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May 17, 2018

Mr. Layton Lowe
Ms. Melinda Didier
Mr. Mike Vincent
Mr. Claude Pierret
Mr. Mike Corrales
Mr. Brent Stenson
Franklin County Planning Commission
1016 N. 4th Ave
Pasco, WA 99301

Subject: Why Counties Need Policies and Regulations to Protect Critical Areas
Sent via email to: planning@co.franklin.wa.us

Dear Planning Commissioners Lowe, Didier, Vincent, Pierret, Corrales, and Stenson:

Thank you for the opportunity to comment on Franklin County's periodic update of its Comprehensive Plan. The purpose of this letter is to document why it is important for Franklin County to adopt policies and regulations to designate, that is identify, and protect critical areas. As will be documented below, most critical areas are only protected by county and city policies and regulations.

Futurewise was founded to help support implementation of the first-in-the-nation Growth Management Act. We work throughout Washington State to support land-use policies that protect wildlife habitat, valuable farmland and water resources, and that direct growth into our urbanized areas. We have members across Washington State including Franklin County who support our work with cities and counties to encourage healthy, equitable and opportunity-rich communities.

The Growth Management Act requires all counties and cities to designate and protect five types of critical areas: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. We discuss why counties should have policies and regulations addressing each of these critical areas in turn.

Wetlands

Land use change is the source of major adverse impacts on wetlands and wetland ecosystems.[1] Counties and cities manage land use in Washington State. For these reasons the Growth Management Act requires counties and cities to designate and protect wetlands.[2]

[1] D. Sheldon, T. Hruby, P. Johnson, K. Harper, A. McMillan, T. Granger, S. Stanley, and E. Stockdale, *Wetlands in Washington State - Volume 1: A Synthesis of the Science* pp. 3-3 – 4-77 (Washington State Department of Ecology Publication #05-06-006 Olympia, WA: March 2005) accessed on May 9, 2018 at: https://fortress.wa.gov/ecy/publications/SummaryPages/0506006.html; hard copy upon request.
[2] RCW 36.70A.030(5)(a); RCW 36.70A.060(2); and RCW 36.70A.170(1)(d).

Wetlands provide significant benefits to counties and their property owners, businesses, and residents. The benefits are sometimes referred to as ecological services. Wetland benefits include:

- Improving surface and ground water quality, including the quality of drinking water, by removing sediments and other pollutants.[3]

- Reducing peak flows and flooding by storing storm water and flood waters and allowing the water to more slowly flow into rivers, streams, and lakes.[4] Depressional wetlands are in low areas that are closed on at least three sides. A depressional wetland may or may not have an outlet. In Eastern Washington, depressional wetlands are particularly valuable for storing water from summer thunderstorms that would otherwise cause flooding because most depressional wetlands are dry during the summer and so can store water in the entire wetland.[5]

- Some types of wetlands that pond water can help recharge ground water supplies.[6]

- Wetlands provide habitats for fish and wildlife, including salmon and steelhead if connected to rivers and lakes with salmon and steelhead runs.[7]

The State of Washington Department of Ecology has the authority to protect wetlands under the Shoreline Management Act and the State of Washington Water Pollution Control Act. The U.S. Army Corps of Engineers also has regulatory authority over certain wetlands. However, because of their comprehensive land use planning authority, county and city plans and regulations adopted under the Growth Management Act are crucial for protecting wetlands in Washington State.

Areas with a Critical Recharging Effect on Aquifers used for Potable Water

The Growth Management Act requires all counties and cities to designate and protect the ground water based drinking water sources on which many Franklin County residents and businesses depend.[8] According to the U.S. Geological Survey, public water systems in Franklin County served 52,719 residents in 2010 and ground water made up 22 percent of system water supplies.[9] Individual wells in Franklin County served another 25,444 residents in 2010.[10] These wells, of course, are entirely supplied by ground water.

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[3] *Id.* at pp. 2-34 – 2-44.
[4] *Id.* at pp. 2-45 – 2-48.
[5] *Id.* at p. 2-47.
[6] *Id.* at p. 2-51.
[7] *Id.* at pp. 2-52 – 2-66.
[8] RCW 36.70A.030(5)(b); RCW 36.70A.060(2); and RCW 36.70A.170(1)(d).
[9] U.S. Department of the Interior | U.S. Geological Survey *Water Use Data for Washington* accessed on May 10, 2018 at: https://waterdata.usgs.gov/wa/nwis/water_use; hard copy upon request.
[10] *Id.*

Ground water pollution is a significant problem in Franklin County with large areas where the ground water has high nitrate concentrations.[11] Ground water can be polluted with nitrates when rain, melting snow, or irrigation water transports chemical fertilizers, manure, and biosolids below the root zone of the soil and into the ground water.[12] Nitrate pollution can damage the health of babies and other people with conditions that make them susceptible to adverse effects from nitrates.[13] Once concentrations become too high, water providers may have to spend millions of dollars to remedy the adverse impacts of nitrate pollution on their drinking water sources.[14] There other forms of ground water pollution too. We can do a better job of protecting our drinking and irrigation water sources from contamination.

