

Office File

John W. Reuss
XXXXXXXXXXXXXXXXXX

Lac Cygne

March 4, 1975

Mr. David Nunnallee, P.E., Chief
Kalispell Regional Office
Department of Health and Environmental Sciences
Box 1031
Kalispell, Montana 59901

Dear Mr. Nunnallee:

Receipt of your office's negative declaration on Lac Cygne Shores Sub-division is hereby acknowledged. It is unclear from the information presented in the document why, if reports are true that DHES in 1972 was writing environmental impact statements on removal of sanitary restrictions, the department now looks back on that period as a time when "enforcement of these restrictions was never vested in any state agency." Loren Bahls, EQC staff ecologist, asks why an EIS wasn't prepared in 1972 when the plat was first filed, with attached sanitary restrictions. In any case, even if the subdivision of land ownership at this particular Swan Lake development is an unalterable fact, removal of the sanitary restrictions is not.

On the basis of the reported percolation tests, the negative declaration brands the soils of the proposed subdivision as "marginal for septic tank use." Later, broad prediction is made that the proposed septic tanks "will likely meet with fair-to-poor success," and "problems." How the announced intention to remove the restrictions can be justified in view of nearly certain public health difficulties is beyond Loren and me. At minimum, the declaration should have stated categorically that the restriction on each lot will remain "unless property owners take full advantage of available suitable land on each lot."

Fortunately (for the lake), Swan is classified (1970 data) as oligotrophic and somewhat resistant to eutrophication yet approval of marginal sewage disposal plans, combined with the inevitable results of land clearing and road building associated with such decisions, can only hasten the day when a new survey will find eutrophication. Certainly the decision on Lac Cygne has less to do with disputes over the application of NEPA, and more to do with the department's mandates under the public health and pollution laws, than many of the department's recent decisions. Why the department asserts powerlessness in the face of pollution and public health dangers connected with ill-conceived subdivisions is a mystery.

Mr. David Nunnallee

page 2

March 4, 1975

One procedural point: The federal Department of Highways began using the term "negative declaration" a few years ago to describe the entire procedure of making a brief statement of the absence of environmental impact associated with pending action. Because of public consternation over the meaning of "negative" in "negative declaration," the EQC Third Annual Report defines a new term for the same situation: Agency Impact Determination. The Department of Health has been using both terms in the last few months, depending on the document's author. For the sake of consistency and clarity henceforth, would you please use the term Agency Impact Determination for any document of the kind you have been labeling "negative declaration"?

Thank you for your efforts toward compliance with the Montana Environmental Policy Act.

Sincerely,

Ronald J. Schleyer
EIS Coordinator

cc: Donald Willems, Water Quality Bureau, Helena

RJS/cnc

MEMORANDUM

To: Ron Schleyer
By: Loren Bahls
Re: Lac Cygne Shores Subdivision
Date: February 28, 1975

I don't understand items (1) and (2) on page 1, particularly the statement "...enforcement of these restrictions was never vested in any State agency so they have not been enforced." DHES was writing EISs on removal of sanitary restrictions in 1972, so apparently they had some authority over these matters. My first question is why didn't DHES prepare some kind of environmental impact document in 1972 when the plat was first filed, with attached sanitary restrictions?

As for Swan Lake, it is classed as an oligotrophic or undernourished lake according to a 1970 Fish and Game Dept. survey. It is quite deep (132 feet), has fairly high transparency (Secchi Disc visible to 27 feet), and contains abundant oxygen down to 100 feet during summer stratification.

Even though it's still in pretty good shape, it can still be the victim of the old salami game: it will slowly eutrophy one slice at a time and before you know it the whole lake is gone. This and previous subdivisions will speed up the process, not only in the leakage of sewage but in land clearing and road building. Presto! Cultural eutrophication. This is particularly likely in light of the statement that "The subsurface disposal of sewage in the proposed subdivision will likely meet with fair-to-poor success, due to a combination of poor soil percolation and excessive slopes." I find it no less than astounding that they (DHES) would even consider removing sanitary conditions (which they say they are powerless to do) under these conditions. ????

file

Office Copy
RECEIVED

A NEGATIVE DECLARATION

FOR

FEB 24 1975

LAC CYGNE SHORES SUBDIVISION

A Filed Subdivision in Lake County, Montana

ENVIRONMENTAL QUALITY
COUNCIL

REASON FOR NEGATIVE DECLARATION

A negative declaration, rather than a full environmental impact statement, has been prepared for the Lac Cygne Shores subdivision for the following reasons:

- (1) The subdivision was filed in 1972 under previous subdivision laws which did not require prior approval by the State. When the plat was filed sanitary restrictions were attached, but enforcement of these restrictions was never vested in any State agency so they have not been enforced. These unenforceable restrictions were the only deterrent to constructing and occupying dwellings on the lots. As with many subdivision in this category, several lots have been sold in Lac Cygne Shores, and one house has been built.
- (2) In view of (1) above, the subdivision is a foregone conclusion which could not be altered by a full environmental impact statement analysis.
- (3) Field investigations have shown potential building sites on all lots but one, and removal of sanitary restrictions have not been requested on that lot.
- (4) Prior to filing the plat with Lake County, the developer reduced the total number of lots from 28 to 24, to minimize problems with steep slopes and unsuitable building sites.

For all the above reasons, a negative declaration appears the best way of completing the environmental review of this development.

