



# THE NAKED FISH

## CAO Special Edition



A Publication of Citizens' Alliance for Property Rights and affiliates

March - April 2004



### WHICH 65% OF YOUR PROPERTY WILL KING COUNTY GET?

**Would you give King County the back seat of your car and two of its wheels to reduce traffic congestion?**

**Are you willing to board up two of your bedrooms to help limit growth in King County?**

**When King County asks for 65% of your 401K, what will you do?**

**Do you earn interest on 35% of your savings but keep the rest under your mattress so that future generations will have some to keep under their mattresses?**

King County's new Critical Areas Ordinance, which requires many rural land owners to give up the use of 65% of their land, is as loony as the items suggested above. The bureaucrats that have devised this boondoggle will earnestly point out that the new rules only apply to landowners who want to put their property to some new use, as though that somehow justifies the theft. Where is it written that it is okay for government to steal as long as it is only from a minority? Didn't zoning laws establish long ago that land theft is only justified if it is from a large number of landowners? Rural land owners have already lost billions due to multiple downzonings. Why must they pay again for their crime of attempting to live a rural lifestyle? Aren't there laws against double jeopardy?

This issue of The Naked Fish is all about Ron Sims' proposed Critical Areas Ordinance. It contains much information that King County landowners need to know. Please take the time to familiarize yourself with the proposed new rules and how they will affect you and your neighbors. If you find them as onerous and unjust as we do, then please do one or more of the things listed below. If you think the new

rules are fine, then go to the rural area and buy someone's property so that they can escape to more rural-friendly environs.

#### What Can You Do?

- Starting May 11, attend the King County Growth Management

Committee meetings that are held every Tuesday. See the back page for details.

- Write, email, fax, or call the King County Council members. Be courteous but firm in telling them what you think of the proposed ordinances and how they will im-

act you personally. Don't limit your contact to just your Councilperson. The Councilmembers that represent the urban areas are the ones that really need to hear from you. See the back page for contact info.

- Write, email or fax the editors, program directors, etc. of any newspapers or radio or tv stations that you patronize.
- Join one of our affiliated organizations.
- Send us a donation to help us get the information on the new laws out to the affected landowners.
- Talk to your neighbors. Many of them may not even know that laws are being made that will forever change the way they are allowed to use their property.
- Read the rest of this newsletter!

**Paying DDES \$138 per hour to tell you which 65% of your land that King County gets is like. . .**

**paying the Executioner to sharpen his axe before he lops off your head!**



**Complimentary Copy — See page 2 for details of how to receive future issues**

## Did You Know?

- ◆ The proposed Critical Areas Ordinance will allow DDES to extort 65% of your property in exchange for permission to use the other 35%.
- ◆ The new rules apply to new construction, additions, remodels, and proposed changes in land use.
- ◆ The new buffers can be as large as 3,700 feet. That is 986 acres for one spotted owl nest.
- ◆ A one-acre bog or fen will consume an additional 11.5 acres of perfectly good land for its buffer.
- ◆ You can clean agricultural drainage without a clearing and grading permit as long as it has been approved as part of your farm plan. Mitigation will be required.
- ◆ Adaptive management is much touted but it only works one way. If King County changes its mind down the road, the landowner will be responsible for making the newly mandated changes to the plan. King County is under no obligation to correct regulations that result in unintended and detrimental consequences to property owners or to the environment. It's Sensitive Areas Ordinance *deja-vu!*
- ◆ Only maintenance, repair and limited replacement of structures is allowed in the new buffers. If your home is located in one of the many new buffers and burns or is destroyed by earthquake, it is unlikely that you will be permitted to rebuild.
- ◆ The ordinances give broad legislative powers to DDES and DNRP via administrative rules in violation of Washington State laws such as RCW.36.70.550-670.
- ◆ The bureaucrats contend that the affordable housing provisions of the GMA don't apply to rural areas. The new ordinance provides for a reduction of buffer sizes in urban areas if 50% of the houses built are valued at \$252,000 (affordable?) or less.
- ◆ Big developers can choose to pay a fee in lieu of mitigation. The fees are to be paid into a fund that can be used for enforcement. Bribes used to be illegal, didn't they?
- ◆ Best available science does not differentiate between urban and rural areas. The decision to treat the two areas differently was made by the seven members of the Critical Areas Ordinance Policy Group. [see "Democracy in Action" page 3]
- ◆ Rural Stewardship Plans are touted as a way that landowners can reduce the size of the huge buffers called for in the ordinance. But ... in order to get a buffer reduction you must give up use of 85% of your property. [see Harry Reinert quote, "Possible restrictions outrage landowners", *Seattle Times*, April 15, 2004, p. B6]
- ◆ The bulk of the new regulations apply only to the 15% of the land area of King County that is in between the urban areas (25%) and the forest production area (60%). If they confiscated all the land in unincorporated King County and turned it back into forest, the percentage of forest cover in King County would raise from 60% to 75%. The urban 25% will be just as devoid of fish and wildlife habitat as it is now.
- ◆ A blue heron rookery gets a 48-acre buffer.
- ◆ A red-tailed hawk gets 7.6 acres if she lives in the rural area but nothing if she should decide to nest inside the urban growth



Liberty encompasses a broad spectrum – from an escape from chains and stocks to the opportunity to live and work in a free society. In a country like America, where these basic liberties were purchased by the blood of our forefathers, we tend to enjoy the fruit and forget the root from whence it grew. Apathy has been the downfall of many, as the changing tides of government policy wash upon the shores of life to erode the beauty of God-given freedoms.

## To Continue Receiving THE NAKED FISH

*The Naked Fish* is mailed to subscribers and members of groups affiliated with Citizens' Alliance for Property Rights (CAPR). We also distribute a large number of complimentary copies. If you are a member of an affiliated group or subscriber, don't worry, you will continue receiving *The Naked Fish* until your subscription runs out or you fail to renew your membership. If you have received a complimentary copy, the way to get more issues is to either join a CAPR affiliated group or subscribe (\$10 per year). You may subscribe by calling 206.335.2312 or sending a check and your mailing info to:

CAPR  
718 Griffin Ave #7  
Enumclaw, WA 98022

We hope you enjoyed this issue and will join us in our attempt to bring some sense and sanity to environmental issues in King County.

