

PROSECUTOR NC
COMMISSIONERS SK
DEPARTMENT KH
REFERENCE SP

10/26/2011 11:30:11 AM
\$0.00
Claims Against County/rls/misc
Kittitas County Auditor

201110260009
Page 1 of 13
K CO PROSEC



KITTITAS COUNTY CLAIM FOR DAMAGES

Return to: County Auditor
205 W 5th, Suite 105
Ellensburg, WA 98926



Instructions:

Please read the entire form before completion. Fill out each question as completely as possible, to the best of your ability. Do not hesitate to use the back side of this form if you need more than the space provided. An incomplete response may delay the processing of your claim.

1. Name (Including spouse, if married): WADE AND LISA YOUNG
2. Phone #: (Home): (509) 962-8611 (Work): (509) 929-1268
3. Address (include former address if at present address for less than 6 months):
6151 COVE ROAD
ELLENSBURG
4. Date of Incident: MAY 15TH & 16TH 2011
5. Location of Incident: BRIDGE OVER MANASTASH CREEK
ON COVE ROAD.

6. Describe in detail the defect which caused the injury: FAILURE TO REMOVE
BED LOAD CAUSED DIVERSION OF CREEK CHANNEL TO W/ST COVER

7. Describe in narrative form and in detail exactly how the incident occurred: See attached

8. Was claim investigated by a police officer? DEPUTIES WERE PRESENT FROM
TIME TO TIME.

Sheriff X State Patrol _____ City Police _____

9. Description of claimant's vehicle: _____ Make _____ Year _____
Model _____ License No. _____

10. Describe what you did after the ^{incident}~~accident~~ occurred: EXTENSIVE CLEAN-UP
AND REPAIR OF PROPERTY.

11. Describe the conversations you had, if any, with County personnel during or after the
incident occurred: SEE ATTACHED

12. Describe the damages or injuries which you sustained as a result of the incident: _____
SEE ATTACHED

13. What is the amount of damages claimed? (Include estimates and bills, if available): _____
SEE ATTACHED approximately \$26,059
plus attorney fees

14. How did you identify the County as the party responsible for your damage? _____
SEE RCW'S AND COUNTY CODE ON
ATTACHED

15. List the names and addresses of all witnesses to the incident: _____

County is in possession of all names and addresses
See attached notices sent by Code Enforcement
to flood victims

16. Are you covered by insurance? PARTIALLY If yes, who is your insurance agent/carrier? FEMA (COUNTRY INSURANCE)

Dated this 25th Day of OCTOBER, 20 11.

R. Wade Young
Signature of Claimant

Notary

Amanda M. Clere
Verified signature of Claimant

Subscribed and sworn (affirmed) to before me this 25th Day of October, 20 11.

Seal



Notary Public in and for the State of Washington

Residing at Glendensburg



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

"Building Partnerships - Building Communities"

COPY

411 N. Ruby St., Suite 2, Ellensburg, WA 98926
CDS@CO.KITTITAS.WA.US
Office (509) 962-7506
Fax (509) 962-7682

NOTICE OF ORDER TO CORRECT

September 1, 2011

Erik J. Bakke
6150 Cove Rd.
Ellensburg, WA 98926

Re: Tax parcel # 17-18-07030-0002
Location: 6150 Cove Rd. Ellensburg, WA 98926

Dear Property Owner;

Kittitas County has identified several parcels, including the one listed above, as having been affected by the May 2011 flood event that occurred within Kittitas County and that subsequent action taken by you or another party has resulted in the listed parcel's non-compliance with mandatory federal, state and local regulations for flood hazard management and control.

Specific areas of non-compliance include, but are not limited to: (1) dredging in the Manastash Creek without the required permit approval, (2) the construction of levees along the creek, and/or (3) the relocation of creek matter without a flood development permit. The failure to obtain the mandatory permits and to provide a no net rise analysis prior to construction and/or development in an area of floodway or floodplain is a direct violation of the following regulations:

- Washington State Growth Management Act (RCW 36.70A).
- Washington State Shoreline Management Act (RCW 90.58).
- Washington State Floodplain Management Act (RCW 86.16).
- Washington State Environmental Policy Act (RCW 43.21C).
- National Flood Insurance Program (CFR Title 44, Parts 59 and 60).
- Kittitas County Flood Damage Prevention Code (Title 14.08)

This matter is also of concern to several other agencies and government entities, including the Washington State Department of Ecology, the Washington State Department of Fish and Wildlife, the Federal Emergency Management Agency, and the Yakama Indian Tribe, all of whom have conveyed this concern to Kittitas County.

