

Tim Woolett, Bary Berezowsky

Please see attached response to your document,

**MITTGATED DETERMTNATTON OF NONSTGNTFTCANCE (MDNSI- WAC 197-1L-970
Jamestown S'Klallam Tribe Outpatient Clinic Application File NO. CDR 20-001**

Due to the lack of understanding of the real nature of this project and its target clientele, the initial MDNS shows only cursory and token efforts to take a serious account of the actual and verifiable Potential Significant Environmental Impacts. The City has taken an approach reflecting impacts as if comparable to a small-scale and typical professional office or specialized medical clinic or dentist office.

Errors in this approach include but are not limited to:

- The primary purpose of facility is to treat a specified clientele, Opioid addicted persons using Medication Assisted Treatment (MAT).
- This MAT facility will be dispensing Methadone, a Class II controlled Substance only authorized to be delivered through federally designated Opioid Treatment Programs (OTP)
- Federal law contains specific guidelines for the licensing, security, and accommodations of these matters, yet our City Staff has no knowledge of these requirements and has made no accommodations.
- The operational processes include hazardous chemicals and controlled substances, yet these are not addressed.
- The associated demographic group has specific concerns which are ubiquitously documented and are the subject of thousands of scholarly studies. The societal impact of this demographic group should not be dismissed without even the slightest consideration or acknowledgement
- Western Washington studies show that participation in MAT treatment of this demographic group does not guarantee compliance or a change in the nature or behavior of a significant and verifiable percentage of this group. In other words, just because they are enrolled does not change some of the behaviors or remove their impact on our environment or our community.
- To focus mitigation for the project strictly on environmental factors does not accommodate the human factors They are not divorced from its impact on society

City staff and the developer have ignored these facts, presenting this facility as a standard outpatient clinic – under federal law, a standard outpatient clinic would not be permitted to deliver this treatment (methadone).

Mitigation

City Staff has only identified the 3 following areas of impact to address with potential mitigations:

- The potential for adverse environmental impacts to air quality due to dust emissions.
- The potential for adverse environmental impacts to cultural resources due to site disturbance.
- The potential for adverse environmental impact to public services due to the possibility of increased law enforcement and emergency services.

The Proposed Mitigation Measures reflect a similarly inept attempt to address such areas of impact which are notably minor. And while missing the big picture, these attempts may put a check in the SEPA/MDNS box, but they reflect the staff's lack of understanding at best, or their willful negligence at worst.

With this in mind, my efforts to identify and propose mitigation measures for the given Environmental Checklist are included as a response to this checklist. There is much overlapping subject matter as an environmental expert would understand. What affects water, affects the earth, and so forth. It is difficult to separate these concerns and mitigation attempts into the appropriate silos without repetition or overlap.

I am not an expert on this approach, however I do consider my knowledge on the subject matter of drug addiction, treatment and its social impacts to be extensive.

Sovereignty:

Due to the Developer's status as an independent nation, there are distinct delineations that disallow oversight under the guise of "Self Determination" clauses in treaty and law. I am also not an expert on these, however the impacts to our community are amplified when we lose all ability to manage, oversee, or participate in the project as we would with an ordinary project developer. This condition should be considered as a significant impact. Under different circumstances which do not involve federally regulated controlled substances, medical, behavioral and criminal concerns, public oversight may not be an issue. However this facility involves all of these, yet our ability to monitor compliance with either legal or licensing compliance, or basic accords like the suggested neighborhood agreements are hollow promises. Even the Washington State Department of Health is prohibited from oversight of its very own licensing agreements. [DOH Weisman Letter](#)

Therefore, a Limited Waiver of Sovereignty is a critical mitigation strategy and must be included. Yet there is no mention throughout the MDNS document of this strategy, essentially giving a carte blanche to the developers for whatever they want, and the citizens of Sequim are left holding a bag full of empty promises.

