



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

January 18, 2013



Lindsey Ozbolt  
Kittitas County Community Development  
411 N. Ruby St., Suite 2  
Ellensburg, WA 98926

Re: SP-12-00007

Dear Ms. Ozbolt:

Thank you for the opportunity to comment on the short subdivision of approximately 23.71 acres into 2 lots, proposed by Milt Downs. We have reviewed the application and have the following comments.

### **WATER RESOURCES**

Thank you for the opportunity to comment on SP-12-00007 proposed by Milton Downs within T20N, R16E, Section 14, near the Teanaway River.

#### *Water Availability for Proposed Lots*

According to the documents provided, SP-12-00007 intends to utilize groundwater to serve new domestic uses (individual wells and septic).

It appears that water is not currently available for the planned uses on the two proposed lots. While groundwater is likely to be factually present, it does not appear to be legally available at this time.

After review of Department of Ecology (Ecology) records, it appears that there are no existing domestic water uses, nor water rights or claims for domestic use appurtenant to the subject lands.

#### *Upper Kittitas Groundwater Rule*

Please be aware that WAC 173-539A, known as the Upper Kittitas Emergency Ground Water Rule (Rule), restricts all new appropriations of groundwater within the upper Kittitas including permit-exempt uses. This project lies within the affected area.



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From the information provided, it does not appear that any exceptions to the Rule apply.

As a result, the proponent or landowner shall apply to Ecology for a permit to appropriate public groundwater, or if seeking to use the groundwater exemption, shall submit to Ecology a request for determination that the proposed exempt use would be water budget neutral. No new permit-exempt use(s) under RCW 90.44.050 may commence unless Ecology has approved a request for determination that the proposed use(s) would be water budget neutral consistent with WAC 173-539A.

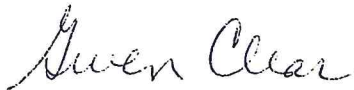
If mitigation is offered for this project, all commenting agencies and persons should have an opportunity to address any potential concerns with or the adequacy of the mitigation offered.

*Determination of Factual and Legal Water Availability*

Consistent with the 2011 Washington State Supreme Court decision *Kittitas County and others v EWGMHB and others No. 84187-0*, Ecology expects that Kittitas County (lead agency) will make a determination regarding the factual and legal availability of water for the proposed subdivision. Thus, Ecology expects that authorization for all new water uses associated with the proposed lots be acquired from Ecology prior to final plat approval (new lot creation).

If you have any questions or would like to respond to the Water Resources comments, please contact **Kurt Walker** at (509) 454-4237.

Sincerely,



Gwen Clear  
Environmental Review Coordinator  
Central Regional Office  
(509) 575-2012



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