Therefore, please be advised that the current condition of your property is not consistent with the regulations listed above. Until these non-compliant issues are properly abated, you are in violation of the above regulations. Kittitas County reserves the right to pursue future legal action which may include abatement actions with a lien placed upon your property, civil penalties, infraction(s), notice(s) of violation and abatement, and/or criminal misdemeanor charges pursuant to Title 18 KCC. The purpose of this letter is to obtain your voluntary compliance within 15 business days so that this matter may be addressed.

CORRECTIVE MEASURES REQUIRED:

1. You must schedule a meeting with Community Development Services within 15 business days to discuss the mandatory permits, regulations and abatement action that will need to take place in order to resolve this matter.

Your cooperation in this matter is appreciated. If you have additional questions you may contact CDS Interim Director, Kirk Holmes at (509) 962-7692 or code enforcement at the number listed below.

Sincerely,

Lisa Iammarino, Code Enforcement Officer
411 N. Ruby St. Suite 2
Ellensburg, WA 98926
(509) 962-7001



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COPY

NOTICE OF ORDER TO CORRECT

September 1, 2011

Craig Duncan
6320 Cove Rd.
Ellensburg, WA 98926

Re: Tax parcel # 17-18-07058-0001 & 0002

Location: Cove Rd. Ellensburg, WA 98926

Dear Property Owner,

Kittitas County has identified several parcels, including the one listed above, as having been affected by the May 2011 flood event that occurred within Kittitas County and that subsequent action taken by you or another party has resulted in the listed parcel's non-compliance with mandatory federal, state and local regulations for flood hazard management and control.

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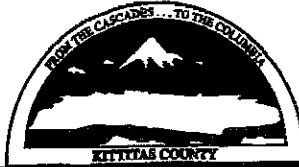
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NOTICE OF ORDER TO CORRECT

September 1, 2011

Scott Younberg
130 Cedar Cove Rd.
Ellensburg, WA 98926

Re: Tax parcel # 17-17-12050-0007
Location: 6151 Cove Rd. Ellensburg, WA 98926

Dear Property Owner;

Kittitas County has identified several parcels, including the one listed above, as having been affected by the May 2011 flood event that occurred within Kittitas County and that subsequent action taken by you or another party has resulted in the listed parcel's non-compliance with mandatory federal, state and local regulations for flood hazard management and control.

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NOTICE OF ORDER TO CORRECT September 1, 2011

Robert W. & Lisa Young
6151 Cove Rd.
Ellensburg, WA 98926

Re: Tax parcel # 17-17-12050-0006
Location: 6151 Cove Rd. Ellensburg, WA 98926

Dear Property Owner;

Kittitas County has identified several parcels, including the one listed above, as having been affected by the May 2011 flood event that occurred within Kittitas County and that subsequent action taken by you or another party has resulted in the listed parcel's non-compliance with mandatory federal, state and local regulations for flood hazard management and control.

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NOTICE OF ORDER TO CORRECT

September 2, 2011

James Repsher
6251 Cedar Cove Rd.
Ellensburg, WA 98926

Re: Tax parcel # 17-17-12057-0001
Location: 6251 Cove Rd. Ellensburg, WA 98926

Dear Property Owner;

Kittitas County has identified several parcels, including the one listed above, as having been affected by the May 2011 flood event that occurred within Kittitas County and that subsequent action taken by you or another party has resulted in the listed parcel's non-compliance with mandatory federal, state and local regulations for flood hazard management and control.

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Lisa Iammarino, Code Enforcement Officer
411 N. Ruby St. Suite 2
Ellensburg, WA 98926
(509) 962-7001

Addendum to Claim for Damages

Young, Robert Wade etux

October 24, 2011

This is an addendum to the Claim for Damages form. We are providing this document because it includes facts as we know them to be true, and the "story" from our point of view, which no one has officially asked us for prior to demands and threats of legal action, or since.

