

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

April 2, 2010

Mr. Kirk Holmes  
Kittitas County Community  
Development Services  
411 N. Ruby Street, Suite 2  
Ellensburg, WA 98962

Dear Mr. Holmes:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement for the Marian Meadows planned unit development and subdivision, proposed by Easton Ridge Land Company [RZ-06-00035/P-06-31]. We have reviewed the documents and have the following additional comments.

**Shorelands/Environmental Assistance**

**Licenses, Permits and Approvals Fact Sheet**

If there are impacts to wetlands, seeps or springs which require a 404 federal permit authorization from the US Army Corps of Engineers, then a 401 water quality certification from Ecology would be required.

Impacts to wetlands and other water features that are not under federal jurisdiction are still regulated by Washington State water quality laws. If wetland impacts are not appropriately mitigated in compliance with state law, then Ecology has the authority to require wetland mitigation under the authority of 90.48RCW and WAC 173-201A.

If any "associated" wetlands are directly impacted which are located in the 100-year floodplain of a shoreline of the state, then a shoreline permit will likely be required.

**Wetland impacts**

A wetland delineation report should be provided as part of the EIS documents / project review. The wetland delineation report should show the location of all wetlands, seeps and springs on a topographic map with a contour interval of 1 to 2 feet if possible. The wetland delineation report should include information about how site wetland reconnaissance was accomplished. Were all areas of the site surveyed on foot by qualified wetland scientists or were just specific areas of the site targeted (such as walking all drainages and other areas based on aerial photography review?) National Wetland Inventory (NWI) maps are only 60 percent accurate in forested environments, primarily because of canopy coverage of the ground surface. In addition, smaller wetlands would not show up because of the level of resolution.

Project maps should show existing site wetlands and other water features in greater detail. The location of all site wetlands, seeps and springs and their required buffers should be superimposed on a site map which also shows each proposed development alternative lot design. Doing this would help the reviewer



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determine the extent of both direct and indirect impacts on site wetlands for each alternative. Also, the category or type of each wetland on site should be described in the wetland report.

#### **Wetland mitigation measures**

Limiting the planting of non-native vegetation adjacent to wetlands and their buffers and combining that action with aggressive control of noxious weeds and non-native plants would help reduce impacts from construction and build-out. Mandatory participation in a homeowner's association would help assure that wetland information is provided to lot owners.

Another way to reduce permanent impacts to wetland wildlife function is to provide appropriately sized corridors (depending on type of wildlife use) to other wetlands and streams on site. These corridors should be placed in designated open space areas.


Since hydroperiod changes to wetlands are likely to occur with the development of any of the alternatives, it would be ideal to begin to monitor current wetland hydrologic regime as soon as possible to obtain "background condition". The applicant should begin monitoring as soon as possible.

If individual septic systems will be located on the property, the applicant should consider the use of artificial wetlands in conjunction with stormwater swales to help reduce nitrogen and other pollutants that could be generated on site.

Use of a Wetland mitigation bank for this project is not an option because there are no pending or approved mitigation banks for this service area. However, advanced wetland mitigation would be an option, pending approval of a plan submitted by the applicant and approved by the jurisdictional agencies. Ecology would be happy to discuss this option with the applicant.

If you have any questions concerning the Shorelands/Environmental Assistance comments, please contact Catherine Reed at (509) 575-2616.

Sincerely,

  
Gwen Clear  
Environmental Review Coordinator  
Central Regional Office  
(509) 575-2012  
*by Johnie Sepman*



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March 31, 2010

Mr. Kirk Holmes  
Kittitas County Community  
Development Services  
411 N. Ruby Street, Suite 2  
Ellensburg, WA 98962

Dear Mr. Holmes:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement for the Marian Meadows planned Unit development and subdivision, proposed by Easton Ridge Land Company [RZ-06-00035/P-06-31]. We have reviewed the documents and have the following comments.

### **Water Quality**

#### Project Greater-Than 1 Acre with Potential to Discharge Off-Site

An NPDES Construction Stormwater General Permit from the Washington State Department of Ecology is required if there is a potential for stormwater discharge from a construction site with more than one acre of disturbed ground. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit is a minimum of a 38 day process and may take up to 60 days if the original SEPA does not disclose all proposed activities.

The permit requires that Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading or construction.