As the Washington State Department of Ecology recommends:

> Federal and state laws and rules do not replace local planning, ordinances, and programs. Local jurisdictions should maintain the ability to protect ground water under their own authority. Local government can focus on local conditions in a way that the state cannot.
>
> ….
> Local government planning can influence the types of future developments that occur in various areas and may be able to encourage potentially contaminating facilities to locate in areas where the aquifer has a lower susceptibility if contaminants are released. In this way the potential for aquifer pollution is lowered and the public is protected. Land use planning at the local level is the most effective way to influence where facilities choose to locate.[15]

There are no state and federal laws that protect aquifers from many common pollutants. So, county policies and requirements are necessary.

Fish and Wildlife Habitat Conservation Areas

The Growth Management Act requires all counties and cities to designate and protect fish and wildlife habitat conservation areas.[16] Wildlife protection policies are important to county residents who hunt, fish, and view wildlife. They are also important to the tourism economy of Washington State and Franklin County since birding, hunting, fishing, and boating are important economic draws and sustain many businesses. Outdoor recreation is estimated to contribute $81,959,000 to the Franklin County economy, generating 1,114 jobs and paying

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[11] Laurie Morgan, *Washington Nitrate Prioritization Project* p. 12 (State of Washington Department of Ecology Publication No. 16-10-011: May 2016) accessed on May 10, 2018 at: https://fortress.wa.gov/ecy/publications/SummaryPages/1610011.html; hard copy upon request.
[12] *Id.* at p. 7.
[13] *Id.* at p. 6.
[14] *Id.* at p. 7.
[15] Laurie Morgan, *Critical Aquifer Recharge Areas Guidance Document* p. 31 (Washington State Department of Ecology, Water Quality Program Publication Number 05-10-028: Jan. 2005) accessed on May 10, 2018 at: https://fortress.wa.gov/ecy/publications/SummaryPages/0510028.html; hard copy upon request.
[16] RCW 36.70A.030(5)(c); RCW 36.70A.060(2); and RCW 36.70A.170(1)(d).

$5,942,000 in state and local taxes.[17] Protecting fish and wildlife habitats and rivers and streams will help maintain the economic benefits of outdoor recreation for Franklin County.

While the Washington State Department of Fish and Wildlife lists priority species and habitats and provides technical assistance on the designation and protection of these habitats, the Department of Fish and Wildlife does not have the authority to protect habitats that are not within the wetted perimeter of a river, stream, lake, or marine water body. As the Washington Department of Fish and Wildlife wrote:

> Fish and wildlife are public resources. Although the Washington Department of Fish and Wildlife (WDFW) is charged with protecting and perpetuating fish and wildlife species, the agency has very limited authority over the habitat on which animals depend. Instead, protection of Washington's fish and wildlife resources is currently achieved through voluntary actions of landowners and through the State Environmental Policy Act (SEPA), Growth Management Act (GMA), Forest Practices Act (FPA), Shoreline Management Act (SMA), and similar planning processes that primarily involve city and county governments. Landowners, agencies, governments, and members of the public have a shared responsibility to protect and maintain fish and wildlife resources for present and future generations; the information contained in this document is intended to assist all entities in this endeavor.[18]

The Growth Management Act assigns the responsibility of protecting fish and wildlife habitats to cities and counties. That is why policies and regulations to protect these habitats are needed.

Frequently Flooded Areas

The *Franklin County, Washington Multi-Hazard Mitigation Plan* documents that the Columbia River, Snake River, and Esquatzel Coulee in the county are all susceptible to flooding.[19] Flooding has the potential to adversely affect people, transportation routes, and the Franklin County economy.[20]

The Growth Management Act requires all counties and cities to designate frequently flooded areas and protect people and property from the adverse effects of flooding.[21] The Federal Flood Insurance Program also requires counties and cities to adopt and enforce flood plan

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[17] Tania Briceno & Greg Schundler, *Economic Analysis of Outdoor Recreation in Washington State* p. 83 (Earth Economics: 2015) accessed on May 10, 2018 at: https://www.rco.wa.gov/documents/ORTF/EconomicAnalysisOutdoorRec.pdf; hard copy upon request.
[18] E. Larsen, J. M. Azerrad, N. Nordstrom, editors, *Management recommendations for Washington's priority species, Volume IV: Birds* p. vi (Washington Department of Fish and Wildlife, Olympia, Washington, USA: 2004) accessed on May 10, 2018 at: https://wdfw.wa.gov/publications/00026/; hard copy upon request.
[19] Franklin County Hazard Mitigation Steering Committee, *Franklin County, Washington Multi-Hazard Mitigation Plan* p. 41 (2018 Revision) accessed on May 11, 2018 at: http://www.franklinem.org/pdf/2018fc-draft.pdf; hard copy upon request.
[20] *Id.* at p. 43.
[21] RCW 36.70A.030(5)(d); RCW 36.70A.060(2); and RCW 36.70A.170(1)(d).