- First and foremost, we did NOT set out to create "the berm". The County, other agencies, and other "concerned parties" seem to believe the opposite is true and can only focus on its existence.
- On two separate high water occasions during the spring of 2011, a text message was sent to Public Works Director/Interim CDS Director, Kirk Holmes, notifying him that the water was hitting the County bridge. On May 15 it caused the water to quickly find the path of least resistance.
- Interim Director Holmes was also contacted on May 15, 2011 to find out where sand bags would be available. There was only one location available; apparently no one was prepared for what was coming.
- After two days of the County standing idly by, watching as people scrambled to protect their property, the generosity and initiative of a local farming family saved our home, and prevented further damage to County roads and structures; at their expense.
- On that day, the farmers – heroes in our eyes – obtained a verbal permit from Fish and Wildlife, with multiple agency witnesses present, to remove bed-load from under the bridge *and* to stop the diversion of water occurring just west of our property line. Fish and Wildlife stated the work could not be limited to the bridge due to the impact to others downstream. Because of this, the agreement was to start downstream (Barnes Road) and work their way up, eventually stopping at the exact location of the breach. Finally, the creek was returned to its channel. *The County should commend this honorable effort.* Had it not been done, the creek may have continued to divert through our property, creating a new channel and we could have lost our home entirely. The details of the permit are still in question as there is continued discrepancy between what was written after the fact, and the verbal agreement that occurred during the emergency.
- The aftermath was devastating – so much of our yard washed away, and in its place, tons of rock and debris. We no longer had a driveway, and had to install emergency access off Cedar Cove, just so we could continue to fight the flood and begin the clean up process.
- One of our generous family members contacted a contractor to begin pushing the rock from our lawn toward "the berm". One evening while we were away, our neighbor, Holly English, took it upon herself to trespass and stop our contractor's work indicating the land along the creek was theirs, which is another matter altogether (we have cared for the property to the creek line for 14 years as have owners prior to us). The next day my wife contacted the CDS Planning Division and asked if there were any setbacks for berms along a waterway. The employee knew who my wife was, and indicated the only setbacks were for structures (such as houses and outbuildings). The work continued that day.

- While the work was going on, County employees were all around. In fact, Interim CDS Director Kirk Holmes stood in the middle of where our driveway had existed and watched the work occur. At no time did he mention that the work required a permit, or that the debris would have to be hauled off.
- Our children were not able to live at home for *a month* while clean up and structural repairs were being done.
- After some time had passed, Interim Director Holmes began making random visits to my wife at her workplace. The story was always changing and the message was frustrating at best. It was clear he did not know what regulations applied to this situation, and supposedly had to rely on other agencies to dictate what was to occur. In fact, on one of his last "courtesy visits", he indicated the County was "out of it" and it would be up to FEMA and DOE to determine what would happen.
- His last personal visit was a cryptic message that something was coming down.
- On Friday, September 2, we received a confrontational and threatening letter from the County. The County had not made any official previous attempt to come to an amicable resolution. And again, their efforts are only focused on removal of "the berm" – which was a product of private citizens preventing additional personal and public flood damage. The regulations cited in the threat were general in nature – not one specific violation was detailed. A taxpayer being threatened by a public agency via letter citing RCW and regulation generalities really has no choice but to seek legal counsel themselves. Especially when their property will continue to be in danger given the bed-load that remains in the channel and the inadequate County bridge.
- Research we have conducted ourselves online and through records obtained from the County indicate that the County has a responsibility to maintain the bridge they placed over a State waterway (including clearance under the bridge), and ensure their structure does not cause damage to private property by backing up water. Prior to the flood event, there was a mere 2' of clearance. An email from a Public Works employee indicates the clearance when built was 7.5'. Our long-time neighbors and a previous Public Works employee say the County used to remove bed-load from under the bridge on a regular basis. We have lived here for over 14 years. The bed-load has continued to accumulate since the floods of 1996. (The bridge also backed up water in 1996 and had to have bed load removed from the channel by the county) Another high water event will again divert the water onto our property if the County removes "the berm", yet fails to monitor clearance and remove bed-load on a regular basis, or replace the bridge with one meant to handle such high water flow and debris. **We have included specific RCW's we feel pertain to this situation at the end of this document.**
- In reference to the effort to stop the water from creating further damage, a KOMO 4 reporter stated "you may have thought that's the County...wrong!"
[<http://www.komonews.com/news/local/122199839.html>] You will note in this video clip that the excavators are still working behind our home, after they already worked on the bridge, and the water is still flowing – this is because the entire channel along our property was so full, there was actually an island that appeared in the middle while the water continued to divert. A photo

of this was captured by the Daily Record. The water would not have stopped had the work been limited to the bridge.

