

## Lindsey Ozbolt

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**From:** Cialita Keys <ckey@Yakama.com>  
**Sent:** Friday, February 19, 2016 11:17 AM  
**To:** CDS User; Lindsey Ozbolt  
**Cc:** Phil Rigdon; Elizabeth Sanchey  
**Subject:** Re: Yakima River Campground CU-15-00002, SD-15-00001, SP-15-00001  
**Attachments:** Yakima River Campground\_2\_17\_16.pdf

Dear Robert Hansen, Kittitas County Development Services,

Attached are Comments from the Yakima Nation concerning the proposed Yakima River Campground Project File No.(s) CU-15-00002, SD-15-00001, and SP-15-00001.

Please respond to the Yakama Nation in regards to the comments submitted.

A hard copy has been sent for your records.

Thank you,

Cialita G Keys

***Cialita G. Keys B.A.***  
*Environmental Resource Coordinator*  
*Yakama Nation Environmental Management Program*  
*P.O. Box 151*  
*Toppenish, WA 98948*  
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Confederated Tribes and Bands  
of the Yakama Nation

Established by the  
Treaty of June 9, 1855

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Kittitas County Community Development Services  
Robert "Doc" Hansen  
Kittitas County Planning Official  
411 N Ruby ST, Suite 2  
Ellensburg WA 98926

**Wednesday February 17, 2016**

RE: Yakima River Campground - CU-15-00002, SD-15-00001, SP-15-00001

I appreciate the opportunity to provide comments regarding the above referenced proposal.

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 land use permit that has the potential to affect any of its treaty reserved rights, in addition to Yakama Nation water rights. The proposal is 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 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 your response to the comments noted in the attached memo. John Marvin can be reached at 509-966-7406.

Sincerely,

Phil Rigdon  
Deputy Director of Natural Resources  
Yakama Nation

CC File

MEMORANDUM

Post Office Box 151, Fort Road, Toppenish, WA 98948 (509) 865-5121

TO: Phil Rigdon, Deputy Director, DNR  
THROUGH: Scott Nicolai, Yakima Subbasin Habitat Coordinator, YKFP  
FROM: John Marvin, Habitat Biologist, YKFP  
DATE: Wednesday February 17, 2016  
RE: CU-15-00002 Yakima River Campground

Kittitas County is accepting comments on a proposed development along the Yakima River, east of the junction of State Route 903 and State Route 10, approximately 2 miles southeast of the City of Cle Elum. The project proposes to expand an existing camp by adding 172 RV/camping sites, a boat launch in addition to a 2 lot short plat. The subject property consists of 2 parcels in approximately 86 acres.

The Yakama Nation submitted comments on the original camp in 1987 and a similar proposal 2009 (Z-07-11, SP-08-03). The current proposal should be considered an expansion of the existing camp, and all previous permits, along with their conditions of approval, are valid and run with the land.

### **Fisheries**

The Yakima River, in this reach, is known to contain populations of spring chinook, coho, steelhead and bull trout. Both steelhead and bull trout are listed as Threatened under the Endangered Species Act (ESA). The main stem Yakima River between the Teanaway River and Keechelus Dam 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. Over 75% of the upper Yakima stock relies on this reach. Habitat quality is very good in this reach and is surpassed in the sub basin by perhaps only the American River. The large volumes of wood in the river, combined with a lack of natural confinement and perhaps a greater frequency of floods and disturbances, creates a very complex river system.

The spring fed channel that runs through the middle of the property is essential spawning and rearing habitat for salmon and steelhead; its protection and restoration is of the utmost importance.

### **Boat Launch and "Existing Road"**

The site plan in the file indicates that a boat launch is proposed, yet there is no discussion of the boat launch in the project description or in the SEPA checklist. It is therefore assumed that a boat launch is not included in the proposal. The site plan also depicts an "existing road" through the floodway to the Yakima River. There should be no road there. The original approval of the camp was conditioned on leaving the floodway in its natural state as mitigation, no vehicles were to be allowed in this area. If there is an old road in this area it should be considered abandoned.

### **State Environmental Policy Act**

In 1990, a Determination of Significance (DS) and an Environmental Impact Statement (EIS) were prepared for the existing camp. That EIS conditioned that the entire floodway be left undisturbed, in a natural state, as mitigation. The new proposal is an expansion of the previously permitted camp, and now proposes development in the floodway. If expansion of the camp is proposing new development in the floodway, then the existing EIS should be utilized consistent with WAC 197-11 Part Six. The current SEPA notice did not reference the existing EIS. The proposed camp expansion will require a re-examination of the environmental impacts and any necessary mitigation. Since the mitigation in the 1990 EIS required the floodway to remain undeveloped, new mitigation will be required for the expansion or development in the floodway should be denied.

