

February 28, 2023

VIA EMAIL <jeremiah.cromie@co.kittitas.wa.us>
AND REGULAR U.S. MAIL

Mr. Jeremiah Cromie, Planner II
Kittitas County Community Development Services
411 Ruby Street
Ellensburg, WA 98926

Re: *Thorp Landing Long Plat Application (LP-23-00001)*
West Side Irrigating Company Public Comment

Dear Mr. Cromie:

This firm represents West Side Irrigating Company (“WSIC”), which delivers irrigation water to farm and residential lands in Kittitas County. WSIC’s authorized service area includes the entirety of the proposed Thorp Landing project under the above-referenced Long Plat Application (the “Project”). WSIC takes no formal position concerning the Project, acknowledging that much of Kittitas County’s traditional rural and agricultural lands are transitioning toward residential and mixed-use purposes. WSIC’s sole concern in this case is to remind the Project proponent and County representatives that WSIC holds and intends to exercise rights as a designated “irrigation entity” under the County Code to ensure that appropriate arrangements are in place for efficient delivery of WSIC water to reconfigured parcels within the Project.

We previously provided similar comments in connection with the predecessor Comp Plan Amendment and Re-Zone Applications for the Project. This letter includes updates and clarifications concerning subdivision-related requirements under amended WSIC By-Laws.

Background

As noted above, the Project lies wholly within WSIC’s service area and authorized places of use under its adjudicated mainstem Yakima River water rights. WSIC’s river diversion lies upstream of the Project, from which irrigation supply water is transported via the WSIC Main Canal in a generally southeasterly direction. Project lands are currently served by two turnouts on the Main Canal – Headgate Nos. 12 and 18. The subject Long Plat Application contemplates ten lots, ranging in size from approximately five to 8.66 acres in size.

KCC Requirements

Chapter 16.18 of the County Code includes provisions for the orderly system of providing irrigation water to property served by designated irrigation entities (including WSIC), which is undergoing parcel creation or reconfiguration under Title 16. KCC 16.18.010 - .020. For such projects, the project proponent must “provide a water delivery system together with rights-of-way to each lot created by the parcel creation entitled to receive irrigation water. The parcel creation shall also provide for easements or rights-of-way from the water source to the water delivery system.” KCC 16.18.030. Further, the proposed project water delivery infrastructure “shall not impair the rights or uses of downgradient water owners or users,” who are to be consulted in connection with the design of such infrastructure. *Id.* As a condition of final plat or similar, final land use change approvals, the affected irrigation entity is entitled to submit a certificate, confirming that proposed irrigation delivery systems and access/easement rights are sufficient for continuing irrigation delivery to all lands and otherwise consistent with the irrigation entity’s requirements. KCC 16.18.035.

Finally, Chapter 16.18 requires the owners of platted or otherwise reconfigured lands to appoint a single representative for purposes of communicating with irrigation entities. Without limitation, such communication routinely concerns installation of water delivery systems linking irrigation entity headgates and end-user lands, as well as aggregated water volumes required from time to time by end users served by particular headgates.

WSIC Bylaws Regarding Water Deliveries

WSIC’s stockholders recently amended Article V (Regulations for Distributing Water) of the organization’s By-Laws, which include special requirements for WSIC lands affected by development and subdivision of parcels. By-Laws provisions relevant to the Project include the following:

- Any stockholder, or other person or organization on behalf of a stockholder, who undertakes any subdivision or reconfiguration of parcels within the WSIC service area must construct an adequate water transmission system, including appropriate easements or rights-of-way therefor, to allow irrigation water delivery to each newly created or reconfigured lot. In connection therewith, the development proponent must provide WSIC and the County with adequate drawings or surveys, showing elevations, the location(s) of anticipated new parcels and the routing of the proposed irrigation delivery system across WSIC lands.
- Newly proposed irrigation facilities must not impair the rights or uses of downgradient water owners or users, who shall be consulted in connection with the system design.
- Only following confirmation that the newly proposed irrigation facilities are adequate in all respects for continuing irrigation water delivery to affected WSIC lands will the WSIC Board of Trustees (“Board”) or its designee provide written certification thereof to the County.

- Owners of all subdivided lands receiving WSIC water through a common headgate must appoint a single representative for purposes of communicating with WSIC and its Ditch Supervisor on all matters concerning irrigation water deliveries. WSIC will encourage landowners to formally organize as a water users' association or similar entity, through which they may conclusively determine their relative rights and obligations concerning water deliveries; collection and remittance of WSIC assessments and charges; the operation and maintenance of irrigation facilities beyond the WSIC headgate; and other matters of mutual interest or concern.
- Following final County subdivision approval, the Board will reapportion and reallocate WSIC stock to each newly configured parcel at the ratio of one-half share per irrigable acre (subject to a one-acre minimum share ownership and assessment requirement). In connection therewith, WSIC will require the surrender of all shares of stock appurtenant to the subdivided lands and will reissue shares in the names of then-current owners of affected property, who will remain individually liable for the payment of assessments and other charges.
- If one or more stockholders of subdivided lands become delinquent in the payment of WSIC assessments, the Ditch Supervisor will reduce deliveries to the affected WSIC headgate in proportion to the delinquency, with affected stockholders (through their water users' association or otherwise) being responsible for allocating reduced deliveries to paid-up lands only.

Summary and Conclusion

As stated above, WSIC has no formal objection to the Project. We provide these comments on behalf of WSIC solely to ensure that affected parties understand and intend to comply with irrigation-related requirements under the above-discussed County and WSIC authorities.

If there are any immediate questions or concerns in connection with the above comments, please contact the undersigned. Otherwise, Mr. Kirk Riegel, who serves as WSIC's Secretary, will be pleased to consult further with the Project proponent and/or with County representatives concerning WSIC's irrigation water delivery requirements as a condition on final Long Plat approval under KCC 16.18.030 -.035.

Very truly yours,

HALVERSON | NORTHWEST LAW GROUP P.C.



Paul C. Dempsey

cc: (via email only)

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