

Joanna F. Valencia

From: Lucille E Bull [lbull@fs.fed.us]
Sent: Tuesday, October 24, 2006 4:29 PM
To: Joanna F. Valencia
Cc: Rodney Mace; Rodney D Smoldon; Patricia A GarveyDarda
Subject: comment to comp plan

Attachments: comment to comp plan.doc



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Hi Joanna,
attached is a letter we are submitting as our comment to the update to the comp plan.
thank you for keeping us informed.
a signed hard copy will follow by mail.

(See attached file: comment to comp plan.doc)

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Cle Elum WA 98922

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File Code: 1500

Date: October 24, 2006

Joanna Valencia
Planner II
Kittitas County Community Development Services
411 N. Ruby St.
Ellensburg, WA 98926

Dear Joanna:

Thank you for the opportunity to review and comment on the updated Comprehensive Plan for Kittitas County.

Our agency finds portions of the proposed update in conflict with National Forest land management goals, policies or laws. We recommend the following changes to the update to the Comprehensive Plan (clarification follows on page 2):

- 1) GPO 2.109H. This GPA should be removed from the proposed update.
- 2) Transportation This section is critically important to our agency due to impact of developments using Forest Service roads as access. If a proposed development triggers county criteria requiring a change in the road standard, and that road is a Forest Service road, the development should not be approved unless or until the access to the development is brought into the Kittitas County road system.
- 3) Shorelines Recognize that each of the three major reservoirs (Cle Elum, Kachess, and Keechelus) have a strip of land between private land and the water that is administered by the Forest Service but available to the Bureau of Reclamation as needed.
- 4) Unplanned public access to Federal Land. No GPO or policy should encourage new, unplanned access to public lands.
- 5) Subarea D land Use Plan (Planning commission Recommendations 10/5/06, p. 157). The long term plans for the Gold Creek Valley need to be changed, recognizing its critical importance to the persistence of wildlife populations in the Cascade Mountains of Washington State. Major developments and the associated need for additional access across National Forest System land will seriously conflict with the National Forest land management goals, objectives, and laws for this area.



Clarification of points on page 1:

1) GPO 2.109H.

GPO 2.109H states: *Kittitas County will to the extent possible create a policy to preserve the grandfathered rights of private landowners to build roads on public lands under statute RS 2477.*

Statute RS 2477 is a statute that allows a Public Road Authority (PRA), such as Kittitas County, to automatically be granted an easement for a road across "Public Domain" land (lands acquired by the United States through the Louisiana Purchase, Mexican Cession, and the Gadsden Purchase) when a PRA spent public funds to construct or maintain a road. RS 2477 authority remained in effect until individual lands were "withdrawn" from the public domain (i.e. Designated as a National Park or National Forest) or until passage of the Federal Land Policy and Management Act of 1976.

In order for a road to meet acceptance under statute RS 2477 three conditions must be met:

1. The lands involved must have been public lands, not reserved for public uses, at the time of acceptance.
2. Some form of construction of the highway must have occurred.
3. The highway so constructed must be considered a public highway.

The inclusion of a highway in a State, county or municipal road system constitutes being a public highway.

Expenditure of construction or maintenance money by an appropriate public body is evidence of the highway being a public highway.

Private landowners who build roads across National Forest System land without authorization would be subject to citation under 36 CFR261.10 (a).

If RS 2477 will be addressed in the update it needs to be accurately addressed. Language that clarifies that individuals or local government entities cannot perfect adverse possession or prescriptive rights against the sovereign may be appropriate.

2) Transportation

- We support language that recognizes the need for developments to have public road access.

Forest Service roads should not be considered suitable access to developments due to limited maintenance and access that may or may not be available for public services, health and safety and school bus access. Forest Service roads may be snow plowed only by permit which does not guarantee continuous year round access. A major weather event may damage Forest Service roads to the extent they cannot be used unless or until the Forest Service has funding to repair them. Forest Service roads are not maintained or repaired by taxes assessed on property. The effect of approving a development using a Forest Service road as access is comparable to approving a development without a transportation and Level of Service analysis.

My staff and our very limited resources have been severely impacted by decisions to allow access to developments on Forest Service System roads. The Update to the Comprehensive Plan is the opportunity to address these problems. In order to enforce Kittitas County road standards the road must be under county jurisdiction. That will allow Kittitas County to verify the Level of Service concurrency, and the GPO's related to transportation decisions under *Transportation System Management*.

If Kittitas County must own the underlying land in order to take a Forest Service road onto its system, as County officials have stated, then the applicant should be obligated to obtain fee title to the land beneath the road and transfer it to the county after the county has agreed to take the road. This however cannot be done if the road crosses National Forest System land. The federal government does not relinquish fee title to its land for roads. All State, County, and private roads that cross National Forest are under easement only, including State and Interstate Highways.

3) Shorelines

- Shorelines/ reservoirs.

No commercial development can access the three reservoirs in upper Kittitas County without a permit from our agency and concurrence from the Bureau of Reclamation. For clarity, this fact should be included in the shoreline's section. (One exception is a small area on Cle Elum Reservoir where the shoreline has eroded back to the private property boundary.) Public access to the reservoirs is important because the entire shoreline around each reservoir is public land with the exception noted and the areas protected for the Bureau of Reclamation operation of dams.

GPO 2.50 addresses future roads and advises that they be located away from shorelines wherever feasible. There seems to be a contradiction in a sentence stating "when planning public roads, federal State and local governments should, where appropriate, provide sanitary facilities, scenic viewpoints, and picnic areas on publicly owned shorelines."

Much of the development that has occurred on private land near the reservoirs has included septic systems and drain fields that have been in place for many years. Additional development should be closely monitored for impacts to the water quality.

4) Unplanned public access to Federal Land.

- The Forest Service is opposed to new access onto National Forest System land created from developments adjacent to the National Forest.

Our agency will soon be implementing off road vehicle use regulations that will allow use only on posted open trails for non-highway vehicles. Access to federal public land should be encouraged only on roads and trails already established and provided for.

5) Subarea D land Use Plan

- Subarea D Land Use Plan (Gold Creek Valley).

The Forest Service requests a change in the long term plans for the Gold Creek Valley, recognizing the importance of this area to the long term persistence of wildlife populations in the

state of Washington. The Gold Creek Valley is recognized as a critical wildlife corridor linking wildlife populations in the state of Washington. Major developments and the associated need for additional access across National Forest System land will seriously conflict with the National Forest land management goals, objectives, and laws. Developments will also undermine years of public efforts to protect and maintain wildlife habitat in this critical wildlife movement corridor, including numerous land acquisitions by the U.S. Forest Service, Mountains-to-Sound Greenway Trust and the Cascade Conservation Partnership. The U.S. Fish and Wildlife Service this month committed \$4 million to help purchase private lands in this area and the Washington Department of Transportation plans to invest greater than \$30 million to provide wildlife and fish connectivity bridges in the Gold Creek Valley.

Thank you for considering the comments and we look forward to working with Kittitas County to manage the challenges our agencies face as the population of Kittitas County grows.

Sincerely,

/s/ Rodney D Smoldon
RODNEY D SMOLDON
District Ranger

cc: US Bureau of Reclamation
Rodney Mace
