



# COCONINO COUNTY ARIZONA

## COMMUNITY DEVELOPMENT DEPARTMENT

Jay Christelman, Director

**EFFECTIVE DATE:** May 6, 2021

**POLICY NAME:** Ranch at the Peaks Setbacks

**POLICY NO:** EQ-2021-02

**PURPOSE:**

To clarify the conflicts in various documents regarding the setbacks from channels within the Ranch at the Peaks Subdivision.

**BACKGROUND:**

**General:**

Arizona Department of Environmental Quality (ADEQ) rule in R18-9-A210(C) establishes setbacks including:

- 100 feet from an intermittent stream as measured from the 10 year event.
- 50 feet from a wash as measured from the bank.

The setback from a wash includes the criteria that it may be reduced to 25 feet when the wash is protected from erosion as approved by the flood plain administrator. There is no explicit criteria for reducing the setback to an intermittent stream. These rules were adopted in 2001.

**Chronology:**

The preliminary plat for the Ranch at the Peaks Subdivision was prepared by Mogollon Engineering & Surveying Inc dated 6/12/2006. The topographic contours accurately show the channels. There is no mention of setbacks or realignment. This is the document that was used by Coconino County Community Development Department, Environmental Quality Division (CCCD EQ) and ADEQ to review and approve all 74 lots (3 phases) of the Subdivision.

ADEQ reviews and approves subdivisions. CCCD EQ provides input to that review which is generally the site investigation information. The CCCD EQ file contains the site investigation documentation as expected. A copy of Appendix B "County Approval of Subdivision . . ." dated 1/4/2007 was submitted to ADEQ. It confirms that alternative systems will be required to address seasonal saturation of the soil. There is no mention of a reduced setback. The most restrictive lot was determined to be lot 34 in phase 1 which has a stock tank on it. The preliminary plat was included in the report and test holes were shown as spread throughout all 3 phases of the project including the future phase 3 for a total of 74 lots. On 4/5/2007, ADEQ issued an approval for all 74 lots in the subdivision. No subsequent submittal, review or approval of Phase 2 lots was issued.

An Initial Engineering Assessment (IEA) for Fort Valley was performed by Civiltec Engineering, Inc. and JE Fuller Hydrology & Geomorphology, Inc. sealed 8/12/2015 using FLO-2D model for analysis. It included a map with depths for the 10 year flood event which is used in accordance

with EQ substantive policies to determine setbacks and design requirements for onsite wastewater systems.

On 4/22/2016 Hilgart Wilson provided an unsealed map dated June 2015 with the 10 year flood event that was accepted by CCCD Engineering staff. They started working on it on 3/17/2015 as Ranch at the Peaks became active again and the IEA work was underway. The map shows only the 10 year event without indication of any reduced setback.

Hilgart Wilson completed a study and map of the subdivision, dated June 2015 and sealed 9/12/18. (It can be found on the CCCD Engineering Web Page: [Ranch-at-the-Peaks-Floodplain--Setback-Exhibit \(az.gov\)](#)). It shows the Rio de Flag, the Taylor Spring Channel and the tributary to the Taylor Spring Channel as having a 100 foot setback which is for an intermittent stream and not a wash. It does not show the realignment of Taylor Spring Channel. The map was reviewed by EQ and Engineering division before posting on the Engineering website in response to requests for clarity on setbacks from the public. No revised or updated map was submitted to EQ or Engineering division with suitable justification for changing an intermittent stream to a wash.

A Subdivision Plat for Ranch of the Peaks, Phase 2 was prepared by Mogollon Engineering and sealed on 6/1/2019. It was signed by the Clerk of the Board of Supervisors on 6/25/2019. Planning and Zoning Commission, County Engineer and County Health Department signed off on 8/20/2019. It was recorded 9/6/2019, Number 32851838. The plat shows a 60 foot drainage easement with a 25' setback. The reduced setback is shown for the entire length of the Taylor Spring Channel. The reduced setback is shown for the portion of the tributary to Taylor Spring Channel south of Ranch of the Peaks Way but not for the portion North of the Ranch of the Peaks Way. The Rio de Flag floodway is shown but no setback is specified. The plat includes a detail of the Taylor Spring Channel with riprap erosion protection. There is a quote of the ADEQ setback requirement for a wash and setback reduction allowed for erosion protection. This is unusual for a final plat. No documentation has been found to show a review and approval by EQ staff at CCCD or ADEQ.

