impacted fish habitats and impaired the ability of fish to move up and down stream to spawn. Hydroelectric dams have hindered access to salmon spawning grounds, water levels have been reduced due to irrigation and municipal water use, and channels dug for irrigation often trap juvenile fish. Overfishing has also resulted in a decrease in salmon populations. A program has been designed to recover the salmon populations of the Columbia River Basin, but with it comes a heavy financial cost. Some question whether the value generated from the program justifies the expense.

"Historically, federal efforts to sustain the salmon population have been limited. Efforts were confined to the installation of "fish ladders" on dams so that the fish could return upstream to spawn and to the creation of fish hatcheries to augment the population of wild salmon. It was not until the Northwest Power Plant Planning Council was formed in

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1980 that the salmon populations were given equal consideration to power generation. In 1990 the river basin's fish and wildlife budget (which largely focuses on salmon) had risen to \$127 million dollars. In 1987 it had been only \$400 thousand. Despite the increase in funds allocated to salmon preservation, the population has continued to decline. Salmon ecologists argue that recovering salmon populations will require the "4 H's" to be addressed: habitat, harvest, hatcheries, and hydropower. In order to improve salmon habitat, cattle must be prevented from destroying vegetation along the river banks, irrigation must be reduced to improve water flow and temperature, and mining and timber cutting must be curtailed in order to reduce sediment concentrations in the water. Harvest recovery involves the reduction of fishing and a decrease in fish harvests. The third "H", hatcheries, refers to the danger which farm raised salmon impose on the natural wild salmon population. Farm raised salmon compete with wild fish for resources and breed with them, damaging the genetic fitness of the population. Finally, the flow of water through hydroelectric dams must be adjusted so that the disruption of spawning runs is minimized. One possible solution to this problem involves removing the earthfill portions around the four dams on the lower Snake River, allowing the river to return to its natural level.

“None of these salmon recovery measures are without economic costs. The direct costs of these measures are fairly easy to estimate, but gauging their opportunity costs is more difficult. There are costs associated with the decline in cattle grazing, agricultural production (due to irrigation restrictions), mining, recreational fishing, and power production that are difficult to measure but which must be accounted for in any decision making process.

“The opportunity costs of the salmon recovery program may be measured by the replacement costs associated with the project. For example, should the water flow through the dams be decreased, the replacement cost would be the cost of alternative power sources. Because most of the costs associated with hydroelectric power generation are one time fixed costs, shutting down the dams would result in little savings. The opportunity cost of shutting down the dams would be the cost of power production using the lowest cost alternative—in this case natural gas. If natural gas could produce electricity at the same price as the dams, the aggregate demand for electricity would remain unchanged, and there would be no loss of consumer surplus. However, if the price of electricity increased by using natural gas, the wholesalers of electricity would produce less due to the higher cost of production. The supply curve would shift upward, the price would rise, the quantity demanded would decrease, and consumer surplus would be lost.

“The replacement cost may also be used to determine the opportunity cost of irrigation regulations. Should restrictions be placed on water usage from the Columbia and Snake rivers, farmers would either have to use less or pay more for to receive water from different sources. If the farmer decided to use less water, he may choose to retire marginal lands. The cost of this could be calculated as a loss of revenue. If the farmer chose to pay more for water, producer surplus would decline due to an increase in production costs. This would also result in a loss of net revenue. This replacement cost method may be used to measure the opportunity costs of all aspects of the salmon recovery program.

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The habitat protection and restoration are estimated to cost between \$11.0 and \$31.6 million a year. The direct costs of this program include construction of fences to prevent cattle from reaching the rivers, shoreline protection, addition of structures in streams to create more habitats, and planting programs to increase vegetation in and around the streams. The opportunity costs of [this] would also be high, resulting from the reduction in timber harvests, mining, and cattle grazing as well as a reduction in recreation.