Furthermore, the site is designated as an Economic Opportunity Zone. The name implies some sort of economic opportunity for the City of Sequim. Yet the Developer's current medical facility is exempt from taxes, and there is no reason to believe this one won't also be exempt eventually, despite the offer to pay taxes on a small part of the land. We have analyzed the holdings of this developer and throughout Sequim City Proper they currently avoid over \$75,000 annually in property taxes alone. In addition, the process of graduating the Fee Simple Absolute Land into Tribal Trust moves it even further out of reach of City control and tax revenue. Without specifically denying this conversion and including this matter in a Limited Waiver of Sovereignty, we have no guarantee that the property, and perhaps eventually the entire zone, will become a NO Opportunity Zone for the City of Sequim.

Under the circumstances of the ongoing COVID-19 epidemic, my ability to respond to this document fully has been impaired due to the City of Sequim policy disregarding this public health emergency and moving ahead undeterred. Additional time should have been allowed to accommodate the responses from the community and interested parties, yet they have declined to do so.

This and other actions and statements by city staff have shown an approach towards this project more akin to advocacy rather than oversight. I have contacted the State Department of Ecology for guidance on this matter. In the interim, please accept my comments on the MDNS below.

Jodi Wilke
Save Our Sequim Chair
Party of Interest

STATE ENVIRONMENTAL PROTECTION ACT CHECKLIST:

1. EARTH

... Any potential for adverse environmental impacts due to clearing, grading, or filling can be mitigated through the City of Sequim's clearing and grading requirements applied through the Site Construction Permit."

".... construction, stormwater infiltration capabilities, erosion and sediment control, wet weather work, hazardous material studies,"

Concerns:

1. According to nearby residents, Evelyn Shaw, owner of the Shaw family farm, prior work done on clearing the irrigation ditch resulted in sediment and organic material residual flowing downstream into their property. The materials obstructed flow to their irrigation pump system and clogged their pump, resulting in an expensive repair.
 - a. No plans are presented to acknowledge this potential during or after construction
 - b. No remedy is suggested to avoid or mitigate this potential
2. Damage to tree line as a result of burying the irrigation ditch. These trees are part of a micro-ecosystem, providing homes and shelter for assorted wildlife on the property. As such they produce a sort of mini-riparian zone that should be protected. Similarly, the existing water supply provides life to the trees and animals within this zone. Sequim is naturally an arid micro climate area and access to water is crucial for plants, trees, and wildlife.
 - a. Disruption of this water supply would weaken the health of this zone and detrimentally affect the wildlife as well as the trees that shelter it.
 - b. It would also create a hazard as the trees die from lack of water and fall over.
 - c. Excavation for piping the water supply would also weaken root systems and cause additional vulnerability to this important wildlife feature.

Potential mitigation measures:

Protect rather than eliminate this important natural feature.

Provide public access to enjoy the serenity and fascination of a running stream within this housing area. The stream/irrigation canal is within approximately 200 feet of a housing community and neighborhood. The historical disuse and vacancy of the property has likely permitted a sort of unofficial public access point. A sudden change in ownership should not prohibit access to this feature, especially for a facility that is purported to be a public facility offering a public benefit. Is it right to limit that benefit to exclude the surrounding community from enjoying this natural habitat? We recommend a park-like setting to enhance the natural beauty and fascination that draws people and animals to water. A riparian zone should be established on both sides of this feature to protect it in perpetuity.

Consider a public endowment and dedication of this water feature and park to the people and city of Sequim. It could be titled, "Healing Stream Park" in commemoration of the facility name as proposed originally (the second

renaming was the Jamestown S'Klallam Healing Campus) and as a sign of respect for the historical significance of the stream in the context of Sequim's irrigation heritage, and as a sign of hope for the success of the proposed facility.

The Department of Natural Resources (DNR) recommends a 100ft buffer for type 4 stream type

[Riparian Zone Strategies from WA State DNR](#)

Such a strategy would also have the effect of protecting the Shaw Family Farm irrigation and water supply for their apple orchard and beef cow production. Non-disruption of this water feature would maintain the current status quo and avoid disruption of this important resource to the farm and other downstream concerns.

