

Rebecca Messinger

From: Kathleen Otto
Sent: Monday, October 23, 2023 12:44 PM
To: Rebecca Messinger; Kristin Phillips
Subject: FW: Washington state Shoreline Management Plan and the WOTUS court ruling



Kathleen Otto
County Manager

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From: Clark County Citizens United, Inc. <cccuinc@yahoo.com>
Sent: Saturday, October 21, 2023 11:42 PM
To: Karen Bowerman <Karen.Bowerman@clark.wa.gov>; Gary Medvivy <Gary.Medvivy@clark.wa.gov>; Michelle Belkot <Michelle.Belkot@clark.wa.gov>; Glen Yung <Glen.Yung@clark.wa.gov>; Sue Marshall <Sue.Marshall@clark.wa.gov>; Kathleen Otto <Kathleen.Otto@clark.wa.gov>; Oliver Orjiako <Oliver.Orjiako@clark.wa.gov>; Jose Alvarez <Jose.Alvarez@clark.wa.gov>
Subject: Fw: Washington state Shoreline Management Plan and the WOTUS court ruling

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Clark County Council
P.O. Box 5000
Vancouver, Washington 98666
FOR THE PUBLIC RECORD AND THE COMPREHENSIVE PLAN UPDATE

October 21, 2023

Re: The Washington State Shoreline Management Plan, the Clark County Shoreline Master Program and the United States Supreme Court ruling on Wetland and Waters of the United States (WOTUS).

Dear Councilors,

Clark County Staff recently posted a response on the county web site, regarding the recent US Supreme Court ruling on Waters of the United States (WOTUS), in particular as it regards wetlands. The county notice claims nothing will change at the county level, to the wetland and habitat ordinance, because Clark County is not under the court ruling. CCCU must ask, if the county does not take their marching orders from the Washington Department of Ecology and the federal government, just who do they take them from? The DOE is directly under the federal regulations that

guide that agency's policies. It's interesting to note that when the Salmon were put on the threatened list by the federal government, the county jumped right on it, creating volumes of onerous environmental regulations, to "save the Salmon". Regardless of what county staff thinks of the latest WOTUS ruling, they must adhere to it. That means they cannot continue the policies they are currently using and have used in the past. The ordinances must be changed to reflect the language and directives by the Court.. A major facelift is needed to allow these regulations to comply with federal mandates. Clark County doesn't have a choice in the matter, nor does the Washington Department of Ecology. The following is the public notice that was posted on the county web site.

Wetland and Habitat Review

Wetland Protection Remains in Effect In Clark County

On May 25, 2023, the U.S. Supreme Court issued a decision in the case of Sackett v. Environmental Protection Agency (EPA) that limits the extent of waters subject to the Federal Clean Water Act. EPA subsequently issued a revised Federal Rule on August 29, 2023 redefining [Waters of the United States](#) and limiting the applicability of Section 404 of the Federal Clean Water Act to wetlands that have been historically regulated under Federal Law.

This change in Federal policy does not affect wetland regulations adopted by the state of Washington and Clark County. You can visit the Department of Ecology's website [State regulations & applicant resources - Washington State Department of Ecology](#), review [Clark County Code 40.450](#), or email WetlandHabitatReview@clark.wa.gov for more information.

Our Wetland and Habitat Review program administers the county's Wetland Protection and Habitat Conservation Ordinances, provides technical expertise for the administration of the Shoreline Master Program, and issues SEPA threshold determinations for projects that do not require Land Use or Shoreline Review or a Forest Practice Permit.

The Shoreline Master Program is regulated by the Washington Department of Ecology via the Shoreline Management Plan. In turn the DOE is regulated by the Environmental Protection Agency and the Clean Water Act. Clark County and the DOE are indeed beholden to the federal regulations that are the nexus for the Shoreline Master Program and the Shoreline Master Plan under the Washington Department of Ecology. The EPA and the Corp of Engineers have already recognized the Supreme Court ruling and have agreed to abide by its order. Clark County does not have the authority to ignore the state and federal mandates regarding Waters of the United States and Wetlands.

Clark County Citizens United, Inc. believes the Wetland and Habitat ordinance policies must reflect the WOTUS court rulings. CCCU expects the Councilors to take seriously, the wetland ruling by the highest court in the land. Staff cannot ignore it and must assure compliance to it.

Sincerely,

Carol Levanen, Exec. Secretary, on behalf of the Membership

Shoreline Management Plan

[RCWs](#) > [Title 90](#) > [Chapter 90.58](#) > [Section 90.58.030](#)

[90.58.020](#) << 90.58.030 >> [90.58.040](#)

[PDF](#) [RCW 90.58.030](#)

Definitions and concepts.

As used in this chapter, unless the context otherwise requires, the following definitions and concepts apply:

(1) Administration:

(a) "Department" means the department of ecology;

(b) "Director" means the director of the department of ecology;

(c) "Hearings board" means the shorelines hearings board established by this chapter;

(d) "Local government" means any county, incorporated city, or town which contains within its boundaries any lands or waters subject to this chapter;

(e) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.