

HOOD CANAL ENVIRONMENTAL COUNCIL

Autumn 2006

Challenges To Critical Areas Ordinance Accepted

Bill Matchett, HCEC President

Our Spring newsletter reported that we were going to the Growth Management Hearings Board to challenge two unfortunate provisions in Kitsap County's new, otherwise much improved, Critical Areas Ordinance: inadequate 35-foot buffers along all as-yet-undeveloped marine shorelines and the exemption from protection of small, isolated wetlands. We can now celebrate the fact that we prevailed on both counts, the Hearing Board having accepted our objections in a decision dated August 26th.

"Our" includes more than HCEC. Though the "Petition for Review" is entitled "Hood Canal Environmental Council et al.," we must acknowledge that the al. were essential to our victory. As petitioners, we were in the company of People for Puget Sound, West Sound Conservation Council, Kitsap Citizens for Responsible Planning, Futurewise and three individuals, Jim Trainer and Judith and Irwin Krigsman. The Suquamish Tribe subsequently intervened on our side. It was People for Puget Sound who provided a fine pro bono attorney, Alexandria K. Doolittle, to argue our case.

The Kitsap Alliance of Property Owners, KAPO, intervened to support the County in opposition to us at the same time that they were opposing the County in an attempt to void the entire Critical Areas Ordinance, claiming that there had been insufficient public participation in its drafting, that it was not based on the "Best Available Science," and that it was unconstitutional, its "vagueness" infringing their property rights.

In its August 26th decision accepting both our challenges, the Hearings Board denied every point raised by KAPO. Pointing to two years of public hearings in which KAPO had "availed themselves of ample opportunity for continued comment," the Board dismissed that charge. Similarly, on "Best Available Science," the Board wrote: "Kitsap County analyzed the information presented by KAPO and concluded that some of it was not science and that several of the science documents were opinion pieces entitled to little weight. The Board concurs. Never-the-less, giving KAPO and its consultants the benefit of the doubt, HEAL (an earlier precedent-setting decision) reminds us that the choice of a city or county, when faced with competing opinions for protecting critical areas, each based on competent and current science..is entitled to deference." _

On the constitutional issue, the Board pointed out that such matters lie beyond its jurisdiction and could only be resolved in the courts. It goes on to state, however, that "given the well-established precedents, KAPO's arguments are without merit. Washington Courts have fully recognized that some level of vagueness is inherent in the language of statutes and ordinances."

Having dismissed each of KAPO's challenges, the Board, in upholding ours, gave the County until February 23rd of next year to "take appropriate legislative action" to revise the two defects in the Critical Areas Ordinance. All our supporters should be pleased by this affirmation of the work we have been trying to accomplish in their behalf.

Last Minute Addition: *KAPO has now appealed the Hearings Board's decision to the Superior Court. We will be represented by the same attorney and are confident that the Hearing Board's decision is too firmly based to be invalidated.*

Meanwhile, the County Commissioners remain under the Hearing Board's order.

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HCEC COMMENTS ON ONP DRAFT EIS

Donna Simmons

The HCEC Board of Directors recently sent a letter to the National Parks Service (NPS) commenting on the Draft General Management Plan (GMP) for Olympic National Park. HCEC is particularly interested in the future management of the eastern portion of the park, as it may directly or indirectly affect the ecological integrity of the Hood Canal watershed. Following is a brief summation of HCEC's comments.

The Preferred Alternative in the Draft GMP places a high priority on providing recreational opportunities at the expense of natural resource protection. While the NPS is to be commended for some positive elements, other proposals are inadequate to protect this internationally-known wilderness.

In particular, the proposal to enlarge most front county development zones and to expand/intensify visitor activities within these areas is unacceptable. The development and day-use zones in the Staircase/North Fork Skokomish River area should remain as they are at present to protect the area's important fish and wildlife habitat and wilderness character. New visitor facilities should be located outside the park boundaries.

River protection zone designations for the park's rivers, as proposed in Alternative B, would go a long way toward restoring viable populations of federally listed threatened and endangered salmon stock. The proposal to relocate and rebuild the Dosewallips River road would negatively impact critical salmon habitat for federally threatened Puget Sound Chinook, one of three threatened species in Hood Canal. The Draft EIS due to be released soon will show that reopening this road would cause irreparable damage to fish habitat and river processes. It would also involve the incursion into the Buckhorn Wilderness Area, in direct violation of the Northwest Forest Plan. Further, Wild and Scenic river designation should be proposed for the other twelve eligible rivers, including those on the park's eastside.

Designation of use levels of wilderness areas without providing specific reasons should not be allowed. All wilderness-related decisions should be deferred until a comprehensive wilderness management plan is completed.

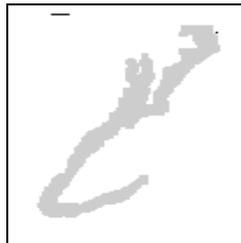
The Draft should include a recommendation to reintroduce extirpated species back into the park. Bringing the wolf and fisher back into Olympic National Park would result in a more balanced ecosystem. Further, a wilderness management plan and ecosystem study should be prepared by the Park, as requested by the Olympic Park Associates and other organizations.

NPS planners will prepare a Final GMP/EIS after all the comments are analyzed and issues are addressed.

HCEC BOARD OF DIRECTORS

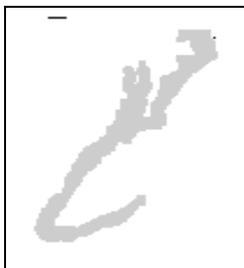
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The Board of Directors meets the second Monday of each month. If you would like to attend, call Bill Matchett at (360) 830-4154.



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