“The recovery plan proposes to decrease the number of fishing permits for offshore salmon fishing by 50%. Currently, a fixed number of permits are available, resulting in a market for the permits. The price of these permits is roughly equivalent to the annual net revenues which fishermen can expect to receive. Therefore, the costs of reducing the number of available permits through a buy-back program would be equal to half of the total revenues taken in from offshore commercial salmon fishing. This cost is estimated at \$3.2 million dollars a year. When this cost is added to the enforcement costs and administrative costs of harvest management, the total cost reaches an estimated \$4.8 million a year.

“In order to preserve the genetic fitness of the salmon, the hatchery programs would have to be altered. Costs would be associated with research and tagging programs and are estimated at \$6.7 million annually. When this cost is combined with the cost of the habitat program, the harvest management program, and a \$2.3 million a year administrative cost the total cost is approximately \$29.6 million a year. However, this is only a fraction of the cost of the total salmon recovery program. The majority of the program's cost lies in hydropower recovery measures.

“The dams along the Columbia and Salmon Rivers pose the greatest threat to the salmon populations, and dealing with this problem will undoubtedly be the most costly aspect of the salmon recovery program. There are many available options, but the option with the greatest likelihood of success also carries the heaviest cost. This option entails disabling four dams on the lower Snake River. This would lower the water level of the Snake River and adjust the flow of the river to natural levels. Juvenile salmon would have the highest chances of survival under this plan, but the cost of replacing the lost hydroelectric power and the loss of recreational value would be extremely high. This program would cost an estimated \$283.9 million a year.

“The total cost of the salmon recovery program may be up to \$359.4 million a year. Even at this price, the **success of the program is uncertain.** Is this cost excessive for the protection of a species of fish? It may be difficult to determine whether the salmon recovery program would be worth the cost. **The net increase in use value to commercial and recreational fisherman is estimated to be between \$0 and \$20 million.** (Huppert et al., 1996) Change in use value does not come close to covering the cost of the program, but nonuse values may cover the difference.

“Estimates have been made of the gain in nonuse value that would be generated by the salmon recovery program. According to a recent poll, 79% of Puget Sound residents indicated that they would be willing to water their lawns less frequently in order to help restore salmon populations. However, 60% said that they were unwilling to pay higher

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utility rates or accept restrictions on their property rights to accomplish this goal (Harkinson 2000). **Another survey of residents in the Pacific Northwest indicated that households would be willing to pay between \$26.5 and \$60 a year for the recovery of salmon populations.** As there are approximately 3.4 million households in the Pacific Northwest, we may assume the existence value of the salmon populations to these residents to be between \$86.7 and \$204 million/year. However, this value is the existence value of salmon throughout the Pacific Northwest—not just the Columbia River basin. “The existence value of the salmon in the Columbia and Snake Rivers may be remarkably less. It must also be noted that the survey does not take into account the existence value of salmon for the rest of the nation.

“Determining whether the salmon recovery program is worth the cost is a difficult task. More scientific research needs to be conducted to eliminate some of the uncertainties associated with the program. Economic research needs to be furthered in order to determine the full use and nonuse value that we as a society place on the salmon populations of the Columbia River basin. Saving these fish would result in great costs that may exceed the value that is generated from the program. However, extinction of any of the six species of salmon in the Columbia River basin is irreversible. Once they are gone, we cannot get them back.

“Sources:

Anonymous. "Fisheries Service Salmon: Plan Targets Snake River System." *Engineering News Board*, volume 242, issue 17, May 1999: 13.

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Huppert, Daniel D. "Snake River Salmon Recovery: Quantifying the Costs." *Contemporary Economic Policy*, volume 17, Issue 4, October 1999: 476-491.

Huppert, Daniel D., David L. Fluharty, Eric E. Doyle, and Amjoun Benyounes. "Economics of Snake River Salmon Recovery: A Report to the National Marine Fisheries Service." School of Marine Affairs, University of Washington, Seattle, 1996. “
[http://home.wlu.edu/~caseyj/sustainable_development/tully.htm]

The survey of residents of Puget Sound indicated a willingness to pay up to \$60 per year for salmon recovery. If the 443,405 single family households each paid \$60, that would be \$26,604,300 for salmon recovery. Just the 5,962 new single family homes built in 2002 in King County paid \$1,234,134,000 in environmental zoning taxes. That is \$26 million and \$1.2 billion respectively. The zoning tax from just 5,962 new homes was over 1/3 the entire King County budget which includes the cost of transit and the court system. We only spend \$1.7 billion for education at all levels in King County which includes the state's largest university. By shifting the zoning tax on new houses to education we could nearly double educational spending. Would that have a better return on investment than the \$35 million Pacific fishing industry?