Maintaining the open water feature would also preclude roadway access from being built through and over the stream. As the developers are well aware, City of Sequim has been considering such a project as a bypass for Washington Street.

- It would be detrimental to the Shaw farm to build this through to connect the proposed facility due to significant traffic and disruption to the cows, as well as added air and water quality concerns.
- A roadway bypass to the proposed facility would be a detriment to the local community since it would encourage significant traffic flow.
- Any such bypass connected to the proposed facility would stand to benefit the developers project at the taxpayer expense as the traffic would have this facility as a primary destination.

2. Air

“During dry periods the proponent will be required to employ the use of watering all dust generating surfaces a minimum of three times daily or more as needed during construction phase of the project. Alternative non-chemical methods may be considered for approval by the City of Sequim.”

Concerns:

Dust and noise from construction is largely unavoidable. However, the recommended treatment using water three times daily should be adequate. We are curious and would like to be given examples of the non-chemical methods mentioned above. Likely there is no concern, however in the interest of submitting a complete MDNS we would like to know what the developer or City had in mind when the above statement was included.

Potential mitigation measures:

1. Consider the above suggestion to develop the irrigation canal as a “Healing Stream Park”. The existing tree line would act as a dust and noise barrier shielding the nearby housing community from construction activities
2. Consider (below) suggestion to arrange the site plan in such a way as to provide an actual buffer from the nearby housing community and the Shaw Family Farm. The developer's statements that such a buffer exists is currently unsupported as demonstrated by the site plan.

3. Further displacement of site activities to the South West corner and a wider disbursement of the various structures across the property would ensure there would not be a slow sprawl towards the projected but denied Phase II expansion of the MAT (10,000 sf) and Psychological inpatient facility (not permitted)

3. WATER

- a. Surface Water: Staff concurs with the checklist description
- b. Ground Water: Staff concurs with the checklist description. Because the City of Sequim has no stormwater system, all proposals must treat and/or infiltrate stormwater runoff on site. Methods include, but are not limited to, individual on-site infiltration trenches or drywells, raingardens, and stormwater infiltration/retention ponds.
- c. Water Runoff: Staff concurs with the checklist description. As provided above, City of Sequim standards require that all proposals treat and/or infiltrate stormwater runoff on site consistent with the DOE Stormwater Management Manual for Western Washington, 2012, updated 2014.

Concerns:

1. Water infiltration is suggested using common onsite soil and groundwater infiltration trenches, dry wells, etc. by naturally occurring systems. This project is a Drug Treatment Program exclusively, not a residential or farming concern in nature. We can anticipate hazardous materials to be integral to the outflow. As such the concern of this outflow making its way into the existing groundwater, irrigation system, and Dungeness River system. Whether directly or through groundwater this presents a concern for potential water pollution downstream.
 - a. There is no adequate mechanical system for on-site storm water decontamination and reclamation
 - b. There is no acknowledgement for the potential of hazardous waste or medical / pharmaceutical metabolites that may infiltrate the groundwater or irrigation systems.
 - c. There is no attempt to prevent or evaluate the potential for hazardous petrochemicals or medical / pharmaceutical waste or metabolites entering the Dungeness river system.
 - d. There is no protection offered for any members of the community who might be affected by these potential hazards
 - e. There is no protection for any members of the irrigation system downstream, nor does there appear to be any attempt to contact them or involve them or their concerns.
2. There is no possible oversight, mitigation or remedy for any of these concerns as long as tribal sovereignty remains intact.

