Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

Kittitas County
Community Development Services
ATTENTION: Dan Valoff
411 N. Ruby St., Suite 2
Ellensburg, WA 98926

Wednesday, January 28, 2009

RE: Currier Creek Estates Division 3 & 4 (LP-10-00013)

I appreciate the opportunity to provide comments on the Notice of Application (NOA) and State Environmental Policy Act (SEPA) review to Kittitas County regarding the proposed Currier Creek Estates Division 3 & 4 (LP-10-00013). The project proposes to subdivide 24 acres into 88 single-family lots along Currier Creek.

Please find attached correspondence to me from my fisheries staff. I concur with the findings of the report for fisheries 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 land division in the floodplain of Currier Creek may add to the cumulative negative effects that result in a degraded watershed.

Please contact my staff regarding your response to the mitigation measures 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 Scott Nicolai
File

MEMORANDUM

TO: Phil Rigdon, Deputy Director, DNR
THROUGH: Scott Nicolai, Yakima Subbasin Habitat Coordinator, YKFP
FROM: John Marvin, Habitat Biologist, YKFP
DATE: Tuesday, August 03, 2010
RE: Currier Creek Estates Division 3 & 4 (LP-10-00013)

Kittitas County is accepting public comments on a Notice of Application and State Environmental Policy Act (SEPA) review for the Currier Creek Estates Division 3 & 4 (LP-10-00013). The project proposes to subdivide 24 acres into 88 single-family lots.

The proposal is adjacent to Currier Creek, a tributary to Reccer Creek, which is a tributary to the Yakima River.

Flood Hazards

Currier Creek has a Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) designated 100-year floodplain, with an "A" zone designation. Zone "A" is the flood insurance rate zone used for 100-year floodplains that are determined by approximate methods of analysis. Because detailed hydraulic analyses are not performed for such areas, no Base Flood Elevations (BFEs), depths or Floodways are determined in this zone.

All developments proposed within FIRM designated floodplains and floodways are required to comply with Federal (CFR Title 44, Parts 59 and 60), State (RCW 86.16, WAC 173-158) and Local (Kittitas County Code (KCC) 14.08) flood hazard regulations. Federal and State regulations are coordinated with local jurisdictions participating in the National Flood Insurance Program (NFIP) and are reflected in local regulations. KKC Section 14.08.120 requires that when BFEs have not been provided (A Zones), the Community Development Services director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer KCC 14.08.240 through 14.08.290, and KCC 14.08.300, Floodways. The applicant for proposed developments in Zone "A" floodplains is required to conduct a site specific engineering analysis to determine the BFE for the project site. If floodways are either designated or calculated on a project specific basis, KCC 14.08.300 requires that encroachments, including fill be prohibited unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

In floodplains where no floodway has been designated, the project proponent must demonstrate that the cumulative effects of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the BFE more that one foot at any point within the community and is

consistent with the technical criteria contained in Chapter 5 (Hydraulic Analyses) of the *Flood Insurance Study: Guidelines and Specifications for Study Contractors, FEMA-37, 1995*. This review must be required for all development projects that may create a one-foot increase in flood flows, such as bridges, road embankments, buildings and large fills.

Documentation and analysis for development in a floodway, or in a floodplain without a designated floodway, shall demonstrate no increase in flood heights. An engineering analysis must be conducted before the local jurisdiction can issue any permit. The local jurisdictions permit file needs a record of the results of this analysis in the form of a "no-rise" certification. This certification must be supported by technical data and signed by a registered, professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the local FIRM or Flood Boundary and Floodway Map and the results tabulated in the Flood Insurance Study

If water course alterations are proposed, KCC section 14.08.140 requires notification of adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Federal Insurance Administration and that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

Federal NFIP standards recommend that the entire floodplain in "A" zones be treated as a floodway and that a "no-rise", encroachment certification is obtained from FEMA to ensure encroachment will not obstruct flood flows and cause increased flooding on other properties. This certification must be supported by technical data. Technical assistance and review can be requested from FEMA and the Washington Department of Ecology.

If analysis indicates that the proposed development results in alteration of the floodplain shown on the effective FIRM, a Letter of Map Revision (LOMR) must be requested from FEMA. A community must notify FEMA of the changes by submitting technical or scientific data in accordance with 44 CFR 65.3. The request must be accompanied by the appropriate portions of the MT-2 application forms package, titled *Revisions to National Flood Insurance Program Maps* (FEMA Form 81-89 Series), and the required supporting information.

