

53.

Public Comment: Cindy Wheeler, Email dated December
10, 2014, Related to the Public Hearing PLN13-0027
Posted November 25, 2014

Tracey Redd

From: Cincity63@comcast.net
Sent: Wednesday, December 10, 2014 1:15 PM
To: MDRT User
Cc: Brenda Martinez
Subject: Fwd: Comments for the Hearing Examiner on THE VILLAGES MPD PHASE 2 PRELIMINARY PLAT C - PLN13-0027
Attachments: Hearing Examiner Comments - Plat 2C.pdf; PDRs for EBMP results.pdf; March Emails re-EBMP Condition and Consultation-1.pdf; image001-2.png; Williamson Emails re EBMP-1.pdf

Email # 1 of 3 due to City's size limitations.

----- Forwarded Message -----

From: Cincity63@comcast.net

To: mdrt@ci.blackdiamond.wa.us

Cc: Brenda Martinez <bmartinez@ci.blackdiamond.wa.us>

Sent: Wed, 10 Dec 2014 21:03:46 -0000 (UTC)

Subject: Comments for the Hearing Examiner on THE VILLAGES MPD PHASE 2 PRELIMINARY PLAT C - PLN13-0027

MDRT and Brenda -

Attached are my comments and supporting documents for the Hearing Examiner for the Dec 11, 2014 hearing on the above noted project.

Please be sure they are forwarded to him.

Your attention to this is appreciated.

Cynthia Wheeler

December 10, 2014

To: Phil Olbrechts
City of Black Diamond Hearing Examiner

Re: Plat 2c Hearing Comments

Dear Mr. Examiner:

I won't be in attendance at the hearing tomorrow. It will be the first time I've not attended or participated in a milestone step of this project since 2008. The reasons are many, including a recent death in the family, but more over is the bitter reality that no matter how informed or active I am it can not possibly make a difference when my city can not or will not implement or enforce the legal, mandatory conditions associated with these projects. And staff does not enforce them. In fact they go to great lengths to NOT enforce them. My current city council just repeats that they have no authority over staff and of course the Mayor has recently resigned saying there are many problems at City Hall that do NOT serve the people and he hopes to shine a bright light on them.

In the Plat 1A Hearing your decision included a condition that the developer do an additional year of water quality testing and that the city meet with both the applicant and the appellant and their experts to have a consultation about the Expanded Baseline Monitoring Report.

I will provide you with documentation of the correspondence with both the Andy Williamson and Yarrow Bay about this. I will provide you with the documentation and correspondence with Herrera and Assoc. regarding this but ultimately this exercise was a complete joke with the result being that there is STILL NO CALCULATION OF THE PHOSPHOROUS IMPACT TO ROCK CREEK PROVIDED BY THE APPLICANT TO THE CITY and yet the Master Development Review Team (which is the ONLY thing Yarrow Bay is currently paying for in this city!!) has still seen to move the Plat 2C Hearing forward. This plat has Rock Creek running right through it. It is the job of our city to make sure their land, the taxpayer's land and state bodies of water are protected from impacts and that proper mitigation is in place where impacts have been identified.

Instead they are moving forward with projects that have even more impacts without information that should have been part of the original EIS!!!!

All I have ever asked since the Draft EIS in 2009 is "How much phosphorous will this project release to Lake Sawyer which is a state body of water with a phosphorous limitation SET by the WA State Dept of Ecology?????" We are now on the second plat hearing and there is STILL no answer.

Mr. Williamson began in early 2013 to "fight" with this appellant and her experts about what you, Mr. Examiner, TRULY intended by the word consultation.

Angela Hill of Yarrow Bay writes Mr. Williamson on March 26, 2013 to re-affirm what Mr. Williamson has been saying since Feb - that is that a written submittal by the expert on both side suffices to satisfy the "consultation" requirement in your SEPA Item #6 for Plat 1A.

That indeed the meeting is simply to present the established and finalized plan without any discussion. You can read my persistent pursuit of fulfillment of your requirement so as to affect protection for MY lake - where my family has lived for almost 60 years and for a lake where the city owns TWO parks and collects their highest taxes. You would think they would care to do this correctly. You would be wrong.

Ultimately I paid for a report to propose an Expanded Baseline Monitoring Plan, a report to review the EBMP Yarrow Bay proposed and suggest improvements and I paid for two Herrera employees to attend the hard fought for consultation meeting. The first scheduled meeting was cancelled TWO HOURS in advance. Later we were presented with a lengthy document of legal opinion undermining the intent of your condition written by Bob Sterbanks. (Letter attached - dated May 17th - original meeting was April 19th and was cancelled. Rescheduled for May - after Bob Sterbanks letter) It is clear that the first meeting was cancelled in order for this "ruling" to be prepared.

Of course this letter seems to acknowledge that sampling for "future sites" will need to be addressed and that three years of water sampling means they should have gotten busy in 2014 with that sampling that still couldn't possibly be completed until March 31, 2017 and yet here we are with another plat and no sampling happening for those "future phases."

I've learned this and learned it the hard way - someone in power needs to recognize it too!

SEPA DELAYED IS SEPA DENIED.

When 13 of us were ultimately seated in the City's Conference Room in Community Development Mr. Williamson called the meeting to order and then - LEFT THE ROOM FOR 25 MINUTES WHILE MEGHAN NELSON OF YARROW BAY CONDUCTED THE MEETING. It is no surprise that he told me by email that NO RECORDING would occur at this meeting!

No surprise then when Mr. Williamson then uses his authority as MDRT to accept Yarrow Bay's EBMP in its entirety, reflect none of the input provided by Herrera and Assoc. Yarrow Bay's "plan" allowed for 6 moths of testing all ready completed and ruled "insufficient" to "count" as half of the one year of "expanded testing." It said that Yarrow Bay did not have to provide a calculation of the TP until "end of the year 2014 or ealy 2015" despite all the actual sampling having been completed in April, 2014.

What was a surprise, even to me after all of this, was that the deadline was allowed to slide to Jan. 2015 and so for the originally scheduled Plat 2C Hearing in August the SEPA ruling was made WITHOUT the calculation or any idea of the phosphorous impact via Rock Creek - which clearly RUNS right through Plat 2C. (See attached plat map.) **AND once that August hearing was cancelled** (upon advice from the "new" City Attorney that says Plat 2C is reliant on infrastructure in Plat 1A which is NOT yet completed and therefore it poses an unacceptable risk to the city to go forward with providing irrevocable approval for a plat (2c) when it may well remain unfinished and an eyesore.) ((This is essentially what you said about the possible outcome of the ongoing dispute with Covington Water District at the Plat 1A hearing and why you recommended the city resolve that - this was after you learned that the information from Andy Williamson that a tentative agreement was in place was completely false. It is worth knowing that NO effort was made by the city to resolve this water service issue.

That indeed Mr. Williamson just recently drafted a resolution presented to City Council on Nov 20th to secure legal services to "defend our right to provide water service" in the disputed area.

<http://www.ci.blackdiamond.wa.us/Depts/Clerk/Agendas/2014/Packets/CouncilPacket112014Revised111714.pdf>

The council passed it unanimously - despite me telling them that this is immoral and unethical and I was embarrassed by the actions of my city. I told them this was akin to the actions last year by Enumclaw School District who decided to try to TAKE 53 acres of commercial land from a neighboring school district because they felt they were not adequately provided for by the Tri Party Agreement. (ESD LOST in front of the Puget Sound Education board on ALL points of law and YES - I was there to testify) I told them Yarrow Bay's website SAYS they make GREAT COMMUNITIES and from what I've seen they make great cost impacts that they don't address and it results in neighboring districts - be they school, water or other utilities, cannibalizing and pirating each other!)) **the end of the year 2014 deadline for the EBMP calculation was ALSO moved - to January, 2015 - out past the Plat Hearing - beyond the ability to reject or affect Yarrow Bay's plat approval!**

My PDRs demonstrate my efforts to stay informed and abreast of the information coming out in the water quality monitoring reports. The response to my Sept 5th, 2014 request has the following language which seems chosen deliberately to equivocate. "This email is in response to that request. I have been notified by the MDRT staff that after searching their records **they have not located any documents that are responsive to this request.**" (Email attached.) And yet included in their Staff Report for THIS hearing as 13b Status Update Stormwater is a report from tetra Tech that WAS responsive. I guess they just couldn't "locate" it. Am I supposed to feel better if this was just incompetence in MDRT managing the information on this huge project and not deliberate deception? Shame on them!

None of the actions taken by MDRT demonstrate a professional and unbiased assessment of real information or facts to process the applicants paperwork. MDRT's actions are in fact all about FACILITATING Yarrow Bay's project, even when that means ignoring legally mandated conditions and continuing to deal unfairly and dishonestly with concerned citizens and taxpayers.

Where in the past you have felt compelled to give deference to the City's staff I would tell you that you have ample evidence and experience to know that is now unwarranted and therefore unfair.

In 3 years this city has had TWO city council members quit, ONE Mayor resign and another council member refuse to vote on the DA because he said he could not afford "to put the assets of my family on the line" and the ONLY people who have eagerly stepped up to vote have been the folks who were "restored" to voting ability by the use of the Doctrine of Necessity not ONCE but TWICE!!!!