References:

[Methadone and metabolite urine concentrations in patients maintained on methadone.](#) NIH

[Methadone Creates Harmful Byproducts in Treated Drinking Water](#)

Potential mitigation measures:

1. A comprehensive plan to protect water quality is as elusive as water itself. Taking the perspective that water quality is established as variable x prior to the proposed project:

- we can anticipate impact from construction as a temporary negative impact (- c)
- This construction impact will dissipate when complete, and over time become negligible (+c)
- However, the presence of the building and parking lot structure in a static state (uninhabited) is a change to the pre-existing land and an obstruction to the natural ground surface. We can represent this as a negative impact of the static project (c-P)
- We can also anticipate a negative impact of the human factor ultimately intended to travel to and occupy the project, and represent this factor as a negative (-H)
- Behavioral components well documented and cited throughout this document necessarily increase the H factor.

The final calculation shows that the net impact is necessarily a net negative: $[-c + (c-P) + (-H)]$

2. In order to take a protective stance strictly in favor of water and soil quality, and to prevent an unmitigable impact to these resources, AND due to the unpredictable behavioral concerns of the target clientele as a demographic group, we can anticipate the following needs:
 - 24 hour public restroom and shower facilities to encourage sanitary practices
 - These facilities must be monitored by security personnel to discourage injection drug use and other criminal behavior or violent crime inside bathroom or shower areas
 - 24 hour shelter or housing to deter camping for clients unable to manage the long commutes necessary for a 4,000 square mile service area. Open planning and public discussion is needed to evaluate both a clean/sober facility and low barrier shelter as these will serve different clients and should not be comingled ([Swinomish looks to add housing](#))
 - Syringe disposal boxes on site
 - Syringe exchange program on site with verified return / registration of syringes to prevent diversion or abuse of the exchange ([syringes used in black market](#))
 - Fenced walkways along ingress and egress to site to limit access to private properties
 - Onsite 24 hour security to enforce compliance.
3. Changes or additions to Sequim Municipal Codes is necessary as follows, including law or code enforcement staff who are capable, authorized and empowered to enforce such laws or codes:
 - Banning public urination/defecation/exposure
 - Littering, with enhanced punitive measures for hazardous or dangerous materials
 - Code prohibiting substandard housing with enhanced punitive measures for erecting such structures or neglect of proximity to same resulting in unsanitary conditions, hazardous, biological or chemical waste or other health risks

- Code prohibiting unauthorized fire, flame or incendiary devices whether used for cooking or for preparation of injectables (Safe injection site may be required as an alternative to illegal use of such incendiary devices, hazardous chemicals or dangerous (sharp) instruments.)
 - Enhanced measures to address contagion whether knowingly or unknowingly perpetrated
 - Punitive measures to extend to project management for failure to control clientele as promised in multiple public forums, news articles and developer's "[Community Response Plan](#)"
 - Health department involvement in drafting and enforcing applicable regulations and punitive measures.
4. Modification of City of Sequim vision statement. In order to comply with GMA the vision statement for the City of Sequim would need to accommodate this change in focus on the city's definition of rural character. A statement including Sequim as a community welcoming to all who struggle with drug addictions (and future phase II would require inclusion of behavioral health concerns) would need to be added if the city wishes to remain truthful in their focus on Sequim's *raison d'être*. To promote daily influx of a clientele exceeding 5% of the city population and not include that in the city's vision seems dishonest.
- Approval of city merchants would be recommended
 - Approval of tourism and chamber of commerce recommended
 - Consideration of the public concerns may generate controversy

KEY MITIGATION PRINCIPLE:

A **limited waiver of tribal sovereignty** is required to allow any kind of legal and binding recourse for degradation or contamination of affected water and soil systems by either natural stormwater runoff or by unsanitary practices attributable to present or former program participants or associates.

A limited waiver of tribal sovereignty is required to permit administrative oversight of all present or former participants, for the purposes of identifying such sources of contamination as may be attributable to facility through present or former migrating or commuting clients or associates

11. Light and Glare

Concerns:

Light pollution is a factor with any commercial or industrial facility particularly this one. Light pollution is defined as:

"brightening of the night sky caused by street lights and other man-made sources, which has a disruptive effect on natural cycles and inhibits the observation of stars and planets."

