

# AGENDA REQUEST FORM

**Return completed form and complete agenda item to the Clerk of the Board  
Yakima County Commissioners' Office, Room 232**

Prepared by:  
Luke Stilwater

Department: Public Services

Requested Agenda Date: 07/06/2021

Presenting: \_\_\_\_\_

Document Title: \_\_\_\_\_

Board of County Commissioners Record Assigned  
**BOCC Agreement**  
#  
**173 - 2021**  
Yakima County, WA

**APPROVED FOR AGENDA:**  
 Consent                       Regular  
Board of County Commissioners Determined

**Certification of Lands and Authorization for Entry for the Phase 1 Section 1135 Yakima River Gap to Gap Ecosystem Restoration Project.**

Action Requested: *Check Applicable Box*

PASS RESOLUTION       EXECUTE or AMEND AGREEMENT CONTRACT or GRANT  
 ISSUE PROCLAMATION    PASS ORDINANCE    OTHER \_\_\_\_\_

Describe Fiscal Impact:

N/A

Background Information:

Yakima County Public Services has acquired several properties and compiled existing easements necessary to complete Phase 1 of the 1135 Gap to Gap Project as is required in the Project Partnership Agreement with the U.S. Army Corps of Engineers. This document certifies that we have obtained the real property interests and grants a Right of Entry to the Corps to construct the project.

Summary & Recommendation:


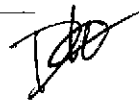
Execute Certification Document.


Motion:

\_\_\_\_\_

Department Head/ Elected Official

**AGREEMENT** Attached Is Approved as to Form  
Corporate Counsel Initial

  
Signature 

\_\_\_\_\_  
Late Agenda Requests Require BOCC Chairman Signature:  
\_\_\_\_\_ 

6/30/2021

Department of the Army  
Seattle District, Corps of Engineers  
ATTN: Real Estate Division  
Post Office Box 3755  
Seattle, Washington 98124-3755

RE: Certification of Lands and Authorization for Entry for the Phase 1 Section 1135 Yakima River Gap to Gap Ecosystem Restoration Project (hereinafter the "Project")

Dear Ladies and Gentlemen:

Yakima County, Washington (hereinafter the "Non Federal Sponsor") has assumed full responsibility to fulfill the requirements of non-federal cooperation specified in a Project Partnership Agreement (hereinafter the "PPA") dated June 25, 2019 with the United States Army (hereinafter the "Government"). Article II.B. of the said PPA requires the Non Federal Sponsor to provide all lands required for the construction, operation, and maintenance of the Project.

This is to certify that Yakima County has sufficient access to the lands and sufficient title and interest in the lands hereinafter shown on Exhibit A, attached, that will enable Yakima County to comply with the aforesaid requirements. This is to certify that the Non Federal Sponsor has sufficient title and interest in the lands that are required for the construction, operation and maintenance of the Project.

On (date) \_\_\_\_\_, the Non-Federal Sponsor granted the Government access to Yakima County owned lands required to support the Project. A less than 90-day old title report covering lands named in Exhibit B is attached to this certification.

Yakima County does hereby grant to the United States of America, its representatives, agents and contractors, an irrevocable right, privilege and permission to use the access that was granted by the easements for the purpose of prosecuting the Project.

YAKIMA COUNTY, WASHINGTON

By: \_\_\_\_\_

DATE: \_\_\_\_\_

**BOARD OF YAKIMA COUNTY COMMISSIONERS  
AGREEMENT**

**Agreement Number**

BOCC Agreement

**173 - 2021**

Yakima County, WA

**BOARD OF COUNTY COMMISSIONERS**

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Ron Anderson, Chairman

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Amanda McKinney, Commissioner

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LaDon Linde, Commissioner

**DATED:** JUL 06 2021

*Attest:*

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Julie Lawrence, Clerk of the Board  
Linda Kay O'Hara, Deputy Clerk of the Board

**Approved as to Form:**

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*Deputy Prosecuting Attorney*

## ATTORNEY'S CERTIFICATE

RE: Certification of Lands and Authorization for Entry for the construction of the Section 1135 Yakima River Gap to Gap Ecosystem Restoration Project located near the City of Yakima in the Yakima River floodplain between Selah Gap commonly known as the "Gap to Gap Reach".

