

EXECUTIVE SUMMARY

Per the request of the Kittitas County Community Development Services (CDS), Teanaway Solar Reserve, LLC (TSR) submits this supplemental information to its August 2009 Expanded State Environmental Policy Act, together with a revised Conditional Use Permit application and Draft Development Agreement, for TSR's proposed solar facility.

I. BACKGROUND AND INTRODUCTION

On August 19, 2009 TSR submitted to CDS an application for a conditional use permit and draft development agreement to construct a solar farm capable of generating up to 75 direct current megawatts of photovoltaic solar energy (Project). At the time of the August submittal, it was projected that the solar facility would utilize approximately 580 acres of a 982 acre site zoned Forest and Range. The Project area is located approximately 4 miles northeast of Cle Elum, and includes Section 22, 23, and 27 of Township 20N, Range 16E (see CUP Application, Attachment A, Figures 1 through 3 for site location).

TSR's August 2009 submittal materials also included a 44-page, expanded SEPA Environmental Checklist. The expanded SEPA checklist addressed all of the environmental elements and presented detailed information addressing items such as construction impacts, traffic associated with construction and operations, and the location of any critical areas that could be affected by the with the project site. In addition to the contents of the expanded SEPA checklist, TSR also submitted several additional studies and technical reports, including:

- Sensitive Species Report;
- Wetland Delineation Report;
- Cultural Resources Report; and
- Zone of Visual Influence Memorandum

On August 22, 2009, CDS determined that the land use application was complete, and issued a Notice of Application (NOA) on September 3, 2009. The Notice was sent to County officials, state agencies, the Yakama Nation, neighboring landowners and interested parties. The NOA also informed the public that TSR's were posted and available for review on the Kittitas County website. The NOA further informed the public that written comments must be submitted to CDS by 5:00 pm on September 18, 2009, as per the Kittitas County Code. During the comment period, the County received comments from County departments, non-county agencies, and the public.¹

After the close of the comment period the applicant submitted a summary of the comments received during the comment period along with the Applicant's proposed approaches for responding to those comments. On December 4, 2009, the County provided TSR with its

¹ It should also be noted that TSR has conducted an exhaustive public notification campaign on its own accord. TSR has held three public meetings on July 9, 2009, October 22, 2009 and December 4, 2009. TSR also launched a website that included up-to-date information on the project. Additionally, TSR has met individually with concerned landowners.

comments on the expanded SEPA checklist, conditional use permit application and Draft Development Agreement. CDS directed TSR to submit any additional studies and revised application materials by February 2, 2010. CDS subsequently extended the deadline to February 22, 2010.

In the following materials, TSR provides a revised Conditional Use Permit application (Revised CUP), and Draft Development Agreement (Revised DA). TSR also provides a revised Expanded SEPA Checklist (Revised Expanded SEPA Checklist), which includes a number of supplemental studies and technical reports, including:

- A Geology and Soils Hazards Evaluation ;
- A Fugitive Dust Control Plan;
- A Hydrologic Analysis;
- A Vegetation Management Plan;
- A Wildlife Mitigation Plan; and
- A Transportation and Road Plan.

These materials were prepared to fully address the comments of the County, state agencies, and general public on TSR's August 2009 materials. These materials also include numerous conditions designed to mitigate impacts to a level of non-significance. Accordingly, TSR agrees that these measures should be incorporated into the County's SEPA determination, as well as the permits and approvals necessary to construct and operate the Project as enforceable conditions of development.

Based upon TSR's materials provided by the Applicant, the responsiveness of these materials to the comments received relating to the Project, the applicable provisions of the Kittitas County Code and the criteria necessary for approval of the CUP, TSR respectfully requests that the County issue a mitigated determination of non-significance (MDNS) for the proposed Project. TSR also requests that County Staff issue a recommendation to the Board of Adjustment that the Conditional Use Application be approved subject to the conditions identified in the SEPA documents.