You once said "the die is cast" Mr. Examiner. I think something is cast - in stone - and no amount of effort or information on my part or others will change that. That is why I am not attending this hearing. With the demonstrated bias that is in place I do not feel any efforts made at this time will affect any change or make a difference. Perhaps there is something YOU can do, but I felt you needed to know exactly HOW your last legally required conditions were handled by Black Diamond Staff.

For both the reasons stated above - the impacts on Lake Sawyer remain unknown despite the MDNS ruling (by a our "new" SEPA Official who has NO SEPA experience!) and that Plat 2C relies on infrastructure NOT yet constructed (and therefore NOT guaranteed) in Plat 1A I ask you to deny approval of Plat 2C.

Cindy Wheeler

Attachments -

March Emails re - EMBP Condition and Consultation
Expanded Baseline Monitoring Plan
Plat Map (Image 001-2)
Wheeler 1001114PDR100614ltr -
Williamson Emails re EBMP
PDRS for EBMP results.

----- Forwarded Message -----

From: Brenda Martinez <BMartinez@ci.blackdiamond.wa.us>

To: 'Cincity63@comcast.net' <Cincity63@comcast.net>

Cc: Andy Williamson <AWilliamson@ci.blackdiamond.wa.us>, Dave Gordon <DGordon@ci.blackdiamond.wa.us>

Sent: Fri, 03 Oct 2014 04:06:08 -0000 (UTC)

Subject: RE: Final Base Loading Report from Yarrow Bay

Dear Ms. Wheeler:

This email is to acknowledge receipt of your public records request. We are currently assessing the request and will be responding within the allowed five business days.

Kind regards,

Brenda L. Martinez

City of Black Diamond

NOTICE OF PUBLIC DISCLOSURE: This e-mail is public domain. Any correspondence from or to this e-mail account may be a public record.

Accordingly, this e-mail,

in whole or in part, may be subject to disclosure pursuant to RCW 42.56, regardless of any claim of confidentiality or privilege asserted by an external party.

From: Cincity63@comcast.net [<mailto:Cincity63@comcast.net>]

Sent: Wednesday, October 01, 2014 9:36 AM

To: Brenda Martinez

Cc: Andy Williamson; Dave Gordon

Subject: RE: Final Base Loading Report from Yarrow Bay

All-

Happy October.

The mandatory condition of approval for PP1A from our Hearing Examiner required additional water quality testing. After allowing Meghan Nelson to conduct the required "consultation" meeting at City Hall Mr. Williamson adopted the Expanded Baseline Monitoring Plan submitted by Yarrow Bay.

As part of the MDRT approved EBMP a calculation of the amount of TP Yarrow Bay's project will contribute to the state body of water known as Lake Sawyer, with a DOE set TP annual limit, September, 2014.

Please provide a copy of the legally required data. If necessary, please consider this a PDR for that data.

Cindy Wheeler

----- Original Message -----

From: Brenda Martinez <BMartinez@ci.blackdiamond.wa.us>

To: Cincity63@comcast.net, Andy Williamson
<AWilliamson@ci.blackdiamond.wa.us>

Sent: Mon, 22 Sep 2014 15:32:57 -0000 (UTC)

Subject: RE: Final Base Loading Report from Yarrow Bay

Dear Ms. Wheeler:

On September 5, 2014 the City of Black Diamond received from you by email the below records request. This email is in response to that request.

I have been notified by the MDRT staff that after searching their records they have not located any documents that are responsive to your request. In addition, they have notified me that there is no final report on this matter yet, therefore there are

no responsive documents for this item of your request.

Should you have any questions I encourage you to contact our MDRT/Economic Development Director, Andrew Williamson at 360-886-5700.

Sincerely,

Brenda L. Martinez

City Clerk

City of Black Diamond

From: Cincity63@comcast.net [Cincity63@comcast.net]

Sent: Friday, September 05, 2014 2:04 PM

To: Andy Williamson

Cc: Brenda Martinez

Subject: Final Base Loading Report from Yarrow Bay

Andy and Brenda-

I would like to know the status of the subject report referenced above. See the email from Christy Todd quoting Dan Ervin and his "team."

If available I would like an electronic copy of the complete report. Also while there is no requirement of interim reports or communication on the water monitoring please consider this a PDR for any all such information between BlackDiamond, RH2, Yarrow

Bay and Tetra Tech and any parties that satisfy this request.

Your attention to this is appreciated. Should you require a PDR for the Final Report as well, please consider this email to be one.

Cindy Wheeler

----- Forwarded Message -----

From: Christy Todd <CTodd@ci.blackdiamond.wa.us>

To: 'Cincity63@comcast.net' <Cincity63@comcast.net>

Sent: Wed, 12 Mar 2014 20:15:38 -0000 (UTC)

Subject: Water Quality Testing

Hi Cindy,

I am providing to you, information I received relating to your questions about water quality, phosphorous levels, and TMDL. This information is from Dan Ervin and his team at RH2.

Tetra Tech has been diligent about reacting to the requirements imposed in Item #4 of the RH2 Comment memo. The MDRT Team is in regular contact with Yarrow Bay about the monitoring requirements and they relay

our comments and discussions to Tetra Tech (and all of their other consultants) as needed. Tetra Tech, for their part, have been very responsive to the requirements and the spirit of the conditions and have reacted quickly . For example, they were ready for

and involved in the storms that occurred the last 5 days and have had several crews on-site obtaining flow data and samples. In this regard I would

say they are making “additional effort to collect samples during higher flow conditions” as we had expected.

Regarding the TMDL base-load calculation... I think we have a consistent understanding of the actions and requirements regarding phosphorus compliance but I'm not sure we are using the same vocabulary. TMDL, which

is an acronym for Total Maximum Daily Load, is a value that is established by Ecology to aid them in their enforcement of State regulations regarding

Sensitive Lakes (which includes Lake Sawyer). If we use the State TMDL regulations, the MPD developments would

be allowed to increase the amount of phosphorus that is discharged from the redeveloped sites in the post-development configuration. During the Development Agreement process the City was able to negotiate a “better” standard, one that required the MPD projects

to limit their post-development discharge to pre-development amounts. In other words, a lower phosphorus discharge than allowed by Ecology. This is a good deal for the City and the Community. It is, in fact, unprecedented in large-scale developments. As such,

we tend not to use the acronym TMDL because we have replaced it, conceptually, with a “no net phosphorus increase” requirement. Since TMDL is an industry standard term, and we are doing something “better” than industry standard, it’s potentially confusing

to use the TMDL moniker.

In our conversations with Yarrow Bay and their consultants we use the term “Base Load” when we refer to the work required to identify the amount of phosphorus that is being discharged from the pre-developed site

(which is then used for compliance during development). Base Load is roughly equivalent to TMDL in that we arrive at the value using similar processes, but the value itself will be different and we are trying to make sure that distinction is obvious.

Our water year runs from October through September (established in Appendix O of the Development Agreement) and Yarrow Bay’s monitoring obligations are not complete until September of 2014. I would not expect

a final report which establishes the Base Load value until after the end of the water-year in September 2014. Although we are involved in the monitoring process on a regular basis, there is no requirement for an interim report.

Please let me know if you have questions or wish to discuss the issues or details further.

Dan

Christy A. Todd

City Administrator

P.O. Box 599

24301 Roberts Drive

Black Diamond, WA 98010

360.886.5700

360.886.2592 (Fax)

CTodd@ci.blackdiamond.wa.us

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Christy A. Todd

City Administrator

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From: Andy Williamson <AWilliamson@ci.blackdiamond.wa.us>

To: Cincity63@comcast.net, Chris Bacha
<Chris@kenyondisend.com>

Cc: Rebecca Olness <ROlness@ci.blackdiamond.wa.us>, Mark
Hoppen <MHoppen@ci.blackdiamond.wa.us>

Sent: Fri, 29 Mar 2013 23:11:17 -0000 (UTC)

Subject: RE: Mandatory Expanded Baseline Monitoring Program
Condition

Cindy

Thank you for your thoughts and comments .

I will be out for a few days and will respond to your email when I return on
the 9th of April

Andy

From: Cincity63@comcast.net [<mailto:Cincity63@comcast.net>]

Sent: Friday, March 29, 2013 10:18 AM

To: Chris Bacha

Cc: Andy Williamson; Rebecca Olness; Mark Hoppen

Subject: RE: Mandatory Expanded Baseline Monitoring Program Condition

All-

I apologize for the weird formatting that resulted from the definition of "consultation" being pasted in.

Here is the link to the Cambridge Dictionary definition.

<http://dictionary.cambridge.org/us/dictionary/american-english/consultation?q=consultation>

Best - Cindy Wheeler

----- Original Message -----

From: Cincity63@comcast.net

To: Chris Bacha <Chris@kenyondisend.com>

Cc: Andy Williamson <AWilliamson@ci.blackdiamond.wa.us>, Rebecca Olness <rolness@ci.blackdiamond.wa.us>, Mark Hoppen <MHoppen@ci.blackdiamond.wa.us>

Sent: Fri, 29 Mar 2013 17:04:05 -0000 (UTC)

Subject: RE: Mandatory Expanded Baseline Monitoring Program Condition

Chris et al'

Please confirm that the meeting on April 19th is to present the M.D.R.T. team's first draft of the city's expanded monitoring plan based on both applicant and appellants input and that the consultation, by definition an exchange of information and opinion to reach a better understanding and/or decision, will act as an avenue to further review and refine the City's final expanded baseline monitoring plan.

