

August 6, 2008

**To:** San Juan County Planning Commission

**From:** The undersigned members of the County Critical Areas Ordinance Committee

**Re:** Minority Opinion on Draft Ordinance Amending The Unified Development Code To Protect Critical Aquifer Recharge Areas

**Subject of This Opinion:** Designation of the entire County as a Critical Aquifer Recharge Area

Let us begin by making it clear that we have supported the vast majority of the proposed ordinance including all of the prohibited land uses, activities requiring inspection, wastewater disposal, and the changes to the extension of urban-level capital facilities provisions. These requirements are the result of several months of meetings and after much debate on the merits and implications of imposing these restrictions. While the impact to property owners should not go unnoticed, we believe that in order to protect our aquifers, these changes are appropriate.

Our opposition is concentrated in one single area – the recommendation to designate the entire County as a Critical Aquifer Recharge Area.

The State Law (WAC 365-190-080), which defines Critical Areas, requires counties to classify recharge areas for aquifers according to the vulnerability of the aquifer. Vulnerability is the combined effect of the hydrogeological susceptibility to contamination and the contamination potential. The law also states that the classification strategy for recharge areas should be to maintain the quality of the ground water, with particular attention to the areas of high susceptibility.

We understand that the goal of the WIRA committee, because they determined that the majority of San Juan County had a moderate to high risk of susceptibility to contamination, was to focus on reducing the vulnerability of the recharge areas to contamination. This could be achieved by implementing certain regulations on land uses in conjunction with adding inspections on certain types of businesses which typically have a higher potential to introduce contaminants into our groundwater. Those regulations are what you see in the proposed ordinance.

We are in support of this approach because it focuses on the task that the CAO committee was asked to accomplish – update our Critical Areas Ordinance to come in compliance with the Growth Management Act and protect our most important resources. We were not tasked with controlling growth nor creating excessively restrictive regulations that have the potential to deliver unintended consequences and costs to our citizens.

We therefore respectfully recommend the following:

- You reject the current ordinance and send it back to the CAO committee for revision.
- You recommend that the committee implement the recommendations of the WIRA committee and developed a more balance ordinance that protects the critical areas and does not place unnecessary designations on the County that may have future unforeseen or unintended consequences.

- You recommend to the committee and the planning department that they provide some level of public communication of this recommendation to ensure that our citizens have appropriate notice, and so that they themselves can determine the significance of the change.

### Additional Background

The original draft ordinance that had been approved by the CAO committee and submitted to the WIRA committee did not include the recommendation for the County wide CARA designation. The revised draft that was received back from the WIRA committee was well intended but confusing. It left members of the CAO committee unclear on their entire recommendation, however after a lengthy discussion they made it clear that they were recommending the included land use and inspection requirements but they were not recommending a County wide designation as a CARA.

Despite this clarification of their recommendations and the fact that the original draft did not include such provision, a motion was put forward to adopt the land use and inspection requirements and specifically designate the entire County as a Critical Aquifer Recharge Area. This motion passed 5 to 3 and the topic was closed. There was no discussion by the committee of the unintended present or potential future consequences of the decision and no discussion of the appropriate public communication of the recommendation.

Respectfully Signed,

Patty Miller  
John Evans  
Teri Williams  
Stephanie Johnson O'Day