II. STATE ENVIRONMENTAL POLICY ACT

In response to comments received on TSR's August 2009 materials, including those by the County in its December 4, 2009, letter, TSR has updated its checklist and conducted a number of additional studies to further evaluate and mitigate the Project's probable impacts. These studies are documented in the Revised SEPA Checklist and in the following technical reports:

- A Geology and Soils Hazards Evaluation (Supplement to SEPA Checklist, Attachment D);
- A Fugitive Dust Control Plan (Supplement to SEPA Checklist, Attachment E);
- A Hydrologic Analysis (Supplement to SEPA Checklist, Attachment F);

- A Vegetation Management Plan (Supplement to SEPA Checklist, Attachment G);
- A Wildlife Mitigation Plan (Supplement to SEPA Checklist, Attachment H); and
- A Transportation and Road Plan (Supplement to SEPA Checklist, Attachment I);

Additionally, TSR has significantly revised its Visual Impact Analysis (Supplement to SEPA Checklist, Attachment L) and will enter into an agreement with Fire District No. 7 to provide for fire protection and other services to the project site (Supplement to SEPA Checklist, Attachment M). TSR will also enter into an agreement with WDFW to provide mitigation for potential impacts to elk habitat and other issues previously raised by the agency (Supplement to SEPA Checklist, Attachment H). At the County's request, TSR has also enclosed a redlined version of the Revised SEPA Checklist that incorporates the information from the additional reports.

These supplemental reports address the comments on TSR's initial expanded SEPA checklist. We are confident that the Project, these supporting materials, and TSR's proposed mitigation measures justify the issuance of a Mitigated Determination of Nonsignificance. TSR understands the supplemental materials are extensive, and does not object to an additional public review and comment period to ensure earlier comments have been addressed.

A. The County Should Issue a Mitigated Determination of Nonsignificance for the Proposed Solar Facility.

TSR acknowledges that many of the comments submitted have requested that the County issue a Determination of Significance. The primary reason an EIS has been requested is based entirely on the size of the project. A DS cannot be issued simply because a project occupies a large site. Rather, the County must assess the Project's probable impacts. The County may only issue a DS if it determines that the Project's probable impacts would "significantly affect the quality of the environment." RCW 43.21C.030(2)(c).

In making the threshold determination, the responsible official must view the project through the lens of the existing regulatory framework this project will have to comply with. RCW 43.21C.240. This includes, but is not limited to, state and federal water quality laws, the County's critical areas ordinance, zoning code, and building regulations. Compliance with these laws and regulations act as built-in mitigation for the proposal. The County should only issue a DS if it concludes that compliance with these laws and regulations, and any additional proposed mitigation measures, do not sufficiently mitigate against significant adverse impacts.

In this case, TSR inspected all potential impacts to a level of detail that exceeds typical checklists. The studies and analyses confirm the propriety of the County's initial decision to process this SEPA checklist through the optional DNS process. Ultimately, SEPA is an environmental full-disclosure statute. An EIS is a tool used to help ensure that impacts have been adequately considered and mitigation. There is no additional information that would be

obtained from an EIS that has not already been presented by the reports and analyses submitted by TSR.

Accordingly, while large in size, the Project will not create significant adverse impacts on the environment, and there is no foundation or incremental benefit of requiring an EIS.

TSR provides this summary of the environmental elements and the mitigation measures agreed to in order to lower any impacts below the level of significance.

a. Earth

TSR commissioned a Geology and Soils Hazard Report (Geo-Hazard Report) to further evaluate the potential for erosion or landslides as well as other geological hazards at the project site. (Attachment D). The Geo-Hazard Report concludes that very few geological hazards are located on the site. On-site reconnaissance confirmed that the slopes in the project area do not exceed 33.3 percent.

The Geo-Hazard Report determined that the Project site's primary limitation is soil type for the proposed access roads. Yet, even this limitation will not pose any significant site development problems. The project area is already defined by primitive logging roads that cross the project area. Visual observations of these roads revealed a surprisingly small amount of erosion, which further re-affirmed the stability of the surrounding slopes and the small potential for any significant erosion. Moreover, any soils related issues with respect to road construction are easily compensated for through the design process.