Also, Mr. Williamson's email of March 22nd (copy at the bottom of this email string) indicates that the consultant is currently engaged in assessing both parties input to create a first draft of the plan, but does not indicate when such a draft will be ready.

To maximize the efficiency and accuracy of the input and efforts of all who will be attending the April 18th meeting I would formally request that a copy of the M.D.R.T. team's draft expanded baseline monitoring plan be provided in advance of the meeting, as soon as it is available. Please address this request in your response.

If a draft is not made available to the Appellants and Applicant in advance of the April 18th meeting, or is provided mere days in advance, I would ask that the City agree to allow extra time after the meeting (perhaps one week) for the experts to provide additional input, review and response to the city's draft plan. In this manner the City is provided with the most complete suite of expert review, which will facilitate the outcome of the best expanded monitoring plan for the city and her citizens.

I look forward to your reply and answers so I can coordinate with the members of the Appellant's team.

Best - Cindy Wheeler

consultation

/ˌkʌnˈsəlˈteɪʃən/ n [C/U]

Definition

the act of exchanging information and opinions about something in order to reach a better understanding of it or to make a decision, or a meeting for this purpose:

[U] We

hope to work in consultation with Congress on how the law should be interpreted. A

consultation is also a meeting with a doctor who is specially trained to give advice to you or other doctors about an illness or its treatment:[C] The consultation with the pathologist convinced me to have surgery right away.

(Definition of consultation n from the Cambridge Academic Content Dictionary © Cambridge University Press)

----- Original Message -----

From: Chris Bacha <Chris@kenyondisend.com>

To: Cincity63@comcast.net

Cc: Andy Williamson <AWilliamson@ci.blackdiamond.wa.us>, Rebecca Olness <rolness@ci.blackdiamond.wa.us>, Mark Hoppen <MHoppen@ci.blackdiamond.wa.us>

Sent: Fri, 29 Mar 2013 14:59:32 -0000 (UTC)

Subject: RE: Mandatory Expanded Baseline Monitoring Program Condition

Cindy.

I have spoken with Andy Williamson. He indicated that he has received the report prepared by your consultant and that he has scheduled a consultation meeting with you. Thus, it appears to me that consultation is in process.

Regards,

Chris D. Bacha

Attorney

Kenyon Disend, PLLC

The Municipal Law Firm

11 Front Street South

Issaquah, WA 98072-3820

Tel: (425) 392-7090, ext. 2193

Cell: (253) 219-0016

Fax: (425) 392-7071

Chris@kenyondisend.com

www.kenyondisend.com

From: Cincity63@comcast.net [<mailto:Cincity63@comcast.net>]

Sent: Wednesday, March 27, 2013 10:05 AM

To: Chris Bacha

Subject: Mandatory Expanded Baseline Monitoring Program Condition

FYI

Your attention to this matter is appreciated.

----- Forwarded Message -----

From: Cincity63@comcast.net

To: AWilliamson@ci.blackdiamond.wa.us

Cc: Steve Pilcher <SPilcher@ci.blackdiamond.wa.us>, MHoppen@ci.blackdiamond.wa.us

Sent: Tue, 26 Mar 2013 00:38:25 -0000 (UTC)

Subject: RE: Re:

Andy Williamson-

Please read the condition below. There appears to some misunderstanding of how to fully comply with the Hearing Examiner's order. Please note the Hearing Examiner's use of the word AFTER.

While both parties have submitted data, we have not yet had a consultation with the MDART. The Appellants wish to meet with the MDART team and discuss the data submitted. If Yarrow Bay does not wish to have their consultation with the MDART team and their

expert present that is their option.

AFTER such a verbal consultation then the MDART Team shall decide independently what the expanded baseline monitoring plan will be and provide that answer and how it was arrived at to all parties.

***An
expanded baseline monitoring program
in this regard shall be prepared by the MDRT team
after
consultation with the SEPA Appellants and the
Applicant."***

Cindy Wheeler

----- Original Message -----

From: Angela Hill <ahill@oakpointe.com>

To: Andy Williamson <AWilliamson@ci.blackdiamond.wa.us>, Cincity63@comcast.net

Cc: Colin Lund <clund@oakpointe.com>, Steve Pilcher <SPilcher@ci.blackdiamond.wa.us>

Sent: Tue, 26 Mar 2013 00:19:44 -0000 (UTC)

Subject: RE: Re:

Mr. Williamson –

Colin and I will be attending the meeting on Friday, April 19th at 10:00am.

It is our understanding that you have completed the consultation process with both parties (applicant

and appellant) through our written submittals and that

the purpose of this meeting is simply for you to share the established Expanded Baseline Monitoring Program that the MDRT is currently preparing.

If this is the case, I do not think there is a need for either party to bring their consultants (i.e.,

Rob Zisette from Hererra or Rob Plotnikoff from TetraTech).

If the appellant intends to invite Rob Zisette, then we will invite Rob Plotnikoff as well. However, it is not clear to me what role these consultants would have during the meeting since the Program will be established/ finalized by that point. Please clarify

what the purpose of the meeting is and whether both parties should (or should not) invite their respective consultants to attend the meeting.

Thank you,

Angela

Angela Hill

Project Coordinator

10220 NE Points Drive, Suite 310

Kirkland, WA 98033

(425) 898-2121 direct

(425) 898-2139 fax

www.yarrowbayholdings.com

From:

Andy Williamson [<mailto:AWilliamson@ci.blackdiamond.wa.us>]

Sent: Monday, March 25, 2013 5:00 PM

To:

Cincity63@comcast.net

Cc: Colin Lund; Angela Hill; Steve Pilcher

Subject: RE: Re:

I have not heard if this time works for them

Hopefully Angela will respond to this email

Andy Williamson

From: Cincity63@comcast.net

[<mailto:Cincity63@comcast.net>]

Sent: Monday, March 25, 2013 4:37 PM

To: Andy Williamson

Cc: Colin Lund (clund@oakpointe.com); Angela Hill (ahill@oakpointe.com);

Steve Pilcher
Subject: Re:

Andy -

This time and date works for the Appellants. I don't yet have a list of who will be accompanying me.

I have not seen confirmation from the others parties. If you have received responses from them please forward to share.

Cindy Wheeler

----- Original Message -----

From: Andy Williamson <AWilliamson@ci.blackdiamond.wa.us>

To:
Cincity63@comcast.net,
Colin Lund (clund@oakpointe.com)
<clund@oakpointe.com>,
Angela
Hill (ahill@oakpointe.com)

<ahill@oakpointe.com>,
Steve Pilcher <SPilcher@ci.blackdiamond.wa.us>

Sent: Fri, 22 Mar 2013 23:10:32 -0000 (UTC)

Subject:

The city has received a plan from the applicant to increase the monitoring plan for pp1a per the Hearing Examiners condition.

The appellants have responded to the plan with their comments.

The M.D.R.T team along with our consultant will now take both parties comments and put together our expanded monitoring plan.

We have set aside the 19th of April at 10:00 am in the public works conference room to share this information with you.

Please respond back to me if this time will work and who will be coming

Thank you

Andy Williamson

----- Forwarded Message -----

From: Andy Williamson <AWilliamson@ci.blackdiamond.wa.us>

To: Angela Hill (ahill@oakpointe.com) <ahill@oakpointe.com>, Cincity63@comcast.net

Cc: Dan Ervin <dervin@rh2.com>, Stacey Welsh <SWelsh@ci.blackdiamond.wa.us>, Mark Hoppen <MHoppen@ci.blackdiamond.wa.us>

Sent: Wed, 22 May 2013 19:45:32 -0000 (UTC)

Subject: water sampling

The MDRT team has set the meeting date may 30th at 3:00 pm to have a meeting to discuss the expanded water sampling for PP1A per the hearing examiners condition #6

Please confirm that you will be at this meeting and the number of attendees you will be bringing.

This meeting is to hear from both parties so that they can have input to the MDRT teams expanded water monitoring plan.

Respectfully

Andy Williamson

----- Forwarded Message -----

From: Andy Williamson <AWilliamson@ci.blackdiamond.wa.us>

To: Angela Hill (ahill@oakpointe.com) <ahill@oakpointe.com>, Cincity63@comcast.net

Cc: Mark Hoppen <MHoppen@ci.blackdiamond.wa.us>

Sent: Wed, 29 May 2013 17:44:15 -0000 (UTC)

Subject:

We will be meeting in the public works building on the 30th
at 3:00 and **we will not be recording this meeting**

Andy Williamson

----- Forwarded Message -----

From: Andy Williamson <AWilliamson@ci.blackdiamond.wa.us>

To: Angela Hill (ahill@oakpointe.com) <ahill@oakpointe.com>, Cincity63@comcast.net

Cc: Stacey Welsh <SWelsh@ci.blackdiamond.wa.us>, Andy Williamson <AWilliamson@ci.blackdiamond.wa.us>

Sent: Wed, 24 Jul 2013 16:01:31 -0000 (UTC)

Subject: FW: plan

Attached you will find the expanded phosphorous monitoring plan
for PP1A

Andy Williamson

Tracey Redd

From: Cincity63@comcast.net
Sent: Wednesday, December 10, 2014 1:18 PM
To: MDRT User
Cc: Brenda Martinez
Subject: Fwd: Comments for the Hearing Examiner on THE VILLAGES MPD PHASE 2 PRELIMINARY PLAT C - PLN13-0027
Attachments: Wheeler100114PDR100614ltr.pdf

Email #3 of 3 due to City's size limitations.

