BOARD OF YAKIMA COUNTY COMMISSIONERS

IN THE MATTER OF PARTICIPATION IN A VOLUNTARY STEWARDSHIP PROGRAM PURSUANT TO RCW 36.70A.700 ET SEQ. REGARDING THE REGULATION OF AGRICULTURAL ACTIVITIES UNDER THE GROWTH MANAGEMENT ACT, CHAPTER 36.70 RCW	)))))))	**RESOLUTION 14-2012**

WHEREAS, the Growth Management Act ("GMA"), chapter 36.70A RCW, requires all local governments to designate and protect critical areas (RCW 36.70A.170 (1) (d) and RCW 36.70A.060 (2)); and,

WHEREAS, pursuant to RCW 36.70A.060, the Board of Yakima County Commissioners ("Board") adopted Title 16A, the Critical Areas Ordinance ("CAO"), on July 12, 1994 (Ordinance No. 3 -1994); and

WHEREAS, the Board amended and re-enacted an amended CAO on October 1, 1995 (Ordinance No. 8 -1995) in response to a compliance order from the Eastern Washington Growth Management Hearings Board (Case No. 94-1-0021); and

WHEREAS, the GMA requires Yakima County to review and, if necessary, revise its development regulations to ensure compliance with the requirements and time periods established in the GMA; and

WHEREAS, RCW 36.70A.561 and .5601 (commonly referred to as the "Ruckelshaus Amendment") require that for the period beginning May 1, 2007, and concluding July 1, 2010 (amended by 2010 c 203 § 3 to December 1, 2012), counties and cities shall defer amending or adopting critical areas ordinances as they specifically apply to agricultural activities on agricultural and rural lands (a "moratorium"); and

WHEREAS, Yakima County amended its CAO by adoption of Ordinance No. 13-2007, and it's amending Ordinance No. 2-2009, which included a moratorium on the regulation of agricultural activities in critical areas as mandated by RCW 36.70A.560 and the continuing regulation of those activities under YCC 16.A; and

WHEREAS, as an alternative to protecting critical areas in areas used for agricultural activities through development regulations adopted under RCW 36.70A.060, Yakima County may elect to protect such critical areas through a Voluntary Stewardship Program ("VSP") pursuant to RCW 56.70A.710, et seq., and

WHEREAS, prior to electing to participate in the VSP, a county is required to (a) confer with Tribes, and environmental and agricultural interests; and (b) provide notice following the public participation and notice provisions of RCW 36.70A.035 to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations; and

WHEREAS, Yakima County staff and one member of the Board of Commissioners (Board) participated in an in-house study group to evaluate the VSP legislation and to consider a proposal to be presented to the full Board as to a course of action regarding the provisions of RCW 36.70A.700; and

WHEREAS, Yakima County published notice of a proposal to consider participating in the VSP and announcing an open house to provide the public and any interested individuals or agencies an opportunity to learn more about the VSP legislation and to answer any general questions that such attendees might have. This notice was published in various printed news media and the County also posted notice on its website, as well as providing special notice by e-mail and mailing to all interested individuals, tribes, government agencies, businesses, school districts, and organizations that either identified themselves in the past as interested parties or who had expressed a particular interest in this proposal, as required by RCW 36.70A.035; and

WHEREAS, Yakima County held its informal open house on November 21, 2011 for the purpose of discussing the proposal to participate in the VSP and to solicit written and oral comments from the public on the VSP proposal; and

WHEREAS, by letter dated November 28, 2011 the Confederated Tribes and Bands of the Yakama Nation (Nation) provided written comments, in which they stated their support for the county's participation in the VSP and suggested that Yakima County should designate all watersheds in the county as priority watersheds; and further, that the Nation be specifically consulted prior to the County taking further action; and

WHEREAS, in consideration of the Nation's request Commissioner Kevin Bouchey, together with staff, followed up with the Nation by meeting with its designated representatives to discuss the issues raised in the Nation's November 28, 2011 letter and the county's understanding of its responsibilities under RCW 36.70A.700 and its enabling legislation; and

WHEREAS, the Nation sent the county a subsequent letter dated December 20, 2011 from the Deputy Director of the Nation's Department of Natural Resources, in which the Nation confirmed meeting with Yakima County and discussing the issues, and amended its position as to nominating all watersheds as Priority Watersheds by suggesting a list of specific "watersheds" that they suggested should be considered for nomination by Yakima County as Priority Watersheds, commencing with the Wenas Creek watershed; and

WHERAS, in designating all portions of those Water Resource Inventory Areas (WRIA) that are located within the borders of Yakima County for inclusion in its VSP, Yakima County considered the following statutory factors: (a) the role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland; (b) the overall likelihood of completing a successful program in the watershed; and (c) existing watershed programs, including those of other jurisdictions in which the watershed has territory; and,

