

From: [Rebecca Messinger](#)
To: [Oliver Orjiako](#); [Jose Alvarez](#); [Sonja Wiser](#)
Subject: FW: Faulty GIS maps lead to unwarranted critical land designations, huge buffers, extensive mitigation and permanent recorded covenants on private property deeds
Date: Monday, April 29, 2024 11:01:45 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Please see the below comments from CCCU. Thanks.



Rebecca Messinger
Clerk to the Council
COUNTY MANAGER'S OFFICE

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From: Kathleen Otto <Kathleen.Otto@clark.wa.gov>
Sent: Monday, April 29, 2024 10:54 AM
To: Rebecca Messinger <Rebecca.Messinger@clark.wa.gov>
Subject: FW: Faulty GIS maps lead to unwarranted critical land designations, huge buffers, extensive mitigation and permanent recorded covenants on private property deeds



Kathleen Otto
County Manager

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From: Clark County Citizens United, Inc. <cccuinc@yahoo.com>
Sent: Saturday, April 27, 2024 5:26 PM
To: Gary Medvigy <Gary.Medvigy@clark.wa.gov>; Karen Bowerman <Karen.Bowerman@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>

Subject: Faulty GIS maps lead to unwarranted critical land designations, huge buffers, extensive mitigation and permanent recorded covenants on private property deeds

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Clark County Council
27, 2024
P.O. Box 5000
Vancouver, Washington 87666

April

FOR THE PUBLIC RECORD AND THE COMPREHENSIVE PLAN UPDATE

Re: Faulty GIS maps, lead to unwarranted critical land designations, huge buffers, extensive mitigation and permanent recorded covenants on private property deeds

Dear Councilors,

Clark County Citizens United, Inc.(CCCU), is a 501c4 non-profit formed in 1994, who represents approximately 6,000 Clark County, Washington citizens, many living in the rural and resource areas. CCCU's focus is on fair, honest, equitable and legal land use policies. CCCU believes Clark County permitting agents have been demanding **unwarranted** critical land designations, huge buffers, extensive mitigation and permanent recorded covenants on private property deeds. The discovery is alarming. County agents have failed to use accurate scientific data, mandated by the Washington State Growth Management Act, including WAC 365-195-905, when designating critical areas for permit determinations. There are numerous state and federal laws regarding those lands, which are consistent, and say that local agencies must use the mandate of "best available science" and "no net loss of functions and values", when determining wetlands and critical lands.

Under **WAC 365-195-905** it states:

3. The responsibility for including the best available science in the development and implementation of critical areas policies or regulations rests with the legislative authority of the county or city. . .

Because scientific data fails to be used properly on county GIS maps, information is riddled with inaccuracies and deception. In many instances, the maps fail to accurately reflect what is on the ground. County agents have been masquerading aerial photos and personal interpretations, in lieu of "best available science", when making regulatory permit determinations. This is dishonest and the result is that untold numbers of recorded covenants are baseless and illegal, because the determined designations disregarded the law. This has disturbed the lawfully zoned

uses of land for countless numbers of rural landowners and the building of their homes.

Clark County agents are aware of mapping distortions, but still err in issuing demands for erroneous determinations. The landowners did nothing wrong, but faced losing their occupancy permits, or bearing the costs of challenging the faulty maps and determinations, to force corrections to staff's flawed reports. County agents are dominant in the permitting process and hold the landowner hostage, even claiming a misplaced right to trespass on private property. The farmers, equestrians, and landowners are vulnerable and under an exploitive relationship with county agents, who have shown they are willing to use the flawed maps, knowing they consist of misleading data. They appear to also be willing to use extreme measures as they abuse their assumed authority. All this forces mental distress and damage to vulnerable citizens.

