

Can't Keep Them Down on the Farm

Rural King County residents are fighting back against environmental restrictions imposed by Seattleites. And they've just won a key battle.

[Comments](#) (12) By [Laura Onstot](#) *Wednesday, Sep 3 2008*

In 1942, [Dominic Colasurdo](#)'s father sold a five-acre chicken farm in [White Center](#) and moved out near the Cascade foothills, just east of [Renton](#), to run a dairy. The family's 110 acres were along the May Valley Creek, which the [Works Progress Administration](#) had expanded into a large irrigation ditch. Fish swam up the new stream in enough numbers for 19-year-old Colasurdo to pull out strings of trout and salmon.



Peter Mumford

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For two decades, the stream ran clear. But by the 1960s—when the younger Colasurdo had inherited the farm and switched from dairy to boarding horses—enough dirt and sediment from the surrounding hillsides had started to pour in, along with weeds like reed canary grass, that the creek would stop up and flood the surrounding land. Whenever that happened, Colasurdo would drive a backhoe to the creek's edge and clear it out. Then in 1982, [King County](#) declared Colasurdo's property to be a wetland and he was forbidden to go down into the creek. Within four years, he says, the valley was flooding for weeks at a time, and for a longer period every year.

Colasurdo's daughter [Mary Celigoy](#), who has taken over the business, says half the grazing territory is now lost for about six months of the year—first when it's covered by water, and later when it's too marshy for the horses to move around in safely. This year the fields weren't really dry until early July. As a result, she and her dad can't board as many animals as the acreage could support, and instead of eating grass in the fields, the horses now require hay, which has more than doubled in price in the past decade. "My fear is that it's going to get worse," Celigoy says. "If we start getting slop all year round, then we'll be in trouble."

Despite all the efforts at preservation, Colasurdo, 83, says he hasn't seen a fish swim up the choked stream in years. And many of the trees the county planted along the banks to maintain the habitat couldn't survive the flooding. "If they'd just let us get in there and do maintenance, it wouldn't have got like that," he says.

Over the past couple of decades, the failed May Valley Creek policies have become a focal point for rural anger in east King County. Farmers and other landowners there feel controlled by a Seattle-centered government beholden to urban environmentalists who don't understand their lives, habits, or the land they work. The frustration reached its peak in 2004, when the [King County Council](#) passed a law proposed by [County Executive Ron Sims](#) that forbids most people in rural areas from clearing vegetation on more than 35 percent of their land—whether that's cutting down pines trees or digging up brush.

Colasurdo isn't directly touched by the law; his already-cleared property is grandfathered in. But his experience with county regulations made him sympathetic to those neighbors whose plans to expand pasture land or build another barn were thwarted by the new law. He joined dozens of rural landowners who, outnumbered at the polls and unable to vote out the offending politicians, instead raised money and sued. Earlier this year, they beat the regulators in court. The ruling, if it stands, could serve as a new barbed-wire fence keeping the urban politicians, and their green agendas, out of the rural landowners' backyards. But, in the eyes of county politicians like Sims, that would come at a severe environmental cost.

On the second Monday of each month, Colasurdo and his neighbors gather in a stuffy room off the sanctuary in the May Valley Alliance Church. Fans whir as people start trickling in around the 7 p.m. start time. There are no skinny jeans, only boot-cut, and some of the mostly gray-haired men have been in the valley for decades.

With Robert's Rules of Order only loosely in effect, the July meeting of the May Valley Environmental Council begins with 15 minutes of debate about which were the best planes to fly during the Korean War. There follows another discussion about a pair of beavers that had wrought havoc on a couple of local farms. Someone in the back suggests coaxing them onto the road in the hopes they'll get nailed by traffic. But the biggest topic of discussion, as usual, is the group's beefs with the King County Council, whom members deride as "Seattle City Council, II."

King County is unusually broad in its reach—both in terms of geography and culture. While Oregon's [Multnomah County](#) barely stretches beyond the Portland suburbs, and [San Francisco County](#) and the city are one and the same, King County encompasses both an extremely liberal urban center and roughly 2,000 square miles of land that does not belong to any city.

In the north there's Skykomish, a 200-person town reachable only by driving an hour through [Snohomish County](#) on Highway 2. The Sasquatch comedy *Harry and the Hendersons* was filmed nearby. The town has a small jail, says mayor [Charlotte Mackner](#), which is used for storing office supplies, old files, and unused furniture.

To the east, the county stretches to [Snoqualmie Pass](#). In the unincorporated town of [Hobart](#), tucked behind Tiger Mountain between Maple Valley and Snoqualmie, there's only one store, Hobart Market and Video. It's at the intersection of several area farms, and it feels a lot farther than 25 miles from downtown Seattle. People stop in to chat

with owner [Warren Iverson](#) about his most recent hay harvest and what he's asking for a bale.