Back issues of *The Naked Fish* are available at:

[www.maycreek.com](http://www.maycreek.com)

Thinking cannot be carried on without the materials of thought; and the materials of thought are facts, or else assertions that are presented as facts. A mass of details stored up in the mind does not in itself make a thinker; but on the other hand thinking is absolutely impossible without that mass of details. And it is just this latter impossible operation of thinking without the materials of thought which is being advocated by modern pedagogy and is being put into practice only too well by modern students. In the presence of this tendency, we believe that facts and hard work ought again to be allowed to come to their rights: it is impossible to think with an empty mind.

J. Gresham Machen

*The Naked Fish* is published by Citizens' Alliance for Property Rights, a Washington state political action committee. Articles in *The Naked Fish* cover subjects of concern both to local and national readers. We try to provide environmental information not commonly found in the major media. Articles with by-lines reflect the research, views and opinions of the author which may not reflect positions on the issues adopted by or CAPR or its affiliates.

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## DEMOCRACY IN ACTION

The proposed ordinance changes (critical areas, stormwater, clearing and grading, comprehensive plan – often referred to as a group as the CAO) show convincingly why the founders of the United States and the state of Washington did not form true democratic governments (three wolves and a sheep voting on what to have for dinner) but instead opted for a constitutional representative form of government. They recognized that the tyranny of the majority in a democracy could be every bit as oppressive as that of a monarch or dictator. They established constitutions at the state and federal levels of government to protect the rights of the minorities. Unfortunately, the government of King County is a true democracy and a not very representative one at that. The representatives of the urban areas get to impose regulations and taxes in the unincorporated areas that do not apply to their urban constituents. The current majority gets to set the rules for a game they don't have to play. It's taxation and regulation without representation with no constitution to protect the governed.

The graphs on page 7 shows the disparity of some of the proposed rules between rural

and urban unincorporated King County as well as the rules already in place for some of the urban cities in King County. There is a similar disparity between the proposed rules for rural King County and neighboring counties that have adopted much less stringent rules that have been upheld both by the Western Washington Growth Management Hearings Board as well as Superior Court. **Skagit County, for instance, has agricultural areas with no buffers.**

King County bureaucrats would like you to believe that the Growth Management Act's (GMA) requirement for Best Available Science (BAS) to be used when setting land use regulation is responsible for the disparity. That is not true and they even admit it in the fine print. See page 39 of the Official King County Response to Comments For Critical Areas Ordinances, 2<sup>nd</sup> Round (KCRC) for the following quote, "Best available science is the process of identifying the current, most applicable (to King County conditions) science from a wide range of literature and its findings. Best available science (BAS) does not differentiate between rural and urban areas." The truth is that science does indeed differentiate between

poor quality watersheds as commonly found in urban areas and better quality watersheds as commonly found in rural areas. "Critical area protection is particularly necessary in watersheds of poor environmental quality," – KCRC page 18. "... for wetlands in general within an urbanizing area, BAS suggests that wetland functions will definitely decline with only fixed buffers of 25 to 100 ft." – Best Available Science, Volume II, page 2-55.

**So the urban areas where the worst environmental damage has occurred get the least costly regulations while the rural areas where the landowners have taken the best care of their land get stuck with the regulations that cost the most.** If BAS didn't decide that, who did? **It was decided by the Critical Areas Ordinance Policy Group – Stephanie Warden, Director, DDES; Wally Archuleta, Managing Engineer, DOT; John Briggs, Deputy Prosecutor; Linda Dougherty, Division Director, DOT; Daryl Grigsby, Division Director, DNR; Mark Isaacson, Assistant Director, DNR; Joe Miles, Division Director, DDES.** Guess where they live? The rules certainly won't affect their properties.

While property owners in the rural area are forced to give up 65% of their property and live with massive regulation of the rest, the urban majority of this democracy enjoys the fruits of the environmental destruction of their area. Their house values continue to rise, their businesses and industries continue to thrive, and taxes paid by rural residents help them to build new infrastructure. People from around the world flock to the cities of King County where they can enjoy all the benefits of urban life while being only steps away from communing with nature in the wonderful open space their rural servants are forced to provide. Seattle is the only city in the world where you can move to the city to enjoy the country.

It is a sad day to be in the rural minority in King County. After a long history of providing the food, coal, and timber to make Seattle and its sister cities of King County what they are, rural residents are being made to appear the villains in order to assuage the environmental guilt of the urban elite. It makes us yearn for a good king or benevolent dictator.

## SOME SIMPLE QUESTIONS TO ASK MR. SIMS' BUREAUCRATS

The history of environmental protection and stewardship in King County has seen a full range of actions; from urban developers completely destroying any evidence of previous environmental features within days of property ownership, to families holding undamaged land for generations. Individual property owners have benefited just as widely with filled wetlands in the industrialized Kent Valley currently valued as much as \$785,000 per acre and nearby undamaged wetlands being taken by King County with zero compensation.

Citizens' Alliance for Property Rights has developed a short list of questions that you may want to ask your elected representative. This list is far from complete but we hope it will aid in developing an honest discussion concerning environmental policy in King County.

### Ethics of Elected Officials and Bureaucrats

Will the County representative state under oath that this proposal treats all citizens of King County fairly and equitably?

Does the County representative personally believe that it is appropriate for government to transfer wealth from the poor to the wealthy?

How many members of the Critical Areas Ordinance Policy Group are residents of rural King County and will be negatively impacted by CAO?

How many campaign contributors to the Democratic majority on the King County Council are negatively impacted by CAO?

What are the ethical ramifications of county staff deliberately limiting key environmental information available for public discussion?

### Urban Contribution to Environmental Damage in King County

- ♦ What are the major sources of pollution and environmental damage in King County?
- ♦ Where are the "Super Fund" sites in King County?
- ♦ Where are the areas of impervious surfaces greater than 10 percent of property?
- ♦ How many gallons of contaminated water run off of impervious surfaces in urban King County each year?
- ♦ How many gallons of raw sewage have been discharged by urban cities?
- ♦ How many gallons of partially-treated effluent are discharged by cities each year?
- ♦ Where are the sources of chemical and oil spills?
- ♦ Where are the sources of air pollution?
- ♦ How many acres of saltwater mudflat and estuaries have been lost in urban areas?
- ♦ How many acres of wetlands and bogs have been destroyed in urban areas?
- ♦ How many acres of floodplains have been filled in the Kent Valley?
- ♦ How many miles of creeks and streams have been enclosed in culverts?
- ♦ Where do water quality studies show impacted water conditions?
- ♦ What percentage of water resources are used by the urban areas?