In sum, the Geo-Hazard Report concludes that the proposed solar facility can be designed, constructed and operated to minimize or avoid any adverse geologic and soil impacts to the environment. Any potential impacts are effectively mitigated through compliance with existing laws and regulations including, but not limited to Title 17A.06 of the Kittitas County Code and RCW 90.48. For instance, prior to commencing construction TSR will have to apply for and obtain an NPDES Permit from the Department of Ecology (WDOE). As part of the NPDES Permit TSR will have to prepare and implement a Stormwater Pollution Prevention Plan which includes an Erosion Control Plan designed to minimize erosion during construction.²

Regardless, the Geo-Hazard Report does provide some suggestive mitigation measures in addition to those already provided by existing laws and regulations to further reduce the risk, if any, for potential geological and soil related impacts. Those measures are set forth on page 7 of the Geo-Hazard Report and include:

² In its letter dated December 4, 2009, the County noted that TSR must submit the BMPs it plans to incorporate as part of its NPDES obligations before the County would issue its SEPA determination. The BMP selection process is based detailed construction designs and is subject to WDOE requirements through the NPDES permitting process. Those designs have not been prepared and thus, TSR cannot submit the BMPs it thinks it might be required to install to obtain and comply with WDOE's NPDES Permit. Suffice it to say, the NPDES Permit is designed to ensure that no significant impacts to water quality will result. For the County's purposes, having to obtain and comply with an NPDES permit is sufficient. RCW 43.21C.240.

- Construction zones and areas to be disturbed will be well-defined, limited in extent, and managed by onsite inspectors and construction managers.
- Periodic inspection will be made of erosion control measures, and as required after precipitation events. Erosion control measures will be repaired or replaced as necessary.
- Berms and other water-channeling measures will be used to direct stormwater runoff to appropriate detention ponds, where necessary.
- Barriers and other measures including hay bales, silt fences, and straw mulches will be used to minimize and control soil erosion.
- Cut slope design for roads will not exceed the soil strength limits. Potentially unstable areas will be identified in the design process and avoided during construction. Site grading will be implemented to achieve stable, non-erosive slopes.
- The seismic site class according to the International Building Code will be determined during subsequent geotechnical investigations. Structures and tower foundations will be designed to withstand anticipated seismic loads.
- For the final design phase, a detailed geotechnical investigation and testing program will be conducted to evaluate the engineering properties of the soil.
- In the event of a volcanic eruption that could damage or impact project facilities, the project facilities would be shut down until safe operating conditions return. If an eruption occurred during construction, a temporary shutdown would likely be required to protect equipment and human health.

The proposal's soil and geologic impacts will not have a significant affect on the environment.

b. Air

As noted in the initial Expanded SEPA checklist, the proposed solar facility will produce up to 75 megawatts of emission free energy. As a result, the proposed facility will not result in a significant impact to the local and regional air resources. To the contrary, by supplying a clean source of energy supply the project will benefit local and regional air quality.

Nevertheless, WDOE commented that additional mitigation measures could be implemented to further reduce potential construction related impacts to air. The agency recommended that TSR implement a dust control management plan to control any dust that may be created during the construction process and sign a beneficial use statement to minimize the burning of brush and timber.

In its initial SEPA checklist TSR proposed to create and implement a Fugitive Dust Control Plan. While the additional materials were being prepared TSR created a Dust Control Plan and will implement the measures in the plan (Supplement to SEPA Checklist, Attachment E). Those measures include, but are not limited to, applying dust suppressants on an as needed basis, reducing vehicle speeds, limiting vehicle access, limiting the amount of disturbed areas and revegetating disturbed areas as soon as possible in accordance with the Vegetation Management Plan (Supplement to SEPA Checklist, Attachment G).

WDOE also suggested that TSR provide a beneficial reuse statement. It is TSR's intent not to burn woody debris, slash, or logging refuse. Any woody debris chipped on site will be put to a beneficial use (e.g. chipped material will be sent to a compost facility, used for paper or ground cover). If burning is necessary, TSR will secure the necessary permits from the Department of Ecology and agrees to a condition that no more than approximately 130 consumable tons of material will be burned.

WDOE also requested more information with respect to how the buildings will be powered. Specifically, WDOE asked whether nonroad engines will be used to power buildings at the site. TSR has clarified in the public utilities section of the expanded SEPA checklist that it intends to power the operations building by the existing electrical grid.

c. Water

A number of public comments expressed concern over potential impacts to water, specifically stormwater related impacts. Many of these concerns were based upon a misunderstanding of the amount of impervious surfaces that will be created from the proposal. The County also specifically requested information regarding impervious surfaces. Accordingly, TSR prepared a Hydrologic Analysis (Supplement to SEPA Checklist, Attachment F) to further address those concerns.

