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NOT CONFIDENTIAL

To: County Commission
County Administrator
DCD Director Scalf
Title 18/SEPA Responsible Official Stacie Hoskins
DCD staff

From: Civil DPA David Alvarez

Date: May 17, 2011

Re : Engrossed Substitute House Bill 1886, signed by Governor on 5/16/2011

In 2007 the State Legislature declared a “time out” and placed a 3-year moratorium on local governments updating their critical area ordinances (“CAO”) as those ordinances impact or regulate agricultural activities. The moratorium was extended one year and expires on July 1, 2011. This “time out” allowed the Ruckelshaus¹ Center to conduct (with stakeholders) an examination of two dual and competing goals under the GMA: protect critical areas and protect agricultural land. As signed recently by the Governor, this bill is the result. The Senate Bill Report is the most comprehensive summary of the legislation’s features (and I have marked it up) but here are what I consider to be the highlights:

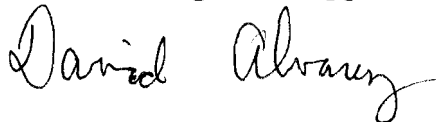
1. The first 15 sections of this bill become part of the GMA under the subtitle “voluntary stewardship program and thus will be codified in Ch. 36.70A RCW;”
2. Nothing happens “on the ground” until funding is available, the state expects that federal money will fund this program;
3. Participation by this county or any county is entirely voluntary but entry into the program must occur within six months of the effective date of the legislation²;
4. If a county participates, then its participation is in LIEU of that same county protecting critical areas used for agricultural activities through and pursuant to GMA-derived development regulations;

¹ William D. Ruckelshaus was the first Director of the U.S. EPA in 1970 under President Nixon.

² The effective date is 12:01 AM on July 22, 2011.

5. If a county participates, then it must nominate a particular watershed as “priority,” form a “watershed group” that must include farmers and environmentalists (“greens”), create a “work plan” after a full blown GMA “public participation” process and submit same to the State Conservation Commission for that commission’s approval or rejection;
6. SEPA is not applicable to the generation of a “work plan.”
7. Counties that don’t participate will need to review and revise (if necessary) their development regulations relating to agricultural activities occurring in critical areas within 2 years of the effective date of this legislation (this deadline is distinct from Jefferson County’s obligation to review and revise if necessary its Comprehensive Plan and development regulations on or before December 1, 2014); and
8. Challenges to the approval, rejection and/or implementation of the work plan are vulnerable to Petitions for Review before the Growth Management Hearings Board.

In sum, this legislation appears to be full of good intentions but is currently unfunded.

A handwritten signature in cursive script that reads "David Alvarez". The signature is written in black ink and is positioned above the typed name.

David Alvarez, Chief Civil DPA