LOCATION

The Montana State Department of Health and Environmental Sciences has received a proposal for removal of sanitary restrictions from a 24 lot subdivision along the northwest shoreline of Swan Lake, in Lake County, Montana. The proposed development location is in SE $\frac{1}{4}$, Section 24, Township 26 N. Range 19W, MPM, and occupies 17 acres of land and approximately 2300 feet of shoreline.

TOPOGRAPHY

The proposed development is located in a heavily wooded area covered with cedar, deciduous trees and brush. The land drops rapidly to Swan Lake with slopes ranging from about 5% to about 70%, and averaging perhaps 15%.

The property is crossed by a small intermittent creek which flows northeasterly to Swan Lake. The ground adjacent to this creek is muddy and saturated with water, particularly in the spring of the year.

LOTS

In general the terrain flattens considerably for the last 100 or so feet on the downhill side and some lots would be suitable for building on this portion. Other lots, particularly near the middle of the subdivision, drop off steeply to the lake, and would be suitable for building only on terraces well above the lake. Apparently, only one lot #15 would definitely be unsuitable for building, as it is bisected by a small creek. Sanitary restrictions would not be lifted on this lot.

SOILS

The soils within the proposed subdivision consist of an unsorted rock, silt and clay mixture. Large, angular rocks are abundant, many ranging between 2 and 4 feet across. A few such rocks up to 5 and 6 feet are present. Topsoil ranges in depth from 3 to 24 inches, and appears to average about 10 inches. Depth to bedrock in the area is sufficient to avoid any problems.

Nine test holes, 8" in diameter were dug in the area for percolation tests, to depths of 26 to 40 inches. Two of these holes were stopped by large rocks. Percolation rates varied considerably, but averaged about 5.5 minutes/inch under saturated conditions. This is considered moderate percolation, and would be marginal for septic tank use.

WATER SUPPLY

Three potential water supply sources exist, although none has been developed. Wells could be drilled, but no other wells exist in the area and the depth or availability of water is not known. The presence of large angular rocks would make well drilling indeed hazardous and perhaps very expensive.

The small creeks flowing across the property have been considered by the developer as possible water supplies with the further intent of drying up the downstream marshy areas. This is not practical, as there probably is not enough water available for domestic supply during the summer, and it would be very difficult to pick up all of the water necessary for drying up the land below.

Swan Lake is available as a water supply, and is probably the most practical source. Such a source for a public supply would require chlorination and could experience turbidity problems in the spring and possibly taste problems in the summer. Sanitary restrictions will be removed on the condition that chlorination must be provided where lake water is used.

SEWAGE DISPOSAL

The proposed method of sewage disposal is by means of septic tanks. The subsurface disposal of sewage in the proposed subdivision will likely meet with fair-to-poor success, due to a combination of poor soil percolation and excessive slopes.

All lots appear to contain relatively flat portions on which sewage disposal fields could be constructed more than the minimum required 100 feet from the lake shore. Perhaps the lots of most concern are those which are fairly flat only the first 70 to 100 feet from the lake shore, because it is there that landowners probably will want to build.

In summary, it is felt that sewage disposal could pose problems within the proposed subdivision, unless property owners take full advantage of available suitable land on each lot.

NEIGHBORING DEVELOPMENT

The proposed subdivision presently contains one house. The land immediately south of Lac Cygne Shores is State Forest and is not likely to develop unless the State decides to issue special use permits in the area. Another large subdivision is east of Swan River and along Swan Lake and constructed by Stoltze Lumber Company in Section 11, Township 26N, Range 19W. Also, beginning approximately 1 mile northwest of Lac Cygne Shores, and extending north along the shoreline of Swan Lake and Swan River for some two miles, is a large subdivision which was recently developed.

PROBABLE IMPACT ON ENVIRONMENT

With ultimate development, the proposed subdivision could result in the construction of 24 homes or cabins, 21 of these with waterfront on Swan Lake. All 24 homes would be on private sewage systems. Any drainfield failures could result in direct pollution of nearby Swan Lake.

Aesthetically, the subdivision would be undesirable to the extent that it would dot part of the presently undeveloped west shoreline of Swan Lake with homes and cabins.

An influx of up to 24 families into the Swan Lake area could ultimately occur, and with them would come the usual automobiles, boats, a certain amount of noise, clearing, burning, and other activities, all of which have an impact on the environment. Some habitat would be excluded from use by deer and other animals. Some depletion of fish in the lake would occur. Unpaved dirt roads in the subdivision would result in some dust air pollution.

COPIES TO:

Dr. V. D. Ferree, Glacier Bldg., Kalispell
Montana Environmental Quality Council, Box 215 Capitol Station, Helena
Montana State Fish & Game Dept., Mr. Jim Posewitz, Helena
Montana State Forester, Helena
Montana State Dept. of Health & Env. Sciences, Mr. Art Clarkson, Helena
Montana State Dept. Intergovernmental Relations, Div. of Planning & Economic
Development, Capitol Station, Helena
Mr. Ben Wake, Administrator, Environmental Sciences Division, Helena
District Ranger, Swan Lake Ranger District, Bigfork
Board of County Commissioners, Lake County Courthouse, Polson
Lake County Sanitarian, Mr. Al Hawkaluk, R.S. Box 1210, Polson

This Negative Declaration jointly prepared by Daniel Vichorek, Technical Report Writer, Montana Department of Health and Environmental Sciences, Helena and David Nunnallee, Public Health Engineer, Montana Department of Health and Environmental Sciences, Kalispell.