- We have been told that during a recent public meeting, two representatives from Fish and Wildlife stated that no criminal charges should be brought with respect to "the berm" – it was done during a flood emergency to protect property.
- County Officials were completely "hands off" – even stating they were not responsible when people tried to give them credit for stopping the water.
- A "berm" previously existed – a result of the County doing bed-load removal in 1996. The County has before-and-after photos of the work that was conducted in 1996; in addition, more recent views of this berm can be seen in photos from the Daily Record taken during the flood event.
- What happened to the County's pursuit of the Watershed group to conduct an onsite hydro-analysis to determine what portion of "the berm" could stay or be relocated to the satisfaction of all involved? We would like to see that option considered further as a more supportive approach, especially if the County has no intention of channel maintenance.
- If the County is pursuing permits to remove "the berm", why are they not also obtaining the permit available through Fish and Wildlife for a channel maintenance program such as the one DOT has for their bridges?
- As shown by aerial photos taken by the county and available on the county's website, it is clear that the county bridge and roadway are holding back floodwater. This caused the creek channel to divert onto our property, depositing massive amounts of bed load and causing extreme damage. Also, as easily seen in the aerial photos, the bridge caused the water to move North up Cove road and damage other private property, as well as major damage to Cove and Hanson roads.
- Personal photos of the damage and bed load deposit on our property are available on request and can be emailed.
- The total amount of our claim is now APPROXIMATELY \$26,059.00 plus our attorney fees to date. The County forced us to seek out the advice of an attorney after threatening us with criminal prosecution. Deatil of our claim amount are attached hereto in spreadsheet form.

- The RCW's and codes we believe show the responsibility to maintain the bridge in a manner that would not cause damage to our property are as follows,

1)The Kittitas County Shoreline Master Program. Adopted March 5th 1975. Section 34.6 Roads, Railroads and Bridges. (The bridge was built in 1977.) The bridge must be designed and built so that it will not restrict or interfere with high water flows and be high enough to allow all potential debris to pass under.

2)County code 14.08.140. Alterations to watercourses. Alterations to watercourses shall be maintained so that the flood-carrying capacity is not diminished. (The responsibility to ensure this maintenance is done falls on the Director of Community Development.)

3)Washington State RCW 86.16.020 Floodplain Management Regulation. This regulation ensures that all structures, public or private, are designed, built and maintained so as not to adversely influence the regimen of a stream against flood damage.

4)Washington State RCW 77.55.221. Floodplain damage and repair reduction activities. Maintenance of bridges including bed load removal is so common that the Washington Department of Fish and Wildlife issues counties a 5 year hydraulic permit to perform these tasks at agreed upon times without obtaining specific permits per bridge as required by this law.

5)RCW 86.16.120 Flood damages defined.