Oxford online

The extremely restrictive licensing, storage and security requirements confirm the need for security lighting at all times in that a facility of this sort presents specific public challenges. Because of this need, it necessarily lowers the community nighttime ambiance, increases energy consumption contributing to climate change, and potentially disrupts circadian rhythms of nearby neighbors or animals (in the case of Shaw Family Cows.) Yet we cannot see an alternative to this security lighting for these reasons:

- The supply of controlled substances necessary to conduct this operation is at risk of diversion into public black markets as demonstrated by licensing requirements developed with intent to prevent such diversion.
- This project is specifically associated with a clientele of vulnerable or at-risk people more likely to engage in criminal behavior than the general population.
- Persons in treatment are also likely to commit crimes or be criminal justice involved
- The potential for unauthorized nighttime vagrancy, trespassing, or habitating on or near the property is increased according to Anacortes model concerns.
- The concept plan has a set aside area for future housing as yet undefined which could attract or ultimately accommodate a temporary encampment site.

[Light Pollution – Oxford online dictionary](#)

[RCW 71.24.585 Licensing Requirements](#)

[Chapter 69.50 RCW UNIFORM CONTROLLED SUBSTANCES ACT](#)

[Drug users more likely to engage in criminal behavior](#)

[Anacortes MAT Facility provides tents, sleeping bags, hygiene kits](#)

Potential mitigation measures:

The site plan included shows a multi-phase plan including inpatient facilities that are disallowed on this site, zoning does not permit it. This portion of the proposal must either be included and considered in the permit process or excluded and abandoned. Piecemeal project development in order to avoid restrictive zoning laws is shown by legal precedence NOT to be allowed. ([Murden Cove Pres. Ass'n v. Kitsap County](#))

1. We propose to rearrange the site plan, in order to ensure and commit to the developers promise that they are not maneuvering their project in such a way as to accommodate a future phase II, and ultimately to reduce the impact of the exterior nighttime security lighting of the “Phase I” or complete project as follows:
 - Place the parking lot and high demand areas towards the south portion of the property facing the highway 101 corridor.
 - As such, the nighttime security lighting is less likely to impact or intrude in the health and wellbeing of the nearby community and farm.
 - This will also provide a full-frontal unobstructed mountain view for the clinic.
 - Due to the existing berms, Highway 101 will not be visible or objectionable
 - This will also reduce heating costs as the solar frontage of south-facing windows will effectively heat the building.
2. In consideration of impact to the ecology, climate change and energy consumption we propose the following:
 - We recommend using the lowest lumen and energy conserving lights feasible to provide adequate security.
 - We recommend solar powered systems wherever possible.
 - We recommend installing motion sensor devices to trigger lighting and surveillance for added, low-impact security

- Without the ability or desire to fully fence the facility, we recommend full time night security personnel in addition to the standard daytime security personnel already required by law for licensing an OTP

KEY MITIGATION PRINCIPLE:

In order to maintain oversight of these security measures over time, a **limited waiver of tribal sovereignty is necessary** authorizing such oversight in perpetuity. Currently all DOH and federal, state, or local municipality oversight is prohibited for any Indian Healthcare Clinics or FQHC's

In order to maintain this agreement allowing oversight through a limited waiver of tribal sovereignty, the developer must agree to refrain from ever placing this property into trust, or changing from a fee simple absolute property to any other sort.

4. PLANTS
5. ANIMALS

Comment: There are conflicting statements in the completed SEPA checklist

Section 5a of the completed checklist states the following:

“Per the DOE, Northern Spotted Owl, Winter Steelhead, Coho, and Pink Salmon Odd Year inhabit the site. However, the irrigation ditch is used for irrigation purposes and does not have fish.”

Section 5c of the completed checklist states the following:

“The site is part of the migration route for the winter steelhead, coho, and pink salmon odd year.”

