Barbara Raabe
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Sammamish, Wa. 98074
February 26,2012

Planning Commission Members:

I plan to attend each of your public meetings on topic of Critical Areas Ordinance. At your last meeting, you requested speakers first submit to you their position in writing so that is what I am doing here.

First, let me introduce myself. I have lived in the same residence on the Plateau since 1978 and my husband has owned property on the Plateau from 1969, when he used his combat pay from service in Vietnam to purchase it, until 1978. I attended every meeting at the County Council when they were developing the draft for the Plateau Comprehensive Plan as part of the Growth Management Act back in the early 1990's. So, I have history on the Plateau and I have a deep love of living here.

I understand where the folks living on the East Lake Sammamish Parkway were coming from when they fought for a say in how the Shorelines Management Act was interpreted for Sammamish. My husband grew up on the west side of Lake Sammamish and his mother still lives in the same house. We know how restrictive Bellevue's interpretation of the Act is. However, we have also noticed a steep decline in the water quality in Lake Sammamish over the years we have recreated in it.

I live on George Davis Creek and have a stand of timber in my backyard that I must leave alone because I cannot cut within 150' of the Creek though I still pay taxes on all that property. Though I have southern exposure in my backyard, I cannot get a small lawn to grow because the stand of trees blocks the sun for 9 months of the year.

That being said, I am willing to keep that 150' buffer, pay $4,000 for an artificial lawn, put my temporary dog fence way inside the buffer so the wildlife can maintain their last parcel of open space, and call the City on the variances I see being granted to the current CAO that the County never would have granted. Because, I know, that if we did not have that buffer on George Davis and if the City continued to grant variances for building on designated slide areas, Lake Sammamish would only degrade further and I think that is something none of us want.

I will be watching and listening to the various scientific presentations at the Planning Commission Meetings and I will compare their findings to that in the September 2011 Ingelwood Basin Plan Addendum Number 1 which also was based on scientific studies.

I would ask that the Planning Commissioners also listen with an open mind and understand that if they weaken the CAO for those on the Lake, then they would have to do the same for those on streams that flow into Lake Sammamish AND is that what they really want???

EXHIBIT NO. 18.

EXHIBIT NO. 19.

March 1, 2012.

The Planning Commission
City of Sammamish

My name is Richard Birgh. I am 80 years old and I have lived in Sammamish since 1968. I have property near the Catholic High School, in the SE Quadrant of the Town Center.

Water for Our Horses, Not a Wetland.

During the 70s and 80s, my family owned horses. A small, seasonal stream, dry during the summer, ran across my property from South of SE 8th Street to the North where it connected with a large, underground, glacial outwash just west of 228th around Main Street. To provide water for our horses I constructed a pond that was fed by the stream and storm water run-off during the rainy season. Mr. Al Bass, the previous owner and heir to the original homestead, had done the same several years earlier on the adjacent property to the south.

SE 8th Street was upgraded to accommodate developments to the east and Skyline High School, which opened in l997. Construction included a storm water collection system that diverted the run-off from a large area South of SE 8th Street to further east where it connected to a major, storm water retention system including a sanitary collector sewer that was placed under George Davis creek. The stream that crossed my property was cut off at SE 8th Street. From l997 onward, no water has flowed from south of SE 8th across to my property. Water in the man-made ponds on my and my neighbors' land comes from local storm water runoff and my culvert regulates water flow out of the ponds.

King County has designated this stream a part of a damaged wetland. Water in the pond remains at a constant level no matter how big the storm. There is no pooling of water over a larger area during the wet season. In other words, my man made pond is a storm water retention pond.

A Barb Wire Fence Makes a Big Difference

When the Catholic High School, located just north of my property, was built, a pond that is connected to my pond by the culvert and that is separated from my land by a barbed wire fence was designated Class II wetland under earlier guidelines. Sometime in 2008, during the Town Center planning process the City designated my pond Class I with 150' buffers. This designation is without a doubt a condemnation of my land. At least two thirds of my land is not allowed to be developed. The remaining one third is divided between small areas to the east and west of the pond.

The decision to classify my man-made pond as Class I ignored the fact that it previously was designated a damaged wetland, the fact that the stream was cut off at SE 8th Street, and on the other side of a barbed wire fence the wetland is Class II.