### Rewards for Environmental Damage

- ♦ How much wealth has urban development created?
- ♦ How many millions does King County collect annually in urban property taxes?
- ♦ How many millions did DDES collect in fees from gravel pits and permits?
- ♦ How much additional wealth did the Growth Management Act transfer to urban property owners?

### Rewards for Stewardship of Farmland and Environmental Features

- ♦ How has King County rewarded farmers for good stewardship?
- ♦ How has King County rewarded environmental protection by rural residents?
- ♦ How much wealth was taken from rural property owners with the Growth Management Act and the Sensitive Areas Ordinance?

### Science

- ♦ Why were genetically identical hatchery salmon not counted in total salmon return numbers for the Federal Endangered Species Act?
- ♦ How can state and federal hatcheries raise millions of salmon annually in asphalt-lined rearing ponds surrounded by 100 feet of asphalt pavement but identical "wild" salmon need 165 feet buffers from farm pastures?
- ♦ Why does a salmon need only a 50-foot buffer from pavement in Seattle but a 165-foot buffer from Enumclaw farm pasture?
- ♦ Why has the state approved zero buffers for agricultural areas in other counties but King County salmon need massive buffers?
- ♦ Why hasn't King County planted trees along the Duwamish and Lower Green River if shade is such a key factor?

### Distribution of Mitigation Cost

- ♦ How many dollars will the owners of those \$785,000/acre filled wetlands in the Kent Valley be required to contribute?
- ♦ How much will King County contribute from the annual taxes collected from the

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# WHY DO WE ELECT THE KING COUNTY COUNCIL?

By Maxine Keesling

"D. Except for other agencies with authority to implement specific provisions of this title, the department shall have the sole authority to issue official interpretations ((of)) and adopt public rules to implement this title, ((pursuant to)) in accordance with K.C.C. chapter 2.98."

The paragraph quoted above is from the top of page 8, "CAO Transmittal Package Part 1." It is one of the currently proposed changes to King County's Comprehensive Plan and Critical Areas Ordinance and related ordinances (CAO). DDES (King County Department of Development and Environmental Services) has added a significant underlined phrase to the text that is located in Section 2 - Administration and Review Authority:

The chapter 2.98 compliance wording has

not, in the past, prevented DDES' public rules from in actuality being new official land use controls. The executive's new proposals offer unlimited scope for DDES to completely control private land use in unincorporated King County, particularly in the Rural Area. The Rural Area comprises only 15% of the county yet comprises 100% of land use opportunities to each individual rural landowner.

Each member of the King County Council [as well as all residents of unincorporated King County - Ed] should read carefully the Planning Enabling Act, RCW.36.70.020.11 and 36.70.550 through 670 [reprinted below]. These RCW sections specifically state that anything and everything that constitutes land use management is an "official control", and that all such controls must be legislatively adopted. And that LEGISLATIVE responsibility can not be DELEGATED to anyone, including the administrative branch. Official controls must be adopted by OR-

DINANCE, not by public rule. Public rules are valid only when adopted under the oversight of the legislative body.

Years ago I was involved in a hearing examiner case in which what was then called BALD [Building and Lands Development - now DDES] admitted to not following correct procedure in the adoption of public rules. I was also involved in a Court of Appeals case in which King County's ability to deny short plats unless the applicants constructed a mile of public road, was denied. BALD was so anxious that the case not set a

precedent, due to a footnote by the court about an unconstitutional taking, that they asked the landowners to join with the county and ask for non-publication of the case so that no precedent could be set. In return the county would not appeal to the Supreme Court and would go ahead and process the short plats. Since the landowners just wanted their short plats, they agreed.

The point is, in the past BALD/DDES has not been punctilious about following rules. The Council should keep the control it is allocated by state law.

**A well constituted state is when the people obey the rulers, and the rulers obey the law.**  
— Solon (600 B.C.)

## RCW 36.70.020 - Definitions

- 2 "Board" means the board of county commissioners.
- 4 "Commission" means a county or regional planning commission.
- 8 "Department" means a planning department organized and functioning as any other department in any county.
- 11 "Official controls" means legislatively defined and enacted policies, standards, precise detailed maps and other criteria, all of which control the physical development of a county or any part thereof or any detail thereof, and are the means of translating into regulations and ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and adoption of detailed maps.

## RCW 36.70.550 - Official controls.

From time to time, the planning agency may, or if so requested by the board shall, cause to be prepared official controls which, when adopted by ordinance by the board, will further the objectives and goals of the comprehensive plan. The planning agency may also draft such regulations, programs and legislation as may, in its judgment, be required to preserve the integrity of the comprehensive plan and assure its systematic execution, and the planning agency may recommend such plans, regulations, programs and legislation to the board for adoption.

## RCW 36.70.560 - Official controls — Forms of controls.

Official controls may include:

- 1 Maps showing the exact boundaries of zones within each of which separate controls over the type and degree of permissible land uses are defined;
- 2 Maps for streets showing the exact alignment, gradients, dimensions and other pertinent features, and including specific controls with reference to protecting such accurately defined future rights of way against encroachment by buildings, other physical structures or facilities;
- 3 Maps for other public facilities, such as parks, playgrounds, civic centers, etc., showing exact location, size, boundaries and other related features, including appropriate regulations protecting such future sites against encroachment by buildings and other physical structures or facilities;
- 4 Specific regulations and controls pertaining to other subjects incorporated in the comprehensive plan or establishing standards and procedures to be employed in land development including, but not limited to, subdividing of land and the approval of land plats and the preservation of streets and lands for other public purposes requiring future dedication or acquisition and general design of physical improvements, and the encouragement and protection of access to direct sunlight for solar energy systems.

## RCW 36.70.570 - Official controls — Adoption.

Official controls shall be adopted by ordinance and shall further the purpose and objectives of a comprehensive plan and parts thereof.

## RCW 36.70.580 - Official controls — Public hearing by commission.

Before recommending an official control or amendment to the board for adoption, the commission shall hold at least one public hearing.

## RCW 36.70.590 - Official controls — Notice of hearing.

Notice of the time, place and purpose of the hearing shall be given by one publication in a newspaper of general circulation in the county and in the official gazette, if any, of the county at least ten days before the hearing. The board may prescribe additional methods for providing notice.