Construction plans for the Taylor Spring Channel sealed 6/12/2019 and a permit EN-19-0009 was approved 6/25/2019 and then issued 2/23/2021. The plans show the relocation of the Taylor Spring Channel and the provision of erosion protection using riprap. The tributary to the Taylor Spring Channel between Lot 43 and 44 is shown with erosion protection using riprap. The plans show a channelization of the tributary to the Taylor Spring Channel between lot 45 and 12 but it does not include erosion protection or a setback. There is a short section of Taylor Spring Channel before the confluence with the Rio de Flag without erosion protection. There is no mention of the setbacks to onsite wastewater systems.

A copy of the Ranch at the Peaks Stormwater Channel CWA Evaluation by Westland Resources, Inc dated 7/29/2019 but not sealed was provided by the developer to assist in preparing this policy. The purpose was to determine if Taylor Spring Channel (an unnamed tributary to the Rio de Flag) could be considered jurisdictional water of the United States subject to regulation under Section 404 of the Clean Water Act (CWA). The lack of an "Ordinary High Water Mark" led them to conclude that this was an ephemeral stream (i.e., wash) and not a jurisdictional water. There is no

determination in the report of the applicable setback for onsite wastewater systems as defined in ADEQ rule.

ADEQ does not provide an adequate definition of an intermittent stream and a wash. Therefore, CCCD EQ developed a substantive policy EQ-2019-01 “Wash and Intermittent Stream Setback” dated 9/27/2019. (It can be found on the CCCD EQ website at [Wash and Intermittent Stream Setback \(az.gov\)](#)) It provides definitions to make a determination and specifically discusses the Fort Valley Area which includes the Ranch at the Peaks Subdivision.

A copy of a plan sheet titled Ranch at the Peaks, Floodplain & Setback Exhibit dated December, 2019 by Hilgart Wilson but not sealed was provided by the developer to assist CCCD EQ with preparing this policy. It shows the Taylor Spring Channel on the subdivision as having a 25 foot setback which would be a wash with rip rap protection. It shows the upstream portion of Taylor Spring Channel off of the subdivision as having a 100 foot setback which would be an intermittent stream. The unnamed tributary to the Taylor Spring channel is shown with a 25 foot setback up to a point in the subdivision just south of the Taylor Spring Road. The portion upstream of that point is shown with a 100 foot setback. (Generally, washes accumulate flows to become an intermittent stream and not the reverse.) ADEQ rule provides a reduction of the 50 foot setback for a wash to 25 feet with approved erosion protection. ADEQ rule does not provide a reduction of the 100 foot setback for an intermittent stream with erosion protection although it could be requested in a submittal with an A312G application.

A Subdivision Disclosure Report dated 11/10/2020 is available from the Arizona Department of Real Estate for Ranch at the Peaks Phase I & II. The report does not include a copy of the ADEQ approval of the subdivision. The report indicates that the “subdivider advises” that Coconino County is basing onsite wastewater treatment locations in Phase I on exhibit B-1 and B-2 and is basing locations in Phase II on Exhibit B-3. Appendix B-1 contains a statement from Community Development that a 100 foot setback is required from the 10 year, 24 hour floodplain in the attached exhibit. (It contains no mention of the setback from a wash, or a reduction based upon approved erosion protection.) Exhibit B-2 includes a Hilgart Wilson map dated June 2015, which is a reduction of the map described above but not sealed. Exhibit B-3 includes a Hilgart Wilson map dated December 2019, as described above.

On March 2, 2021 David M. Monihan Jr., PE, RLS completed a field review of the Taylor Spring Channel, the Tributary Channel between lots 43 and 44 and up to Taylor Spring Road, and a portion of the Rio de Flag. There was no running water or recent evidence of running water. Snow melt was continuing to soak into the dry ground quickly. In the Taylor Spring Channel, a variation in vegetation in the channel bottom and the top was noted. This same variation in vegetation was noted in the Rio de Flag downstream of the confluence with Taylor Spring Channel. In the tributary channel between lot 43 and 44, North of the Taylor Spring Channel and South of Ranch at the Peaks Way, there is a variation but less pronounced. North of Ranch at the Peaks Way the channel is riprap, so no valid observations of vegetation were possible. North of the Taylor Spring Road there is no clear channel. The Rio de Flag north of the confluence has much less variation in the vegetation. North of the Ranch at the Peaks Way the variation no longer exists, and the channel is more of a swale. It appears that the Taylor Spring Channel is an intermittent stream,

and the tributary channel may not be an intermittent stream from these observations. The observations are not conclusive and need to be confirmed later in the spring.