WHEREAS, in nominating just the Wenas creek watershed as the County's Priority Watershed, Yakima County applied the provisions of RCW 36.70A.710(4)(a)-(g) and specifically considered the following factors in support of the nomination of this watershed as a Priority Watershed: (a) that the primary land use in the Wenas valley has been designated in the County's comprehensive plan as Agricultural Lands of Long Term Commercial Significance, in

acknowledgment of the Wenas valley's role as an important agricultural area with significant hay production, cattle grazing and various other agricultural activities.; (b) that historically, salmonids were present in Wenas creek but that the combination of hydrological changes and the damning of Wenas creek to create Wenas lake as a water storage facility has eliminated access to spawning habitat for anadromous salmonids; though above the damn resident populations of rainbow trout and native cutthroat trout still exist in the tributaries to Wenas Lake and the lower approximately 1.7 miles of Wenas Creek does support salmonid rearing and is rated as good to excellent off-channel habitat for rearing salmonids in its tributaries; (c) the Wenas valley hosts a number of State Wildlife Refuges and contains a significant intact shrub steppe habitat that has resulted in much of the area being designated as Upland Wildlife Habitat in the county's critical areas ordinance, and there is a history along Wenas creek of conflict between elk migration and winter range and agricultural activity; (d) there are both individuals and community organizations in the Wenas that represent varied interests in the Wenas valley environment and its watershed, including the Friends of the Wenas and the North Wenas Conservation group, as well as the Coordinated Resource Management Team, a group that included local agricultural land owners and wildlife managers to develop practices to reduces wildlife and agricultural conflict; (e) in the past, the Wenas Creek watershed has seen conflict over water use in the past and the resulting litigation (*The Dept. of Ecology v. Acquavella et.ux et al.*, Yakima County Cause No. # 77-2-01484-5) resulted in the creation of a management regime that include a water manager and a commitment to maintain flow and manage water usage from the creek; (f) there currently is no formal watershed group established in the Wenas watershed, or in any other watersheds existing in Yakima County, though in the past there have been volunteers who have participated and cooperated on resource issues no existing watershed group for the Wenas, or any other watershed or WRIA located within Yakima County; and finally, (g) that once funding is established, the prospects for success of any funded watershed program in the Wenas valley watershed are improved because of the current enhanced water resource management and other active measures being taken to improve salmonoid habitat in the lower reaches of Wenas Creek.; and

WHEREAS, the Board has determined that Yakima County's participation in the VSP is in the public interest and essential to direct the future growth and development of Yakima County, particularly as to the maintenance and encouragement of agricultural activities that are a foundation of the County's economic well-being.now, therefore;

BE IT HEREBY RESOLVED:

Section 1. Participation. As an alternative to protecting critical areas used for agricultural activities through development regulations adopted under RCW 36.70A.060, Yakima County hereby elects to participate in the VSP as provided in RCW 36.70A.700 et seq.

Section 2. Designation and Nomination.

A. Yakima County hereby designates for inclusion in the VSP all watersheds in Yakima County, including but not limited to the eleven (11) Watershed Resource Inventory Areas (WRIAs) currently identified by the Washington State Department of Ecology as existing in whole or in part in Yakima County.

B. The Wenas Creek watershed is hereby nominated for consideration as a Priority Watershed under RCW 36.70A.710(1)(iii). In nominating the Wenas Creek watershed as a Priority Watershed Yakima County finds that it has complied with the requirements contained in 36.70A.710(4)(a)-(g) for nominating a Priority Watershed

Section 3. Funding. Yakima County's participation in the VSP is predicated on Washington State providing adequate and full funding to the County as provided in RCW 36.70A.700 et. seq. The determination of adequate funds to support the County's participation in the VSP shall be at the sole discretion of the Board of Yakima County Commissioners.

Section 4. Retention. YCC Title 16A shall be retained for the regulation of lands used for agricultural activities until the County adopts further amendments to the CAO pursuant to the recommendations provided under the VSP and its supporting committee, and YCC 16C shall be retained for regulation of critical areas where agricultural activities do not occur and does not apply to areas regulated under the Shoreline Master Program (YCC 16D).

Section 5. Severability. If any section, sentence, clause, or phrase of the county code provision amended by this Resolution should be held to be invalid or unconstitutional by any Court with authority and jurisdiction to make such ruling, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of the Yakima County Code.

Section 6. Effective Date. This Resolution shall be effective at 11:59 p.m. on January 20th, 2012.

DONE this 10th day of January, 2012.

Attest:

Tiera L. Girard
Clerk of the Board

THE BOARD OF YAKIMA COUNTY COMMISSIONERS STATE OF WASHINGTON SEAL OF

J. Rand Elliott, Chairman

Michael D. Leita, Commissioner

Approved as to form only:
James P. Hagarty
Yakima County Prosecuting Attorney

By: _____
Terry D. Austin
Deputy Prosecuting Attorney

Kevin Bouchey, Commissioner
Constituting the Board of County Commissioners for Yakima County, Washington