Brenda - Please confirm receipt of ALL 3 emails.

Thanks - cew

----- Forwarded Message -----

From: Cincity63@comcast.net

To: mdrt@ci.blackdiamond.wa.us

Cc: Brenda Martinez <bmartinez@ci.blackdiamond.wa.us>

Sent: Wed, 10 Dec 2014 21:03:46 -0000 (UTC)

Subject: Comments for the Hearing Examiner on THE VILLAGES MPD PHASE 2 PRELIMINARY PLAT C - PLN13-0027

MDRT and Brenda -

Attached are my comments and supporting documents for the Hearing Examiner for the Dec 11, 2014 hearing on the above noted project.

Please be sure they are forwarded to him.

Your attention to this is appreciated.

Cynthia Wheeler



CITY OF BLACK DIAMOND

24301 Roberts Drive, PO Box 599
Black Diamond, WA 98010

Phone: (360) 886-5700
Fax: (360) 886-2592

October 6, 2014

Cindy Wheeler
30221 234th Avenue SE
Black Diamond, WA 98010

Re: Public records request of October 1, 2014

Dear Ms. Wheeler:

On October 1, 2014, the City of Black Diamond received by email your public records request (attached). This letter is in response to that request.

MDRT staff has notified me that at this time there are no responsive documents to your request regarding the requested data. However, regarding the report they did refer me to the 2013 Annual Report that was accepted by the Water Quality Review Committee and when the report will be submitted to MDRT staff and on page 9 of that report section B(1) states:

The 2013-2014 monitoring efforts will comply with the approved Expanded Baseline Phosphorus Monitoring Plan dated July 19, 2013 (attached hereto as Appendix E). At the end of the 2013-2014 water year, Tetra Tech will prepare a report that (1) analyzes its monitoring efforts during the 2011-2012, 2012-2013, and 2013-2014 water years and (2) establishes a pre-construction baseline phosphorus load from the project. This load will be factored to an average year rainfall volume for future comparisons of phosphorus loads for years where the rainfall is more or less than the average. Tetra Tech's report is anticipated to be submitted to the MDRT for their review and consideration at the end of 2014 or early 2015.

In the above text I have highlighted the portion that refers to when the report will be submitted to the City's MDRT staff. I have also included for your reference a pdf of this page from the 2013 Annual Report.

Should you have any questions I encourage you to contact Andy Williamson at 360-886-5700. Thank you.

Sincerely,

Brenda L. Martinez
City Clerk

Enclosures

Brenda Martinez

From: Cincity63@comcast.net
Sent: Wednesday, October 01, 2014 9:36 AM
To: Brenda Martinez
Cc: Andy Williamson; Dave Gordon
Subject: RE: Final Base Loading Report from Yarrow Bay

All-

Happy October.

The mandatory condition of approval for PPIA from our Hearing Examiner required additional water quality testing. After allowing Meghan Nelson to conduct the required "consultation" meeting at City Hall Mr. Williamson adopted the Expanded Baseline Monitoring Plan submitted by Yarrow Bay.

As part of the MDRT approved EBMP a calculation of the amount of TP Yarrow Bay's project will contribute to the state body of water known as Lake Sawyer, with a DOE set TP annual limit, September, 2014.

Please provide a copy of the legally required data. If necessary, please consider this a PDR for that data.

Cindy Wheeler

----- Original Message -----

From: Brenda Martinez <BMartinez@ci.blackdiamond.wa.us>
To: Cincity63@comcast.net, Andy Williamson <AWilliamson@ci.blackdiamond.wa.us>
Sent: Mon, 22 Sep 2014 15:32:57 -0000 (UTC)
Subject: RE: Final Base Loading Report from Yarrow Bay

Dear Ms. Wheeler:

On September 5, 2014 the City of Black Diamond received from you by email the below records request. This email is in response to that request.

I have been notified by the MDRT staff that after searching their records they have not located any documents that are responsive to your request. In addition, they have notified me that there is no final report on this matter yet, therefore there are

no responsive documents for this item of your request.

Should you have any questions I encourage you to contact our MDRT/Economic Development Director, Andrew Williamson at 360-886-5700.

Sincerely,

Brenda L. Martinez

City Clerk

City of Black Diamond

From: Cincity63@comcast.net [Cincity63@comcast.net]

Sent: Friday, September 05, 2014 2:04 PM

To: Andy Williamson

Cc: Brenda Martinez

Subject: Final Base Loading Report from Yarrow Bay

Andy and Brenda-

I would like to know the status of the subject report referenced above. See the email from Christy Todd quoting Dan Ervin and his "team."

If available I would like an electronic copy of the complete report. Also while there is no requirement of interim reports or communication on the water monitoring please consider this a PDR for any all such information between BlackDiamond, RH2, Yarrow

Bay and Tetra Tech and any parties that satisfy this request.

Your attention to this is appreciated. Should you require a PDR for the Final Report as well, please consider this email to be one.

Cindy Wheeler

----- Forwarded Message -----

From: Christy Todd <CTodd@ci.blackdiamond.wa.us>
To: 'Cincity63@comcast.net' <Cincity63@comcast.net>
Sent: Wed, 12 Mar 2014 20:15:38 -0000 (UTC)
Subject: Water Quality Testing

Hi Cindy,

I am providing to you, information I received relating to your questions about water quality, phosphorous levels, and TMDL. This information is from Dan Ervin and his team at RH2.

Tetra Tech has been diligent about reacting to the requirements imposed in Item #4 of the RH2 Comment memo. The MDRT Team is in regular contact with Yarrow Bay about the monitoring requirements and they relay

our comments and discussions to Tetra Tech (and all of their other consultants) as needed. Tetra Tech, for their part, have been very responsive to the requirements and the spirit of the conditions and have reacted quickly. For example, they were ready for

and involved in the storms that occurred the last 5 days and have had several crews on-site obtaining flow data and samples. In this regard I would say they are making "additional effort to collect samples during higher flow conditions" as we had expected.

Regarding the TMDL base-load calculation... I think we have a consistent understanding of the actions and requirements regarding phosphorus compliance but I'm not sure we are using the same vocabulary. TMDL, which

is an acronym for Total Maximum Daily Load, is a value that is established by Ecology to aid them in their enforcement of State regulations regarding Sensitive Lakes (which includes Lake Sawyer). If we use the State TMDL regulations, the MPD developments would

be allowed to increase the amount of phosphorus that is discharged from the redeveloped sites in the post-development configuration. During the Development Agreement process the City was able to negotiate a "better" standard, one that required the MPD projects

to limit their post-development discharge to pre-development amounts. In other words, a lower phosphorus discharge than allowed by Ecology. This is a good deal for the City and the Community. It is, in fact, unprecedented in large-scale developments. As such,

we tend not to use the acronym TMDL because we have replaced it, conceptually, with a "no net phosphorus increase" requirement. Since TMDL is an industry standard term, and we are doing something "better" than industry standard, it's potentially confusing

to use the TMDL moniker.

In our conversations with Yarrow Bay and their consultants we use the term "Base Load" when we refer to the work required to identify the amount of phosphorus that is being discharged from the pre-developed site

(which is then used for compliance during development). Base Load is roughly equivalent to TMDL in that we arrive at the value using similar processes, but the value itself will be different and we are trying to make sure that distinction is obvious.

Our water year runs from October through September (established in Appendix O of the Development Agreement) and Yarrow Bay's monitoring obligations are not complete until September of 2014. I would not expect

a final report which establishes the Base Load value until after the end of the water-year in September 2014. Although we are involved in the monitoring process on a regular basis, there is no requirement for an interim report.

Please let me know if you have questions or wish to discuss the issues or details further.

Dan

Christy A. Todd

City Administrator

P.O. Box 599

24301 Roberts Drive

Black Diamond, WA 98010

360.886.5700

360.886.2592 (Fax)

CTodd@ci.blackdiamond.wa.us

♻️ Please consider the environment before printing

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of any claim of confidentiality or privilege asserted by an external party.

6 Next Steps

A. Next Steps to Ensure Compliance with the MPD Conditions of Approval

The Water Quality Review Committee will continue to meet as a group and evaluate the Master Developer's compliance with the MPD Conditions of Approval relating to stormwater and water quality (i.e., Villages MPD Condition Nos. 60–85 and Lawson Hills MPD Condition Nos. 62–86).

