



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

Kittitas County Community Development Services
411 N Ruby ST, Suite 2
Ellensburg WA 98926

Monday, September 08, 2014

RE: GT Ranch (CU 14-00001)

I appreciate the opportunity to provide comments.

The Confederated Tribes and Bands of the Yakama Nation is a federally recognized Indian tribe under the Treaty of June 9, 1855 (12 Stat. 951). Under Article III of the Treaty, the Yakama Nation reserved rights to fish at all usual and accustomed places, together with the privilege of hunting and gathering roots and berries, both within and outside of its reservation. The Yakama Nation has a vested interest in any proposed development that has the potential to negatively affect any of its treaty reserved rights including the Yakama Nation water rights. Kittitas County is completely within the Yakama Nation's ceded lands under the Treaty of June 9, 1855.

Please find attached correspondence to me from my fisheries staff. I concur with the findings of the report for resource and cultural protection. As you may know, substantial funding is being invested in the Yakima River Basin, to allow it to once again support a viable salmonid and resident fish population. The proposed development may add to the cumulative negative effects that result in a degraded watershed, provide a significant, adverse affect on the environment, and negatively affect treaty-reserved rights.

Please contact my staff regarding any response to the attached memo. John Marvin can be reached at 509-966-7406.

Thank you for your consideration of this. The Yakama Nation reserves its right to make all arguments and exercise all remedies available to it concerning this matter.

Sincerely,

Phil Rigdon
Deputy Director of Natural Resources
Yakama Nation



YAKAMA NATION – YAKIMA KCLICKITAT FISHERIES PROJECT

P.O. BOX 151 TOPPENISH, WA 98948 509-865-5121 FAX: 509-865-6293

E-MAIL: mel@yakama.com

DATE: September 8, 2014

TO: Phil Rigdon, Deputy Director, DNR

THROUGH: Scott Nicolai, Yakima Subbasin Habitat Coordinator, YKFP

FROM: John Marvin – Habitat Biologist, YKFP

RE: GT Ranch (CU 14-00001)

Kittitas County Community Development Services (CDS) is accepting Zoning Conditional Use (CU) and State Environmental Policy Act (SEPA) comments on a proposed gravel mine in the floodplain of the Yakima River near Thorp, Washington.

CU/SEPA Application

The CU application requires a project narrative. The narrative is required to address items 9 through 11 of the application. There is no narrative with the other application materials on the County website. Requests for a narrative from CDS have gone unanswered. Therefore, there is no project narrative associated with the application, as required. The application should be deemed incomplete, and required to provide a complete project narrative.

While the SEPA checklist address some of the narrative requirements, there are too many unknown components of the application to adequately determine the significance of environmental impacts. Without the required information, an Environmental Impact Statement should be required. Other than addressing items 9 through 11 of the application, other information required should include, but not be limited to:

1. Mining process?
2. Stockpiling onsite?
3. Depth of mines?
4. How will the mines be dewatered during mining?
5. Depth to groundwater?
6. What is the haul route?
7. Reclamation?

SEPA Checklist

A.A.8. Kittitas County is currently in the process of updating its Shoreline Master Program (SMP) and Critical Areas Ordinance (CAO). Kittitas County, in the update of the SMP, has conducted numerous studies and analysis, including an Inventory and Characterization Report (ICR), Cumulative Impacts

Analysis (CIA), Channel Migration Zone analysis, and No Net Loss Report. For the CAO, Kittitas County has compiled and synthesized the best available science for the designation and protection of Critical Areas, which include, wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, critical aquifer recharge areas and frequently flooded areas. All of the science compiled by Kittitas County for the SMP/CAO updates should be utilized in the assessment of environmental impacts of the proposed mines.

A.10. Two 3 acres ponds, plus associated areas (haul route, equipment storage, stockpiles, etc) will require a Surface Mining Reclamation permit from the Washington Department of Natural Resources, per RCW 78.44 and WAC 332-18.

It appears that the proposal is within the Shoreline jurisdiction. If so, the proposal will require review for conformance with the Kittitas County Shoreline Master Program. If the proposal is outside of Shoreline jurisdiction, the conformance with the Critical Areas Ordinance will be required.

The floodplain within the project area contains numerous wetlands, including a long, linear wetland designated by the National Wetlands Inventory (NWI) directly south and west of the proposed mines. It also appears that the proposed pits may be within the buffer of such wetlands. A wetland delineation of the subject property should be required, so that wetland impacts can be assessed as part of the SEPA review. The linear wetland looks to be a side channel/spring book of the Yakima River. Side channels/spring books are a vital habitat component for all aquatic species. The ecological functions and values of the side channel/spring book should be assessed to ensure that all adverse impacts are properly mitigated.