The classification of my pond as Class I was based on an assessment conducted by the City's wetland biologist, Kathy Currey. At no time did Ms. Currey request permission to visit my land. There is no record that she actually made a site assessment. Records show that after submitting one assessment, it was replaced by a second and a third revised assessment. Kathy Currey's classification was peer reviewed by people from Adolfson's who, I have been told, were previously supervised by Kathy Currey, when she was employed at Adolfson. Aldofson gets a lot of work from the City of Sammamish. One might consider them staff on contract.

I have had three wetland experts conduct assessments of my pond. Their assessments were submitted for review to the expert who helped the state establish the wetland assessment system.

These experts have all determined that Kathy Currey's assessment was inaccurate. My pond is not Class I wetland. At the most, it is a part of a Class II damaged wetland, and more likely not a wetland at all.

Running into a Brick Wall

My efforts to get the City to review the City's classification of my ponds have hit a brick wall. In discussions with staff, I have been indirectly told that any revision of the classification is a lost cause. My land, by being incorporated into a green corridor gives more open space for the city but, I have been told, "don't worry you will be taken care of." Staff should understand that a Class I classification means that I will never sell my land. How will the City take care of me? No one wants to tell me. Maybe the intention is to give me hope and keep me quiet. That is what I feel. One thing is certain; I feel I've been robbed.

Opportunities Wasted, 15 Years Lost

If I could have developed my land in the late 90s and when the Catholic High School was built, my land would have been class II and buffers would have been less than one third.

I suggest to the Planning Commission that here in Sammamish, facts seem to be irrelevant. Subjective observation from one person supported by people who have a conflict of interest seem to have more influence than the objective assessment of independent professionals. And, most disquieting are the innuendos that the City has a hidden agenda to ensure that in Sammamish, where there is water there must be wetlands.

In l998, I planned to develop my property with six homes around the pond. But due to moratoria, I was not able to move forward with those plans.

From l990 to 2010, government deprived me of my rights to sell and use my land. Technically, I could sell my land if someone wanted to buy it, but due to moratoria, uncertainty, and uncompleted Town Center plans, any sale of my land has been impossible even at a fraction of its value.

Contemplate this:

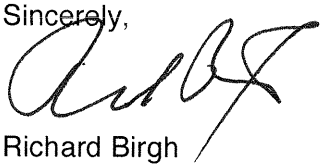
- From l990 to l999, my land was under a series of building moratoria due to a water district's inability to deliver water.
- Sammamish incorporated in l999. Between l999 and 2005, my land was under a new series of citywide moratoria.
- From 2005 to 2007, my land was still under a series of Town Center planning area moratoria. The purpose of the town center moratoria was to give the City time to complete a Town Center plan.
- Between 2005 and 2007, the City made little progress on a Town Center plan.
- In 2007, the City Council ended the Town Center planning moratorium with the stated purpose that the council wanted to allow landowners to sell and develop their land. The Community Development Department, however, would not accept development applications until the town center plan was completed and Town Center ordinances adopted.
- The Town Center plan was complete in 2009. Town Center ordinances were adopted in 2010. So far, it is now 2012; no developers have shown much interest in the Town Center plan.

But this is another story altogether.

Property Rights

During 21 years, government bureaucracies have deprived me of my property rights, the right to dispose of my land and the right to use my land. During this time, critical area policies and regulations of Sammamish have changed, and the manner in which these policies and regulations are implemented by the City is contradictory as well. The outcome is disaster for me and I think a scandal and a liability for the City of Sammamish.

Sincerely,



Richard Birgh

To: Planning Commission

Fr: John Galvin

Re: CAO review
Scientific versus regulatory peer review:

Date: Thursday, March 1, 2012

Research versus regulatory peer review:

A review of tonights power point presentation and certain personal observations left me concerned about the quality of the peer review process as it relates to the application of best available science and implementation of city policies and regulations.

I searched the topic of peer review. Following is a brief summary of some comments I found in the Bainbridge Island Shoreline Management Program materials.

There is a fundamental difference between research science and regulatory science. This fact is evident in the peer review process.

In the research setting, a peer reviewer is encouraged to take a hard look at the data underlying the study under review and will often seek to replicate the researcher's experiments to confirm the researcher's conclusions.

In a regulatory setting, however, a peer reviewer is often neither allowed nor encouraged to take a hard look at the data and virtually never empirically confirms the validity of the researcher's conclusions.