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To existing home owners, the artificial inflation of house prices often looks like a positive result of growth management. We wonder if those owners are ready to cash in that equity to keep their children and grandchildren out of the tent cities or will their kids simply live with them forever? King County is not very business friendly now; how can we expect the lower-skilled workers to stay here if they cannot afford housing? How can we expect businesses to stay if there are no available workers? That certainly would solve the “growth” problem. King County can become the exclusive playground of Ron Sims, his independently wealthy friends and their servants.

Fee In Lieu Of Mitigation

We have saved the most blatant bureaucratic boondoggle of all for last.

The entire CAO is based on the premise that it will prevent harm to “critical areas.” In instances where harm cannot be prevented, “mitigation” will be required. The basic concept is that if you harm the function of a critical area you must recreate that function several times over somewhere else. That almost makes sense if you don’t know that, no matter what the foul, the mitigation is always to plant lots of trees, even when too many trees are causing the problem. Talk to the May Valley folks for the full story on that.

Meanwhile, the new rules say that developers who damage or destroy “critical” areas can simply pay into a mitigation fund instead of having to fix the problem. Nowhere does it say that the money must be spent on mitigation. That reinforces our idea that there is no problem that DDES cannot resolve with enough money. Especially when the ordinances (written by Harry Reinert of DDES) specifically say that the money can be used for enforcement!

Up to this point, King County has been abiding by a Washington State law that says the code enforcement officers cannot be paid from the fees and fines collected by DDES. Due to the budget problems of King County, of which you are well aware, code enforcement staff is way down. Having these additional funds will cure that problem nicely.

So the scenario is this. If you want to harm a “critical” area but not mitigate, you pay into the mitigation fund which pays the salary of the person who is supposed to make you mitigate. Most of us out here in the RA zone think that is the definition of bribery, which we also think is against the law. Just to be sure, we looked it up.

“**Bribery** \Brib"er*y\, n.; pl. Briberies. [OE. brybery rascality, OF. briberie. See Bribe, n.] 1. Robbery; extortion. [Obs.]

2. The act or practice of giving or taking bribes; the act of influencing the official or political action of another by corrupt inducements.”

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We think definition 2 fits best. Definition 1 is closer to the permits we must pay for to get permission to use our property. We also checked the RCW and discovered that bribery is a class B felony.

“RCW 9A.68.010

Bribery.

(1) A person is guilty of bribery if:

“(a) With the intent to secure a particular result in a particular matter involving the exercise of the public servant's vote, opinion, judgment, exercise of discretion, or other action in his official capacity, he offers, confers, or agrees to confer any pecuniary benefit upon such public servant; or

“(b) Being a public servant, he requests, accepts, or agrees to accept any pecuniary benefit pursuant to an agreement or understanding that his vote, opinion, judgment, exercise of discretion, or other action as a public servant will be used to secure or attempt to secure a particular result in a particular matter.

“(2) It is no defense to a prosecution under this section that the public servant sought to be influenced was not qualified to act in the desired way, whether because he had not yet assumed office, lacked jurisdiction, or for any other reason.

“(3) Bribery is a class B felony.”

We think the entire population of King County is best served by keeping code enforcement of officers' salaries coming out of the budget. It is proper that you decide how much code enforcement is needed compared to, say, sheriff's department staffing. In fact, we would encourage you to put all of DDES back on the budget.

If you are going to let developers pay a fee in lieu of mitigation, use the money to mitigate something.

Good Changes

Ditch cleaning without a permit is a good step in the right direction. Much of the damage being done by the current regulations comes from clogged waterways. You should take two additional steps. Apply it to all waterways so that we don't have to pay DDES and private consultants to argue about what constitutes an “agricultural ditch” and remove the farm plan requirement. The State already requires HEPA permits for any work in any waterway. The Corps of Engineers has refined downward the size of waterways that they cover to anything

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larger than the sweat off your brow. Between them, they have the situation well in hand and King County should simply let them handle it.