B. Next Steps to Ensure Compliance with the No Net Phosphorus Implementation Plan (Exhibit "O" to the MPD DAs)

1. Establish a Pre-Construction Baseline Phosphorus Load from the MPDs.

The 2013-2014 monitoring efforts will comply with the approved Expanded Baseline Phosphorus Monitoring Plan dated July 19, 2013 (attached hereto as Appendix E). At the end of the 2013-2014 water year, Tetra Tech will prepare a report that (1) analyzes its monitoring efforts during the 2011-2012, 2012-2013 and 2013-2014 water years and (2) establishes a pre-construction baseline phosphorus load from the project. This load will be factored to an average year rainfall volume for future comparisons of phosphorus loads for years where the rainfall is more or less than the average. Tetra Tech's report is anticipated to be submitted to the MDRT for their review and consideration at the end of 2014 or early 2015.

2. Project Design Phase

In conjunction with City of Black Diamond review, the Master Developer will prepare on-site drainage designs with phosphorus mitigation solutions which include the following:

1. Phosphorus control menu items from the 2005 DOE Manual (or later manuals if adopted and imposed for later Project phases).
2. Any additional AKART (all known and reasonable technologies) not identified in 1. above, that are in compliance with The Villages MPD Permit Approval Condition No. 76 or the Lawson Hills MPD Permit Approval Condition No. 79.

Tracey Redd

From: Cincity63@comcast.net
Sent: Wednesday, December 10, 2014 1:37 PM
To: Cincity63@comcast.net
Cc: MDRT User; Brenda Martinez
Subject: Re: Fwd: Re: Comments for the Hearing Examiner on THE VILLAGES MPD PHASE 2 PRELIMINARY PLAT C - PLN13-0027

The attachment to this email is the City's Expanded BAseline Monitoring Proposal with a cover letter dated July 29, 2013 signed by Andy Williamson and Stacey Welsh.

Please include as an attachment to my Hearing Examiner submission since it will not email due to the City's current IT issues.

This document was emailed to me from Andy Williamson in July, 2013 so I have no idea why it can not be emailed back to the city at this time.

Your attention to this is appreciated.

CEW

----- Original Message -----

From: Cincity63@comcast.net
To: mdrt@ci.blackdiamond.wa.us
Cc: Brenda Martinez <bmartinez@ci.blackdiamond.wa.us>
Sent: Wed, 10 Dec 2014 21:28:45 -0000 (UTC)
Subject: Fwd: Re: Comments for the Hearing Examiner on THE VILLAGES MPD PHASE 2 PRELIMINARY PLAT C - PLN13-0027

Second sending of the Email #2 of 3.

----- Forwarded Message -----

From: Cincity63@comcast.net
To: mdrt@ci.blackdiamond.wa.us
Cc: Brenda Martinez <bmartinez@ci.blackdiamond.wa.us>
Sent: Wed, 10 Dec 2014 21:16:28 -0000 (UTC)
Subject: Re: Comments for the Hearing Examiner on THE VILLAGES MPD PHASE 2 PRELIMINARY PLAT C - PLN13-0027

Email #2 of 3 due to City's size limitations.

----- Original Message -----

From: Cincity63@comcast.net
To: mdrt@ci.blackdiamond.wa.us
Cc: Brenda Martinez <bmartinez@ci.blackdiamond.wa.us>
Sent: Wed, 10 Dec 2014 21:03:46 -0000 (UTC)
Subject: Comments for the Hearing Examiner on THE VILLAGES MPD PHASE 2 PRELIMINARY PLAT C - PLN13-0027

MDRT and Brenda -

Attached are my comments and supporting documents for the Hearing Examiner for the Dec 11, 2014 hearing on the above noted project.

Please be sure they are forwarded to him.

Your attention to this is appreciated.

Cynthia Wheeler



CITY OF BLACK DIAMOND

Physical Address: 24301 Roberts Drive
Mailing Address: PO Box 599
Black Diamond, WA 98010

Phone: (360) 886-5700
Fax: (360) 886-2592
www.ci.blackdiamond.wa.us

MEMORANDUM

Date: July 19, 2013

To: File PLN11-0001

From: MDRT

Re: Approval of the Expanded Baseline Phosphorous Monitoring Plan for The Villages MPD Phase 1A Preliminary Plat

Pursuant to the Hearing Examiner's SEPA Mitigation Measure No. 6 on The Villages MPD Phase 1A Preliminary Plat, the Master Developer submitted a "Proposed Expanded Baseline Monitoring Program for Pre-Construction Baseline Monitoring in Rock Creek" on February 15, 2013. Next, the SEPA appellants provided comments on the document on March 20, 2013. Then the City provided comments on the document on April 15, 2013. Following that, the Master Developer responded to comments on April 24, 2013. The City Attorney provided information on May 17, 2013. Finally, a consultation meeting between the Master Developer, SEPA appellants and the City was held on May 30, 2013.

The finalized "Expanded Baseline Phosphorous Monitoring Plan for The Villages MPD Phase 1A Preliminary Plat" has been reviewed by the Designated Officials and by the contracted Master Development Review Team (MDRT) civil engineering consultant (RH2).

The undersigned Designated Officials hereby approve the "Expanded Baseline Phosphorous Monitoring Plan for The Villages MPD Phase 1A Preliminary Plat".

Andrew Williamson, Designated Official
Executive Director Econ Dev & Eng Svcs

Stacey Welsh, Designated Official
Community Development Director



RH2 TECHNICAL

Memorandum

Client: City of Black Diamond MDRT

Project: Villages Preliminary Plat 1A

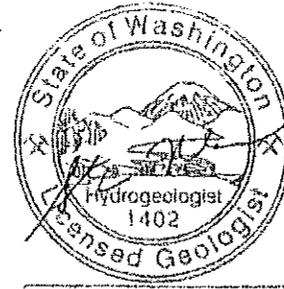
Project File: BD 112.061.01.103 Project Manager: Dan Ervin, P.E.

Composed by: Steve Nelson, L.H.G.

Reviewed by: Dan Ervin, P.E.

Subject: Expanded Baseline Phosphorous Monitoring Plan

Date: July 8, 2013



Steve Nelson

Expanded Baseline Monitoring Plan for the Villages Preliminary Plat 1A

Yarrow Bay Holdings intends to contract Tetra Tech to complete the Proposed Expanded Baseline Phosphorous Monitoring Program for pre-construction baseline monitoring in Rock Creek as described in Tetra Tech's letters dated January 21, 2013 and February 15, 2013 (both attached), and will follow sample collection and analysis methods as described in the Quality Assurance Project Plan (QAPP) (Exhibit "O" to The Villages Development Agreement) and the Tetra Tech Technical Memoranda dated April 15, 2013 and April 16, 2013, with the following clarifications and modifications.

1. Sampling and continuous water quality/flow monitoring in Lawson Creek and in Rock Creek near Jones Lake will be considered under a separate monitoring program when construction is planned within the Lawson Hills Master Planned Development (MPD) and subsequent phases of The Villages MPD.
2. Water flow monitoring at Stations SW-1 through SW-7 as part of Stage 2 baseline monitoring is in progress. No data are available at SW-3 due to Washington State Department of Transportation (WSDOT) restrictions, although loading at this site is based on calculation using data from SW-1, SW-2, and SW-4. No data are available at SW-8 due to minimal flows at the monitoring point.
3. Sampling conducted at SW-1 through SW-4 are related to evaluation of the pre-construction (baseline) conditions and post-construction effects of the State Route (SR) 169 retrofit on flow and phosphorous removal, and will not be used to evaluate future development of the Lawson Hills MPD.

4. Tetra Tech will make additional effort to collect samples during higher flow conditions during stormwater sampling in the 2013/2014 Water Year and earlier (October) in the 2013/2014 Water Year to obtain the highest degree of sample representativeness.
5. The final report at the conclusion of Stage 3 monitoring will be prepared in compliance with The Villages Development Agreement; the requirements imposed by the City of Black Diamond Hearing Examiner in his decision on The Villages MPD Preliminary Plat 1A dated December 10, 2012 (specifically Condition 6), and the baseline monitoring program as described in the letters dated January 15, 2013 and February 15, 2013 prepared by Tetra Tech.
6. The final report must be reviewed and approved by the M.D.R.T.

Stage 1: Monitoring Program (2011/2012 Water Year)

- Completed.

Stage 2: Baseline Monitoring Program (November 30, 2012/October 2013 Water Year)

- Stormwater sampling completed during December 2012 to April 2013.
- Ambient monthly monitoring in progress and will be completed in October 2013.

Stage 3: Expanded Baseline Monitoring Program (2013/2014 Water Year)

- To begin in October 2013.
- Stage 3 monitoring will consist of surface water sample collection and flow monitoring during three stormwater events at locations SW-5, SW-6, and SW-7.
- At the end of the Expanded Baseline Monitoring Program, Tetra Tech will have collected a sufficient number of representative samples (39 samples minimum) to achieve an acceptable error of 0.05 or less.

Attachments:

“Proposed Expanded Baseline Monitoring Program for Pre-Construction Baseline Monitoring in Rock Creek”, letter dated January 21, 2013, prepared by Tetra Tech on and submitted to Yarrow Bay Holdings.