It is estimated that the Project will result in 1.17 acres of impervious surfaces. That is less than 1% of the 982 acres. The solar panels themselves will be supported by poles driven into the ground and will not require concrete footings. This allows natural vegetation to grow under and around the panels to facilitate natural drainage.

(i) Surface

The Hydrologic Analysis concluded that there would be a small increase in stormwater runoff from the site, without the implementation of any BMPs. The analysis divides the area into two primary drainage basins: "South Drainage Basin" and the "North Drainage Basin". The South Drainage Basin drains the project site in a southerly direction that ultimately leads to a ditch along Red Bridge Road. The North Drainage Basin drains the project area north to the Teanaway River.

The Hydrologic Analysis concludes that the proposal is expected to have a minimal increase to stormwater flows off the site. For the North Drainage Basin the proposal will increase stormwater runoff by 0.2, 0.2, and 0.3 cubic feet per second for the 2, 10, and 100-year, 6-hour storm, respectively. This increase will result in no appreciable difference from existing conditions. Similarly, stormwater from the South Drainage Basin will increase by 1.6, 2.9 and

9.90 cubic feet per second for the 2, 10, and 100-year, 6-hour storm, respectively. The impacts of a 10-year, 24-hour storm were also analyzed for both basins. The increases in peak discharge from the North and South Drainage Basins were 3.0 and 33.60 cubic feet per second, respectively. Although these increases in flow are higher than those reported for the 6-hour storm events, they are negligible when compared to the flow contribution of the watershed upstream of the project site. These minimal increases in stormwater runoff can be controlled through flow control BMPs implemented pursuant a NPDES permit.

(ii) Groundwater

No on-site groundwater withdrawals are anticipated for the Project.

(iii) Water Runoff (Stormwater)

The Hydrologic Analysis concluded that there would be a small increase to stormwater runoff from the site, without the implementation of any BMPs. The analysis divides the area into two primary drainage basins: "South Drainage Basin" and the "Teaway River Drainage Basin". The South Drainage Basin drains the project site in a southerly direction that ultimately leads to a ditch along Red Bridge Road. The Teaway River Drainage Basin drains the project area north to the Teaway River.

The Hydrologic Analysis concludes that the proposal is expected to have a minimal increase to stormwater flows off the site. For the Teaway River Drainage Basin the proposal will increase stormwater runoff by 0.1, 0.2, and 0.3 cubic feet per second for the 2, 10, and 100-year six hour storm respectively. This increase will result in no appreciable difference from existing conditions. Similarly, stormwater from the South Drainage Basin will increase by 1.6, 2.9 and 33.5 cubic feet per second for the 2, 10, and 100-year six hour storm respectively. These minimal increases in stormwater runoff can be controlled through flow control BMPs implemented pursuant a NPDES permit.

Several comments expressed particular concern over flooding in the winter months as a result of a flooding event that occurred in January of 2009. TSR specifically researched this event and found evidence that the flooding was most likely the result of human causes unassociated with TSR or the Project site, and unrelated to any hydrologic issues on the proposed project site. Nevertheless, the Hydrologic Analysis concludes that the proposal will not create a significant increase in the amount of stormwater and off-site discharges during such events because the surface during rain on snow events has limited infiltration capacity to begin with.

d. Plants

In response to comments addressing the removal of vegetation, the Applicant prepared a Vegetation Management Plan for the project area. TSR agrees to abide by the BMPs recommended in the Vegetation Management Plan (Supplement to SEPA Checklist, Attachment G). Those BMPs insure that disturbed areas are promptly revegetated with native seed mixtures and that noxious weeds are kept under control.

e. Animals

WDFW submitted comments expressing concern over impact to elk wintering habitat. Given the large range of the Clockum Elk Herd (app. 1600 sq. miles), the small portion of the range that the Project site comprises, and the small percentage of the Clockum herd that actually utilize this area for their wintering range, any potential impacts appear less than significant. To further ensure there are no significant impacts to elk, and to further ensure WDFW's prior comments have been addressed, TSR will enter into an agreement with WDFW to mitigate for the loss of wintering habitat and other issues raised by WDFW. That agreement will be consistent with the agency's Wind Power Guidelines, and requires, among other conditions, that TSR provide mitigation for the loss of habitat permanently impacted by the Project at a 2:1 ratio.