I, Don L. Anderson, an attorney admitted to practice law in the State of Washington, certify that:

I am an Attorney for Yakima County, Washington (hereinafter referred to as the "Non Federal Sponsor").

I have examined the title(s) to of lands identified by the U.S. Army Corps of Engineers as needed for the construction of Phase 1 of the Section 1135 Yakima River Gap to Gap Ecosystem Restoration Project and included in the Certification of Lands and Authorization for Entry document to which this Certificate is appended.

Yakima County, Washington is vested with sufficient title and interest in the described lands required by the United States of America to support the construction, operation, and maintenance of the Project. (list any exceptions)

There  are  are not outstanding third party interests of record that could defeat or impair the title and interests of Yakima County in and to the lands described, or interfere with construction, operation, and maintenance of the Project. Such interests include, but are not limited to public roads and highways, public utilities, railroads, pipelines, other public and private rights of way, liens and judgements. To the extent such interests existed prior to acquisition of the described lands by the County, such interests have either been cleared or subordinated to the title and interests so acquired except as provided in the attached risk analysis.

Yakima County has authority to grant the Certification of Lands and Authorization for Entry to which this Certificate is appended; that said, Certification of Lands and Authorization for Entry is executed by the proper duly authorized authority; and that authorization for entry is sufficient form to grant the authorization therein stated.

DATED AND SIGNED at Yakima WA, this 14 day of June 2021.



Don L. Anderson  
Yakima County Attorney/DPA  
Yakima County, Washington

## **RISK ANALYSIS FOR OUTSTANDING THIRD PARTY INTERESTS**

RE: Certification of Lands and Authorization for Entry Phase 1 Section 1135 Yakima River Gap to Gap Ecosystem Restoration Project located near the City of Yakima in the Yakima River floodplain between Selah Gap commonly known as the "Gap to Gap Reach".

There are/are not outstanding third-party interests of record in and to the lands required for the Project. An evaluation of those interests is as follows:

### **1. IDENTIFICATION OF THIRD-PARTY INTERESTS:**

Parcels identified within the Sportsman Island construction area are a mix of ownership including the FCZD, State Parks, The Greenway Foundation, and several private owners. We have perpetual easements for construction of flood control works on all of these parcels for the portions riverward of the levee. The area where construction will take place is riverward of the Yakima Project Federal Levee and within the floodplain making development by other parties prohibited. State Parks and the Greenway Foundation are aware of and in support of the project. There are also easements for held by Pacific Power on several of the parcels for line construction and maintenance, but no utility lines are present riverward of the levee.

**2. ASSESSMENT:** (Discuss whether the exercise of that interest is likely to physically impair the Project. Discuss the legal implications if the interest is not cleared or subordinated. Discuss the practical impediments to the exercise of the interest such as any required permits, land use restrictions, or compensation.)

The easements held by Yakima County are explicitly for this kind of flood control work and the area is currently utilized as open space and recreational (hiking, horseback riding) by the State Park. This project has been incorporated into the State Parks master plan and the project will not impede future use of this area except during construction and improve river access for water-based recreation once completed. Exercise of ownership rights to impede the project is unlikely and project actions are clearly within the purposes stated in the easements we hold on these parcels.

**3. PLAN TO RESOLVE:** (Discuss recourse available to protect the Project in the event the outstanding interest is exercised).

It is likely that any conflict that arises during implementation of the project can be resolved through negotiation. If brought before the courts our real property interests will provide protection from legal claims pertaining to the use of this property to construct and maintain flood control works.

*Signed:*



Don L. Anderson

Yakima County Attorney/DPA

DATE 6/14/2021