## RCW 36.70.600 - Official controls — Recommendation to board — Required vote.

The recommendation to the board of any official control or amendments thereto by the planning agency shall be by the affirmative vote of not less than

a majority of the total members of the commission. Such approval shall be by a recorded motion which shall incorporate the findings of fact of the commission and the reasons for its action and the motion shall refer expressly to the maps, descriptive and other matters intended by the commission to constitute the plan, or amendment, addition or extension thereto. The indication of approval by the commission shall be recorded on the map and descriptive matter by the signatures of the chairman and the secretary of the commission and of such others as the commission in its rules may designate.

## RCW 36.70.610 - Official controls — Reference to board.

A copy of any official control or amendment recommended pursuant to RCW 36.70.550, 36.70.560, 36.70.570 and 36.70.580 shall be submitted to the board not later than fourteen days following the action by the commission and shall be accompanied by the motion of the planning agency approving the same, together with a statement setting forth the factors considered at the hearing, and analysis of findings considered by the commission to be controlling.

## RCW 36.70.620 - Official controls — Action by board.

Upon receipt of any recommended official control or amendment thereto, the board shall at its next regular public meeting set the date for a public meeting where it may, by ordinance, adopt or reject the official control or amendment.

## RCW 36.70.630 - Official controls — Board to conduct hearing, adopt findings prior to incorporating changes in recommended control.

If after considering the matter at a public meeting as provided in RCW 36.70.620 the board deems a change in the recommendations of the planning agency to be necessary, the change shall not be incorporated in the recommended control until the board shall conduct its own public hearing, giving notice thereof as provided in RCW 36.70.590, and it shall adopt its own findings of fact and statement setting forth the factors considered at the hearing and its own analysis of findings considered by it to be controlling.

## RCW 36.70.640 - Official controls — Board may initiate.

When it deems it to be for the public interest, the board may initiate consideration of an ordinance establishing an official control, or amendments to an existing official control, including those specified in RCW 36.70.560. The board shall first refer the proposed official control or amendment to the planning agency for report which shall, thereafter, be considered and processed in the same manner as that set forth in RCW 36.70.630 regarding a change in the recommendation of the planning agency.

## RCW 36.70.650 - Board final authority.

The report and recommendation by the planning agency, whether on a proposed control initiated by it, whether on a matter referred back to it by the board for further report, or whether on a matter initiated by the board, shall be advisory only and the final determination shall rest with the board.

## RCW 36.70.660 - Procedures for adoption of controls limited to planning matters.

The provisions of this chapter with references to the procedures to be followed in the adoption of official controls shall apply only to establishing official controls pertaining to subjects set forth in RCW 36.70.560.

## RCW 36.70.670 - Enforcement — Official controls.

The board may determine and establish administrative rules and procedures for the application and enforcement of official controls, and may assign or delegate such administrative functions, powers and duties to such department or official as may be appropriate.

## YOU GET WHAT YOU PAY FOR

By Rodney McFarland

A couple of recent articles in the Seattle Times reminded me that the old adage "You Get What You Pay For" certainly applies to government. The first article was about the average lot price on the Eastside (\$190,000) and the second was about how more people are leaving this area than are moving here.

The most affluent and influential members of society create governments to serve their needs. Protection of wealth is the primary service government provides those who control it. The Roman Empire certainly wasn't created to help out the slaves and the poor nor was our own country. Our founders said our government was for all Americans but limited participation to male landowners. Whether the government consists of one person as in the European monarchies, self-appointed socialist bureaucrats, or freely elected representatives the result is always the same. Those that have wealth govern the have-nots for the benefit of the haves.

If you own a \$190,000 building lot you are definitely among the haves. It wasn't that long ago that Dick Colasurdo was developing lots in this area that sold for \$5,000. Especially nice ones might fetch \$10,000. House and lot together might be \$40,000. How do you get to \$190,000 for that same lot and its accompanying \$570,000 house? It's really simple. You and your neighbors contribute enough money and effort to the campaigns of some politicians that they will do a favor for you. They draw a line around your land and use the armed force of government to prevent any development outside the line. The economic law of supply and demand kicks in and the value of your property goes way up. You say, of course, that the line needs to be drawn to "save" the land outside the line—a ready-made distracter already put in place by the environmental evangelists. [See the sidebar on distracters if you are not familiar with them.]

Once lot prices start inflating, the small

single-house developers can no longer compete. The medium and large developers are the only ones that can afford the land. The large developers then play their second trump card, once again using a ready-made distracter provided by the environmental evangelists. In order to once again "save" the land from the destruction of the developers, the politicians create a labyrinthine permitting and regulating bureaucracy to oversee anything and everything that happens on the lot. The mid-size developers can no longer afford the five-year permitting process with its attendant lawsuits and negative publicity let alone the exorbitant permit fees necessary to support the bureaucracy. But for the already wealthy developers it is a bonanza. They have limited the supply of land and drastically reduced their competition and prices can go way up.

Everyone inside the line who already owns property is happy as the value of existing homes flows upward also. They are all glad their wealthy neighbors invented this fine government to help make them wealthy too. They may grouse about the high property taxes it takes to support the bureaucracy and the politicians and the enforcers but deep down they are glad how things have turned out.

For those who don't own property, the picture is a little different. The politicians wring their hands and do everything they can—wink, wink—to find some "affordable" housing. What they find, if anything is tenements and high-rise apartments and vouchers to use to rent from their developer buddies. The American dream of your own house on your own lot is gone for those who don't already own a house.

Those who own undeveloped land outside the line are not much better off. Before the line was drawn they might have owned five acres that could be divided into 20 one-fourth acre lots worth \$10,000 each (total = \$200,000). After the line is drawn to exclude them, they have one lot worth \$190,000

while those inside the line have 20 lots worth \$190,000 each (total = \$3.8 million). Both people may have purchased their property to help pay for their retirement but only one gets to quit working. In order not to get lynched by these disgruntled landowners, the politicians spend major amounts of tax dollars promoting even more distracters to "educate" the rural landowners that it is their civic duty to provide "open space" for those crowded into the tenements. It's a little green lie that the tenement residents want open space outside the line. What they really want is an affordable house outside the line.

Those who already own developed property outside the line can view the line as good or bad depending on their point of view. Many take the view that all development of the rural area should have ceased as soon as their house was built. They love living near their neighbors' undeveloped open space and consider it their right that it stays undeveloped. They can have the feeling of palatial forested estates without actually having to buy the land and pay the taxes that go with it.