f. Energy and Natural Resources

A number of comments focused on the lack of any enforcement that the site will be properly decommissioned when the proposed solar facility is no longer viable. The County also requested that TSR provide additional information regarding the impacts from decommissioning. TSR has addressed the process of decommissioning in the Revised DA (Attachment E to the CUP Application). The Revised DA establishes an enforceable process for decommissioning and site restoration that will ensure all environmental issues are adequately addressed and also requires that TSR post a bond prior to construction to cover the decommissioning process. TSR has addressed the potential impacts from decommissioning and restoration activities in the Revised Expanded SEPA Checklist and its attached reports.

g. Environmental Health

The County requested additional information addressing noise from the Project. The proposed solar facility is not expected to generate noise in excess of what is permitted under the County Code.

Other comments suggested that solar panels would result in toxic stormwater. TSR specifically inquired into this issue with the manufacturer of the solar panels. The manufacturer confirmed that the solar panels proposed for the site are silicone-based and non-toxic.

h. Land and Shoreline Use

The County identified a discrepancy between two pages in the original SEPA checklist with respect to frequently flood areas. The statement suggesting that frequently flooded areas apply to the project was in error and has been corrected. No critical areas are impacted by this project. Wetlands and their buffers will remain undisturbed and there on-site observations revealed no slopes in excess of 33.3 percent in the Project Site.

The Revised Expanded SEPA Checklist includes proposed modifications to development standards. For instance, the height limitation is proposed to increase from 35 feet to 150 feet in order to accommodate the transmission structures. TSR considered burying the line, but burying a line of this voltage is not technically feasible and has its own set of environmental impacts.

The western half of the northern boundary abuts property zoned Commercial Forest. (Attachment J, Figure 6). The County specifically requested that TSR describe proposed modifications to the 200-foot setback from the Commercial Forest Zone. It is not clear whether the 200-foot setback applies to the Project. The KCC states that:

Properties bordering or adjacent to the Commercial Forest zone are subject to a 200' setback from the Commercial Forest Zone. (KCC 17.57.050(1)).

KCC 17.56.065. This provision incorporates the exceptions outlined in KCC 17.57.050(1) which include the construction of "private, public and semi-public gas, electric, water or telecommunication and utility facilities including but not limited to fire stations, utility substations, pump stations, wells, hydroelectric generating facilities and transmission lines and facilities." The proposed solar facility is an electric generating facility and thus, would fall within the exception to the 200 foot setback provision outlined in KCC 17.56.065.

Nevertheless, TSR is providing a 100 foot firebreak that also serves as a setback along the boundary with the adjoining commercial forest property. The 100-foot setback mitigates against any potential conflicts that could arise between the proposed solar facility and the adjacent commercial forest property to the north. Assuming the 200 foot setback does apply, TSR has addressed this requirement through the Development Agreement.

i. Housing

The County requested more information on the availability of housing to meet the demands for construction workforce. The City of Ellensburg is home to a major education institution, Central Washington University. As a University Town it has a number of major hotel chains including, but not limited to, the Comfort Inn, the Quality Inn, Hampton Inn and Holiday Inn. These four hotels alone have a total of approximately 390 rooms each; more than adequate for Project.

j. Aesthetics

TSR submitted a Potential Visual Impact Simulation with the original SEPA Checklist. The Visual Impact Simulation concluded that visual impacts to the surrounding area will be minimal and not detrimental to the character of the surrounding area.

At the County's request, an additional view analysis was prepared for to further assess the Project's visual impacts. (Supplement to SEPA Checklist, Attachment L). The View Assessment added six new viewpoints to the original four to further assess the Project's visibility from surrounding areas. The View Assessment used a modeling system called a Zone of Visual Influence (ZVI) analysis to determine where the project may be visible from. The ZVI method overstates the actual visibility because it does not take into account the presence of trees, vegetation or other structures that would block the view from surrounding areas. The Geographic Information System (GIS) model used to develop the ZVI does not take into account objects such as trees, buildings, and small topographic features that may block or screen views of the project. Factors that influence visibility such as haze, lighting conditions, weather, and

viewing distance are also not considered. In conclusion, the project would likely be difficult to see from beyond approximately 3.5 to 4 miles.