On April 29, 2021 staff from CCCD and Hilgart Wilson met online to discuss the project. Hilgart Wilson had not made a determination on ephemeral (wash) and intermittent stream. The did provide a reference to a methodology from the US Environmental Protection Agency and the US Army Corps of Engineers. <https://www.epa.gov/streamflow-duration-assessment>. A beta Streamflow Duration Assessment for the Arid West was released in March 2021. It is a rigorous procedure to evaluate streams which appears acceptable to CCCD EQ recognizing that it may be beyond the economic viability for a single or even a few parcels. A scaled down version might be appropriate.

**Summary:**

**Rio de Flag:**

There is no conflicting setback information regarding the Rio de Flag. No improvement or re-alignment is proposed. It is an intermittent stream therefore the 100 foot setback from the 10 year event is applicable. Just north of the private property the IEA indicates a 10 year discharge of 102 Cubic Feet per Second (CFS).

**Taylor Spring Channel**

There is conflicting setback information regarding the Taylor Spring channel. Improvement and re-alignment plans are approved and it is under construction at this time. Just west of the private property the IEA indicates a 10 year discharge of 119 CFS. It is a substantial drainage basin at about 4,000 acres and includes a spring. It appears it does not flow merely in direct response to a precipitation event and has been considered an intermittent stream to date.

**Tributary to Taylor Spring Channel:**

There is conflicting setback information regarding the tributary from the north entering the Taylor Spring Channel between lot 43 and 44. Improvement plans have been prepared to extend the existing riprap channel from the existing Taylor Spring Channel to the new Taylor Spring Channel. It has a much smaller drainage basin and does not include a spring. No flow was assigned in the IEA map. It may flow only in direct response to a precipitation event but has been considered an intermittent stream to date.

No documentation has been located by CCCD EQ that indicates a determination was made to change the Taylor Spring Channel from an intermittent stream to a wash for determination of the setback of an Onsite Wastewater system in accordance with ADEQ rules.

**POLICY:**

The Ranch at the Peaks, Phase 2 final plat does not change ADEQ rule or the past determinations regarding the character of the channels on Ranch at the Peaks, Phase 2 subdivision. The current practice of using the intermittent stream setback from the Rio de Flag, Taylor Spring Channel, and the Tributary to the Taylor Spring Channel will continue until a suitable justification for the

change has been prepared, submitted to CCCD Environmental Quality and Engineering Divisions and approved.

Such a submittal could be made by the developer to CCCD EQ and Engineering for a determination. (The submittal could be made to ADEQ with a copy to CCCD EQ and Engineering in order to revise the subdivision approval to address this issue if developer desires that level of documentation.)

Such a submittal could be made by an individual lot owner for their lot. An individual lot owner could use the R18-9-A312G “Alternative Design, Setback, Installation or Operational Feature” process for their own onsite wastewater system design.

Until the proposed re-aligned Taylor Spring channel is constructed, the existing channel is filled in, and accepted by the CCCD Engineering Division, submittals will need to show both channels. An EQ permit can be issued if the system complies with the setback to the future channel and does not comply with the setback to the existing channel. That permit will have a condition that requires the acceptance of the future channel before a discharge authorization will be issued. (EQ does not consider this desirable since the permittee will be “responsible” for the completion of work that the permittee has no control over.)

CCCD EQ and Engineering staff are planning to examine the Tributary to the Taylor Spring Channel during the final inspection of the re-aligned Taylor Spring channel. The contractor has indicated that he expects to be ready for final inspection in mid May, 2021. That examination may determine that the tributary is a wash rather than an intermittent stream. This policy will be updated in that case.

**ACCESS:**

This substantive policy statement is available for inspection at the Community Development office or on the Coconino County website: [www.coconino.az.gov](http://www.coconino.az.gov).

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures and does not impose additional requirements or penalties on regulated parties or include confidential information. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the County for a review of the statement.

**APPROVED BY:**

  
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Jay Christelman  
Director, Coconino County Community Development Director

5.14.21  
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Date