Others take the view that their taxes should pay for the same infrastructure as those inside the line enjoy. They think that that they have a right to roads and sewers and commercial areas close to home at which to shop no matter what the King County Comprehensive Plan says. The regulators tell them to quit sniveling about their taxes since it costs more to provide services in the country so they are being subsidized by the city folk. The tax rate in unincorporated King County is 13.1% as compared to, say, Medina at 9.07% or Hunts Point at 7.93%. If they really were subsidizing us, they would gladly let us become Cedar County!

Some may say that this is all a great hypothesis but that the wealthy could never buy that many politicians. Most of you probably recognize it as a done deal. In 1990 the Washington State Legislature passed the

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## WHAT THE HECK IS A DISTRACTER?

Anyone who has ever taken a multiple-choice exam has experience with distracters. Every question has one or more answers that look good, appear to be logical and just feel right. But they are wrong. Students that don't really understand the question will choose them every time. Only those with in-depth knowledge of the subject can resist them and choose the correct answer. The teacher is thus able to minimize the chance that students will guess the correct answer.

Politicians have traditionally been the grand masters of using distracters. They say one thing but do another while we are distracted by their rhetoric. Many people erroneously attribute the Law of Unintended Consequences to laws that really work just as intended but were promoted using good distracters thus leading people to think the distracter was actually signed into law. Even politicians with honorable intentions but slow reading skills get hoodwinked into voting for distracters because they don't read what they are voting for.

The radical environmentalists are giving the politicians a run for their money though. (Yes, I know it is really our money!) They have a whole litany of distracters that they have inculcated into our brains. They range from little green lies to great green whoppers but they are so well crafted and repeated so often that most folks treat them as proven theories. Meanwhile, the real agendas slide in the back door on the coattails of sympathetic or gullible politicians. Ever heard of the "Salmon Recovery Plan?" It makes Bill Clinton's firing of a couple cruise missiles at an aspirin factory to get us to forget about Monica—what the heck was her name—pale in comparison. We don't even think about the billions of dollars subsidizing commercial salmon fishing.

If you want to know what is really going on in our world, get better at spotting and ignoring distracters. They are everywhere.

## SOME SIMPLE QUESTIONS TO ASK MR. SIMS' BUREAUCRATS

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thousands of acres of destroyed urban wetlands?

- ◆ How much will the urban cities contribute from annual taxes?
- ◆ How much will the typical urban property owner contribute?
- ◆ How many square feet of native vegetation will be required per housing unit in the typical urban area?
- ◆ How many acres of native vegetation will be demanded per housing unit on a rural 10-acre lot?
- ◆ How many acres of native vegetation will be demanded per housing unit on a 35-acre farm?

### Who Benefits From Inequitable Policy and Conflict

- ◆ How many additional permits and reviews will be generated by the proposal?
- ◆ What is the estimated increase in DDES budget?
- ◆ Why is most of the money collected in Surface Water Management fees being used to hire bureaucrats rather than purchasing wetlands and easements?
- ◆ Why is one of the wealthiest counties in the United States taking land?
- ◆ Why has DDES ignored well-respected preservation models that purchase easements and property?

### May Valley Environmental Council

meets every Monday at 7:00 p.m.

in the basement of Leonard's  
at the corner of SR 900 & 164 Avenue NE

[www.maycreek.com](http://www.maycreek.com)

### Four Creeks Unincorporated Area Council

meets the third Wednesday of each month at 7:00 p.m.

May Valley Alliance Church  
16431 SE Renton-Issaquah Rd

See their web site at [council@fourcreeks.org](mailto:council@fourcreeks.org)

### Greater Maple Valley Area Council

meets the first Monday of each month at 7:00 p.m.

King County Police Precinct #3  
22300 SE 231st, Maple Valley

See their web site at  
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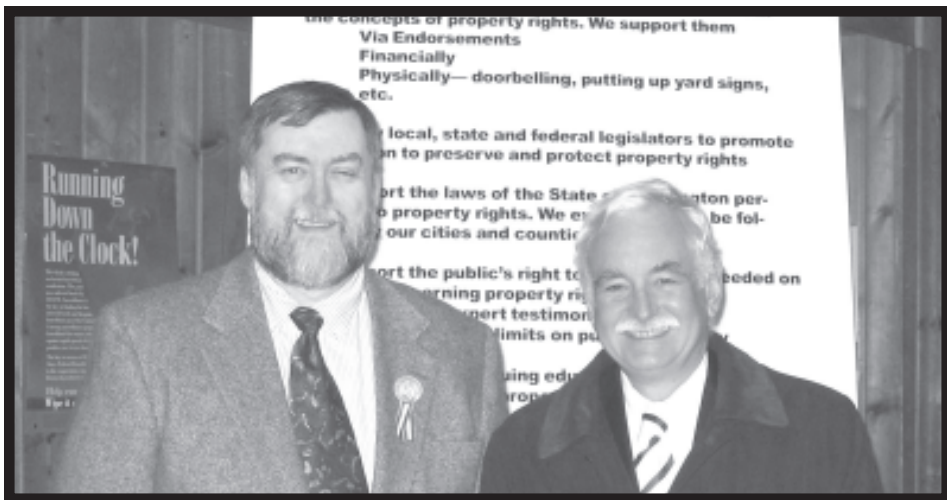
## JUSTICE SANDERS ADDRESSED MARCH CAPR MEETING

Washington Supreme Court Justice Richard B. Sanders was the keynote speaker at the March 24, 2004, public meeting of the Citizens' Alliance for Property Rights. Justice Sanders spoke about "Protecting Our Property Rights Under the Washington State Constitution." He outlined the history of property rights protections via both the Federal Constitution and the Washington State Constitution and talked at length about relevant case law.

The Washington Constitution actually has more protection of property rights than the U.S. Constitution. The Washington Constitution requires payment to the property

owner for damage to property as well as outright "takings" by government. Unfortunately that clause has not been very successfully applied to "regulatory takings" in this state.

Citizens' Alliance for Property Rights is working to elect new judges that would be inclined to see regulatory takings as government damage to property. Any judges that intend to run in the next election have until July 30 to file for office. CAPR will evaluate them and publish our recommendations before the election. Justice Sanders is up for re-election and will definitely be endorsed by CAPR.