As part of the Visual Impact Simulation, representative locations were also chosen to simulate what the project will look like. Those simulations demonstrate that the solar reserve will be largely unrecognizable from many of the areas identified in the ZFI analysis. Even where the project is visible, the impacts are not significant. While the solar reserve alters the appearance of the project site, primary views of iconic geologic features such as Mount Stewart are not impeded.

Nevertheless, TSR has proposed a number of voluntary measures to reduce any potential impacts to aesthetics including:

- Maintaining trees in the 100' fire break setback around the site perimeter (trees will be limbed up to 12 feet);
- Maintaining the existing trees in the undisturbed portions of the project area; and
- Using non-reflective materials on the metal structures to reduce glare.

k. Light and Glare

Per the County's request the Light and Glare section of the Revised Expanded SEPA Checklist has been supplemented to confirm that staging areas may have lighting. As the checklist notes, however, construction is limited from 7 am to 7 pm. As a result, impact from these temporary light fixtures will be minimal. Nevertheless, the same mitigation measures proposed for the inverter enclosures are also proposed for the on-site staging area lights to further reduce impacts.

The solar panels themselves are designed to capture and absorb light and will not reflect like mirrors would. Metal surfaces will be treated to reduce reflection and glare.

l. Recreation

TSR has clarified that it intends to continue to allow historical uses of the property to the maximum extent practicable.

m. Historic and Cultural Preservation

TSR notes that it did prepare a thorough cultural resources inventory of the project site. One comment questioned the decision to keep the *Cultural Resources Report* out of the public view. State law prohibits distributing such reports to the public. RCW 42.56.300 ("Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites are exempt from disclosure under this chapter.").

TSR notes that the NOA was submitted to all state agencies including the Department of Archaeology and Historic Preservation (WDAHP), as well as the Yakama Nation. Neither the WDAHP nor the Yakama Nation commented on the proposal.

Nevertheless, TSR has agreed to conduct shovel testing prior to significant site disturbance to further guard against any potential impact to cultural resources. If cultural artifacts are found during shovel testing or construction TSR will stop work in the area of the discovery and notify WDAHP.

n. Transportation

TSR prepared a thorough traffic analysis to assess potential traffic-related impacts to area roads. The report concludes that levels of service will not be significantly impacted by traffic generated from this project. Similarly, construction access will not cross the bridge spanning the Teanaway River on Red Bridge Road.

Nevertheless, TSR agrees to improve Wiehl Road to applicable County road standards. TSR also agrees to improve the private roads accessing the site to County standards for private roads and post signs directing parties to the site.

o. Public Services

Despite unsupported assertions to the contrary, the Project will not have a significant impact on public services. The proposal will not create a significant increase for demand on schools. Moreover, the October 2009 Economic Impact Analysis for the Project amply demonstrates the financial benefits the Project will provide schools. The application also does not propose to utilize storm or sanitary sewers. At the County's request, TSR agrees to condition its CUP on entering into, and maintaining in full effect, an agreement with Fire District #7 for fire and other emergency services.

p. Utilities

No significant impacts are expected from utilities. Mobile utilities will be provided during construction. During operation, electricity will be provided by the project. Telephone and data lines may be extended to the O & M building.

2. Site Location

The County also requested that TSR expand upon the factors for use of this site for the proposed Project. The current Project site was chosen after a thorough evaluation of other potential sites in the area and was chosen for a variety of reasons. The proposed site was selected for a number of equally compelling reasons including, but not limited to:

- The Teanaway area generally receives 300 days of sunlight annually;
- The specific site is on south facing slope which maximizes the amount of sunlight the panels receive in the summer in winter;
- The site is in close proximity to an existing major transmission line operated by the BPA;

- The site has few critical areas and is not directly adjacent to major water bodies or their tributaries;
- The site is zoned Forest and Range which permits the propose facility with a conditional use permit; and
- The site is more easily accessible from major arterial roads than more remote sites.

For purposes of SEPA, the site minimizes the impacts that may be associated with sites farther away from existing transmission lines and access roads.

B. Conclusion

In sum, TSR has carefully conducted exhaustive environmental impacts analyses of the Project, resulting in numerous technical reports to supplement the Revised Expanded SEPA Checklist. Even though those reports generally conclude that no significant impacts will result from the Project, TSR has proposed a number of mitigation measures to further ensure that no probable significant environmental impacts will result from the Project. TSR requests that the County issue a Mitigated Determination of Nonsignificance.

