

The Methow Valley Citizens' Council

Preserving open space and farmland in the Methow Valley since 1974

April 23, 2012

To: Perry Huston
Office of Planning and Development
123 Fifth Ave N, Suite 130
Okanogan, WA 98840
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Re: Comments on the Critical Areas Regulations, Draft 3/19/2012

Dear Mr. Huston:

Please accept the following comments on the proposed Critical Areas Ordinance (CAO) from the Methow Valley Citizen's Council. The Methow Valley Citizens Council works to maintain the rural and agricultural character of the Methow Valley through planning and conservation of the quality of our water, air and wildlife. We want to ensure that the CAO is consistent with conservation of the rural and agricultural landscape.

The following comments are submitted as an addendum to earlier comments (included as Attachment A) submitted on November 25, 2010. We have also enclosed a CD, which contains additional documents and sources of information we believe the county should consider in refining the CAO. These documents are listed at the end of this letter.

- 1. We remain concerned that the best available science has not been used in designating and mapping critical areas and in identifying regulatory measures to protect them, as required under RCW 36.70A.172. (1).** Few citations and sources, the documentation necessary to demonstrate scientific and legal soundness, are provided in the ordinance. This is especially true under OCC Article II Aquifer Recharge Areas and Article II Fish and Wildlife Habitat Conservation Areas. The county needs to show that the designations and regulatory measures in the ordinance are sufficient to protect critical areas.
- 2. Relying on critical area maps as "regulatory" is not a sound basis for regulating critical areas, especially where maps lack detail (as in the case of fish and wildlife habitats) or are nonexistent (as in the case of critical aquifer recharge areas).** Maps alone can't provide the detail necessary for identifying critical areas. They are a useful tool to be used in combination with other resources *and* onsite inspections. Performance standards, rather than maps, should be the basis for designation and regulation.
- 3. The ordinance is riddled with wording allowing liberal revision of critical area regulations based on the decision of the Administrator. Such language has the potential to undermine protection of critical areas.** For example, under OCC 14.12.010 C.1, resource critical areas (defined

as wetlands, fish and wildlife conservation areas, and critical aquifer recharge areas) may be altered by subsequent administrative rules. No conditions or guidelines under which these rules may be made are given. While flexibility in administering the ordinance is necessary, language should be added specifying the conditions under which critical area regulations may be waived or revised by the Administrator.

4. The process by which the critical area ordinance is administered (as described in draft OCC 14.12.020—060) should be further clarified. **We are especially concerned about how public notice will be given and when opportunities will be made for public comment** on critical area determinations for proposed development activities and permits.

5. **We are concerned about some of the exemptions allowed under the ordinance. Among the most troubling, is the exemption for single-family homes in critical aquifer recharge areas** (OCC 14.12.200). We know that Okanogan County's principal aquifers are largely unconfined, making them more susceptible to contamination. We also know that the county's already limited groundwater supplies have led to basin closures. Parts of the county, most notably the lower Methow Valley, do not have enough water to support the level of development that existing zoning would allow. We also know that single-family development on septic systems is a major source of groundwater contamination. There should be no exemption for single-family homes in critical aquifer recharge areas, except perhaps where zoned densities are very low (in the range of 15 to 20 acres). As outlined in our comments, the county should consider protecting critical aquifer recharge areas by limiting development through zoning.

Writing a good CAO is a difficult job, but it is important to get it right. There are many aspects of the ordinance, including the wetlands section, we support. But we are concerned the ordinance will not meet the standards outlined under the Growth Management Act in all areas. We are available to assist in developing a sound CAO and hope our comments prove useful.

Further comments are included in the following text. In some cases our comments are general and in others they are specific. As our review of the ordinance progressed, we focused on general concerns, realizing it was impractical to address the wording of each item that concerned us. In our opinion, the ordinance, though substantially improved, is not ready for adoption, and we expect further revisions will have to be made—especially under OCC Article II Aquifer Recharge Areas and Article II Fish and Wildlife Habitat Conservation Areas.

Once again, thank you for this opportunity to submit our comments.

Sincerely,

Vicky Welch, President
Methow Valley Citizens Council
att: list of references contained on CD

List of attached documents on CD-ROM incorporated by reference into MVCC CAO comments.

