



# THE TULALIP TRIBES

APR 13 2001

The Tulalip Tribes are the successors in interest to the Snohomish, Snoqualmie, and Skykomish Tribes and other tribes and band signatory to the Treaty of Point Elliott.

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April 10, 2001

The Honorable C. H. Rowe, Mayor  
 Sultan City Council  
 City of Sultan  
 703 First Street  
 Sultan, WA 98294

RE: Willows Trace Development impacts to Winters Creek.

Dear Mayor Rowe and Council Members;

I would like to bring to your attention some concerns that The Tulalip Tribes have with regard to the Willows Trace development and impacts to Winters Creek and adjacent wetlands. Our investigation of the site reveals that Willows Trace has been completed in a manner that adversely affects anadromous fish utilizing Winters Creek and adjacent wetlands. The Tulalip Tribes possess the right to take fish at all of its Usual and Accustomed places as guaranteed by the Treaty of Point Elliott of January 22, 1855. The Tulalip Tribes rely on fishing for ceremonial, subsistence, and economic purposes. The treaty is the basis of The Tulalip Tribes' fishing rights in marine and freshwater areas including the Snohomish-Snoqualmie-Skykomish River basins. Federal courts have affirmed these rights and fishing areas in *United States v. Washington*, 626 F. Supp. 1405 (W.D. Wash 1985). In order to protect these treaty rights, The Tulalip Tribes possess significant management responsibilities. The Tribes exercise these management responsibilities jointly with the State of Washington and the Federal Government.

Winters Creek is classified by the Department of Natural Resources Stream Typing system as a Type I anadromous fish bearing stream. The classification changes to a Type III as the stream reaches through the Willows Trace development. The City of Sultan acknowledges this classification in its Planning Department Staff Report of July 27, 1998 prepared for the public hearing held on the Willows Trace Plat application. See Project # FP98-005. In this Report the City also designates the adjacent wetlands as Category 3 wetlands. These classifications afford protections for the stream, wetlands, and aquatic species under the Sultan Municipal Code that were not adhered to by the developer or the City.

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To: Veronica Hayward	From: [Signature]
Ca: P. V. Files	Ca: Sultan Planning
Dept: [Signature]	Phone #
Fax #	Fax #

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Data collected on Winters Creek indicates that the stream supports coho salmon and other resident species of fish such as the Bull Trout, listed as threatened under the Endangered Species Act. The Willows Trace development adversely affects these salmon resources due to the failure of the City to enforce its Municipal Code stream and wetland protection and buffer requirements. Sultan Municipal Code 16.80.050 prohibits impacts to streams and wetlands and their buffers except in very narrow circumstances. It appears that the Willows Trace development violates these narrow exceptions. Moreover, numerous other procedural irregularities resulted in higher density development than that allowed by the City's Municipal Code for this site or approved by the City Council in its August 9, 1999 Plat Approval.

Not only have the Willows Trace developer and the City of Sultan failed to adhere to the Sultan Municipal Code 16.80.090 governing impacts to Class I - III streams and Category 3 wetlands, none of the mitigation measures required by SMC 16.80.070 have been completed by the developer. The City of Sultan Municipal Code provides that mitigation by the developer shall be completed where development impacts streams, wetlands, and their companion buffers.

The Tulalip Tribes expect the specific mitigation measures outlined in the Attachment to be required by the City of Sultan and implemented by the developer in a timely fashion. We are willing to meet with you and your staff to consult regarding these mitigation measures or any other matters contained in this correspondence. Please contact either David Luzi 360-651-4487 or Anne Savery 360-651-4486 if you have any questions

Sincerely,



for

Terry R. Williams, Commissioner  
Natural Resources

Encl.

cc: Christi Amrine, City Planner  
Herman Williams, Jr., Chairman  
Tulalip Tribes Board of Directors  
Daryl Williams  
Mason D. Morisset, Esq.

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