The Transfer of Developments Rights program change that allows all acreage to be included in the transfer makes a lot of sense. If we are trying to save critical areas, why exclude them from the acreage to be protected?

Removal of the regulation that prevented you from farming if you didn't farm for 5 years is good. Recognizing that fallow ground is a necessary part of farm management is also a good change.

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We Propose The Following:

Vote NO on the proposed ordinances.

And then:

A truly independent study of Best Available Science should be initiated to identify the most efficient and effective methods to conserve, enhance or restore truly critical areas in King County. It should be reviewed by a panel of impeccable experts such as the one being promoted to King, Pierce, and Snohomish counties by Sara Hemphill and Scott Wallace. Based on the real BAS derived from that review, an independent inventory of environmentally critical sites in King County shall be developed and prioritized. The cost of outright purchase of, or conservation lease of, those sites at fair market value would be determined. Equitable sources of funds for those lease payments and purchases shall be identified and presented to the citizens for a vote. Available money should be used to enter into voluntary lease or purchase agreements with property owners in the order the areas were prioritized. If property owners with critical areas choose not to sell or lease but wish to develop, they must submit a farm or stewardship plan that is based on the identified BAS and that follows predetermined general guidelines. If their critical areas are low on the priority list, then their development restrictions would be less than if they are high on the priority list.

This method would allow voters to indicate how badly they want to “save” each critical area by how many new taxes/bonds they approve. An intellectually honest public discussion of the issues will happen because then everyone in King County will have skin in the game, not just the rural minority.

In order to succeed, environmental policies must be intellectually honest and fair. King County departments must rid themselves of self-promoting, manipulative and coercive acts. Utopia cannot be coerced. You must restructure the departments to remove the temptations to act in their own best interests instead of the best interests of the citizens of King County, even the minorities. Enhancement and preservation must be transferred to the community organizations and non-profits that can most efficiently handle the task at the lowest cost.

Local management of environmental features and systems is preferred. We are referring to the township level, not county level, as local. The processes must be positive and community-building, not divisive.

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All those who benefit from open space and a quality environment must pay in proportion to the benefit received. It is simply wrong to ask those who have yet to develop their land or who want to change its use to shoulder enormous additional expense without also asking those who developed first—and have reaped the most benefits from that development—to share the burden. Do we really want to live by the credo that **“The First to the Trough Gets All the Swill?”** That is the very thing that causes the Tragedy of the Commons! The decision you are being asked to make is really, “Who should pay for the destruction caused by the urbanization of King County?” Before you answer that question, ask yourself the following questions:

- ◆ Where are the major sources of pollution and the primary locations of environmental damage in King County?
- ◆ Where are the “Super Fund” sites in King County?
- ◆ Where are the areas with impervious surfaces greater than 10% of the property?
- ◆ How many gallons of contaminated water run off of impervious surfaces in urban King County each year as compared to rural King County?
- ◆ How many gallons of raw sewage have been discharged by urban cities?
- ◆ How many gallons of partially treated effluent are discharged by cities each year?
- ◆ Where are the primary sources of chemical and oil spills?
- ◆ Where are the sources of air pollution?
- ◆ How many acres of saltwater mudflat and estuaries have been lost in urban areas?
- ◆ How many acres of wetlands have been destroyed in urban areas as compared to rural areas?
- ◆ How many acres of floodplains have been filled in urban areas?
- ◆ How many miles of creeks and streams have been enclosed in culverts?
- ◆ Where do water quality studies show impacted water quality?
- ◆ What percentage of water resources are used by the urban areas?
- ◆ How much wealth has been generated by urban development and how much has been used for mitigation?
- ◆ How do these ordinances reward individuals for environmental protection?
- ◆ How much do these ordinances demand from those same individuals?
- ◆ **Which message do you want to send? First to the trough gets the goodies or everyone pays according to how they have benefited?**