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To: "Citizens' Alliance for Property Rights" <capr-discussion@lists.celestial.com>
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Subject: [Capr-discussion] No value seen in "free" habitat plan ... FerryCounty

http://seattletimes.nwsourc.com/html/localnews/2002634989_ferryhabitat20.html

In other words ... if your county is too poor to pay a lot of scientists to prowl around the countryside proving or disproving the presence of endangered critters, you're doomed to using the science offered by the state and Futurewise?



Sunday, November 20, 2005 - 12:00 AM

No value seen in "free" habitat plan

By The Associated Press

OLYMPIA — You get what you pay for, the state Supreme Court told the state's poorest, most sparsely populated county in a dispute over its plan for protecting wildlife habitat.

The high court on Thursday sent Ferry County's Growth Management Act habitat-protection plan back for a rewrite after concluding that the free services of a retired Alaska wildlife agent aren't the "best available science."

"The information used to support the county's listing does not pass the smell test for (best available science), regardless of how it is defined," Justice Mary Fairhurst wrote for the 7-2 majority.

The decision means the county must rewrite its ordinances to protect the habitat of additional species.

Concerned Friends of Ferry County, an environmental group, sued



after a state board rejected the county's proposed list of local threatened species: the lynx and the bald eagle.

The state's Growth Management Act requires counties to list endangered, threatened and sensitive local species, then make laws to protect their habitat. The environmental group argued there are more threatened and endangered species in Ferry County.

"Back to the drawing board," said Steve Graham, the attorney who represented Ferry County in the case.

The county enlisted Donald McKnight, a retired Alaska Department of Fish and Game wildlife planner, who consulted bird and wildlife texts and discussed pygmy rabbit habitat with a state biologist. He then prepared two letters recommending that the county's list include lynx and bald eagle. His work was free.

Fairchild wrote that McKnight's conclusions were "more similar to speculation or surmise" than science, noting Ferry County streams are a known habitat for bull trout, a sensitive species.

The Confederated Tribes of the Colville Reservation also are trying to reintroduce peregrine falcons in the area, she wrote.

In dissent, Justice Jim Johnson said the state wants the county to try to prove a negative: that certain animals do not exist there. It's akin to requiring habitat protection for Bigfoot, a mythical Northwest legend, he said.

It's not fair to require the county with the lowest per-capita income — \$17,437 — and the highest per-capita use of food stamps and medical assistance to bankroll the sorts of studies that large counties can afford, Johnson said.

But Concerned Friends of Ferry County spokesman Dave Robinson said the county has received nearly \$600,000 for planning work since 1993 from the state and can seek free advice from state biologists and other experts.

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