DATE	AMOUNT	VENDOR	ITEM(S)	NOTES
9/18/2011	\$ 2,697	COASTAL FARM & RANCH	REPLACEMENT WOOD STOVE	TO MEET FLOOD INSURANCE POLICY FLOOR HAD TO BE RAISED AND FIREPLACE ADAPTED TO FIT NEW FLOORING.
9/19/2011	\$ 137	COASTAL FARM & RANCH	STOVE PIPE	
5/29/2011	\$ 50	KNUDSON LUMBER	TILE ADHESIVE	
6/10/2011	\$ 238	KNUDSON LUMBER	TRIM & MORTAR	
7/10/2011	\$ 511	KNUDSON LUMBER	YARD Pavers	
8/1/2011	\$ 75	KNUDSON LUMBER	TRIM	MAJORITY OF LANDSCAPING WASHED AWAY
	\$	955 C DUNCAN CONSTRUCTION	REPAIR CYCLONE FENCE	
5/24/2011	\$	855 C DUNCAN CONSTRUCTION	NEW GATE	
5/20/2011	\$ 36,929	CLEAN IMAGE SERVICES	CLEAN & REPAIR INTERIOR OF HOME	ALL FLOORS EXCEPT 3 BEDROOMS & MASTER BATH REPLACED; SHEETROCK; PAINT; CLEAN UP/DRY OUT; DEBRIS REMOVAL
6/10/2011	\$ 178	HOLIDAY INN EXPRESS	TEMPORARY LODGING	ONE NIGHT HOTEL WHEN WE COULD NOT STAY AT HOME DUE TO DISCONNECTED PLUMBING
6/26/2011	\$ 223	EXCEL PLUMBING	PAINT	
8/24/2011	\$ 257	ELLENSBURG CEMENT	PLUMBING REPAIR	
8/24/2011	\$ 267	ELLENSBURG CEMENT	LOAD OF GRAVEL	
8/24/2011	\$ 253	ELLENSBURG CEMENT	LOAD OF GRAVEL	
5/19/2011	\$ 224	ELLENSBURG CEMENT	LOAD OF GRAVEL	
5/19/2011	\$ 219	ELLENSBURG CEMENT	LOAD OF GRAVEL	
5/28/2011	\$ 864	MIDSTATE CO-OP	CULVERTS/BANDS	
6/9/2011	\$ 32	PREMIER PAINT	THINSET/PAINT	NEEDED FOR EMERGENCY ENTRANCE/EXIT
5/28/2011	\$ 43	FRED MEYER	PAINT/PAINT SUPPLIES	
6/13/2011	\$ 17	PREMIER PAINT	CAULK/ADHESIVE	
6/13/2011	\$ 15	SOLID WASTE	DUMP DAMAGED ITEMS	
5/22/2011	\$ 464	LOWE'S	WATER SOFTENER	
5/28/2011	\$ 20	LOWE'S	HARDBACKER	
5/22/2011	\$ 829	HOME DEPOT	BATHROOM VANITY	PREVIOUS VANITY WAS BUILT IN PLACE; REMOVED VANITY TO REPLACE FLOOR AND PAINT
6/25/2011	\$ 656	IKEA	STORAGE UNITS	
6/25/2011	\$ 273	IKEA	REPAIR SUPPLIES	
6/24/2011	\$ 33	HOME DEPOT	TRIM/ADHESIVE	
5/29/2011	\$ 153	HOME DEPOT	TILE/ADHESIVE	
5/28/2011	\$ 88	HOME DEPOT	PLUMBING SUPPLIES	
6/12/2011	\$ 109	HOME DEPOT	PLANTS	
7/11/2011	\$ 125	BLOOMTIME	PLANTS	
7/11/2011	\$ 83	FRED MEYER	TREES	
7/12/2011	\$ 222	BLOOMTIME	PLANTS/TREES/YARD ART	PLANTS WERE PURCHASED AT RANDOM TIMES; UNABLE TO LOCATE RECEIPTS; LOW ESTIMATE
7/31/2011	\$ 500	VARIOUS	SUMP PUMP	
5/15/2011	\$ 206	HOME DEPOT	SUMP PUMP	
5/16/2011	\$ 173	RANCH & HOME	TOPSOIL	
	\$ 281	VALLEY TURF	CEGAR & CYCLONE FENCE REPAIR	FENCE TORE DOWN WHEN WALL OF WATER CAME FROM CREEK
	\$ 300	SELF	BACKHOLE	REMOVAL OF DEBRIS/BEDLOAD FROM YARD
	\$ 3,011	DAN SHERMAN	SKID STEER	REMOVAL OF DEBRIS/BEDLOAD FROM YARD
	\$ 400	RANDY STEWART	PLANTS/YARD REPAIR	FROM PARENTS (with receipts)
	\$ 664	MISC/GIFTS	PLANTS/YARD REPAIR	FROM PARENTS (without receipts)
	\$ 249	MISC/GIFTS	GRAVEL	GIFT FROM FRIENDS/FAMILY
	\$ 500	GIFTS	PLANTS/YARD REPAIR	GIFT FROM FRIENDS/FAMILY
	\$ 500	PERSONAL PROPERTY	CARPORIT/CREEKSIDE	WASHED AWAY
	\$ 150	METAL ROOFING	STORED IN YARD	
	\$ 1,000	USE OF PRIVATE BACKHOLE	ESTIMATED AT 10 LOADS	
	\$ 2,670	GRAVEL STILL NEEDED		
	\$ 2,890	USA VACATION		
	\$ 2,382	WADE VACATION/PTO		
		JIM DENISON	LEGAL FEES	TBD
	\$ 64,503			
	\$ (38,444)	FINMA/FLOOD INSURANCE	STRUCTURE REPAIR	EXTERIOR DAMAGE NOT COVERED AS WELL AS A PORTION OF INTERIOR
	\$ 26,059	OUT OF POCKET ESTIMATE		