Justice Sanders (right) and CAPR President Rodney McFarland at the Enumclaw Sales Pavilion

## YOU GET WHAT YOU PAY FOR

Continued from page 5

Growth Management Act (voters rejected 3 to 1 initiative 547 upon which it is based) which mandated that cities and counties draw urban growth boundary lines to further separate the haves from the used-to-haves and the never-will-haves. The rest, as they say, is history.

The return on investment for the wealthy has been substantial. The politicians and bureaucrats have been able to grow government beyond their wildest fantasies. The use of distracters has been refined to a high art. The regulators are currently making the rounds "educating" us about even more onerous restrictions coming in the new Critical Areas Ordinance. The 1990 Sensitive Areas Ordinance obviously hasn't raised the price of lots high enough so they will crank it up a notch to the cheers of the environmental evangelists. If the 1000 environmental evangelists of Washington really cared about the rural area, they would buy five or ten acres and "save it." But, of course, they can't afford that. They only know how to spend other people's retirement money. They are even able to project smug righteousness while saving the world with someone else's nickels.

If you think growth is bad, then the real solution is to make the region unpalatable to large numbers of present or potential residents. High taxes, high housing costs, onerous regulation and ignored traffic congestion will do it nicely. Those that are here will move elsewhere and those that have been

moving here from elsewhere will cease to do so. You attain the perfect solution without spending any tax money on infrastructure. Which brings us to the second recent newspaper article. Surveys of moving companies reveal that the exodus has begun. Once upon a time companies that moved employees to Seattle often had trouble getting them to move away. Now whole companies are leaving because they can't afford to expand due to regulatory burdens and permit fees and their employees cannot afford the house prices in the area.

I am convinced that continued governmental manipulation will be able to eventually drive out enough people that all our problems will go away. Traffic congestion will cease to be a problem. The rural areas will once again be as they were in 1850 with trees and swamps and plentiful fish and game. Residents will be able to commune with nature in the morning, join Councilman Pelz for a ball game in the evening and then ride the train home for a nightcap. Seattle will once again be paradise—if you are rich or one of their servants.

The Growth Management Act mandates that King County must review its Comprehensive Plan that implements it by the end of 2004. If you are wealthy, this is your chance to tighten the screws. The rest of you might want to start paying attention and getting involved. Or you could just spend the time figuring out where to move!

## GROWTH MANAGEMENT THE REALITY

[The following is from an extensive report on the Growth Management Act prepared by Evergreen Freedom Foundation in January 2002. The full text can be found at [http://www.effwa.org/pdfs/growth\\_management\\_act.pdf](http://www.effwa.org/pdfs/growth_management_act.pdf).]

At present, GMA appears to be a self-defeating system. Not only has it failed to provide a truly bottom-up planning framework, but the Act has a negative impact on many of its own goals. Consider the following:

1. Urban growth—Restricting growth to urban areas limits available land supply, negatively impacting the cost of housing. In addition, increased urban densities can result in increased traffic congestion and air pollution. Rather than efficiently using existing infrastructure, it appears that GMA's urban growth policies may overburden existing infrastructure. What's more, even former GMA supporters are acknowledging that there are limits to population density, beyond which quality of life is degraded.

2. Transportation—Presently, the Seattle area ranks second in the nation for traffic congestion, wasting time and increasing business costs. Needless to say, as housing prices rise, buyers must travel further to find a home they can afford. This exacerbates traffic congestion, as the distance workers travel from their homes to their job increases.

3. Housing—Many companies have difficulty attracting a quality workforce because workers cannot afford to live close enough to their homes. GMA has tightened restrictions on land use and increased the regulatory burdens on development. Although national home ownership rates have risen, Washington state is among the lowest in the nation. Seventy percent of today's homes are not affordable for those who make at or less than the median income. Research indicates that a significant percentage of Washington's

increased housing prices may be attributed to GMA. GMA-authorized impact fees are also contributing to the high cost of development. These costs, in turn, are passed on to consumers, resulting in higher housing costs.

4. Economic development—Economically depressed counties are being thwarted in their attempts to recruit new businesses and sustain existing ones. Hearings Board opinions restrict the flexibility counties were intended to have in planning for local economic needs. Another specific concern is that counties' economic tax bases are eroded by the GMA requirement that growth be channeled into cities (UGAs).

5. Property rights—Private property owners face serious restrictions on their ability to use, develop, and enjoy their property. Con-

sider the Western Washington Growth Management Hearings Board's disapproval of Lewis County's regulation authorizing a second dwelling on farm land. Why should the State be able to prevent a family member from building a home alongside his or her parents to help with, or ultimately take over management of, the family farm?

6. Permits—Although certain provisions of the GMA encourage timely permit processing, the current practice of invalidating local comprehensive plans and development regulations has brought uncertainty and delay to the permit offices of a number of Washington's counties. Without valid regulations in effect, developers have no guarantees about the standards their work must meet or expenses they will incur. Permit processing is still unbelievably slow—the process can take over three years in some areas.

7. Environment—While GMA seems to have prompted increased environmental protection, some are concerned that the Hearings Boards give more weight to the environmental goal than the other twelve GMA goals, precluding local governments from balancing planning goals to reflect regional differences and economic needs.

8. Citizen participation and coordination—Many citizens have become involved in the land use planning process, but it would appear that counties' comprehensive plans and development regulations all too often reflect the views of the Hearings Boards rather than the views of local citizens. This is a disincentive for continued citizen involvement and defeats GMA's role as a bottom-up planning process.



