



Allyson Brooks Ph.D., Director
State Historic Preservation Officer

April 18, 2013

Mr. Jan Bazala
Clark County
PO Box 9810
Vancouver, WA 98660-9810

In future correspondence please refer to:

Log: 041813-25-CL

Property: Clark County SEPA Categorical Exemption Thresholds

Re: Cultural Resources Protection

Dear Mr. Bazala:

Thank you for contacting the Washington State Department of Archaeology and Historic Preservation (DAHP). Clark County (County) is known to contain hundreds of precontact and historic period archaeological sites. With its proximity to the Columbia River, there is a high probability for many additional archaeological sites to be present. The raising of SEPA exemption thresholds will impact cultural resources including archaeological resources, human remains and burials and historic and abandoned cemeteries which have legal protections under state statutes (RCW 27.53, RCW 27.44, RCW 68.50 and RCW 68.60). In order to exempt projects from SEPA review, the County must show "no net loss" or that there are other avenues of protection for environmental resources. This includes cultural resources. Currently the only protections for cultural resources, excluding those projects that fall under the Shoreline Management Act (SMA) and specifically the Clark County Shoreline Management Plan, are through SEPA. **Has the County conducted an analysis of cultural resources that show "no net loss" if the exemptions are raised? Is identification and protection of cultural resources addressed under alternate processes such as GMA or a separate county ordinance?**

It should be noted that SEPA exemptions do not negate compliance with state laws and parties are still held responsible for inadvertent discoveries and damage to archaeological resources and human remains. Inadvertent discoveries of cultural resources during construction often lead to cost overruns and prolonged work stoppages. Currently, Clark County is a DAHP data sharing partner and has successfully used this information in conjunction with SEPA to ensure proper project review in order to identify and protect cultural resources. Since there are no such reviews for exempted projects we request that the County use the following procedures to ensure that cultural resources will not be impacted:

- The location of exempted project should be checked against the DAHP database and statewide archaeological predictive model.
- For exempted projects inside or within 500 feet of a DAHP resources polygon, a cultural resources survey should be required.
- For projects within the High Risk, Very High Risk and Moderate Risk zones on the DAHP Statewide Predictive Model (included as part of the DAHP data sharing agreement) a cultural resources survey should be required.

Since Clark County has already shown a commitment to the protection of its irreplaceable cultural resources and already has data sharing agreement with DAHP, the above process should not be too cumbersome to implement. Alternately, the County may wish to address identification and protection of cultural resources in projects exempted from SEPA under a separate ordinance or under critical areas in the Growth Management Act (GMA).

Thank you for the opportunity to comment. Please feel free to contact me if you have any questions.

Sincerely,



Gretchen Kaehler
Assistant State Archaeologist
(360) 586-3088
gretchen.kaehler@dahp.wa.gov

cc. dAVE Burlingame, Cultural Resources, Cowlitz Tribe
Eirik Thorsgard, THPO, Grand Ronde Tribes
Tony Johnson, Cultural Resources Chinook Tribe
David Powell, Archaeologist, Yakama Tribe
Allyson Brooks, SHPO, DAHP
Chris Moore, Washington Trust for Historic Preservation





Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

April 18, 2013

Mr. Martin Snell
Clark County SEPA Responsible Official
Clark County Community Development
1300 Franklin Street; 3rd Floor
P.O. Box 9810
Vancouver, WA 98666-9810

Subject: Proposed amendment of SEPA Categorical Exemptions

Dear Mr. Snell:

The Confederated Tribes and Bands of the Yakama Nation is a federally recognized Indian tribe under the Treaty of June 9, 1855 (12 Stat. 951). Under Article III of the Treaty, the Yakama Nation reserved rights to fish at all usual and accustomed places, together with the privilege of hunting and gathering roots and berries, both within and outside of its reservation. The Yakama Nation has a vested interest in any land use provision that has probable significant, adverse environmental impacts to any cultural resources or treaty-reserved rights.

The State Environmental Policy Act (SEPA) requires the preservation of important historic, cultural, and natural aspects of our national heritage [43.21C.0202(d)]. **The SEPA requires an environmental impact statement (EIS) be prepared on proposals for legislation and other major actions having a probable significant, adverse environmental impact [43.21C.031(1)].** In determining an impact's significance, the responsible official shall take into account the adverse affect on environmentally sensitive or special areas, such as loss or destruction of historic, scientific, and cultural resources, and endangered or threatened species or their habitat (197-11-330 (3)(e)(i)(ii)). In their analysis, Clark County staff has identified archaeological resources and endangered plants as vulnerable under the new SEPA categorical exemptions. The Yakama Nation concurs with this assessment and **therefore, an EIS is required.**

For millennia the Yakama People have had an intimate knowledge of our environment. We understand the variety and utility of the resources across the diverse landscapes of the ceded and traditional use lands. We expect the resources of cultural value to be preserved and protected for future generations. Some of the sacred foods of the Yakama People include *chíish* (water), *núsux* (salmon), *pyáxi* (bitterroot), *lúksh* (biscuitroot), *sawítik* (wild carrots), *xmáash* (camas), and *wíwnu* (huckleberries). Some sacred animals include *pnít* (elk), *yámash* (deer), *anahuy* (bear), and *xwayamá* (eagle).