“Proposed Expanded Baseline Monitoring Program for Pre-Construction Baseline Monitoring in Rock Creek”, letter dated February 15, 2013, prepared by Tetra Tech on and submitted to Yarrow Bay Holdings.



TETRA TECH

January 21, 2013

Colin Lund
Yarrow Bay Holdings
10220 NE Points Drive, Suite 310
Kirkland, Washington 98033

**Subject: Proposed Expanded Baseline Monitoring Program for
Pre-Construction Baseline Monitoring in Rock Creek**

The purpose of this memorandum is to provide a summary of the established Monitoring and Baseline Monitoring programs set forth in Exhibit "O" to The Villages and Lawson Hills MPD Development Agreements, as well as to propose an Expanded Baseline Monitoring program for consideration by the MDRT.

The Expanded Baseline Monitoring program is a requirement that was imposed by the City of Black Diamond Hearing Examiner in his decision on The Villages MPD Preliminary Plat 1A dated December 10, 2012. Specifically, SEPA Mitigation Measure # 6 (on pages 80-81 of the decision) provides, "The sampling frequencies set by Ex. O of the Villages DA for setting baseline phosphorous levels for Rock Creek shall be increased to the extent necessary to address the sampling error identified by Robert Zisette in the first two full paragraphs of p. 3 of Ex. 27. An expanded baseline monitoring program in this regard shall be prepared by the MDRT team after consultation with the SEPA Appellants and the Applicant. At a minimum, the revised baseline monitoring shall include a significant increase in the amount of sampling to provide for an acceptable error of 0.05 and the use of hydrograph separation, smearing and other techniques to estimate separate loadings for base flows."

Stage 1: Monitoring Program (2011/2012 water year)

Purpose

Pursuant to Section 7.4.5 and Exhibit "O" of The Villages and Lawson Hills MPD Development Agreements, three water quality samples were collected in three separate months (December of 2011, January of 2012 and March of 2012) during the wet season at three locations within Rock Creek to characterize pre-development conditions and establish an interim baseline phosphorus load that would then be further refined by the Baseline Monitoring Program (see Stage 2 below) prior to construction of the first implementing project within the Lake Sawyer drainage basin.



Approach

- Three grab samples were collected in Rock Creek at three locations during three separate storm events to characterize interim baseline nutrient conditions during the 2011/2012 water year (i.e., 9 samples per site or 27 samples total for all three Rock Creek sites). One replicate sample was also collected from each site during all three storm events (i.e., 9 additional samples).
- Grab samples were collected at the following three locations within Rock Creek: (1) SE 312th Street, (2) SE Auburn-Black Diamond Road, and (3) Abrams Avenue.
- Grab samples were collected in Rock Creek during storm events so that laboratory analysis would be able to characterize interim baseline nutrient loading associated with stormwater runoff.
- Flow monitoring data was also generated at the time of sampling and will be used to estimate separate loadings for base flows.
- ***Total Rock Creek samples: 36.***

Stage 2: Baseline Monitoring Program (2012/2013 water year)

Purpose

Pursuant to Section 7.4.5 and Exhibit "O" of The Villages and Lawson Hills MPD Development Agreements, the Master Developer is required to monitor pre-development phosphorus levels at pre-determined locations within the Lake Sawyer drainage basin prior to construction of the first implementing project within the Lake Sawyer drainage basin. Monitoring will need to occur consistently over the course of at least one water year (i.e., the 2012/2013 water year) in accordance with the procedures and criteria outlined in Chapters 6 through 12 of the QAPP, which is also included in Exhibit "O" to The Villages and Lawson Hills MPD Development Agreements. The data collected over the 2012/2013 water year will be used to establish a baseline phosphorus load from the project.

Approach

Ambient Monitoring:

- Rock Creek: Monthly water quality monitoring at three Rock Creek locations (i.e., 12 samples for each of the three Rock Creek sites annually).
- ***Total Ambient Rock Creek samples:36.***
- SR 169: Monthly water quality monitoring at four locations surrounding the proposed SR169 Interim Improvements (i.e., 12 samples for each of the four sites annually).
- ***Total Ambient SR 169 samples:48.***

Storm Event Monitoring:

- Rock Creek: Three samples collected at three Rock Creek locations during six separate storm events (i.e., 18 samples per site or 54 samples for all three sites).



One replicate sample will also be collected from each site during all six storm events (i.e., 18 additional samples).

- **Total Storm Event Rock Creek samples: 72.**
- SR 169: Three samples collected at four locations surrounding the proposed SR 169 Interim Improvements (i.e., 18 samples per site or 72 samples for all four sites). One replicate sample will also be collected from each site during all six storm events (i.e., 24 additional samples).
- **Total Storm Event SR 169 samples: 96.**
- Flow monitoring data is also generated at the time of sampling and will be used to estimate separate loadings for base flows.
- The approximate location for each of the seven sampling sites within the Lake Sawyer tributary basin is summarized below and indicated on the Water Year 2013 Phosphorus Monitoring Locations exhibit attached hereto.
- SR169 Locations
 - SW-1: Ginder Creek east of SR169 and north of Black Diamond Ravensdale Road near the culvert inlet under SR169;
 - SW-2: East of SR169 near the culvert inlet of Mud Lake Creek into the culvert under SR169;
 - SW-3: In a catch basin located on the west side of SR169, which discharges near the outfall of the Mud Lake Creek culvert under SR169.
 - SW-4: Ginder Creek at the north end of the culvert crossing under Roberts Drive;
- Rock Creek Locations
 - SW-5: West of Abrams Avenue crossing on the downstream side of the bridge for Rock Creek;
 - SW-6: Downstream side of Auburn-Black Diamond Rd. in Rock Creek; and
 - SW-7: North of SE 312th Street crossing at the inflow of Rock Creek to Lake Sawyer.

Proposed Stage 3: Expanded Baseline Monitoring Program and Data Analysis
(2013/2014 water year)

Purpose:

Pursuant to the City of Black Diamond Hearing Examiner's Decision for The Villages MPD Preliminary Plat 1A dated December 10, 2012, the Pre-Construction Baseline Monitoring Program is required to be expanded beyond the Monitoring and Baseline Monitoring stages set forth in Exhibit "O" to the Villages and Lawson Hills MPD Development Agreements and summarized above. Specifically, the Expanded Baseline Monitoring Program is required to, at a minimum, include "a significant increase in the amount of sampling to provide for an acceptable error of 0.05 and the use of hydrograph separation, smearing and other techniques to estimate separate loadings for base flows." See pages 80-81 of the Hearing Examiner's Decision.



Approach

The following is our proposal for an Expanded Baseline Monitoring Program for Rock Creek:

- Storm event monitoring at three Rock Creek locations on three separate storm events during the 2013/2014 water year. Three samples collected at each site during each storm event (total of 9 samples per site or 27 samples for all three sites). One replicate sample collected from each site during each storm event (i.e., 9 additional samples).
- **Total Storm Event Rock Creek samples: 36.**
- Flow monitoring data will also be generated at the time of sampling and will be used to estimate separate loadings for base flows.
- Combined, Stages 1, 2 and 3 will result in a total of 324 samples in Rock Creek (see below for a breakdown of the number of samples at each stage).

Water Quality Sampling in Rock Creek (including SR 169 sampling)

Monitoring Program	Ambient Samples	Storm Event Samples
Stage 1 (2011/2012)	N/A	36
Stage 2 (2012/2013)	84	168
Stage 3 (2013/2014)	N/A	36

- As proposed, the Expanded Baseline Monitoring Program significantly increases the amount of sampling in Rock Creek and is sufficient to provide for an acceptable error of 0.05.
- Analysis of water quality sampling and flow data from water years 2011/2012 through 2013/2014 will include development of hydrograph separation, smearing, and other techniques to estimate separate phosphorus loadings for base flows.
- **Note:** Following the completion of Stage 3 sampling, if additional sampling is deemed necessary to provide for an acceptable error of 0.05, additional sampling will be conducted.

Please do not hesitate to give us a call if you have any questions or comments relating to our proposed Expanded Baseline Monitoring Program for Rock Creek.

Sincerely,

Harry L. Gibbons, Ph.D.
Principal Limnologist and
Environmental Services Lead

Robert W. Plotnikoff,
Senior Water Quality Specialist
and Aquatic Ecologist

February 15, 2013

Andrew Williamson
Economic Development Director
City of Black Diamond
24301 Roberts Drive
Black Diamond, WA 98010

RE: YarrowBay's Proposal for an Expanded Baseline Monitoring Program

Dear Mr. Williamson:

As requested, YarrowBay's proposal for an Expanded Baseline Monitoring Program for the Villages Phase 1A Preliminary Plat pursuant to the SEPA Condition # 6 as set forth in the Hearing Examiner's plat approval decision dated December 10, 2012 is enclosed for the Master Development Review Team (MDRT)'s review and consideration. It is important to note upfront that the Hearing Examiner's condition requiring the MDRT to prepare an Expanded Baseline Monitoring Program for the Villages Phase 1A Preliminary Plat is the result of confusion about: (1) the amount of sampling that the No Net Phosphorus Implementation Plan set forth in Exhibit O of The Villages MPD Development Agreement requires the Master Developer to collect prior to establishing the pre-construction baseline phosphorus load; and (2) the methodology that TetraTech is using to analyze such sampling data.