Two important issues are time and money. Are sufficient time and money available to the peer reviewer to examine the regulatory evaluation in detail and in depth. As a practical matter, peer review of the science supporting an administrative rule is often limited to whether the researcher's conclusions are consistent with his data. **The data itself is rarely questioned.**

The unhappy result of this approach is that regulatory peer review does not and often cannot reveal staff's bias or error. But the peer review gives the

EXHIBIT NO. 20.

researcher's conclusions the appearance of legitimacy because, after all, the research was "peer reviewed" by independent experts. If the research is flawed, the peer review perpetuates a fraud or mistake and may even propel it to the level of undisputed scientific fact.

Because the peer review process is often not rigorous enough to uncover bias or error, it undermines public confidence in regulatory decision instead of building public trust.

Lets ask, how often do peer reviewers validate the data? Do they do their own on-site assessment to determine in have made errors in the collection of data.

Relationship between staff and the "peer reviewers." How often does the city select peer reviewers from companies that regularly hired by the city?

How often do peer reviewers have a prior relationship or even an existing relationship with staff who's work is being reviewed?

How often has data input from independent experts hired by landowners been received with an "open mind" and accepted as legitimate by city staff without an appeal to the hearing examiner. Here the key issue is Open Mind.

I invite the Planning Commission to examine the peer review process. Select some examples, see who are the peer reviewers, interview them on how they conduct their review and identify whether they have other relationships with the city and staff that might suggest a conflict of interest.

Your policies and regulations are only as good as their implementation. The best policies and regulations can be bad if implemented poorly.

From the Institute for Regulatory Science

For several decades, the staff of the Institute for Regulatory Science has been involved in the development of a process to evaluate the validity of scientific claims. We chose the term *Best Available Science* (BAS) to generically sort out the validity of claims and counter claims. These efforts led to the development of *Metrics for Evaluation of Scientific Claims* (MESC). Our initial review of literature could not find the term "best available science", much less a definition for it. Ultimately, our choice was based on the following:

1. *Best* connotes scientific information with the greatest degree of excellence and authenticity based on sound logic, which includes good judgment, reasoning, or evidence. It indicates the highest level of reliability. However, it suggests that there is also scientific information that does not meet the highest level of reliability. It implies that on occasion a specific area of science has not reached a reasonable level of maturity. There is an implication that one has to generically identify the level of reliability of that specific area of scientific information. Consequently, it implies the need for some sort of standard.
2. *Available* connotes scientific information that is accessible and attainable, i.e., capable of being obtained or used, based on No. 1 above.
3. *Science* excludes any subject that is not science.

During the evolution of BAS/MESC we recognized the need to identify basic principles that must be used in assessing scientific claims. We identified four principles that historically have led the scientific community in virtually all new findings:

Open-mindedness Principle implies the willingness to accept new knowledge.

Skepticism Principle requires that those who make a scientific claim must provide sufficient evidence supporting their claim.

Universal Scientific Principles imply that there are certain principles applicable to virtually all scientific disciplines.

Reproducibility Principle implies that any qualified investigator should be able to reproduce the claim.

The BAS concept and MESC derived from it are based on three Pillars as follows:

1. Standardization of scientific information
2. Categorization of reliability of scientific information
3. Areas outside the purview of science

PILLAR: STANDARDIZATION OF SCIENTIFIC INFORMATION

Scientific information can be generically classified into the following classes:

Class I – Proven Science

This class consists of scientific laws sometimes called scientific principles and all other information that have been unequivocally confirmed and are generally accepted. The cornerstone of this class is that any investigator who has the proper equipment and the necessary skills can reproduce it. Similarly, this class of scientific information does not require assumptions or any other prerequisite for its proof. This class also includes the application of scientific laws to various branches of commerce and industry— provided the laws are correctly interpreted.

Class II – Evolving Science

The overwhelming scientific advances in virtually all disciplines are evolving science.

Reproducible Evolving Science: Reliable information dealing with a subject that is not completely understood constitutes the core of this class. The key factor in placing information into this class is reproducibility. Advancements in virtually all branches of science are based on the desire of investigators to improve knowledge in this class.

Partially Reproducible Science: Formerly referred to as Rationalized Science or Scientific Extrapolation, this class includes certain segments of regulatory science information including predictive models. Although it builds upon Proven or Reproducible Evolving Science, it uses assumptions, extrapolations, and default data to derive its results. An important characteristic of this class is its level of reproducibility. Whereas the scientific foundation of this class meets the Reproducibility Principle, the choice of assumptions, mathematical processes, default data, and numerous other prerequisites are inherently arbitrary and thus are not necessarily reproducible.