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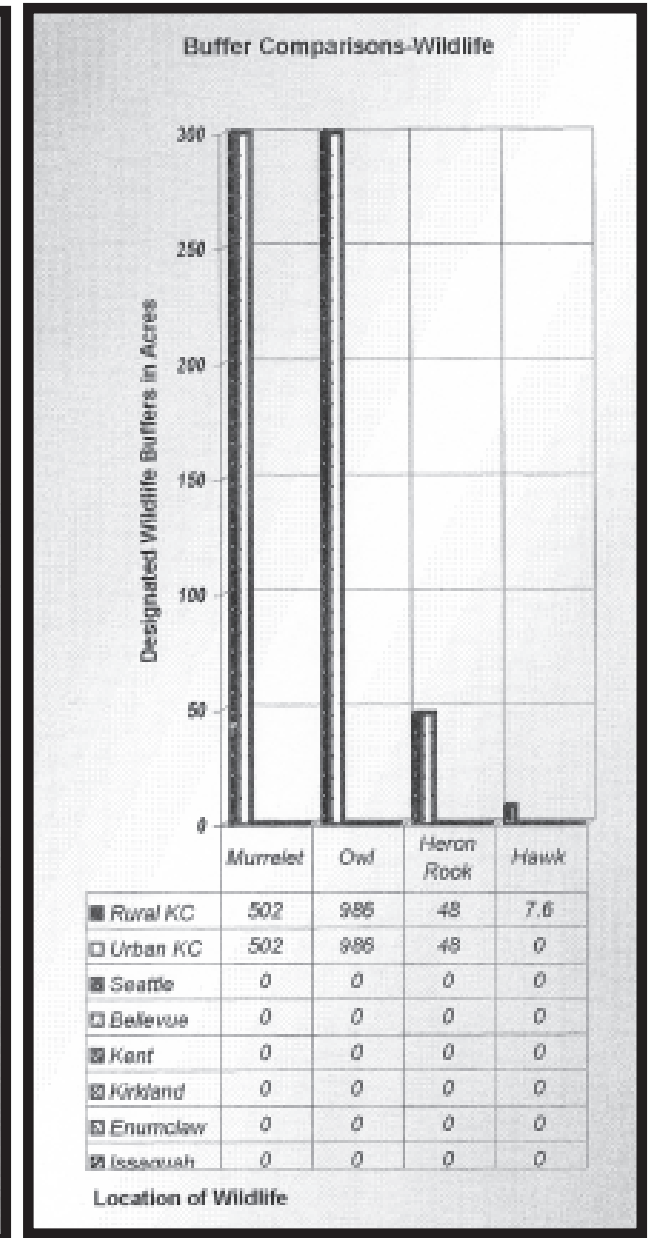
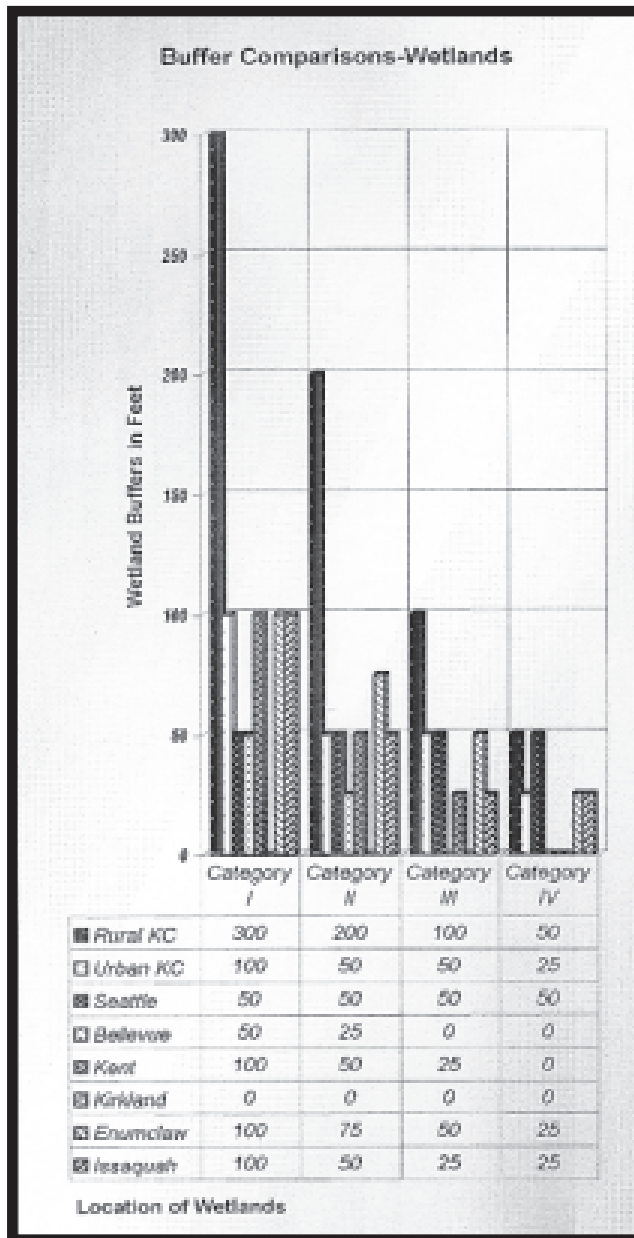
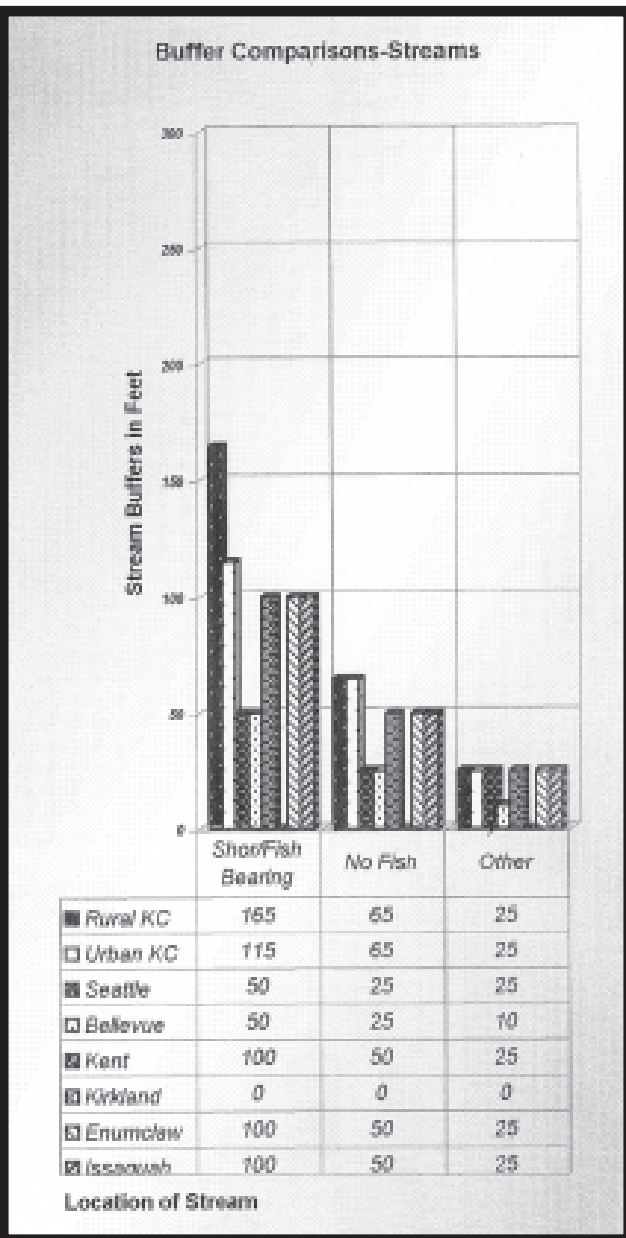
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**CITIZENS' ALLIANCE FOR PROPERTY RIGHTS**  
**FROM THE PRESIDENT**  
**RODNEY MCFARLAND**