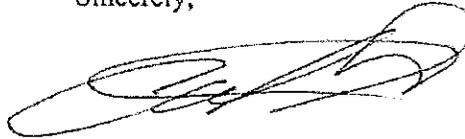
To clarify, the No Net Phosphorus Implementation Plan set forth in Exhibit O of The Villages MPD Development Agreement provides that pre-construction monitoring will be performed in accordance with the "Monitoring" and "Baseline Monitoring" sections of Exhibit O prior to establishing the baseline phosphorus load for the MPDs. During the 2011/2012 water year, three water quality samples were collected in three separate months during the wet season at three locations as required by the "Monitoring" section of Exhibit O. These monitoring efforts resulted in a total of 27 samples (not merely 9 samples). During the 2012/2013 water year, both ambient and storm event monitoring is currently in progress at 8 locations, in accordance with the "Baseline Monitoring" section of Exhibit O. At the completion of the 2012/2013 water year, this additional monitoring effort will add 225 samples to the 27 samples collected previously, for a total of 252 samples.

Based on our conversations with TetraTech, it is our understanding that 252 samples is more than sufficient to provide for an acceptable error of 0.05, so any additional sampling that the MDRT requires would be superfluous. In addition, TetraTech has informed us that they have already incorporated the use of "hydrograph separation" and "smearing" techniques in their data

analysis, albeit with a different vernacular, so there will be no change to the data analysis results by requiring the use of these techniques. Nevertheless, YarrowBay has prepared the enclosed proposal for an Expanded Baseline Monitoring Program that increases the number of pre-construction samples from 252 to 279 and ensures that TetraTech's data analysis will include the use of "hydrograph separation" and "smearing" techniques.

If you have any questions relating to the enclosed proposal, please do not hesitate to give me a call at (425) 898-2100.

Sincerely,

A handwritten signature in black ink, appearing to read "Colin Lund", written over a horizontal line.

Colin Lund
Chief Entitlement Officer
YarrowBay



TETRA TECH

February 15, 2013

Colin Lund
Yarrow Bay Holdings
10220 NE Points Drive, Suite 310
Kirkland, Washington 98033

**Subject: Proposed Expanded Baseline Monitoring Program for
Pre-Construction Baseline Monitoring in Rock Creek**

The purpose of this memorandum is to provide a summary of the established Monitoring and Baseline Monitoring programs set forth in Exhibit "O" to The Villages and Lawson Hills MPD Development Agreements, as well as to propose an Expanded Baseline Monitoring program for the Villages Preliminary Plat 1A for consideration by the MDRT.

The Expanded Baseline Monitoring program is a requirement that was imposed by the City of Black Diamond Hearing Examiner in his decision on The Villages MPD Preliminary Plat 1A dated December 10, 2012. Specifically, SEPA Mitigation Measure # 6 (on pages 80-81 of the plat decision) provides, "The sampling frequencies set by Ex. O of the Villages DA for setting baseline phosphorous levels for Rock Creek shall be increased to the extent necessary to address the sampling error identified by Robert Zisette in the first two full paragraphs of p. 3 of Ex. 27. An expanded baseline monitoring program in this regard shall be prepared by the MDRT team after consultation with the SEPA Appellants and the Applicant. At a minimum, the revised baseline monitoring shall include a significant increase in the amount of sampling to provide for an acceptable error of 0.05 and the use of hydrograph separation, smearing and other techniques to estimate separate loadings for base flows."

Stage 1: Monitoring Program (2011/2012 water year)

Purpose

Pursuant to Section 7.4.5 and Exhibit "O" of The Villages and Lawson Hills MPD Development Agreements, three water quality samples were collected in three separate months (December of 2011, January of 2012 and March of 2012) during the wet season at three locations within Rock Creek to characterize pre-development conditions and establish an interim baseline phosphorus load that would then be further refined by the Baseline Monitoring Program (see Stage 2 below) prior to construction of the first implementing project within the Lake Sawyer drainage basin.



Approach

- Three grab samples were collected in Rock Creek at three locations during three separate storm events to characterize interim baseline nutrient conditions during the 2011/2012 water year (i.e., 9 samples for each of the three Rock Creek sites). **Total Rock Creek samples: 27.**
- Grab samples were collected at the following three locations within Rock Creek: (1) SE 312th Street, (2) SE Auburn-Black Diamond Road, and (3) Abrams Avenue.
- Grab samples were collected in Rock Creek during storm events so that laboratory analysis would be able to characterize interim baseline nutrient loading associated with stormwater runoff.
- Flow monitoring data was also generated at the time of sampling and will be used to estimate separate loadings for base flows.

Stage 2: Baseline Monitoring Program (2012/2013 water year)

Purpose

Pursuant to Section 7.4.5 and Exhibit "O" of The Villages and Lawson Hills MPD Development Agreements, the Master Developer is required to monitor pre-development phosphorus levels at pre-determined locations within the Lake Sawyer drainage basin prior to construction of the first implementing project within the Lake Sawyer drainage basin. Monitoring will need to occur consistently over the course of at least one water year (i.e., the 2012/2013 water year) in accordance with the procedures and criteria outlined in Chapters 6 through 12 of the QAPP, which is also included in Exhibit "O" to The Villages and Lawson Hills MPD Development Agreements. The data collected over the 2012/2013 water year (in addition to the data collected over the 2011/2012 water year) will be used to establish a baseline phosphorus load from the Villages and Lawson Hills MPDs.

Approach

Ambient (monthly) Monitoring:

- Monthly water quality monitoring at three Rock Creek locations (i.e., 12 samples for each of the three Rock Creek sites annually). **Total Ambient Rock Creek samples: 36.**
- Monthly water quality monitoring at four locations surrounding the proposed SR169 Interim Improvements (i.e., 12 samples for each of the four sites annually). **Total Ambient SR 169 samples: 48.**
- Monthly water quality monitoring at the Lawson Hills Hammerhead Ditch location (will be monitored as a possible compensation project from February – October 2013). **Total Ambient Hammerhead samples: 9.**



Storm Event Monitoring:

- Three samples collected at three Rock Creek locations during six separate storm events (i.e., 18 samples per site for each of the three sites). *Total Storm Event Rock Creek samples: 54.*
- Three samples collected at four locations surrounding the proposed SR 169 Interim Improvements during six separate storm events (i.e., 18 samples per site for each of the four sites). *Total Storm Event SR 169 samples: 72.*
- Three samples collected at the Lawson Hills Hammerhead Ditch location during two separate storm events (will be monitored as a possible compensation project from February – March 2013). *Total Storm Event Hammerhead samples: 6.*
- Flow monitoring data is also generated at the time of sampling and will be used to estimate separate loadings for base flows.
- The approximate location for each of the eight sampling sites within the Lake Sawyer tributary basin is summarized below and indicated on the Water Year 2013 Phosphorus Monitoring Locations exhibit dated February 13, 2013 attached hereto.
 - **SW-1:** Ginder Creek east of SR 169 and north of Black Diamond Ravensdale Road near the culvert inlet under SR169;
 - **SW-2:** East of SR169 near the culvert inlet of Mud Lake Creek into the culvert under SR169;
 - **SW-3:** In a catch basin located on the west side of SR169, which discharges near the outfall of the Mud Lake Creek culvert under SR169.
 - **SW-4:** Ginder Creek at the north end of the culvert crossing under Roberts Drive;
 - **SW-5:** West of Abrams Avenue crossing on the downstream side of the bridge for Rock Creek;
 - **SW-6:** Downstream side of Auburn-Black Diamond Rd. in Rock Creek; and
 - **SW-7:** North of SE 312th Street crossing at the inflow of Rock Creek to Lake Sawyer.
 - **SW-8:** Surface water approximately 600 feet west/northwest of the north end of McKay Lane, in the Lawson Hills Hammerhead property area.

Proposed Stage 3: Expanded Baseline Monitoring Program and Data Analysis (2013/2014 water year)

Purpose:

Pursuant to the City of Black Diamond Hearing Examiner's Decision for The Villages MPD Preliminary Plat 1A dated December 10, 2012, the Pre-Construction Baseline Monitoring Program is required to be expanded for the Villages Preliminary Plat 1A beyond the Monitoring and Baseline Monitoring stages set forth in Exhibit "O" to the Villages and Lawson Hills MPD Development Agreements and summarized above. Specifically, the Expanded Baseline Monitoring Program for the Villages Preliminary



Plat 1A is required to, at a minimum, include "a significant increase in the amount of sampling to provide for an acceptable error of 0.05 and the use of hydrograph separation, smearing and other techniques to estimate separate loadings for base flows." See pages 80-81 of the Hearing Examiner's Villages Preliminary Plat 1A Decision dated December 10, 2012.

Approach

The following is our proposal for an Expanded Baseline Monitoring Program for the Villages Preliminary Plat 1A for Rock Creek:

- Storm event monitoring at three Rock Creek locations during three separate storm events in the 2013/2014 water year. Three samples collected at each site during each storm event (total of 9 samples for each of the three sites). **Total Storm Event Rock Creek samples: 27.**
- Flow monitoring data will also be generated at the time of sampling and will be used to estimate separate loadings for base flows.
- Combined, Stages 1, 2 and 3 will result in a total of **279** samples (see below for a breakdown of the number of samples at each stage).