### **Flood Hazards**

Section 14.08.300 (4) of KCC prohibits all fill within the Floodway except for residential maintenance. There are numerous examples of recreational RV facilities along streams in the Yakima River basin that eventually turn into year around residences with permanent structures. Section 14.08.295 of KCC requires that

RVs be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use at all times, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions. If RVs are permitted, it is recommend a limitation on RV occupancy outside of potential flood season. Preferably, RVs would only be onsite June through September.

### **Critical Areas Report**

The Critical Areas Report (Report) submitted by Sewall Wetland Consulting, Inc. (Sewall) on behalf of the project proponent recommends inadequate buffer widths, incorrectly classifies a stream and incorrectly determines Shoreline Management Act jurisdiction.

The report correctly classifies the wetland as a Category 2, but recommends only a 50 foot buffer. The buffer range for Category 2 wetlands in KCC 17A.04.020 is 25 to 100 feet; this is completely inadequate based on the best available science that recommends buffer ranges from 100 to 200 feet. It is recommended, at the minimum, the maximum buffer allowed by KCC 17A.04.020 (100 feet) based on the information provided in the Report that states the wetland has high habitat diversity provided by three vegetation classes (forest, scrub-shrub, and emergent), is a groundwater fed spring/wetland complex, and was observed by Sewall to contain salmonid species. The salmonid species observed are described as cutthroat trout and rainbow trout. Rainbow trout are steelhead, an Endangered Species Act (ESA) listed, Threatened species.

The Report recommends the classification of the stream as a Type 3 based on “moderate to slight fish, wildlife, or human use”. I argue that the stream, at a minimum, qualifies as a Type 2 based on the spring brook/wetland functionality discussed above and the presence of ESA listed species. Type 2 streams are designated with a buffer range of 40 to 100 feet by KCC 17A.07.010, which again is completely inadequate based on the best available science that recommends buffer ranges for Type 2 streams from 150 to 200 feet. It is recommended, at the minimum, the maximum buffer allowed by KCC 17A.04.020 (100 feet) based on the same rationale for wetland protection above.

The stream noted in the application, on the site plan, and discussed in the Report is a spring brook/wetland complex associated with the Yakima River. The stream is spring fed; which is a surface expression of Yakima River groundwater. Spring brooks are important floodplain habitat features for both aquatic and terrestrial species and provide spawning and refuge habitat for out migrating salmonids. A review of aerial photography clarifies the extensive Yakima River meander scaring directly north of the subject property. The Yakima River has occupied the subject property within recent geologic time. The spring brook/wetland complex is in hydraulic continuity with the Yakima River, therefore extending Shoreline Management Act jurisdiction based on the Kittitas County Shoreline Master Program, the Shoreline Management Act (RCW 90.58) and the SMA Administrative rules (WAC 173-22-040(3)(c)). All wetlands onsite are also in hydraulic continuity with the Yakima River and constitute SMA jurisdiction.

### **Recommendation**

- 1) Deny development in the floodway without the inclusion of additional EIS analysis and mitigation.
- 2) Specifically exclude the boat launch from final approval, unless additional information is provided and the comment period re-notified.
- 3) Required buffers should be the maximum allowed by KCC 17A and the Kittitas Shoreline Master Program. Any critical areas/Shoreline functions and values impacted by the project should be fully mitigated accordingly, including, but not limited to requiring buffers to be restored with native vegetation as mitigation for increased impact by the proposed development.

c: file  
Office of Legal Council

## Lindsey Ozbolt

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**From:** CDS User  
**Sent:** Monday, February 22, 2016 10:34 AM  
**To:** Lindsey Ozbolt  
**Subject:** FW: Yakima River Campground CU-15-00002, SD-15-00001, SP-15-00001  
**Attachments:** Yakima River Campground\_2\_17\_16.pdf

FYI

**Stephanie Mifflin**  
**Senior Permit Technician**  
Kittitas County Community Development Services  
411 N Ruby Street, Suite 2 Ellensburg, WA 98926  
(p) 509-962-7506 (f) 509-962-7682  
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