



January 24, 2018

MEMORANDUM

TO: Lindsey Osbolt, Planning Official

FROM: Tim Hadderly, SCJ Alliance Consulting

SUBJECT: Critical Areas Ordinance Revisions and Best Available Science Review

SCJ Alliance (SCJ) was tasked with reviewing the 2014 Draft Kittitas County Critical Areas Regulations (Chapter 17A) focusing on identifying areas that would need to be updated to meet current best available science (BAS). In addition, the *Kittitas County Critical Areas Ordinance Best Available Science Review and Considerations for Code Update* report (June 2014) was reviewed to identify new BAS as well as updating existing BAS references. Both the critical areas regulations review and the BAS review, SCJ only focused on areas that required an update to be consistent with current BAS rather than a wholesale re-write of the documents. This approach recognized the tremendous amount of work put into the process by advisory group members, County staff, hired consultants, as well as direction from Kittitas County Commissioners to get the Critical Areas Regulations to a point where they could be submitted for public comment in an expedited manner.

This Memorandum is in two parts. Part 1 is a matrix that addresses the 2014 Draft Critical Areas Ordinance, with recommended revisions. This has been referred to in meetings of the Working and Advisory Groups as the "Gap Analysis" of the 2014 DRAFT. This matrix forms the basis for the proposed revisions to the DRAFT that have been presented to the Working and Advisory Groups.

Part 2 of this Memorandum is the revised BAS. Revisions have been based on a review of the 2014 BAS document, with updates included to reflect the latest science. We anticipate that this revision would be adopted as an amendment to the currently adopted BAS.

[NEXT PAGE]



Part 1: Gap Analysis Matrix – Regulatory Recommendations for Critical Areas Ordinance Update

| Existing Provision KCC Chapter | Reason for Revision | Rationale / Basis | Recommendation |
|--------------------------------------|---|--------------------------------------|--|
| General Provisions 17A.01.130 | Section could be worded to be more inclusive of all critical areas and not focused fish. | More inclusive of all critical areas | Remove last portion of last sentence |
| Definition 17A.02.010 through 810 | Word-smithing in some definitions to improve clarity, but not to change meaning; remove redundancy; avoid unintentional gaps or loopholes; added some missing definitions; Added “and” or “or” in certain places to clarify whether ALL of a list versus one of a list would apply. | To ensure clarity in regulations | Review CAO and identify any additional words that require definition |



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| Definition 17A.02.020 “Adjacent” | Please review this definition and approve or reject suggested language revisions. This is an important definition. | To ensure clarity as to what will be regulated | Accept the suggested revision |
| Definition 17A.02.030 “Agricultural Activities” | Please review this definition and approve or reject suggested language revisions about whether a time limit is placed on land being left dormant. | Same as above | Accept the suggested revision |
| Definition 17A.02.170 “Critical Areas” | Please review this definition and approve or reject suggested language revisions about whether buffers are included or excluded as Critical Areas”. | Same as above | Accept the suggested revision |



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| <p>Definition 17A.02.340 “Floodway”</p> | <p>Please review this definition and consider question asked in the Comment about intent of the language at the end of the definition about lands in the floodplain below water control structures. This is an important definition.</p> | <p>Same as above</p> | <p>Accept the suggested revision, or provide clarification as to language intent.</p> |
| <p>Definition 17A.02.350 “Frequently Flooded Areas”</p> | <p>Please review this definition and consider question asked in the Comment about intent, as to whether groundwater flooding needed to have a defined duration and frequency timeframe.</p> | <p>Same as above</p> | <p>Accept the suggested revision.</p> |



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| Definition 17A.02.470 “Landslide Hazard Areas” | Please review this definition, which has been updated significantly to account for lessons learned from the Oso landside. This is an important definition. | Same as above | Accept the suggested revision. |
| Definition after 17A.02.570 “Primary Association Areas” | We recommend deleting this definition as it is not mentioned in the CAO and does not appear to have a significant use. | To minimize redundancy | Accept the suggested revision. |
| Added Definitions 17A.02.710 and 720: “Streams” and “Creeks” | These definitions were missing, and should be included. | To ensure clarity as to what will be regulated | Accept the suggested revision. |
| CARA 17A.03.030.9 | Should Dairy Farms or Feedlots be specifically listed as being regulated in CARAs? | Same as above | Accept the suggested revision. |
| FWHA 17A.03 | Review misc. suggested language revisions | | Accept the suggested revisions. |



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| FWHCA 17A.04.020.4 | Do we address overlap between SMP and CAO, or remove that kind of language; We need to include Type U and Type X water typing designations | Stream maps include Type U and Type X designations and should be addressed in the CAO | Include Type U and Type X designations |
| FWHCA 17A.04.030.6 | Clarified Buffer Averaging of buffers on Type S (Shoreline) streams. | Consistency with Shoreline Master Program | Insert clarifying language |
| FWHCA 17A.04.030.6. d | Clarified no buffer can be less than 30 feet in width | To provide minimum amount of protection to seasonal streams | Insert minimum width of 30 feet |
| FWHCA 17A.04.030.7 | Clarified Buffer Reduction of buffers on Type S (Shoreline) streams | Language not in Shoreline Master Program | Remove reference restricting reduction to residential development of 4 lots or less |
| FWHCA 17A.04.030.7. e | Clarified no buffer can be less than 30 feet in width | To provide minimum amount of protection to seasonal streams | Insert minimum width of 30 feet |



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| <p>FWHCA 17A.04.050.2</p> | <p>It is prudent to notify applicants periodically in Code that there may be other state and federal permitting processes per Section KCC 17A.10.120.4.</p> | <p>To minimize confusion in the permitting process.</p> | <p>Insert clarifying language</p> |
| <p>FWHCA 17A.04.050.2 e</p> | <p>Does this language properly define the limits on repair/replacement of existing armoring?</p> | <p>To approximate/match federal permit requirements</p> | <p>Insert clarifying language</p> |
| <p>Frequently Flooded Areas (FAA) 17A.05.020.2</p> | <p>Review misc. suggested language revisions</p> | | <p>Accept the suggested revisions.</p> |
| <p>Geologically Hazardous Areas (GHA) 17A.06</p> | <p>Review misc. suggested language revisions, pursuant to lessons learned from Oso Landslide</p> | | <p>Accept the suggested revisions after discussing some issues identified in text.</p> |



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| Wetland 17A.07.020.2 | Review misc. suggested language revisions; most important, adds effects of the 2014 wetland rating system update | | Accept the suggested revisions. |
| Wetland 17A.07.020.2 | Clarified mapping sources from BAS | Need to reference other sources of stream mapping | Insert clarifying language |
| Wetlands 17A.07.030.6 | Language is too restrictive | Buffer reduction should be available to all proposed land use projects, not just small residential developments | Remove language restricting buffer reduction to residential developments of 4 lots or less |
| Wetlands 17A.07.030.7 | Language is too restrictive | Buffer averaging should be available to all proposed land use projects, not just small residential developments | Remove language restricting buffer averaging to residential developments of 4 lots or less |
| Wetlands 17A.07.070.3 | Language is too restrictive | Allowing mitigation to be completed concurrently with site developments is standard practice | Insert clarifying language |



Part 2: Best Available Science Revisions/Updates

The following references were used in *Kittitas County Critical Areas Ordinance – Best Available Science Review and Considerations for Code Update*. *Environmental Science Associates, June 2104*. Based on a review by SCJ, additions and changes are depicted **{Updated by SCJ Alliance}**.

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