The prime issue that must sink in, is how destructive this is to the public trust of county agents, and the poor public regard for the permitting process in Clark County. CCCU can tell you, from dealing directly with councilor constituents, the citizens don't distinguish the permitting process from any other county actions. *"It's the county government doing this to our families and our properties, that we pay high taxes for."*

Mapping Errors

- Unequivocally, the errors have an amazing impact on private property rights and legally zoned uses of property. Landowners are faced with unwarranted mitigations that result in permanent covenants that consume the entire land, which is forever recorded on deeds.
- County agents fail to catch errors and make necessary corrections. This results in ineligible stream designations and/or unauthorized buffers on private land.
- GIS maps need corrective revisions, especially for wetlands, critical areas and habitat.
- Start at the beginning and properly use best available science. It's the law!
- At the landowners' discretion, current covenants should be terminated when they were obtained dishonestly and without the support of authorized scientific data.
- Many covenants and deeds have been modified, reducing acreage and the use of that private property for rural landowners. What's the untold cost in lost land use, lost land, and monetary land value?

What's the standard for GIS map layers?

There is insufficient and/or deceptive mapping information in Clark County GIS associated layers. The mapping errors are significant enough that anyone relying on this information, should be very uncomfortable using it to write formal permit reports. Ultimately, those reports are used to determine and mandate even small amounts of mitigation, for potential impacted development areas. The mapping errors do not reflect the use of *best available science* when designating critical areas on the maps.

This is required per **RCW 36.70A.172---Designation and protection---Best available science to be uses.**

These mapping errors must be updated to either affirm or eliminate possible wetlands and critical areas. The United States Supreme Court ruled that wetlands must be connected to navigable waters, but Clark County refuses to honor that court mandate, and instead relies on a Stormwater Manual, under the Washington Department of Ecology. But the DOE is under the jurisdiction of the federal agencies who will oversee compliance to the Court.

New mapping standards for critical areas and wetlands need to be set. A policy development must be used that dictates how much science and how much data must be collected, before designating wetlands and critical areas. The decisions of recent court actions should be used as a determining factor in those designations.

Clark County wants to regulate wetlands, critical areas and associated buffers. But those actions must be based on "best available science", and "no net loss of functions and values", under state and federal law. County agents need to get this information and use it properly and lawfully as they determine designations. Staff interpretations and aerial photos are not scientific standards. CCCU has evidenced many such failures of scientific standards that have caused great personal and financial damage to the landowner. Zoned uses of private land have been destroyed, with the creation of baseless mitigation. Private property government takings, in the form of permanent covenants over the entire parcel, have been the result. The covenant language in the Wetland and Habitat Ordinance must be removed. It never should have been included in the first place.

What should Clark County's *policy* be, when considering scientific standards, before staff is allowed to set regulatory actions?

RCW 36.60A.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.*

WAC 365-195-905

Criteria for determining which information is the "best available science"

1. *This section provides assessment criteria to assist counties and cities in determining whether information obtained during development of critical areas policies and regulations constitutes the "best available science."*
2. *Counties and cities may use information that local, state or federal natural resource agencies have determined represents the best available science consistent with criteria set out in WAC 365-195-900 through 365-195-925. The department will work with state agencies to identify resources that meet the*

criteria for best available science. Such information should be reviewed for local applicability.

3. ***The responsibility for including the “best available science” in the development and implementation of critical areas policies or regulations rests with the legislative authority of the county or city... when determining wetland and critical lands. and “no net loss of functions and values” when determining critical lands.***

Item number three of WAC 365-195-905 says it all. It is the responsibility of the Clark County Council to assure whatever is used for any ordinance determination, is true, trustworthy and follows the law, under the federal, state and local laws of best available science and no net loss of functions and values. They must know what county ordinances say and how they are being applied.

Clark County Citizens United, Inc. has been telling the Council, in written and verbal testimony, for yars now, that something is wrong with how staff is applying the ordinances. CCCU has gotten no response or action from the council and must assume that all this research data is being ignored, and staff can continue to conduct business as usual. The councilors are legally responsible for staff's actions, and CCCU expects they will take seriously, the problems landowners are facing, and make meaningful changes. They must start with removing covenant language from the Wetland and Habitat Ordinance.

Sincerely,

Susan Rasmussen, President

Clark County Citizens United, Inc

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