Citation	Filename on CD
Attachment A. MVCC CAO Comments, 2010.	Attach-A-MVCC-Comments-CAO-2010.pdf
Attachment B. Ruth Dight CAO Groundwater comments, 2011.	Attach-B-Groundwater-comments-CAO-2011.pdf
Attachment C. USGS Aquifer Map (Whitehead, R.L., Ground Water Atlas of the United States, Segment 7, Idaho, Oregon, Washington, Hydrologic Investigations Atlas 730-H, pages H23-29.)	Attach-C-USGS-Aquifer-Map.pdf
Attachment D. Futurewise CAO comments, 2010.	Attach-D-Futurewise-comments-CAO-2010.pdf
Attachment E. Methow Watershed Council CAO comments, 2011.	Attach-E-Methow-Watershed-Council-comments-CAO-2011.pdf
Attachment F. CELP CAO comments, 2010.	Attach-F-CELP-comments-CAO-2010-11-29.pdf
Audubon CAO comments, 2010.	comments-Audubon-CAO-2010.pdf
WDFW CAO comments, 2010.	comments-WDFW-CAO-2010.pdf
CAO guidance: Critical Areas Assistance Handbook, 2003.	CAO-guidance-CAO-Handbook-2003.pdf
CAO guidance: Appendix A to the Critical Areas Assistance Handbook. Example Code Provisions For Designating and Protecting Critical Areas, 2003.	CAO-guidance-CAO-Handbook-Appendix-A-Example-Code.pdf
CAO guidance: Best Available Science and Citations, 2002.	CAO-guidance-Best-Available-Science-Citations-2002.pdf
WAC-365-195. Best available science.	CAO-guidance-WAC-365-195-Best-available-science.pdf
WAC-365-190. CAO Guidelines.	CAO-guidance-WAC-365-190-CAO-Guidelines.pdf
Andonaegui, Carmen. 2000. Salmon, steelhead and bull trout habitat limiting factors - Water Resource Inventory Area 48, Washington State Conservation Commission Final Report.	reference-Endangered-Fish-Habitat-Methow-River-WA-2000.pdf
Federal Register. Oct 9, 2007: Endangered and Threatened Species Recovery Plans.	reference-Fed-Register-Endangered-Fish-Upper-Columbia-2007.pdf
Osborn, Rachael Paschal. 2010. Hydraulic Continuity in Washington Water Law, Idaho Law Review, Vol. 47.	reference-Hydraulic-Continuity-in-Washington-Water-Law-2010.pdf
Konrad, C.P., Drost, B.W., and Wagner, R.J., 2003, Hydrogeology of the unconsolidated sediments, water quality, and ground-water/surface-water exchanges in the Methow River Basin, Okanogan County, Washington: U.S. Geological Survey Water-Resources Investigations Report 03-4244, 137 p.	reference-Hydrogeology-Methow-USGS-2005.pdf
Upper Columbia Salmon Recovery Board. 2007. Upper Columbia Spring Chinook Salmon and Steelhead Recovery Plan.	reference-Upper-Columbia-Salmon-Recovery-Plan-2007.pdf
WDFW. 2009. Land use planning for salmon, steelhead and trout: A land use planner's guide to salmonid habitat protection and recovery.	WDFW-guidance-Land-Use-Planning-Salmon-2009.pdf
WDFW. 1991. Management Recommendations for Washington's Priority Habitats and Species.	WDFW-guidance-PHS-1991.pdf
WDFW. 1997. Management Recommendations for Washington's Priority Habitats: Riparian areas.	WDFW-guidance-Riparian-areas-1997.pdf
WDFW. 2011. Management recommendations for Washington's priority habitats: managing shrub-steppe in developing landscapes.	WDFW-guidance-Shrub-steppe-2011.pdf
WDFW. 2011. Site-specific management: how to avoid and minimize impacts of development to shrub-steppe.	WDFW-guidance-Shrub-steppe-site-specific-2011.pdf
WDFW. 1997. Management recommendations for Washington's priority species, Volume III: Amphibians and Reptiles.	WDFW-management-PHS-Amphibians-Reptiles-1997.pdf
WDFW. 2004. Management Recommendations for Washington's Priority Species, Volume IV: Birds.	WDFW-management-PHS-Birds-2004.pdf
WDFW. 1995. Management Recommendations for Washington's Priority Species, Volume I: Invertebrates.	WDFW-management-PHS-Invertebrates-1995.pdf
WDFW. (ongoing). Management Recommendations for Washington's Priority Species, Volume V: Mammals.	WDFW-management-PHS-Mammals.pdf
WDFW Management recommendations: Great blue heron, 2012.	WDFW-management-species-Great-blue-heron-2012.pdf
WDFW Recovery Guidelines: Sharp tailed grouse, 2010.	WDFW-management-species-recovery-Sharp-tailed-grouse-2010.pdf
WDFW Management recommendations: Sharp tailed grouse 2010.	WDFW-management-species-Sharp-tailed-grouse-2010.pdf
WDFW PHS list.	WDFW-PHS-list.pdf
WDFW PHS Species database spreadsheet.	WDFW-PHS-Species-database.xls
WDFW PHS Species distribution by county, spreadsheet, 2012.	WDFW-PHS-Species-distribution-by-county-2012.xls
WDFW. 2005. Species of greatest conservation need.	WDFW-Species-of-greatest-concern-2005.pdf
Washington Natural Heritage Program - Rare plants in Okanogan Co.	WNHP-Rare-Plants-Okanogan.xls