More information on the stormwater program may be found on Ecology's stormwater website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. Please submit an application or contact Lynda Jamison at the Dept. of Ecology, (509) 575-2434, with questions about this permit.



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Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent soil from being carried into surface water by storm water runoff. Sand, silt, and soil will damage aquatic habitat and are considered pollutants.

Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.

Best management practices must be used to prevent any sediment, oil, gas or other pollutants from entering surface or ground water.

## **Air Quality**

### DUST

There is a need to carefully plan for and constantly monitor dust prevention and control activities throughout all phases of the project. Ecology suggests the proponents develop a Fugitive Dust Control Plan (FDCP) for the entire project area from start to finish, for the life of the project and beyond. The FDCP should be comprehensive and include measures for idle areas as well as active areas. Plans should be reviewed by all project managers who will be expected to implement them, and the resources to implement the plans should be required and secured. The FDCP should include, at a minimum, the following components.

- Identification of project-related fugitive dust sources, assignment of dust control methods to each, and identification of who will be responsible for carrying out the measures during various phases of the project.
- A commitment to secure and train personnel to implement the FDCP, and clear assignment of responsibility for compliance during all phases of the project.
- A commitment and the ability to cease activity during windy conditions when best efforts are insufficient to control the dust.
- A clear explanation of how the dust control measures will effectuate compliance with applicable provisions of WAC 173-400-040.

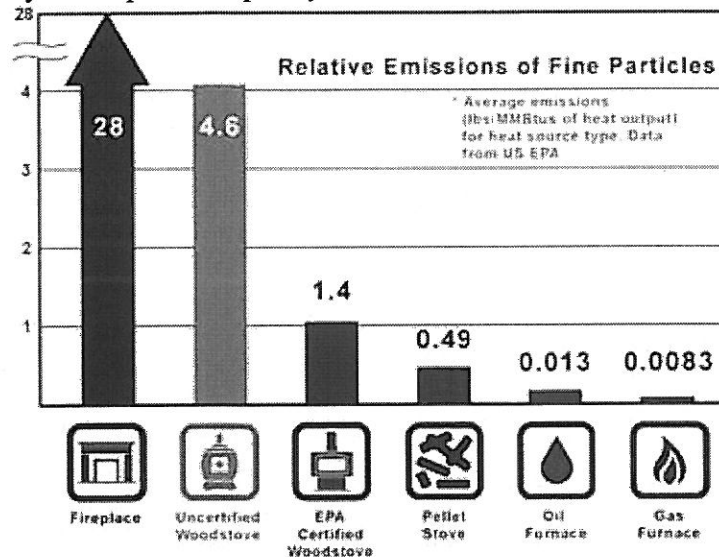
### OUTDOOR BURNING

Ecology would like to encourage a smoke free project. This would include grinding of all land clearing debris instead of burning the material. Please contact Ecology's Air Quality Program for help with this. If outdoor burning is to occur, burn permits will need to be obtained from the Ecology Air Quality Program. Consider chipping the debris and using it on-site. Only natural

unprocessed vegetation can be burned in an outdoor fire in Washington State. Burning all other material is prohibited – this includes construction debris.

### HOME HEATING

Home heating impacts should be addressed in the air quality portion of this DEIS. With the large size of this proposal, the installation and use of wood burning devices for home heating could have significant air quality impacts as well as negative human health impacts for residents. Wood burning devices emit many thousands of times as much harmful fine particle pollution as gas appliances for equivalent heat output as illustrated by the attached graphic. If wood burning devices will be used, they must be certified to Washington State standards and these devices may be curtailed during days with poor air quality.



The documented health effects of fine particle pollution include asthma, cancer, and other serious medical conditions.

In this region more than 40% of wintertime fine particle pollution comes from woodstoves and fireplaces, and the climate is particularly susceptible to stagnant air conditions which exacerbate the build up and effects of fine particle pollution. As a result, reducing wood smoke pollution is a high priority.

Consider bringing natural gas to the site early in the development phase. Consider using propane if natural gas is not available. Consider a SEPA mitigation requirement that prohibits the installation of wood burning devices. If wood burning devices will not be allowed within the development, the project proponent should put forth enforceable measures such as ordinances and covenants to ensure that effective restrictions remain in place for the life of the project.