If the site is part of migration routes of the northern spotted owl, winter steelhead, coho, and pink salmon, or if these species inhabit the site, the MDNS should address potential adverse impacts that the project would have on these species in a more detailed analysis.

The statement in the MDNS that “Staff concurs with the checklist description” is inadequate An EIS should be required. These are major deficiencies in the environmental review.

6. ENERGY AND NATURAL RESOURCES

- Included with light and glare

7. ENVIRONMENTAL HEALTH

- Included under Water and Earth

8. LAND AND SHORELINE USE

- N/A

9. HOUSING

- Included with Water – Shelter services
- Future housing will likely be a concern for this facility. Drawing from a 4000 square mile service area for a population that is 48%- 69% housing challenged [Syringe Exchange](#), [DSHS Study](#)

- If Sequim is to alter its focus to attending to the population of treatment-seeking individuals who must be delivered to this facility by bus, van or daily commute, See above changes to Comprehensive plan to reflect this focus.

10. AESTHETICS

11. LIGHT AND GLARE- Repeated

12. RECREATION - See proposal for Healing Springs Park

13. HISTORICAL AND CULTURAL PRESERVATION

Concern that no attention is paid to the heritage of the pioneers who developed the irrigation system, bringing life into this region and creating a vast commercial basis for dairy, farming and hay production. This was the background of the area and set the stage for today's "gentleman (woman) farmers known for lavender, a cultural contribution that really put Sequim on the map.

Yet cultural and heritage concerns submitted in this report focus entirely on the heritage and identity for the tribal Developer. It cites archaeological concerns and other native artifacts. Indeed, the first thing the developer did on occupying the property was to obtain a demolition permit to destroy and remove a barn that may have been eligible for the Washington State Historical Registry. Our research was preempted by commencement of the demolition, which made that effort a moot point. Yet the point that heritage include BOTH people's heritage should be noted, for the record.

Potential mitigation measures:

TO honor pioneer families and the heritage they bring to the Sequim Basin, and to protect and diversify the wildlife and water features on the property, and to encourage a more effective buffer for the last existing farm of pioneer heritage bordering the site, and to substantiate the commitment of the Jamestown S'Klallam Tribe has for a shared heritage, City of Sequim and the Developer should establish the Healing Stream Park site as previously described.

14. TRANSPORTATION

The transportation study provided herein has several mathematical errors that should be re-evaluated. For instance, the number of vehicles traveling out in the evening is fewer than the number coming in. Are we having overnight stays? This document also does not consider the following

- Travel in and out at full capacity of 300 patients and 40 staff members
- Travel and access to Washington Street during peak hours
- Impact to school age children during school release time
- Impact to public bus system

Further deficiency and opacity involves reference to the City of Sequim plans to develop a Washington Street bypass route, which appears to provide a direct connection to the proposed facility.

- City taxpayers should not have to pay for access to this commercial interest
- Safety study of the Prairie Street Community should be done with consideration to

- Peak travel times, capacity and traffic flow
- School age kids and start/end of school day
- Impact of non-resident, housing challenged “parked” vehicles and derelict vehicles
- Any other related vehicular or social impact of 340 vehicle trips twice daily

15. PUBLIC SERVICES

Study by police officer on the Jamestown Clinic is inaccurate. The stated capacity and scope of services claimed by the Jamestown clinic are untrue.

- The facility was established as a MAT clinic in 2017.
- Initial licensing capacity is limited to 30 patients for ALL clinics for the first year.
- Only after that during the second year can the capacity be increased to add 100 more clients.
- This number would necessarily be increased slowly over time as people sign up.
- As of January, 2020, the facility was not full and was accepting new patients for MAT.
- [Licensing requirements from DOH](#)

These facts prove that the numbers cited in the officer’s report are false. Yet state and federal law prohibit oversight and we cannot know what the real numbers are unless they allow.

This impact statement is not relevant to the reality of MAT clinics of the size and scope of the proposed facility. This study must be redone to find a relevant example.

16. UTILITIES