

#### Activities for Quail Valley Road levee:

On January 7, 2009, an 80-year old levee was breached along the Teanaway River near Quail Valley Road. The flooding caused damage to several residences and properties between the levee and Lambert Road. Quail Valley Road also suffered damage. KCPW contacted the US Army Corps of Engineers (USACE) for flood fighting and levee reconstruction of this levee. Several environmental agencies including USACE, NMFS, USFWS and WFDW were invited by the emergency branch of USACE to be a part of the levee reconstruction.

In March 2009, the environmental section of USACE determined the emergency declarations from the Kittitas County Board of County Commissioners (BOCC), the Governor of Washington State and President of the United States no longer applies in spite of the fact these declarations were not rescinded. The Corps environmental branch proceeded with the Clean Water Act (CWA) Section 404 permitting process. Instead of issuing a Nationwide permit, the Corps determined it necessary to request a CWA Section 401 water quality certification from Washington Department of Ecology. The 401 process requires a public comment period.

The BOCC issued a new emergency declaration on April 17, 2009 because the water in the river was rising again. The additional rise in water increased the risk of damage to neighboring properties. The flood waters reportedly approached 6 inches from overtopping the bank.

04/20/09 - Several biologists and other regulatory staff from NMFS and the Corps arrived at the site 04/20/09 to discuss the construction. They arrived late and huddled prior to meeting with us. During this meeting two property owners expressed their concerns. The biologists were reminded of the land that is being eroded and the water elevation is rising. The biologists expressed concerns of saving trees. A Corps biologist then said he needs to discuss the state of emergency with counsel. I reminded the biologist counsel was released for the day because of power failure. He was also reminded civil servants do not have the authority to overrule the BOCC. A disagreement ensued then the biologist walked away without attempting resolution. During this meeting WDOE agreed to close the 401 permitting process because of the emergency declaration. Several boulders from the original construction was moved into the stream creating barb driving the current to a property across from the levee is located near the end of the downstream portion of the levee. The biologists argued the boulders are not forcing the channel to move.

04/21/09 - The next day I inspected the site and noticed additional damage to the end of the levee where erosion continued to affect trees at the downstream portion of the levee. I received comment from a biologist at Yakama Nation expressing the emergency does not exist. Several recommendations were also offered. I telephoned the biologist to discuss. No one answered and a message was left on voice mail. No return was ever received. I walked to the office to meet this biologist's manager. This was the first time the two met. The manager's demeanor was hostile. He accused me of wanting to know if the Yakama Nation plans to sue. It appeared the manager never reviewed this letter before. This was clearly an assumption. I clearly stated that was not the case and repeated he wanted to know what the implications for the letter were. The tone of the conversation continued to be hostile toward me. Eventually, I asked at what point in this conversation did I say or do something that warranted the hostile treatment. No

answer was offered. The manager said he wanted to meet with the BOCC to discuss habitat issues. I told him to send an email request and I will request a study session with the BOCC. The manager expressed the BOCC doesn't understand what constitutes an imminent emergency. I explained the county is storing trees from the R/W for WDFW usage in future habitat projects. The county is also willing to allow for the moving of the Hansen levee during the USBR Schaaake levee relocation project to allow for more space to afford the Yakima River more movement. The manager also told me any debris collected at bridges is best left in the river for downstream habitat. I admitted that was something he didn't know previously.

04/22/09 - The Chairman of the BOCC requested I contact the manager at NMFS in Ellensburg to discuss the project. I contacted the manager and explained the biologists do not have the authority to over-rule the BOCC declaration. The manager agreed. The manager expressed concerns of the Corps damaging all of the trees in the area without proper mitigation. I explained we cannot use the emergency status to rape the environment. We would still be obligated to mitigate after the emergency subsides. The manager did not seem to be convinced. The manager later said if the trees he wants saved are not protected he will contact the SDCOE Commander and argue an emergency does not exist. I did not reply to this threat. I agreed to protect some trees in a photograph he emailed to the manager. This agreement was for emergency construction and they will be addressed during the mitigation and final construction process later in the year. The manager agreed to not hold up the project any longer. I reminded the manager the sites were not within a designated flood plain. Therefore, the owners did not have flood insurance and all costs to recover would be paid for by the owners. The manager stated the property owners will be able to recover in only ten years and the environment will take much longer. I stated if money is mortgaged it could take 30 years. Later that day I was at the site and emailed photos to the manager indicating several trees are being eroded and will be probably be lost as a result of the lack of emergency response. Those photos were also emailed to the Corps.