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The city of Seattle was built on exploiting the natural resources in these far-flung corners of the county. The [Weyerhaeuser Timber Company](#) felled logs in partnership with the Dennys, Yeslers, and Elliots who processed the timber in their sawmills on [Puget Sound](#). When minerals turned up in the Cascade foothills, the money really started rolling in. "Coal, coal was the cry of pioneers of Puget Sound from the earliest advent of white men and the topic of never-ending discussion in pioneer newspapers," wrote [Clarence Bagley](#) in a 1929 history of the county. A 1936 map shows mines owned by the Dennys just east of Snoqualmie Pass, right on the border of the county.

But these days, urbanites seek to control the rural areas for another purpose: preservation.



Peter Mumford

Regulations designed to protect a creek passing through Dominic Colasurdo's farm have rendered much of the land unusable.

In 1990 the state legislature passed the Growth Management Act, requiring cities and counties to identify environmentally "critical areas." The Act leaves vague the type of areas protected, but the goal is to maintain air and water quality by funneling real-estate development into already-urban zones and restricting it elsewhere. Forming specific plans for doing that is the responsibility of individual counties and cities.

Shortly after the law passed, King County hired [Derek Booth](#), a professor of civil and environmental engineering at UW, to look at the ways that rural land use, specifically the clearing of trees and vegetation, affected salmon and fish stocks, wildlife, and overall water quality in the creeks in and around [Issaquah](#).

Every water system is different, Booth says, but in general he found that at least 65 percent of the surrounding trees and native plant life needs to remain in place and untouched for streams to continue supporting plant and animal life.

Additionally, he says, no more than 10 percent of the land that drains into the creeks—which may be miles away—can be covered by "impervious surfaces" such as pavement and building foundations. Rather than allowing water to be absorbed into the soil below, these surfaces send it, along with the minerals, pollutants, and chemicals it carries, into streams.

"We weren't happy about this outcome, we weren't trying to get this outcome, it's where the data and analysis took us," he says. Booth turned his conclusions over to the county, and his research became part of the groundwork for the creation of a package of laws called the Critical Areas Ordinance, which included the hated clearing rules.

Hearings were held on the measure throughout 2003 and 2004, and as word got out, meeting rooms in places like Maple Valley were packed. "90 percent of the people that went to those hearings were against it," says [Rick Spence](#), governmental affairs director for the May Valley Environmental Council. By contrast, nine environmental and political groups, including five based in Seattle, wrote a letter supporting the plan. The signers include the [Sierra Club](#), the [Seattle Audubon Society](#), and 1000 Friends of Washington (now Futurewise). They asked that even tighter limits be imposed. The new rules were "essential both to protect Puget Sound and stream and river water quality," says [Tim Trohimovich](#), planning director for Futurewise.

The bill passed the King County Council on a party-line vote, 7-6.

Large swaths of rural King County are now federally protected parks and wilderness areas. But there are also stretches of farmland, like the kind dotting May Valley.

[Kurt Triplett](#), Sims' chief of staff, says the Critical Areas Ordinance was created to maintain that rural character. He says the area's population was growing 10 to 15 percent a year before the law passed. In addition to preserving habitats, the CAO was designed to bring that rate down to about five percent. Without such protections, he says, "the rural area would be a suburb."

Indeed, just a mile west of Colasurdo's farm are looping circles of homes with perfectly manicured lawns. A [Google](#) satellite image of the area looks like the opening credits of *Weeds*.

Store owner Iverson's farm is nearly 10 miles from the tendrils of development at the edges of Issaquah, and like Triplett, he wants it to stay that way. His store has been in the family since 1909. Sporting a bushy grey mustache and a blue apron, he sits on a bench outside, greeting most customers by first name as they walk in for supplies. In addition to running his market, Iverson and his brother have 24 cows, two bulls, and an assortment of calves. He also raises hay on his 94 acres of land, which he sells cheap to neighbors with horses.

But as much as he favors stemming suburban expansion, Iverson says sentiments like Triplett's show that policymakers think of rural areas in terms of preservation or subdivisions, not small farmers like him. "Environmentalists want no building, developers want lots of buildings, but single families just want to be able to build on their own property," he says. "There's got to be a distinction."

When Iverson first started attending public hearings held by the county council in town halls and community centers in the months before passing the Sensitive Areas Ordinance (a precursor to the Critical Areas Ordinance) in 1990, he thought he'd be aligned with the developers who didn't want the rules.