The third round of public hearings on the proposed changes to King County's Comprehensive Plan and the Critical Areas Ordinance and its brothers, the Stormwater and Clearing and Grading Ordinances, has been interesting to watch as well as participate in. The northern and middle tiers of rural King County seem to be finally getting the message and are turning out to voice their displeasure with Ron Sims' proposals. Those areas of the county did not muster much opposition during rounds one and two of the public hearings. During those rounds, the farmers on the Enumclaw plateau were much more vocal. One result of their outrage was the birth of this organization.

Those vocal farmers that were the watchdogs of rural rights early on got thrown a bone by King County and are now curled up by the fire thinking they are safe. All it took was a few word changes and verbal assurance from the bureaucracy that they had been "heard." It is my opinion that the bone they think they devoured was really a plastic facsimile that will cause them no end of indigestion as the bureaucrats play out the rest of their hand.

The first knuckle of the bone is that land in the Agricultural Production Districts is not subject to the 35% clearing limitation. Most of it is already cleared and it is all zoned for 10- or 35-acre tracts. Land in the RA zones, which includes many farms, is subject to the 35% clearing limitations. Land in the Forest Production zone has some rules specific to it that may allow up to 50% clearing under certain situations. All of the zones are subject to the rest of the rules pertaining to critical areas. The farmers in RA zones didn't even get to see a picture of a bone.

If a farmer in the APD zone wishes to change use or build something new, all the critical area regulations will apply. If there is a parcel in the APD that doesn't have some kind of critical area as defined by the new ordinances, I'd like to see it. Once you subtract the critical areas and their buffers from any given 10-acre tract, you will be damn lucky to have 3.5 acres left. I'm in RA not APD, but my 12-acre farm will have exactly zero square inches that aren't critical area or buffer.

The farmers are counting on the second knuckle of the bone, "Farm Plans," to save them from the buffers. I'm sure that they are thinking of farm plans like they currently have with King Conservation. What they don't understand is that King County DDES and DNRP will have full control of the requirements of the new "Farm Plans." (See K.C.C. 21A.24-25 lines 482-489) Those requirements won't be written until after the ordinances are passed. The requirements will be implemented by "public rule" in direct contravention of Washington State law (see "Why Do We Elect the King County Council?" on page 4) and will not be voted on by the King County Council. Stewardship plans work the same way.

Specific goals that the "Farm Plan" must achieve include:

- ◆ "To restore and enhance (emphasis mine) critical areas to the maximum extent practical ..." (K.C.C. 21A.24-26 line 495)
- ◆ "... maintain and enhance (emphasis mine) natural hydrologic systems on the site;" (K.C.C. 21A.24-26 line 498)
- ◆ "To monitor the effectiveness of best management practices and implement additional practices ... to achieve the goals ..." (K.C.C. 21A.24-26 line 501-502)

I can clearly picture the Birkenstock biologists at DDES and DNRP chortling with glee as they anticipate forcing farmers "To restore and enhance critical areas to the maximum extent practical" in order to change from horses to cows or attempt to replace an outbuilding. It's one gigantic "gotcha" just waiting to be sprung. The Growth Management Act requires "protecting" critical areas, not restoration and enhancement. Harry Reinert of DDES already let slip to a Seattle Times reporter that to get buffer reductions via Stewardship Plans will require limiting clearing to 15%. Mark my words: **Farm Plans will be more onerous than the fixed regulations.**

King County bureaucrats have always been masters at divide and conquer. As surely as a calf is cut out by a champion reining horse, the APD farmers and the Farm Bureau have been separated from their neighbors in the RA zones. Their substantial voices have been stilled. But it is not too late. They could still uncurl from the fire and join the RA rabble that has awakened to fight this travesty of justice against the rural landowners. We can only hope that the plastic bone is beginning to burn their bellies.

If you only have time and energy to do one thing to help us stop this madness, come to the King County Growth Management and Unincorporated Areas Committee meeting starting on Tuesday, May 11, 2004. That meeting will be held at the King County Courthouse, in Council chambers on the tenth floor. The street address is 516 Third Avenue, Seattle. May 11 is the first meeting of the committee at which the public will be allowed to speak. The committee meets at 1:30 p.m. on the second and fourth Tuesdays and at 9:30 a.m. on the first and third Tuesdays of each month.

I know that getting down to Seattle during the hours most of us are working is hard. You can bet that those who covet your land will be there. The way to beat these ordinances is to make Council chambers standing room only. To do that, **you need to show up.**

**MAY VALLEY ENVIRONMENTAL COUNCIL**  
**FROM THE PRESIDENT**  
**JIM OSBORNE**

King County finally did it. They made the decision to turn the May Valley project over to Mid Puget Sound Fisheries Enhancement Group (Mid Sound). We will be meeting with Executive Director, Troy Fields, over the next couple of weeks to start the process of putting a project together. One very encouraging thing he has said is that the silt has to go and its sources stopped. Let me say it again for those that have been brainwashed by the county, "**The silt has to go and the sources stopped.**" The County will grant Mid Sound the bulk of the money currently budgeted for May Valley to get started. Additional funding will be needed, but finally we are making a step in the right direction.

Four years ago we started MVEC to fight the May Creek Basin Plan being proposed by King County and to try to get our creek cleaned. Shortly thereafter we started publishing *The Naked Fish*. It didn't take long to realize that our problems were really county-wide and not just in our valley. Our paper has always been our pride and joy, but it too has outgrown our valley. MVEC is beginning the process of turning the paper over to Citizens' Alliance for Property Rights (CAPR) as they have the money and resources for greater distribution. Present subscribers and advertisers don't need to worry. Your subscriptions and ads will be honored. Content will make a gradual shift toward broader issues. MVEC has also become the first group officially affiliated with CAPR. We look forward to being joined by other groups that share a common concern for private property. MVEC's main focus will remain fighting for what is right for the residents of May Valley.

**Who to Contact**

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