On 04/23/09 I contacted the Corps to determine what the status was. Construction was not authorized as of 12:00. At approximately 9:20 I left a voice-mail message for the Cmdr of SDCOE requesting he call back. The message explained trees are washing into the river. If the biologists want to save the trees, we need to begin reconstruction activities ASAP. As of 12:00 there was no reply.

04/27/09 – I was told by Corps personnel the emergency construction was to save all the trees.

04/29/09 – I visited the site to see progress. I was informed levee construction began. While onsite, I was informed biologists from MNFS and Mike Scuderi was onsite earlier to discuss the removal of trees from the project.

05/01/09 – Levee construction began. The levee was built between the existing shoreline and the original location of the levee. The current is still moving toward the residences across the stream but not as sharply into them. The boulders in the stream are still forcing the stream toward the houses also.

05/04/09 – I received an email message from Wm. McGregor who stated the river current is aimed at his property. I told him I'll meet him before 09:00. I forwarded the message to Les Soule at USACE for discussion. Mr. Soule telephoned me to discuss. I promised to send photos of the river to him later in the day.

Mike Scuderi was onsite at approximately 12:00 noon who thanked Erik Winters for the great work being done. Mike and I examined the rocks in the stream that were left from the January flooding. I explained the rocks appear to be from the levee. I also explained my belief the boulders are exacerbating the erosion on the north side of the stream. I reminded him several biologists argued the boulders are not causing the problems during the April 20<sup>th</sup> meeting. Mike told me he believes the boulders should be moved from the stream. He stated he must first consult the legal staff then the Commander before the boulders may be removed. I explained the BOCC emergency declaration is still in effect. Mike still believes he should consult legal counsel. I explained legal counsel does not have the authority to ignore or over-rule the local legislative body. I further stated if there is any question they can confer with the Prosecutor's office. They may also confer with the BOCC. The BOCC may not be happy someone is questioning their authority, but they will be polite. I explained the Washington State engineering regulation requires all registrants to protect life, safety and property. We are obligated to do so. That is why we seem to be so protective of the levee and the properties that are influenced by them. I reminded him while the project was being held up, five trees from the levee side suffered from so much erosion they needed to be removed during construction. I also explained five trees were lost across the stream during this time. Mike mentioned that WDFW was concerned of the construction at the site. I explained the WDFW Deputy Assistant Director and the Legislative Liaison stated during a meeting with Representatives Warnick and Hinke and myself that WDFW has no authority during a Corps project. I also told that was during a phone conversation with the Assistant Director. During that phone conversation, I told the Assistant Director that professional advice from WDFW will be accepted and considered. Mike told me he didn't know WDFW had no authority in Corps projects. I explained I never had any issues with the Corps when I worked at the Firing Center which included the construction and 404 groups. At the County I had no issues with the Corps which included the 404, levee and emergency groups. I had no issues with Corps personnel until this project.

I met with Bill and Mrs. McGregor, Carol and Gene Crossen in the AM and PM and with Gary and Jan Leavitt in PM to discuss the levee issues. I assured them I want to remove the debris from the stream ASAP. I also explained I am working with the Corps to remove the boulders. I explained Mike must first go through the chain of command. I will inform them once I receive any info. I also told them I will forward a link to them via email for the Integrated Streambank Protection Guidelines. I forwarded the link later that day.

05-05-09 – I met with Doug Weber of the Corps at the site. We discussed the stream affects on the neighboring properties across the stream. I discussed the events of yesterday with him. We also spoke with the Crossens and the McGregors to discuss the debris in the river. Mr. Weber contacted SDCOE and was authorized removal of debris in the river that is guiding the current to the properties across the stream. I contacted the McGregor via phone who told me

the river condition has improved. I was also informed WDFW authorized the placement of boulders along the shoreline for stabilization.

05-11-09 – I spoke with Erik Allen who told me that WDFW offered to aid in the condemnation of the houses and the Allens shouldn't reside at the site. Furthermore, Mike Scuderi told him he shouldn't have purchased the site for a residence. Mr. Allen told me he is frustrated with the biologists who cannot agree as to the best action. Some want to protect the small salmon while others want to protect the predators.

08-06-09 – KCPW, WSDOT and USACE met to discuss a reach study associated with the Teanaway River. While I described the repairs to the levee, someone referenced placing the levee on the PL 84 system. Mike Scuderi quietly mumbled "That will never happen". I may have been the only one to hear as I was immediately to his right. Les Soule was to Mike's left may have heard.