

# Merrill, Hannah

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**From:** pearl hewett [REDACTED]  
**Sent:** Tuesday, November 27, 2012 10:47 AM  
**To:** zSMP  
**Cc:** Karl Spees; Jo Anne Estes; notac@olyphen.com; Frank M Penwell; WILLIAM PALMER; harry bell; Jay Petersen; mary pierce pfaff; Keith Olson; info@justwateralliance.org; Ed B; Brian and Brooke; robert crittendend  
**Subject:** SMP Comment CAO based upon best available information?

**Comment Clallam County SMP Draft  
Pearl Rains Hewett Trustee  
George C. Rains Sr. Estate  
Member SMP Committee**

**SMP DRAFT 4.3.3 Regulations – General Regulations for all Critical Areas shall be identified based upon best available information from Credible Written recommendations**

**Best Available Science for Wetlands** (WAC 365-195-905(5)(a)).

Under the state's Growth Management Act, local governments are required to use the best available science when reviewing and revising their policies and regulations on wetlands. However, there was no comprehensive synthesis or interpretation of the **science** for wetlands, and most local governments lack the resources to tackle such an undertaking.

The state departments of Ecology and Fish and Wildlife, with funding from the U.S. Environmental Protection Agency, initiated a project to develop a comprehensive synthesis of the **science** for wetlands. They hired Sheldon and Associates, Inc. and called on staff from the two agencies to produce a two-volume document on the **science** currently available on wetlands, their functions and management.

Volume 1 is the synthesis of the **science** regarding freshwater wetlands. Volume 2 translates the science synthesized in Volume 1 into guidance for local governments protecting and managing wetlands. Although the primary audience is local governments, both volumes are also valuable to any who have an interest in the protection and management of wetlands.

I am objecting to the use of the term, best available information, as non-compliant with WA State GMA on Wetlands.

The CAO as drafted and the “wetland maps” put the burden of proof on the property owner to demonstrate that their land can be developed without harming the functions and values of critical areas. This may be impossible in some cases because the functions and values are not clearly defined in the CAO or are ambiguous and may be based on the subjective and arbitrary decision of the “administrator”

## Disclaimer on Clallam County Maps

Definition added for emphasis, commercial law a statement refusing to accept responsibility for something, e.g. a denial of legal liability for any injury associated with a product

**SMP DRAFT 4.3.3 Regulations – General Regulations for all Critical Areas**

I am objecting to the use of the arbitrary term Credible Written recommendations

**Definitions added for emphasis, Credible** easy to believe. **Recommendations** A suggestion as to what is a good or sensible thing to do or use in the circumstances, an expression of praise, approval, or support for somebody or something.

**GMA standards for Best Available Science (WAC 365-195-905(5)(a). Credible Written recommendations** should be replaced with **peer reviewed documentation** of Best Available Science to the application of buffers in wetlands and shorelines.

**read on if you are concerned.**

#### **4.3.3 Regulations – General Regulations for all Critical Areas**

1. This section and Program apply only to critical areas, including critical saltwater and critical freshwater habitats, within shoreline jurisdiction. Critical areas outside of shoreline jurisdiction shall be regulated by Chapter 27.12 of Clallam County Code and not this section or Program.

2. This Program and this section apply to activities that are exempt from the requirement to obtain a shoreline permit per RCW 90.58.030(3)(e) and activities listed as exempt in Clallam County Code 27.12.035.

3. Any land, water, or vegetation that meets the critical area designation criteria under this section shall be subject to the provision of this Program. The location and extent of critical areas within shoreline jurisdiction **shall be identified based upon best available information** from **credible** and qualified professional sources, which shall include, but are not limited to, the following:

a. Wetlands: **Written recommendations**, maps, **OR** published reports from government agencies, including tribes, charged with wetland identification and management, **OR** a biologist with wetlands ecology expertise and who is knowledgeable of wetland conditions within the North Olympic Peninsula Region, and who has professional experience demonstrated by a minimum of two years practical experience of delineating wetlands and wetland plant identification; and those individuals certified as Professional Wetland Scientists by the Society of Wetland Scientists.

b. Aquatic and Wildlife Habitat Conservation Areas: **Written recommendations**, maps, or published reports from government agencies, including tribes, charged with management of fish and wildlife resources, or a person with a master's degree in biological sciences or related field from an accredited college or university or a bachelor's degree and four years' experience as a practicing biologist.

c. Geologically Hazardous Areas: **Written recommendations**, maps, or published reports from government agencies, including tribes, charged with identification of geologic hazards, or by a geotechnical or civil engineer or engineering geologist licensed in the

## **Volume 1: A Synthesis of the Science**

The draft of *Freshwater Wetlands in Washington State Volume 1: A Synthesis of the Science* was reviewed by peer experts and the public through October 22, 2003. Comments were compiled, authors responded to those comments, additional references were obtained, and revisions made.

*Wetlands in Washington - Volume 1: A Synthesis of the Science* (March 2005, Publication #05-06-006) and *Responses to Comments* (Publication #05-06-007) on the draft of Volume 1 can be downloaded [here](#). You can also view a [10-page summary](#) (64 kb., PDF) of significant comments reviewers submitted after reading all or portions of the draft of *Freshwater Wetlands in Washington State - Volume 1: A Synthesis of the Science*.

## **Volume 2: Guidance for Protecting and Managing Wetlands**

*Wetlands in Washington - Volume 2: Guidance for Protecting and Managing Wetlands* (April 2005, Publication #05-06-008) and *Responses to Comments* (Publication #05-06-009) for Volume 2 can be downloaded [here](#).

Volume 2 translates the science into guidance for protecting and managing wetlands at the local level. To develop the guidance, the departments of Ecology and Fish and Wildlife worked with the Core Team that oversaw the project and whose members developed Volume 1. In addition, an advisory team of wetlands and planning staff from an assortment of local governments provided feedback on the guidance. Ecology also met with members of various organizations from the business and environmental communities. As with the synthesis of the science, Volume 2 underwent peer and public review so all those interested in the protection and management of wetlands had the opportunity to give feedback on the draft. Comments were accepted through September 20th, 2004.

## **How Do I Order Paper Copies?**

Paper copies of Volume 1, Volume 2, and the responses to comments for both documents are currently available from the [Shorelands & Environmental Assistance Program](#). CDs are also available (Publication #05-06-006-CD). The CDs contain all the documents related to Volumes 1 and 2, which includes the responses to comments. The CDs also includes PDF files of the revised Washington State wetland rating systems for Eastern and Western Washington.