

June 30, 2008

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Brian Shea
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Grays Harbor County
100 West Broadway Avenue, Suite 31
Montesano, Washington 98663-3614

Via Electronic Submission: bshea@co.grays-harbor.wa.us

In Re: First Draft of Grays Harbor County Code 18.06 (Critical Areas)

Dear Mr. Shea,

Thank you for the opportunity to comment on the above referenced Draft Critical Areas Ordinance. I think you need to read the law pertaining to Best Science to be used and take note of the word shall which is mandatory. Since the Chehalis Basin is the most studied Basin in the State of Washington at this time there is volumes of best available science concerning Grays Harbor County, It appears to be lacking in this document.

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.

(2) If it determines that advice from scientific or other experts is necessary or will be of substantial assistance in reaching its decision, a growth management hearings board may retain scientific or other expert advice to assist in reviewing a petition under RCW 36.70A.290 that involves critical areas.

[1995 c 347 § 105.]

It is my understanding that you will be receiving comments from Grays Harbor Audubon, Wildlife Forever Grays Harbor, Futurewise, WA State Dept of Fish and Wildlife, Brady Engvall, Vickie and David Mascarenas, Catherine and Eric Goldman, Ginger Gamblin, Arthur (R.D.) Grunbaum Tim Hamilton and Janet Strong. I incorporate those comments and concerns by reference.

I would like to bring to your attention a few comments and concerns about the document.

- In the writing of the document a discussion of best available science is lacking.
- A discussion of the economics losses of the resource due to in-action by the County is also needed in the document.
- The first paragraph of the document on pg 2 is implied and does not need to be stated
- Section 18.06.020 Critical Protection Area Special Studies (C) (3) "Grays Harbor County shall make such field investigations..." (pg 5)
 - Grays Harbor County might not have qualified staff to make qualified field investigations.
- Section 18.06.025 General Exemptions (C) (6) (b) "Agricultural products' includes, but is not limited to,..." (pg 8)
 - Aquaculture should be included as an agricultural product.
 - (B) Beginning Providing further, however... Needs to be removed. No area should intrude further into the critical area or its buffer (page 7).
- Section 18.06.045 Criteria for Granting Variances in Frequently Flooded Areas (F) "Each applicant to whom a variance is granted shall be notified in writing that the permitted structure may be built with its lowest floor below the base flood elevation..." (pg 11)
 - Need to change "below" to "above".
- Section 18.06.055 Appeals (E) "Procedural determinations made by the planning and building director shall be entitled to substantial weight." (pg 12)
 - Define "substantial weight".
- Section 18.06.060 Critical Protection Area Maps and Inventories (A) "The distribution of many environmentally critical protection areas in Grays Harbor County is displayed on County maps." (pg 12)
 - Where are the maps created and who creates them? If they are created by the Department of Natural Resources isn't there a challenge process? It would be useful to describe this challenge process in the document.
- Section 18.06.075 Temporary Marking, Permanent Survey Marking, and Signage (C) Signs. The boundary between a critical protection area tract or easement and the adjacent developed land..." (pg 13)
 - Please clarify why the landowner is responsible for the signage of survey work performed by the County.
 - Typo in the last sentence of the paragraph: (Signs shall installed...) need to include "be"
 - The phrase "shall be maintained by the owner in perpetuity..." does not seem reasonable. If the sign is damaged or removed by natural causes,

- such as a flood, is the landowner still responsible for the maintenance of the sign?
 - Has the County considered the cumulative impacts of sign pollution? How many signs will it take to cover the county and what are the visual impacts?
- Section 18.06.080 Mitigation
 - The document would be clearer if (2) "It is the goal of Grays Harbor County..." (pg 14) was listed above (1) "Mitigation means the use of the following..." (pg 14). By listing the County's goal first would give the reader an idea of why mitigation is even being discussed.
 - Mitigation, by its definition, generally means there will be some net loss.
- Section 18.06.095 Critical Protection Area Development Standards for Geologically Hazardous Areas (A) "Grays Harbor County shall utilize the United States Department of Agriculture Soil Conservation Service document Soil Survey of Grays Harbor Area,..." (pg 15)
 - The Department of Natural Resources Forest Practice Application Review System (fpars) resource map, which is not the same as the base or activity map, which contains information on forested wetlands, slope stability and soil erosion should be used along with the SCS Soil Surveys.
- Section 18.06.095 Critical Protection Area Development Standard for Geologically Hazardous Areas (B) (1) (j) "Hydroseeding, or other erosion control methods as required in temporary erosion control plans, shall be utilized." (pg 16)
 - At the end of the sentence include "and maintained."
- Section 18.06.095 Critical Protection Area Development Standard for Geologically Hazardous Areas (B) (2) (d) (i) (II) "The buffer may be reduced when an applicant demonstrates to Grays Harbor County, pursuant to a special engineered study, that the reduction will..." (pg 17)
 - Who is responsible for enforcement in this section and if the study is wrong who will be held liable for the repair of damage?
- Section 18.06.100 Critical Protection Area Development Standards for Frequently Flooded Areas, and Section 18.06.110 Permits required for all Development within the Frequently Flooded Areas appear to be in direct conflict with one another. This is poorly written.
- Section 18.06.135 Critical Protection Area Development Standards for Wetlands (A) (b) (6) (ii) "The following buffers are minimum requirements:..." (pg 32)
 - According to the Department of Ecology, their minimum requirements for buffer widths are different than what the County proposes. For example, the Department of Ecology recommends a 250 ft buffer for a Category 1 Wetland and the County is proposing a 68 ft buffer for a Category 1 Wetland. How did the County decide their recommended buffer widths for the various wetland classifications?

- (5) (a) (ii) Wetland Classifications, a category I wetland does not have to be ten acres in size in order to be category I and this is not acceptable. The values and functions of a class I wetland are not replaceable in a human life time and size should not matter.
- (5) (c) (i) This is not valid and there are far too many category I and II wetlands in Grays Harbor that have never been inventoried and this is not appropriate, just because they are not inventoried does not make them category III.
- The whole section on wetlands needs to reflect best available science and it is insufficient and inadequate. Alterations to wetland areas and buffers are not acceptable and no exemptions or exceptions should be allowed. In this century water will become the resource that will be most sought after. It is up to us to protect this resource at all cost for the future of our children and their quality of life.
- (7) Wetland Area Mitigation Standards, (i) (2) Because of the your lack of knowledge in this area you need to understand you can not replicate hydric soils it takes centuries for them to be created.

I am seriously concerned that the Draft Document will not protect water quality, wetlands, aquatic resources and critical areas of our County. It is important that Grays Harbor County supports the purpose and intent of the law requiring CAO's protection by writing an ordinance that meets the highest expectations and standards. I look forward to reviewing the next edition of the Code.

Thank you for your time and consideration,

Teri J. Franklin

I will put a signed copy of this letter in the mail to you tomorrow. I am sending this e-mail copy to make the deadline of June 30, 2008.