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If you have any questions regarding the Air Quality comments, please contact Jared Mathey with the Air Quality Program (509) 454-7845.

## **Water Resources**

Proposal No. RZ 06-00035/P 06-31, requires water rights. Water availability is essential for development. Ecology believes water availability should be addressed by the county and the project proponent in the submitted environmental documentation.

Using multiple scenarios, the projected water demand for Alternatives 1 – 5 is estimated from 55.05 acre-feet per year to 283.65 acre-feet per year. According to the Draft Environmental Impact Statement (DEIS) for the Marian Meadows proposal there are three different options for servicing this development with water.

### **1) Easton Water District No. 3:**

According to our records, Easton Water District (District) currently has two water rights (CG3-21660C@1 and CG4-GWC282-D). Together these rights authorize up to 145 gpm and 137.2 acre-feet per year. A 2004 self assessment notes that the District used 38.6 acre-feet per year. The DEIS notes that the District used about 71 acre-feet in 2008. As stated in the DEIS, “The system currently serves 188 customers in the original town of Easton...”. While the DEIS states “...storage is the principal factor that limits the existing system capacity to 542 connections”, ultimately the District’s use is limited to 145 gpm and 137.2 acre-feet per year. Thus, the District does not have adequate water rights to serve the 188 customers and the proposed project.

Additionally, the Marian Meadows project is not within the service area of the Easton Water District No. 3. The District may expand their service area through a water right change or through an approval from the Washington State Department of Health consistent with RCW 90.03.386.

In summary, Easton Water District No. 3 does not have sufficient water rights to provide service to the Marian Meadows under any Alternatives or scenarios.

### **2) Public water systems provided by private companies or associations:**

The water purveyor is responsible for ensuring that the proposed use(s) are within the limitations of its water rights. If the proposal’s actions are different than the existing water right (source, purpose, the place of use, or period of use), then it is subject to approval from the Department of Ecology pursuant to Sections 90.03.380 RCW and

90.44.100 RCW. While the DEIS notes several nearby private water systems, it is unclear which if any may serve the proposed development.

Furthermore, the 2003 Municipal Water Law (MWL) was recently challenged in King County Superior Court. In a decision on June 11, 2008, the King County Superior Court declared three sections of the law unconstitutional. Ecology has since appealed this decision and the case should be heard during the Court's winter 2009-2010 term. The court found the defining terms "municipal water supplier" and "municipal water supply purposes," and the section of the statute providing that certificates for municipal water rights issued based on system capacity are in "good standing".

Prior to the King County Superior Court decision, water rights certificates issued prior to September 9, 2003 for municipal water supply purposes based on system capacity ("pumps and pipes") were in "good standing" under the MWL. At this time, the "good standing" status of water rights held by both public municipal water suppliers and private water suppliers is in question and is currently pending before the state Supreme Court.

The decision from the appeal could affect this proposal. At this time, in light of this decision, Ecology is providing options for either public or private entities with water rights not completely put to beneficial use (documented by a so called "pumps and pipes" certificate). However, a key component of pursuing an option is to demonstrate diligence in developing the inchoate portion of this water right. Please refer to the attached guidance document, "2003 Municipal Water Law Interim Guidance and Interpretive and Policy Statement".

### **3) Private Wells:**

In Washington State, prospective water users must obtain authorization from the Department of Ecology before diverting surface water or withdrawing ground water, with one exception. Ground water withdrawals of up to 5,000 gallons per day used for single or group domestic supply, industrial purposes, stock watering or for the irrigation of up to one-half acre of lawn and garden are exempt from the permitting process.

On March 28, 2002 the Washington State Supreme Court ruled that the RCW 90.44.050 permit exemption does not apply where a developer of a residential subdivision proposes multiple wells to serve each lot in the development because in combination, the withdrawal will exceed the exemption criteria.

Marian Meadow is one large project proposing to develop up to 449 units that will clearly exceed one groundwater exemption as described above. Therefore, the groundwater exemption does not apply to this project and the proponent will be responsible for securing valid water rights for water use associated with this project.

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If you have any questions concerning the Water Resources comments, please contact Breean Zimmerman at (509) 454-7647.

Sincerely,



Gwen Clear *by Johnnie Lynn*  
Environmental Review Coordinator  
Central Regional Office  
(509) 575-2012