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But as people testified, he says, he found himself feeling more and more sympathetic to the environmental groups. He'd like to see fish in the streams and rivers and the subdivisions out. "[Rural residents] are in favor of salmon, eagle, deer," he says. "Heck, if I could get dinosaurs out here—well, not dinosaurs, maybe unicorns, something that wouldn't eat you."

Iverson eventually switched sides, supporting limits on clearing near streams and creeks and rules making it difficult to subdivide rural property, which he thought would keep developers in the cities and him on his farm. But the CAO, he says, goes too far. He can put a house on the property, but only if he agrees to the limits on clearing the rest of the land and agrees to allow code-enforcement officers regular access to make sure he's complying with the rules. Between the restrictions on using the property and the stipulations for getting anything built, selling the land is pointless—he'd hardly make much, he says.



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[Edwina Johnston](#) had a similar experience. She grew up in New York and spent part of her adult life in a convent. In the 1970s, she and a friend bought 30 acres of land off I-90 outside Issaquah. They planned to eventually sell it, split the profits, and retire. At that time, the area was zoned for one house for every three-quarters of an acre, she says.

In 1990, she says, the county council changed the zoning rules to allow one house for every *five* acres. Still, she says, with six houses possible on her land, the sale seemed likely to pay off, so she and her business partner held onto the land. But then the CAO passed, along with additional county traffic rules restricting further development where her land is situated. Now she can put only three houses on the lot, she says.

With frizzy, dyed brunette hair and wide brown eyes that look about to pop as she rants about the ever-mounting regulations that gutted her retirement plan, Johnston doesn't look her 75 years. But there's no shuffleboard in her future. She's had to enroll in an online Masters in Teaching program, planning to finish in May, so she can go back to the classroom—something she did as a nun—to make ends meet. "Fortunately it's interesting, and I love going in and teaching the kids," she says.

Johnston says it's not that she doesn't think the environment should be protected. But in this case, she says, the county took away her ability to use her land, without compensation, for the sake of future generations. "Communism," she calls it.

If the county had offered to buy the property at market value and preserve it, she says, she would have happily sold. She's trying to unload it now. It's been on the market for more than three months with no offers, she says. With the building limits, she jokes, "I'll have to find a recluse."

Together with fellow irate neighbors, Johnston joined the Citizens' Alliance for Property Rights, a political action committee that sprang up in 2003 as the CAO hearings got underway. The late [Kent Pullen](#), then a Republican county council member, called a meeting with a few people to discuss starting a PAC to support rural landowners' political agenda. Word of the meeting spread, but the details got mixed up. Concerned he might be missing a hearing on the dreaded land-use ordinances, [Rod McFarland](#), who owns five acres in May Valley, convinced his friends and neighbors to crash the meeting. "There were about 100 of us that showed up," he says.

When the PAC was explained, someone took off his cowboy hat and passed it around the room to gauge interest. Five thousand dollars was pulled from the hat at the end of the night, McFarland says.

Among the Alliance's biggest donors in the years since are Bob and [Marcia Vos](#), who run a 20-acre [Limousin](#) cattle farm outside Auburn. Tall, thin, and soft-spoken, [Bob Vos](#) is officially retired from his job as a [Boeing](#) civil engineer, though he still puts in part-time hours. Vos doesn't plan to do any additional clearing, he says, so the CAO doesn't affect him personally. Yet he and his wife have donated \$5,300 since 2004 because, Vos says,

he knows people who will be hurt. "I try to be especially sensitive to those who can't necessarily afford big donations," he says.

He compares the plight of rural landowners to that of blacks in the segregated south. "[Rural residents] have become second-class citizens," he says. "This is a civil-rights issue."

[Darol Johnson](#), who owns six acres near Duvall, about 10 miles east of [Woodinville](#), compares Seattle environmentalists to "religious fundamentalists at the other end of the spectrum." He throws in a famous atheist for good measure: "Most of Seattle makes [Lenin](#) look like a Republican." Johnson has given \$700 to the Citizens' Alliance.

So far this year the group has raised more than \$17,000, putting it in the top 25 percent among issue-specific committees, according to state [Public Disclosure Commission](#) records.

Some of the money has gone to supporting candidates like [David Irons](#), who ran against Sims in 2005, and [Dino Rossi](#)—both losers. But they built a legal fund, currently more than \$20,000, to help pay for a lawsuit filed in March 2005 against King County, challenging the CAO. The [Bellevue](#) office of the Sacramento-based [Pacific Legal Foundation](#) took the case. In 2007, the Building Industry Association of Washington—the state's most active property-rights promoters—kicked in a \$2,500 grant to help with court costs.

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The suit is being handled by attorney [Brian Hodges](#), whose trimmed goatee and round Lennonesque glasses don't quite seem to fit with the plaintiffs he represents. Hodges' challenge doesn't question the environmental value of what the county is trying to achieve. Instead he argues that the clearing ordinance violates state tax law.