A11. Insufficient information provided to adequately assess the environmental impacts, see comment above.

B.1.f. Insufficient information. What is the haul route? How will the mine be dewater?

B.3.a. As stated above, there are numerous wetlands and side channels/spring books onsite. How will the mining and associated activities affect the aquatic environments?

The proposed mining is within the floodplain of the Yakima River. The Inventory and Characterization Report (ICR) compiled for the SMP update includes several studies contracted by the U.S. Bureau of Reclamation collectively known as the "Reaches Report" (Snyder et. al. (2001), Eitemiller et. al. (2001), and Stanford et. al. (2002)). The Reaches Report was specifically contracted to determine ecosystem-wide functions present in the Yakima River Basin for anadromous fish restoration, and is considered the seminal science concerning the Yakima River and its floodplains. Snyder et. al. (2001) concluded that a significant amount of physical habitat remains in the five floodplain reaches of the mainstem Yakima River (Cle Elum, Kittitas, Selah, Union Gap, and Toppenish) because habitat-structuring floods still occur on the remaining expanses of floodplain environment. The major findings of Stanford et. al. (2002) can be summarized as:

- Ground-surface water interactions were demonstrated for all five flood plains. Water table elevation in monitoring wells changed in direct relation to river stage (discharge). Water from the river circulates into the floodplain aquifers and back again as evidenced

by presence of flowing springs flood channels at base flow. Moreover, amphibitic stoneflies were commonly collected in monitoring wells. These organisms are well known as indicators of strong connectivity between the river and its floodplain aquifer.

- Localized temperature regimes were strongly influenced by patterns in upwelling ground water from the alluvial aquifers. In all reaches, spring brooks maintained thermal regimes that were more stable than the mainstem habitat.
- The distribution and concentration of algae, macroinvertebrates, and fish on the flood plains clearly demonstrate the importance of off-channel habitats, including overflow channels, spring brooks and disconnected channels.
- All five reaches have significant potential for restoration.

The Yakima River is the most mined river in the State of Washington. In 2004, the Washington State Department of Natural Resources and its partners published the *Yakima River Floodplain Mining Impact Study*. The Yakima River Floodplain Mining Impact Study, in addition to the Reaches Report (Stanford et. al. 2001) , and the Habitat Limiting Factors Analysis (Haring 2001) all conclude that the cumulative impacts of floodplain gravel mining have contributed to significant habitat degradation, and the eventual collapse of the anadromous fishery in the Yakima river Basin. How will the proposed floodplain gravel mine mitigate for both individual and cumulative adverse environmental impacts to the environment?

B.3.a.2 It appears that the proposed mines are within the buffers of wetlands and side channels/spring brooks. A delineation and assessment of ecological functions is necessary to determine impacts and develop mitigation.

B.3.a.4, 6/B.3.b.1 Will the mines be dewatered during mining? If so, that constitutes a withdrawal.

B.5. The Yakima River, in this reach, is known to contain populations of Spring Chinook, Coho, Summer Steelhead and Bull Trout. Both Steelhead and Bull Trout are listed as Threatened under the Endangered Species Act (ESA). Just upstream of the project site is the premier spring Chinook spawning and rearing area in the entire Yakima River basin. Roughly 50% of all spawning spring Chinook in the entire basin utilize this reach.

B.8. Based on County data, the site contains numerous designated critical areas, or “environmentally sensitive areas”, including wetlands and fish and wildlife habitat conservation areas.

B.13. The proposed project area is located in a area of “very high risk” on the Department of Archaeology and Historic Preservation archaeological predictive model. Question 13 of the SEPA checklist should not be answered in ignorance without a process that incorporates historic research, tribal consultation, data gathering and archaeological survey. SEPA rules require that decisions made during environmental review be based on sufficient information. Threshold determinations must be "based upon information reasonably sufficient to evaluate the environmental impact of a proposal (WAC 197-11-335)." WAC 197-11-080(1) states that "(I)f information on significant adverse impacts essential to a reasoned choice among alternatives is not known, and the costs of obtaining it are not exorbitant, agencies shall obtain and include the information in their environmental documents;" and "(W)hen there are gaps in relevant information or scientific uncertainty concerning significant impacts, agencies shall make clear that such information is lacking or that substantial uncertainty exists."

In addition to this, WAC 197-11-080(3) says that if information is not available or is cost prohibitive, or if the means to obtain the information is speculative or unknown, the agency may proceed but it "*shall generally indicate in the appropriate environmental documents its worst case analysis and the likelihood of occurrence, to the extent this information can reasonably be developed.*" Therefore, without a professionally reasoned archaeological investigation of a proposed project area, it must be assumed that the entire area contains an archaeological site of cultural significance.

References

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