Archaeological resources are a kind of cultural resource. They are important to the Yakama Nation for their cultural value. Archaeological resources are physical manifestations of our ancestors in the

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landscape. Archaeological sites contain value to the Yakama People. They demonstrate the variety of activities by our ancestors across the diverse landscapes of Washington. The landscape contains archaeological resources, whether previously recorded or still unrecognized (RCW 27.53.040).

To facilitate the preservation and protection of resources of cultural value across the ceded and traditional use areas of the Yakama Nation, we expect Clark County to utilize a systematic interdisciplinary approach that integrates natural and social sciences [RCW 43.21C.030(a)], including archaeological field investigations when permitting all ground disturbing activities. Systematic archaeological field investigations are necessary to insure that still unrecognized archaeological resources are not disturbed (RCW 27.53.040).

The Department of Archaeology and Historic Preservation (DAHP) has a confidential database with known archaeological sites. Clark County has a data-sharing agreement with DAHP and should screen every project they review, both exempt and non-exempt, as part of the amended ordinance to insure that archaeological sites are not disturbed (RCW 27.53.060). Any project with a known archaeological site must be assessed by a professional archaeologist to determine site boundaries and protection plans. All projects with known archaeological sites cannot be categorically exempt from SEPA.

DAHP has created an archaeological predictive model for Washington State. DAHP's model should be used to trigger archaeological surveys whenever any portion of a proposed project, both exempt and non-exempt, includes "high risk" and/or "very high risk" for archaeological resources. Every permit needs to include an archaeological resource incidental discovery clause so the proponent knows what measures must be taken if archaeological resources are discovered during the project.

For the protection of endangered plants, the Washington Department of Natural Resources, Natural Heritage Program should be utilized.

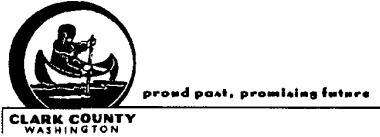
Thank you for your time and consideration. If you have any questions, please do not hesitate to contact me at (509) 865-5121 extension 4655 or Kristina Proszek, Environmental Review Coordinator at (509) 865-5121 extension 6074.

Sincerely,



Philip Rigdon, Deputy Director
Department of Natural Resources

cc: Cultural Resources Committee Tribal Council
Johnson Meninick, Cultural Resources Program
Kate Valdez, Tribal Historic Preservation Office
John Marvin, Habitat Biologist, YKFP
Allyson Brooks, Ph.D., DAHP



DEVELOPMENT and ENGINEERING ADVISORY BOARD

**Recommendations to the Clark County Planning Commission
for
April 18, 2013, Public Hearing
SEPA Categorical Exemptions**

Thank you for asking the Development and Engineering Advisory Board (DEAB) to provide comment on proposed revisions to the following Clark County SEPA code sections (40.570.090):

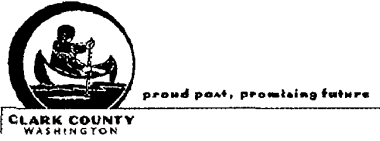
Subsection C. Exempt Levels for Minor New Construction,
Subsection D. Critical Areas,
Subsection E. Non-Applicable Exemptions to Critical Areas.

DEAB previously provided comments to the Planning Commission for the April 4th work session. At that time, DEAB supported the draft proposal with one request to clarify language related to landfills and excavations.

During DEAB's April 11, 2013, regular meeting, DEAB reviewed a revised code proposal (document dated 4/9/2013). DEAB's previous comments are now reflected in the latest draft code, so DEAB recommends approval of the code as presented.

MOTION: DEAB formally moved to recommend their support of the revisions to Clark County code section 40.570.090, as presented in the 4/9/2013 document regarding "SEPA Categorical Exemptions (Attachment A)." The motion passed unanimously.

*Prepared on behalf of DEAB by:
Sue Stepan, P.E.
Development Engineering Program Manager
Clark County Public Works
April 12, 2013*



DEVELOPMENT and ENGINEERING ADVISORY BOARD

**Recommendations to the Clark County Planning Commission
for
April 4, 2013, Work Session
SEPA Categorical Exemptions**

Thank you for asking the Development and Engineering Advisory Board (DEAB) to provide comment on proposed revisions to the following Clark County SEPA code sections (40.570.090):

Subsection C. Exempt Levels for Minor New Construction,
Subsection D. Critical Areas,
Subsection E. Non-Applicable Exemptions to Critical Areas.

DEAB reviewed the proposed revisions in a draft document attached to a March 21, 2013, email from Jan Bazala.

DEAB fully supports Clark County adopting higher thresholds for SEPA Categorical Exclusions, including those in the proposed code revisions. DEAB has one comment on the proposed revisions. In Section C. Exempt Levels for Minor New Construction, Item 5 - the ordinance should be clarified to state that the 1,000 c.y. threshold should only apply to landfills and excavations not associated with one of the other amendments. DEAB continues to support Clark County amending SEPA Categorical Exclusion thresholds to simplify the review process where applicable.

MOTION: Via email, DEAB formally moved and a majority of members approved the above recommendations.

*Prepared on behalf of DEAB by:
Sue Stepan, P.E.
Development Engineering Program Manager
Clark County Public Works
April 1, 2013*