III. CONDITIONAL USE PERMIT

A. Changes to the CUP Narrative.

In its December 4, 2009 letter, the County requested that TSR update the CUP narrative as appropriate to reflect any modifications to the Project. In response, TSR has updated and expanded its narrative, including changes to address various Project modifications, including:

- Reduction of Project size. The size of the proposed Project site development area has been reduced from 580 acres (original proposal) to approximately 477 acres, leaving approximately 505 acres undeveloped within the Project area. Solar arrays will occupy approximately 399 of the 477 acres;
- Elimination of concrete footings for the solar arrays. The proposed mounting options for the solar facility have been modified to eliminate the use of concrete pads. This significantly reduces the amount of impervious surfaces created by the project;
- Restriction of access. Access to the site has been modified to prohibit use of the portion of Red Bridge Road north of the intersection with Wiehl Road. This eliminates the County's concern about impacts to the bridge across the Teanaway River.
- Decommissioning and Restoration. A more detailed description of TSR's decommissioning and site restoration obligations has been prepared; and

- Extensive additional environmental analyses. Through SEPA review a number of environmental evaluations have been conducted to address potential impacts. The resulting technical reports include comprehensive plans such as Fugitive Dust Control Plans and Vegetation Management Plans, each containing numerous mitigation conditions TSR propose as enforceable SEPA and CUP conditions.

B. Compliance with the Kittitas County Criteria for a Conditional Use Permit.

The Kittitas County Code requires that:

(1) The Board of Adjustment shall determine that the proposed use is essential or desirable to the public convenience and not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood.

(2) The Board of Adjustment shall determine that the proposed use at the proposed location will not be unreasonably detrimental to the economic welfare of the county and that it will not create excessive public cost for facilities and services by finding that (1) it will be adequately serviced by existing facilities such as highways, roads, police and fire protection, irrigation and drainage structures, refuse disposal, water and sewers, and schools; or (2) that the applicant shall provide such facilities or (3) demonstrate that the proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.

KCC 17.60A.010. As explained in full below, the project fully satisfies these criteria for conditional use permits. Based on its review of the Project through its SEPA review and the probable impacts of Project, as mitigated, and the applicable legal standards for CUPs, TSR asks the County for its recommendation that the Kittitas County Board of Adjustment (BOA) approve the CUP.

- 1. The Solar Reserve is Desirable to the Public Convenience and not Injurious to the Public Health, Safety or to the Character of the Surrounding Neighborhood.**
 - a. The Proposal is Desirable to the Public Convenience Because it Creates a Source of Renewable Energy for the Region and Provides Economic Benefits to the County.**

In 2001, the citizens of Kittitas County had the remarkable vision to recognize the importance of preparing their community to take advantage of alternative energy development. The County Council proclaimed that:

Kittitas County recognizes the value of facilitating the construction and operation of both alternative and conventional energy producing facilities in reducing the disruption of commerce and governmental services caused by potential energy shortages, all of

which adversely affect the economy, public health, safety and welfare.

Kittitas County Ordinance No. 2001-12. In recognition of the importance alternative energy could play in the future of Kittitas County, the Commissioners amended the County ordinance to, among other things, allow alternative energy facilities as conditional uses in a number of zones, including the Forest and Range zone.

As a result of this leadership and its desire for environmentally sound economic diversity, Kittitas County has positioned itself to be at the forefront of alternative energy development. The Project alone is estimated to produce a significant economic benefit to the county:

- \$97.5 million of locally purchased goods during the proposed three year construction window;
- \$525,510 of locally purchased goods during annual operation;
- The creation of approximately \$1.5 to \$1.8 million dollars in additional property tax revenue; and
- The creation of 789 near-term jobs and 49 long-term jobs.

Economic Impact Analysis for the Teanaway Solar Reserve, October 2009.

In addition to the economic benefits, the proposed Project will provide significant environmental and energy benefits to Kittitas County, the State of Washington, and the Northwest Region. The Northwest Power Council predicts that demand for electricity will grow by 25,000 average megawatts by 2030.³ Renewable energy projects such as the Teanaway Solar Reserve help satisfy this demand without consuming fossil fuels.

