

From: [Oliver Orjiako](#)
To: [Jeffrey Delapena](#)
Subject: FW: Clark County is not complying with the Clean Water Act
Date: Monday, October 14, 2024 8:14:30 AM

Hi Jeff,

For the record. Thanks.

From: Clark County Citizens United, Inc. <cccuinc@yahoo.com>
Sent: Saturday, October 12, 2024 2:54 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>; Oliver Orjiako <Oliver.Orjiako@clark.wa.gov>; Jose Alvarez <Jose.Alvarez@clark.wa.gov>; Brent Davis <Brent.Davis@clark.wa.gov>; CommDev OA Land Use <CommDevOALandUse@clark.wa.gov>; Eric Golemo <egolemo@sgaengineering.com>; Summer Steenbarger <summer@preservingtheharvest.net>; Tyler Castle <wfivancouver@gmail.com>
Subject: Clark County is not complying with the Clean Water Act

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Clark County Council
P.O.Box 5000
Vancouver, Washington 98666

October 12, 2024

FOR THE PUBLIC RECORD

RE: Clark County is not complying with the Clean Water Act

Clark County Citizens United, Inc. has enclosed an article from Pacific Legal Foundation that very closely resembles what is happening here in Clark County, under the Wetland and Habitat Ordinance. Under that ordinance, staff makes up the rules as they go along, while they throw away Best Available Science by quoting BAS, when it doesn't apply to the land. Staff's onerous and flawed determinations amount to law making, which is not allowed under the Washington Administrative Code and the Revised Code of Washington. Staff is to be advisory, only, and it is up to the Council to make the laws. But the supreme law of the land is the United State Supreme Court, which the EPA and the Washington Department of Ecology must adhere to, under the Clark Water Act mandates.

Because the Wetland and Habitat determinations are so onerous, the landowner is compelled to protest. But to do so they must hire an attorney and file an appeal, resulting in many thousands of dollars in cost, which is in addition to their project costs. Staff is counting on the landowner to just "roll over" and do what the staff says, or otherwise suffer the consequences.

What once was an ordinance created via many hearings and public comments, is now a staff free-for all, and all elimination of a meaningful public process. Buffers were once 25 feet and 50 feet, now they are 100 feet and over 200 feet. A covenant was voluntary, but now it is mandatory and burdens the legal deed of the property, forever. How did this ordinance get so backwards and twisted? One can squarely blame staff and the willingness of commissioner/councilors to allow staff to make law.

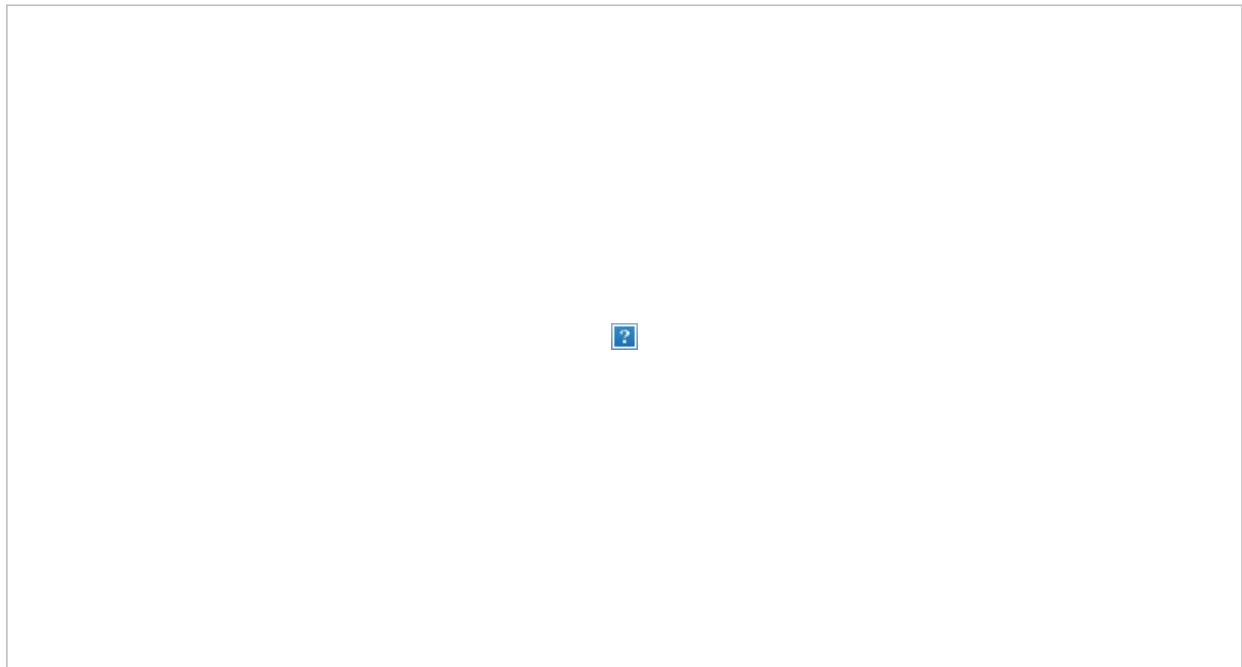
The Wetland and Habitat Ordinance needs major revision, using on the ground reality and Best Available Science, that actually reflects the circumstance. Buffers must be reduced. The covenant must be returned to a voluntary status, retroactive back to 2008, or whenever staff changed the status to mandatory. The public elected the councilors to make policy, but also to control policy. They did not intend that the councilors allow staff to control Clark County.

Sincerely,

Carol Levanen, Exec. Secretary

Clark County Citizens United, Inc. P.O. Box 2188 Battle Ground, Washington 98604 E-Mail
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[Government admits lack of evidence in Clean Water Act case](#)



Dan Ward's rural Iowa property includes a small, dry groove. But government officials called it a "seasonal river" when they inspected it after a rainstorm and found, unsurprisingly, puddles. They told Dan he'd have to pay over \$100,000 in mitigation credits because (according to them) the land was protected by the Clean Water Act. But when PLF helped Dan appeal to a higher office, new officials admitted that the initial finding wasn't backed by evidence.

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