regulations to make the communities eligible for Federal Flood Insurance.[22] If a community is not eligible for flood insurance, federally insured loans cannot be made for properties in the flood plan and those properties are not eligible for federal emergency assistance to remedy flood damage.[23]

Both the Federal Flood Insurance Program and the Growth Management Act assign the responsibility of protecting people and property from flooding to cities and counties. That is why policies and regulations to addressing flooding are needed.

Geologically Hazardous Areas

The *Franklin County, Washington Multi-Hazard Mitigation Plan* documents that areas in Franklin County susceptible landslides include the high cliffs and steep slopes along the Columbia and Snake Rivers and inland parts of the county with high slopes, particularly in northeastern Franklin County.[24] Notable landslides have occurred during the irrigation season in May 2006, covering State Highway State Route 170.[25] Another landslide occurred on "the White Bluffs along the Columbia River in August 2008."[26] Franklin County is also susceptible to other geological hazards including earthquakes and volcanic activity.[27]

While the federal and state governments provide technical assistance and emergency responses to geological events,[28] they do not have programs to lessen the dangers posed by geologically hazards areas. That is why the Growth Management Act requires all counties and cities to designate geologically hazardous areas and to protect people and property from the adverse effects of geological hazards.[29] So, counties and cities need policies and regulations to address geological hazards.

Franklin County's Voluntary Stewardship Program illustrates the need to adopt local policies and regulations to designate and protect critical areas

In 2011, the Washington State Legislature amended the Growth Management Act to authorize Voluntary Stewardship Programs for agricultural activities. Voluntary Stewardship Programs are an optional method of protecting and enhancing critical areas and maintaining and improving the long-term viability of agriculture.[30] Franklin County chose to participate in the

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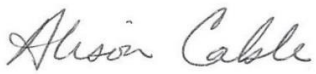
[22] *Managing Floodplain Development Through the National Flood Insurance Program* p. 5-4 (March, 1998) accessed on May 11, 2018 at: https://www.fema.gov/media-library-data/20130726-1535-20490-8858/is_9_complete.pdf; hard copy of cited pages upon request.
[23] *Id.* at p. 2-4.
[24] Franklin County Hazard Mitigation Steering Committee, *Franklin County, Washington Multi-Hazard Mitigation Plan* p. 45 (2018 Revision).
[25] *Id.*
[26] *Id.*
[27] *Id.* at pp. 31 – 32 & pp. 50 – 54.
[28] See for example the State of Washington Department of Natural Resources *Landslides* webpage at: https://www.dnr.wa.gov/programs-and-services/geology/geologic-hazards/landslides#what-we-do.
[29] RCW 36.70A.030(5)(e); RCW 36.70A.060(2); and RCW 36.70A.170(1)(d).
[30] RCW 36.70A.700.

Voluntary Stewardship Program.[31] Using state funding, the County contracted with the Franklin Conservation District to develop and administer the program.[32] The Franklin Conservation District assessed existing critical areas conditions and the viability of agriculture and then developed a program to protect and enhance wetlands, fish and wildlife habitat conservation areas, areas with a critical recharging effect on aquifers used for potable water, geologically hazardous areas, and frequently flooded areas and to maintain and enhance agricultural viability.[33] This program will be monitored to determine if program is meeting its benchmarks.[34] The program will be modified as needed to meet the benchmarks.[35]

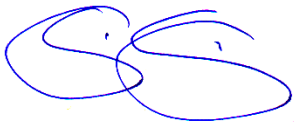
This is similar to the measures Franklin County must take to designate and protect critical areas from the impacts of development other than agriculture. Agriculture is doing its part, so must other uses and developments.

Thank you for considering our comments. If you require additional information, please contact Alison Cable at telephone (503) 807-2415 and email: alison@futurewise.org or Tim Trohimovich at telephone (206) 343-0681 Ext. 118 and email: tim@futurewise.org.

Very Truly Yours,



Alison Cable
Tri-Cities Program Manager



Tim Trohimovich, AICP
Director of Planning & Law

[31] Anchor QEA, *Franklin County Voluntary Stewardship Program Work Plan* p. 6 (Franklin Conservation District: Nov. 2017) accessed on May 16, 2018 at: http://www.franklincountyvsp.com/_resources/pdfs/Franklin_VSP_Work_Plan_Final_Nov2017_redline.pdf
[32] *Id.* at p. 4.
[33] *Id.* at pp. 22 – 79.
[34] *Id.* at p. 76.
[35] *Id.* at p. 77.