

Merrill, Hannah

From: pearl hewett [REDACTED]
Sent: Saturday, December 08, 2012 10:03 AM
To: zSMP
Cc: Karl Spees; Jo Anne Estes; [REDACTED] Brian and Brooke; Lois Perry; Sue Forde; Jay Petersen; harry bell; mary pierce pfaff; Frank M Penwell; WILLIAM PALMER; info@justwateralliance.org; Randy Dutton
Subject: SMP Draft Update Comment on tribal authority

Comment on tribal authority SMP Draft Update
Pearl Rains Hewett Trustee
George C. Rains Estate
Member SMP Committee

With all due respect,

I have concerns with the term written recommendations and I am asking for a specific explanation or rewording of **Chapter 4.3** a, b, c, d, and e. And, all other areas in the SMP Draft Update, where the word "Including tribes" **is singularly** used in reference to the rule-making process for the SMP Update on **private property**.

GMA Jurisdiction/authority of Indian tribe under act -- 2012 1st sp.s. c 1: "Nothing in this act affects the jurisdiction or other authority of a federally recognized Indian tribe **within the boundary of its reservation or on other tribally owned lands.**" [2012 1st sp.s. c 1 § 218.]

It is my understanding that,

There is an agreement with the tribes "**Centennial Accord.**" that says that the State will treat them as sovereign governments and have government-to-government relations with them. **It would appear that their inclusion in this process, violates that agreement, as it would include a foreign sovereign state in a rule-making process internal to our State and County.**

By what RCW, WAC, Rule or/and on who's authority **are including tribal and written recommendations** to be considered "**Best Available Science**" and included in/or on the Clallam County SMP rule making process and critical area designations?

Best Available Science is defined in WAC 365-900 through 925.

The lowest level of "Best Available Science" is "expert opinion." That is an opinion, even a verbal statement, of a government employee or scientific expert, reflecting their best judgment based on relevant experience. It has to describe the methods used, involve quantitative analysis, and be in context.

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

Under the WA State Growth Management Act, local governments are required to use the best available science when reviewing and revising their policies and regulations on wetlands.

Washington Wetlands is a comprehensive review, in two volumes, of wetland science. It is a WA state publication.

SMP Draft Update Critical areas

- 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 *Clallam County SMP Final Draft* November 2012 4-19 State of Washington who is knowledgeable of regional geologic conditions and who has professional expertise in geologic hazard evaluation.
 - d. **Frequently Flooded Areas: Written recommendations**, maps, or published reports from government agencies, **including tribes**, charged with the identification of flood control, or a civil engineer licensed in the State of Washington. The Administrator may allow a land surveyor licensed by the State of Washington to recommend designation of frequently flooded areas where base flood elevation data is available.
 - e. **Critical Aquifer Recharge Areas: Written recommendations**, maps, or published reports from government agencies, **including tribes**, charged with designation of geologic or water resources features, or a person(s) with a four-year degree in hydrology, hydrogeology, or related field from an accredited college or university and also having demonstrated experience in hydrogeologic assessment.
4. A qualified professional may dispute the location or extent of critical areas shown on maps or other information. The Administrator shall consider site-specific evidence provided by the qualified professional when determining the location and extent of critical areas on a parcel.
 5. Clallam County shall make available to the public

GMA Best available Science

maps or other databases, as appropriate, which show the general location, extent, and classification of regulated critical areas. This information shall be advisory and used by the Administrator in determining the applicability