Pre-Construction Water Quality Sampling Summary

Monitoring Program	Ambient Samples	Storm Event Samples
Stage 1 (2011/2012)	N/A	27
Stage 2 (2012/2013)	93	132
Stage 3 (2013/2014)	N/A	27

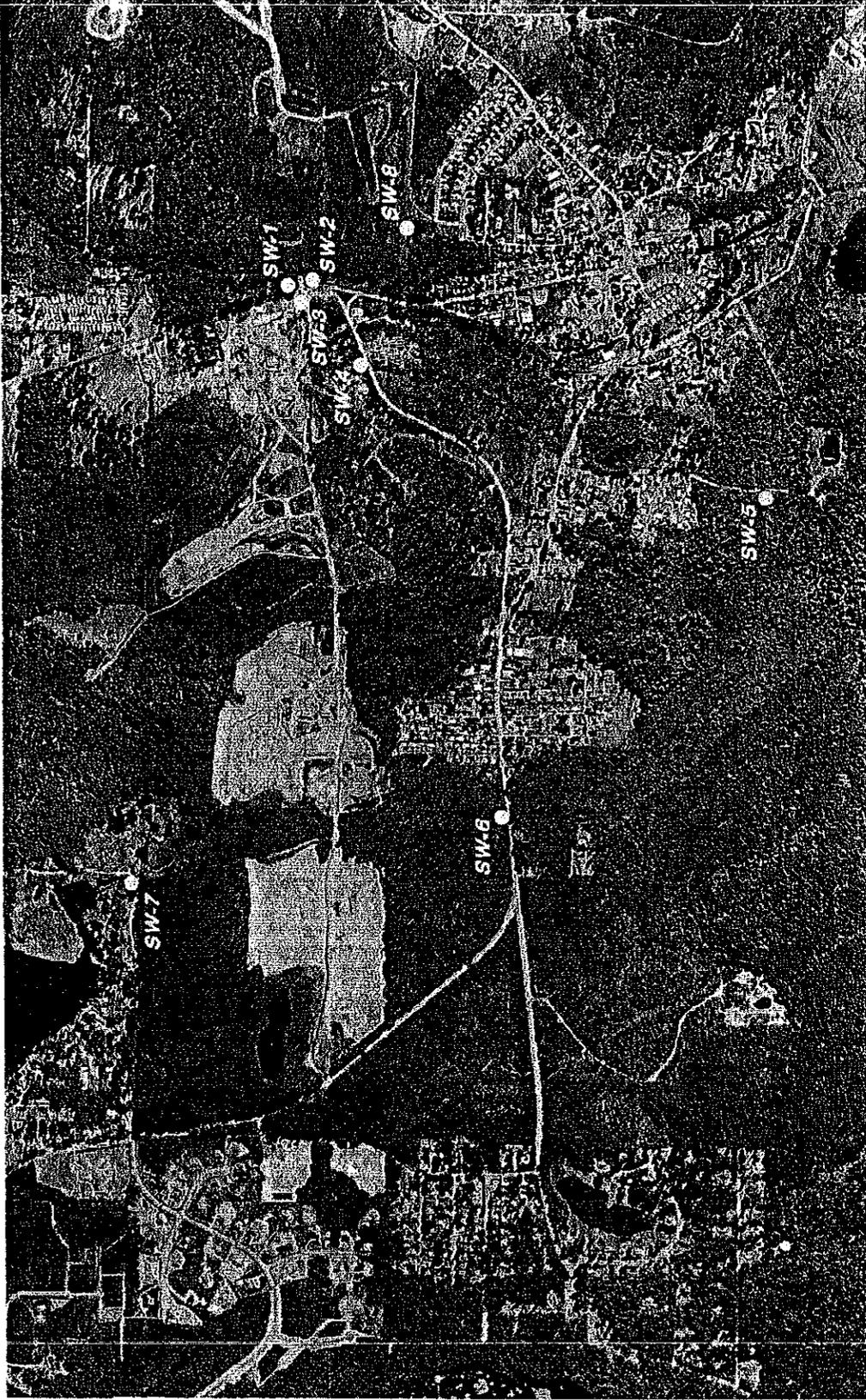
- As proposed, the Expanded Baseline Monitoring Program for the Villages Preliminary Plat 1A significantly increases the amount of sampling in Rock Creek and is sufficient to provide for an acceptable error of 0.05.
- Analysis of water quality sampling and flow data from water years 2011/2012 through 2013/2014 will include development of hydrograph separation, smearing, and other techniques to estimate separate phosphorus loadings for base flows.

Please do not hesitate to give us a call if you have any questions or comments relating to our proposed Expanded Baseline Monitoring Program for Rock Creek.

Sincerely,

Harry L. Gibbons, Ph.D.
Principal Limnologist and
Environmental Services Lead

Robert W. Plotnikoff,
Senior Water Quality Specialist
and Aquatic Ecologist

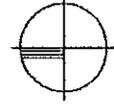


WATER YEAR 2013 PHOSPHORUS MONITORING LOCATIONS

THE VILLAGES

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TRIAD ASSOCIATES
 111215th Avenue
 Millersville, PA 17059
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north



SCALE: 1" = 1000'
 05316-AERIAL-W-PH1A

Tracey Redd

From: Cincity63@comcast.net
Sent: Wednesday, December 10, 2014 3:01 PM
To: MDRT User
Cc: Brenda Martinez
Subject: Additional Hearing Examiner Input for THE VILLAGES MPD PHASE 2 PRELIMINARY PLAT C - PLN13-0027- Public Hearing
Attachments: Sawyer baseline meeting letter 061413.pdf

Please acknowledge receipt of this paid report from Herrera and Associates summarizing the May 29, 2013 meeting held to "satisfy" the HE Mandatory Condition from Plat 1A.

Your attention to this appreciated.

Kindly confirm receipt, as the city is once again experiencing "technical difficulties" during a hearing period.

Cindy Wheeler



HERRERA

June 14, 2013

Cindy Wheeler
The Diamond Coalition
Cincity63@comcast.net

Subject: Summary of Meeting on YarrowBay's Proposal for an Expanded Baseline Monitoring Program

Dear Cindy:

I prepared this letter to summarize our understanding of information discussed at our meeting with YarrowBay and the City of Black Diamond on May 29, 2013. We were surprised to learn that baseline (pre-construction) monitoring data will not be used assess development impacts on phosphorus loadings in Rock Creek or to Lake Sawyer for determining whether the goal for no net increase in phosphorus to Lake Sawyer has been achieved. This information appears contrary to proposed comparisons of pre-development loadings to construction and post-construction loadings in the No Net Phosphorus Implementation Plan included in Exhibit O of the development agreement. We were informed at the meeting that baseline monitoring data will be used to calculate phosphorus loadings before construction to enhance understanding of watershed conditions and for selection of appropriate BMPs and potential mitigation sites, but baseline (pre-construction) phosphorus loadings will not be compared to loadings measured during or after construction. Without comparison of pre-construction loadings to construction or post-construction loadings, the hearing examiner's SEPA condition to increase baseline sampling frequencies to the address the sampling error that we had identified appears now to have little if any relevance because baseline sampling frequencies and error are only relevant for comparison of data sets. It is unclear how effectiveness of future mitigation would be measured without comparison to baseline data.

We were informed that YarrowBay plans to monitor streams at sites upstream and downstream of every stormwater outfall associated with their development in the Rock Creek basin to determine whether the no net phosphorus increase goal is achieved during and after construction. Calculated stormwater phosphorus loadings at each upstream/downstream pair of sites will be tested to determine if they are significantly different using hypothesis testing at alpha and beta values of 0.05. We agree with YarrowBay's response to our comments on the Expanded Baseline Monitoring Program that the proposed collection of 39 samples at each site for each tested construction and post-construction condition will likely be a sufficient number of samples for this hypothesis testing of stormwater phosphorus loadings.



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Cindy Wheeler
September 21, 2012
Page 2

A problem with YarrowBay's upstream/downstream approach is that it does not account for phosphorus loadings from inflow of shallow groundwater at diffuse locations along a stream. Studies have shown that residential development increases phosphorus concentrations in shallow groundwater and stream base flow during dry weather. For example, the median total phosphorus concentration in streams during base flow was more than twice that for residential basins (33 µg/L) compared to forested basins (15 ug/L), based on a pollutant loading study conducted by Herrera in western Washington for the Washington Department of Ecology. Higher base flow phosphorus concentrations were also observed in streams draining low-medium density development (61 µg/L) and high density development (66 µg/L) compared to forested basins (31 µg/L), based on a pollutant loading study conducted by Herrera in the Green River watershed for King County.

We understand that the baseline data will be evaluated and reported by December 2013, and that a separate quality assurance project plan (QAPP) will be prepared for each development area. We hope to have an opportunity to review the baseline report and next QAPP to see how the collected data will be used to determine if the no net phosphorus increase goal is achieved.

Sincerely,

Herrera Environmental Consultants, Inc.



Rob Zisette
Water Quality Principal