It's a trick to follow Hodges, but his argument works like this. Under the CAO, if you buy a plot of land in rural, unincorporated King County that's more than five acres, you have to apply for a permit if you want to put a house on it. You only get that permit if you agree to leave 65 percent of the land you just purchased untouched. In effect, Hodges says, you're paying a fee to the county—except the fee consists of land, not cash. It's "indirect taxation," Hodges says. "You make people give up their property as a condition to development."



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For example, [Jeff Wright](#), one of the plaintiffs, purchased a nearly 18-acre farm outside Renton, a quarter-mile outside King County's "urban growth boundary," in 1995. Wright, a vice president of construction at Lexington Fine Homes, a Bellevue luxury developer, got a permit to clear about one-third of the land, taking down deciduous trees like alders and maples, in order to raise horses. Under the CAO, he has to stop there.

Wright says he wasn't planning to divvy up and develop the property, but not being able to clear it will be a problem if he ever sells. "When you own real estate and you take away something you can do with that property, it devalues it," he says.

The county fought back, saying the rules were designed to comply with the state mandates of the Growth Management Act. Additionally, they argue, because studies like Booth's were done to justify the need for environmental protection, they had satisfied the impact condition of the tax law.

A Snohomish judge sided with the county in December 2006. But in a remarkable victory for the rural upstarts, an appellate court came down in their favor on July 7 of this year. The court ruled that while the Growth Management Act does mandate protections for critical areas, counties can't do that by undermining other state laws. And the CAO does violate the tax law, the court ruled, because proposed developments are not evaluated on a case-by-case basis for their potential negative impact on streams or watersheds—everything is subject to the same 35-percent clearing limit.

The ruling, Hodges says, clearly states that the Growth Management Act "does not give local government carte blanche to simply take private property." Now Pacific Legal Foundation has in its sights critical-areas ordinances in Kitsap and Jefferson counties.

Triplett says that under the court's ruling, it actually will be harder to get a building permit, since each applicant will have to do their own environmental impact studies first. "We think what we did actually made it much more simple," he says.

The county appealed to the state Supreme Court last month. There has been no indication yet as to whether the judges will hear the case.

It's impossible to please everyone in a county split along such distinctly urban and rural lines, says Sims. "There are times where you just don't think you can win."

Sims says it's not just rural residents; he gets complaints from urban citizens who don't like paying fees for things like flood control, which (most of the time) isn't really a problem in urban areas. "We had to talk many of the cities into supporting it," he says.

Three years ago, he hired [Julia Larson](#) for the newly created position of Rural Economic Strategy Coordinator. Her job is to tour the county, listen to gripes about policies, and see if they can be changed. In one instance, Larson says, she was told that county rules made it impossible for someone to set up a business out of their house selling saws and horseshoes to their neighbors. To get around the rules, people were having to call from the road, order and pay, then drive in to pick up their purchase. Larson reported the issue to Sims, and this summer he proposed an ordinance allowing people to sell nails, small tools, and other items out of their homes. She says these kinds of things seem to help smooth relations between rural residents and their government, but that doesn't mean massive land-use rules like the CAO get a better reception. "You don't change people's minds overnight," she says.

But apparently minds can be nudged a little. After 26 years, the May Valley ditch fight appears to be headed for an amicable resolution. The county's mistake lay in not coming up with a clear way for the valley's farmers to get permits to do at least some maintenance on the ditch, says [Mark Isaacson](#), director of the county's Water and Land Resources Division. The county is planning to change that, as well as to gin up \$5.5 million in flood-prevention projects for the area, which will be unveiled at the May Valley Alliance Church this week.

But progress in the ditch situation hardly signals a new era of friendly relations. Locals and the county are currently sparring over the status of the CAO rules. There is no set timeline for a decision from the high court, and while everyone is waiting, the CAO remains in effect and code-enforcement officers will be citing anyone who violates it, says [Henry Reinert](#), special projects manager of the county's department of Development and Environmental Services. "There shouldn't be any confusion," he says.

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But Hodges says if the county enforces the CAO, and the appellate decision is upheld, it could be exposed to further lawsuits. "If [the county's] petition [to the Supreme Court] is

denied, it will be answerable to all of the land-use applicants against whom it imposes this unlawful restriction," he says. He adds that no one has come to him since the appellate court decision to complain about enforcement.

Speaking to Citizens' Alliance members meeting at an **IHOP** recently, Hodges is far more emphatic. He tells the crowd he sent a letter to county officials telling them he'll sue for damages on behalf of anyone who gets cited between now and the high court's ruling. "They're on notice," he tells the diners, to a round of cheers and applause.



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