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March 13, 2004

Army Corps reviewing Clous case

Public allowed to comment on wetland requests

By
Record-Eagle staff writer

ELK RAPIDS - Federal regulators will require developer Bill Clous to seek "after-the-fact" permits for work done on a housing subdivision in a wetlands not far from Grand Traverse Bay.

The U.S. Army Corps of Engineers stopped work on the more than 20-acre Elk Rapids Preserve subdivision project in spring 2002, after determining the property contained wetlands connected to Lake Michigan.

The federal Clean Water Act gives the Corps jurisdiction because the bay is part of Lake Michigan.

Mary Anderson, project manager for the Corps' Detroit district office, said the Corps could order a full restoration of disturbed wetlands, allow the disturbance that's already occurred or grant partial approval.

Once the developer seeks after-the-fact permits, public notice is posted and the public can comment on the permit requests, Anderson said. Citizens also can request a public hearing. The Corps decides on a case-by-case basis whether to hold hearings, she said.

Messages seeking comment from Eastwood Custom Homes, which is developing The Preserve, were not returned.

Clous this week settled a Grand Traverse County civil case involving alleged soil erosion violations on East Bay Township property he owns. He and his construction company agreed to pay \$75,000 in cash and in-kind services to settle.

A circuit court case is pending for alleged violations on the same property, as is a state investigation into alleged wetlands violations.

Village resident Greg Reisig, an outspoken critic of the Elk Rapids wetlands fill, said he eagerly awaits release of the Army Corps' maps, or "delineations" of wetlands at The Preserve.

Reisig said he believes property wetlands "are much more extensive" than those submitted to the Corps by Clous' environmental consultants. But federal surveyors did their own reviews of the property last October.

"Is the law going to be fully enforced? That's a great concern," Reisig said.

Anderson said the developer had provided "only a partial wetland delineation," and that the Corps' survey "went beyond that." The Corps' findings have been provided to Eastwood Custom Homes, she said.

Once the after-the-fact permits have been reviewed and public comment taken, the Corps will develop an environmental assessment and recommendation on how to proceed.

Both will be submitted to the Corps' chief for review and approval, Anderson said. The developer is then informed whether the permit is

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approved in full or in part, or denied, and informed of any wetlands restoration that may be required, she said.

Clous has until April 9 to appeal the Army Corps' determination that it has jurisdiction on the property, Anderson said.

Chris Grobbel, land use program director for Tip of the Mitt Watershed Council, has been involved in The Preserve saga for virtually all of its two years, as well as wetlands-filling controversies on adjacent developments, including one proposed by village officials.

"We're trying to make sure the resource is protected in accordance with the statutes," he said.

Grobbel said Tip of the Mitt would like to see wetlands restored at The Preserve, and "coordinated hydrology" on all area developments.

"Currently we have sedimentation problems in the bay, as well as potential flooding to adjoining properties," he said. "It's been a parcel-by-parcel approach to carve up a single wetlands complex. Everybody wants their piece, and to pass the water problems on to the next guy."