Evidence-Based Science: This class attempts to correlate systematic observations performed in accordance with Universal Scientific Principles to an effect. There is extensive literature covering this class including a large segment of epidemiology. Experience shows that correlation does not necessarily imply causation and as expected, some correlations have correctly identified their cause but others have proven to be unrelated. Much of evidence-based medicine belongs to this class.

Hypothesized Science: This class consists of an organized response to an observation, an idea, or any other initiating thought process. Imagine that an event is observed by a scientist who cannot explain it by any known scientific principles, approaches, or other processes. Subsequently, the scientist hypothesizes one or more potential causes. Whereas some Hypothesized Science has proven to be worth pursuing, often the conclusions are proven to be wrong.

Scientific Judgment: On occasion, decisions must be made without having the needed scientific information including basic principles, the necessary data, and other scientific requirements. The methodology for expert judgment is reasonably well-developed, and consists of asking a number of presumably knowledgeable individuals to give answers to specific questions and statistically assess the results. However, this class is often an educated guess.

Speculation: This class consists of information that cannot meet standards described in any of the above classes. It is often based on the intuition of an individual who wants to stimulate a discussion or initiate a research project.

Fallacious Information

Information that clearly falls into the purview of science but is inconsistent with the three classes identified above is fallacious information. This information is often called "pseudo science", "junk science", or "politically-processed science".

PILLAR: CATEGORIZATION OF RELIABILITY OF SCIENTIFIC INFORMATION

There are rational and reasonable uncontested methods to resolve scientific controversies. Briefly, scientific information is divided into the following four distinct categories:

Category 1 - Personal Opinions: Expression of views by any individual is included in this group. At best, this category can be used to initiate the study of a scientific issue.

Category 2 - Gray Literature: Written information that has not been subjected to an independent peer review is included in this category. This is the favorite category of government agencies, advocacy groups, and individuals who want to promote an idea. Experience shows that in the overwhelming majority of cases, this category does not meet the requirements of scientific acceptability. At best, this category should be used to initiate a study.

Category 3 - Peer-Reviewed Science: Information subjected to an independent peer review constitutes this category. Peer review is the foundation of scientific acceptability. There are numerous requirements for acceptability of peer review. Briefly, the individual who is chosen as a reviewer must be a "peer" to the author of the study, and must have no conflict of interest. In addition, the author of the study must respond to criticism by the peer to the satisfaction of an uninvolved person or organization.

Category 4 - Consensus-Processed Science: This category consists of information resulting from a process used to resolve scientific disputes. The prerequisite for this process is the formation of a group of peers under the auspices of an organization that is uniquely qualified to do so. Category 4 is a formal process requiring consideration of qualifications of the members of the consensus panel and their potential conflict of interest, which is contrary to the view that is often expressed.

PILLAR: AREAS OUTSIDE THE PURVIEW OF SCIENCE

The concept of BAS deals with classification of scientific information and evaluation of scientific assertions. It specifically excludes areas that are outside the purview of science. The inclusion of faith, ideology, beliefs, or any other non-scientific objectives in assessing the validity of scientific information is inconsistent with the foundation of BAS or MESC.

The Institute for Regulatory Science (RSI) was established in 1985 and received its status as a non-profit organization from the Internal Revenue Service on May 12, 1996, under section 501(c)3 of its code. Between July 1989 and June 1995, the activities of RSI were conducted through the University of Maryland at Baltimore and Temple University in Philadelphia, Pennsylvania, respectively. Effective July 1995, RSI is conducting its activities as an independent entity.

RSI was formed to ensure that the societal decisions are based on the best available scientific information. In response to that need the concept of Best Available Science (BAS) was developed which in turn resulted in Metrics for Evaluation of Scientific Claims (MESC). The BAS/MESC provides a mechanism for societal institutions including Congress, regulatory agencies, the courts, the media, and numerous other organizations to rely upon credible and reliable science as the foundation of their decisions. Because professional societies of scientists and engineers are best equipped to identify BAS/MESC in their respective disciplines, RSI relies upon pronouncements of these organizations as the primary voice of science. Similarly, RSI activity seeks expressions of the voice of science in areas of societal concern from learned organizations as representatives of the scientific community.

John Galvin

432 228th Ave. SE

City of Sammamish