A community can apply to FEMA for review and comment on a project that is proposed within the Special Flood Hazard Area that may alter floodplain location is referred to as a Conditional Letter of Map Revision (CLOMR). A CLOMR provides FEMA's comments on whether the proposed project meets the minimum floodplain management criteria of the NFIP and, if so, what revisions will be made to the effective FIRM for a community if the project is completed as proposed. NFIP regulations require a CLOMR to be obtained from FEMA before a project can be built in two situations. The first situation is for a project on a stream or river that has been studied using detailed hydrologic and hydraulic analyses and for which BFEs have been specified, but a regulatory floodway has not been designated. The second situation is if the community proposes to allow development that would result in more than a 1.0-foot increase in the BFE, a CLOMR

must first be obtained from FEMA. All requests for CLOMRs must be supported by detailed flood hazard analyses prepared by a qualified Registered Professional Engineer. The specific data and documentation requirements are contained in Part 65 of the NFIP regulations and in the FEMA MT-2 application forms package.

Current Issues

A review of the application and site knowledge indicate that an illegal levee has been constructed along Currier Creek. A levee was never proposed as part of the project nor was it a subject of the project's previous SEPA review. The levee has reduce floodplain conveyance and storage, and directs additional flood water onto adjacent properties.

Ellensburg currently has inadequate flood flow conveyance and flooding of West Ellensburg from Currier and Reecer Creeks is a chronic problem. A net loss of floodplain storage and an increase of peak flow has exacerbated flooding problems within the city.

The FIRM does not correctly identify the area inundated by floods. Portions of Currier Creek Estates lots west of Creekside Way were inundated with water in the flood of 2009.

The man-made barriers to fish migration in this reach of Currier Creek have recently been removed. Lower Reecer Creek supports chinook, coho, steelhead, rainbow trout, as well as 9-10 other native fish or game fish species. Yakama Nation Fisheries has reintroduced Coho to the Reecer-Currier Creek Subbasin, with 24 redds surveyed in 2009. Reecer creek is listed as critical habitat for steelhead trout, a species that is listed as "threatened" under the Endangered Species Act. Steelhead should be considered to be present in Reecer Creek and Currier Creek.

Tributary streams like Currier Creek provide important areas for the rearing of juvenile salmon and steelhead. Because of the unnatural way flows are managed in the Yakima River for irrigation purposes, the importance of tributary streams is magnified, as these streams provide favorable juvenile rearing habitat in short supply in the Yakima River.

Recommendation

- The application should be placed on hold until the illegal levee is removed.
- Based on these comments, the project should receive a determination of significance under SEPA. In lieu of a determination of significance, the SEPA review should be conditioned to:
    - conduct a site specific engineering analysis to determine the BFE for the project site., in accordance with KCC 14.08;
    - provide analysis prepared by a certified, registered professional engineer demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels during the

occurrence of the base flood discharge., in accordance with KCC 14.08.300;
    - demonstrate that the cumulative effects of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the BFE more that one foot at any point within the community and is consistent with the technical criteria contained in Chapter 5 (Hydraulic Analyses) of the Flood Insurance Study: Guidelines and Specifications for Study Contractors, FEMA-37, 1995;
    - demonstrate through an engineering analysis a "no-rise" certification. This certification must be supported by technical data and signed by a registered, professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the local FIRM or Flood Boundary and Floodway Map and the results tabulated in the Flood Insurance Study
- Kittitas County is required to apply for a LOMR from FEMA if the project will alter the floodplain in any way. Kittitas County is required to notify FEMA of the changes by submitting technical or scientific data in accordance with 44 CFR 65.3. Kittitas County can apply to FEMA for review and comment on a project that is proposed within the Special Flood Hazard Area that may alter floodplain location and is referred to as a Conditional Letter of Map Revision (CLOMR). A CLOMR will provide FEMA's comments on whether the proposed project meets the minimum floodplain management criteria of the NFIP and, if so, what revisions will be made to the effective FIRM for a community if the project is completed as proposed. For FEMA or Department of Ecology assistance, contact:
    - Washington Department of Ecology - Chuck Steele, (425) 649-7139, chst461@ecy.wa.gov, Northwest Regional Office Shorelands & Environmental Assistance, 3190 - 160th Ave. SE, Bellevue, WA 98008
    - FEMA Region X:
      P.O. Box 602
      Bothell, WA 98041-0602
      (425) 482-0316
      fax: (425) 908-7639
- Developments within Critical Areas Ordinance jurisdiction should require a Permit.
- A thorough wetland inventory and delineation should be required. Any wetland functions and values impacted by the project should be mitigated accordingly through Critical Areas Ordinance permits.

c: file
Tom Zeilman – Attorney