STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
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COMMUNITY DEVELOPMENT

August 29, 2013

Mr. Dan Valoff, Senior Planner
City of Ellensburg
Community Development
501 N. Anderson Street
Ellensburg, WA 98926

Subject: Ecology Comments on Draft Critical Areas Ordinance for City of Ellensburg

Dear Dan:

Thank you for the opportunity to review and comment on the amendments to Ellensburg's critical areas ordinance (CAO). We have reviewed the version dated July 3, 2013, and offer the following comments on wetland-related sections for your consideration.

Wetland Delineation and Rating

Changes to the state wetland delineation manual became effective on March 14, 2011 [RCW 36.70A.175, RCW 90.58.380 (1995); WAC 173-22-035 (2011)1. There are several references in the CAO to the state delineation manual. Identification of wetlands and delineation of their boundaries should now be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.

Similarly, the *Washington State Wetland Rating System for Eastern Washington* has been revised. All references should be to Publication #04-06-015, August 2004, or as revised.

The definition of "wetlands" in 15.130.090.1 should be revised as follows (additional are underlined, deletions are struck):

Wetlands. "Wetlands" means, for purposes of ECC Article 6, areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, waste water treatment facilities, farm ponds and landscape amenities.

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However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted. Identification of wetlands and delineation of their boundaries should be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. The *Washington State Wetland Rating System for Eastern Washington* (Revised. Publication #04-06-015. August 2004) or as revised. shall be used to identify and determine the relative functions, critical status, unique status, and sensitivity of a wetland. See ECC Article 6.

15.620.010 Designation, rating, and mapping wetlands.

A. Designating wetlands. - - Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the City of Ellensburg meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter. With the

under normal circumstances do support, a prevalence of vegetation adapted for life in saturated

Identification and Delineation Manual, regardless of any formal identification, arc hereby designated **critical** areas and are subject to the provisions of this chapter.

B. Wetland ratings. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State Wetland Rating System documents Washington State Wetland Rating System for Eastern Washington— Revised (Publication No. 04-06-015, Hruby, T., 2004, or as revised). These documents contain the definitions and methods for determining if the criteria below are met.

Wetland Categories
To be consistent with the *Washington State Wetland Rating System for Eastern Washington* (2004), the wetland category definitions in the CAO need to be updated. We recommend the following:

Category I. Category I wetlands are: 1) alkali wetlands; 2) wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality wetlands; 3) bogs; 4) mature and old-growth forested wetlands over acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores of 70 points or more).

These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.

Category II. Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over 'A acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 51-69 points).

These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions.

Category III. Category III wetlands are **1)** vernal pools that are isolated, and 2) wetlands with a moderate level of functions (scores between 30-50 points).

Category IV. Category IV wetlands have the lowest level of functions (scores less than 30 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

Impervious Surface Definition

We recommend the followinc,,' edits to 15.130.090.1:

Impervious surface. "Impervious surface" means any hard-surfaced, man-made area that does not readily absorb or retain water, including, but not limited to, building roofs, parking areas, graveled areas, sidewalks, and paved recreation areas, or other surfaces which impede the natural infiltration of stormwater. See ECC 15.320.030 and .040 for maximum impervious area standards and ECC 15.320.070 for additional details.

Buffers and Mitigation Ratios

We recognize that it may not be the intent of the City to alter the requirements for wetland buffers and mitigation ratios in this amendment. However, we encourage the City to consider adopting the mitigation language included in our Small Cities Guidance *(Wetlands & CAO Updates: Guidance for Small Cities (Eastern Washington Version)* Publication 10-06-01, October 2012). By adopting mitigation standards based on the state and federal guidance and rules, you will be providing consistency for applicants must also apply for state and federal permits.

Miscellaneous comments

Provision 15.600.090 B contains language that previously impacted or degraded critical areas prior to the proposed land use activity or development are not required to be enhanced by the applicant. If the City does not have a clearing and grading ordinance, this may allow applicants to impact the critical areas first and then apply for permits. Also, this language may preclude the City from putting requirements for improving critical areas in enforcement or permit documents, when such language is needed to make a buffer appropriately effective. (For instance, buffer sizes that are referenced in Best Available Science documents assume that the buffer is vegetated and in good shape. Larger buffers are needed if wetlands or their buffers are NOT in the proper condition to protect against degradation.) Ecology recommends removal of provision B.

As we outlined in several letters to the City in 2009, the wetland buffers required in the CAO are not consistent with best available science, and we encourage the City to reconsider whether the application of these buffers meets the CAO's goal of preventing cumulative adverse environmental impacts to wetlands (Section 15.600.010.D.4).

Please give me a call at (509) 575-2616 if you would like to discuss these recommendations.

Sincerely,

Cathy Reed

Cathy Reed
Shorelands/Wetlands Specialist
Shorelands and Environmental Assistance Program

cc: Donna Bunten, Ecology
Gwen Clear, Ecology
Dave Andersen, Commerce
Mark Teske, WDFW