As a result, it is no wonder that the facility has support from all levels of government as reflected in the record. When completed, the County will be home to one of the largest solar projects in the world and confirm its position as one of the leading areas in alternative energy development. TSR is proud to be part of the 2001 vision for alternative energy in Kittitas County.

b. The Proposal is Not Injurious to the Character of the Surrounding Neighborhood

The County's December 4, 2009 letter specifically requested additional supporting information to support the conclusion that the proposal will not be injurious to the character of the surrounding neighborhood.

As with any development, the proposed Project will alter the existing character of the surrounding neighborhood to some degree. The proposal replaces what is currently

³ Northwest Power and Conservation Council's, 6th Northwest Power Plan, Chapter 3 (Pre-Publication Version, Feb. 2010).

undeveloped, albeit heavily logged, land with a solar facility. It is important to note, however, that the criteria for CUP approval do not prohibit conditional use proposals from changing the character of the neighborhood. Rather the criteria for a CUP is intended to ensure that the proposal is properly designed and conditioned to avoid injuring the character of the neighborhood.

The character of the existing neighborhood is rural in nature. The Project Site itself is zoned Forest and Range, actively managed for commercial timber until the collapse of the timber industry, and is bordered by properties zoned Commercial Forest and Rural 3. (*See Attachment A to the CUP Application*).

(i) Whether The Project Is Injurious to the Character of the Neighborhood Must be Measured Against the Allowed Uses in the Forest and Range Zone.

Whether a proposal is injurious to the character of a neighborhood is deceptively susceptible to subjective evaluation. Nonetheless, such an evaluative process for a CUP is inappropriate. Instead, the approving authority must determine whether the proposed conditional use "injures the character of the neighborhood" by examining whether the proposal is objectively compatible with the surrounding area.

To undertake an objective analysis, a proposal must not be reviewed in a vacuum solely against the existing surrounding area. Rather, a comparative analysis between the impacts of the proposed use and those impacts from uses that could be undertaken on the proposed site under the existing zoning regulations is also required. In other words, a proposed conditional use is incompatible with the surrounding neighborhood only if it has greater impacts than that which might be expected from uses authorized in the given zone.

In this case, the Forest and Range zone allows a number of uses that would have greater impacts than the proposed solar facility. For instance, mining and quarrying are authorized uses in the Forest and Range zone as is agriculture, forestry, and 20 acre residential units. A proponent of any one of these uses is entitled to use the Project Site for these purposes without obtaining a CUP. Accordingly, a CUP for the proposed solar facility may not be denied unless the Project has impacts greater than those which would otherwise be created by authorized uses.

Of all the uses permitted outright in the Forest and Range zone, mining and associated activities likely generate the greatest amount of impacts. Comparing the proposed solar reserve a mining operation on the same site over the same acreage plainly reveals that the Project would not change the character of the surrounding neighborhood anymore than a mining operation would in the same area. For instance, a mining operation would have a much greater impact on the character of the surrounding neighborhood than the proposed solar facility would. Everything else being equal, a mining operation would generate greater traffic impacts because large trucks would be required throughout the operational life of the mine. The Project will only require large trucks during the construction phase. Similarly, noise from a mining operation would be greater because mining operations demand the operation of heavy machinery and blasting on a continuous basis. A mining operation would also permanently change the natural topography the

area and thus, alter drainage patterns and vegetation. The proposed solar facility maintains much of the natural topography and once constructed will be largely innocuous to the human senses.

As a result, the proposed solar reserve is not detrimental or injurious to the surrounding neighborhood.

(ii) The Project is Also Consistent With the Goals, Objectives and Policies of the Comprehensive Plan

The proposed Project fulfills the Goals, Plans and Objectives in the Kittitas County Comprehensive Plan. For instance, the proposal is consistent with the following General Planning Goals, Objectives and Policies:

- GPO 2.1 The maintenance and enhancement of Kittitas County's natural resource industry based including but not limited to productive timber, agriculture, mineral and energy resources.
- GPO 2.2 Diversified economic development providing broader employment opportunities.

The Project is an environmentally sound alternative energy resource and the first of its kind in Kittitas County. Accordingly, the solar reserve helps maintain and enhance the natural resource industry and diversifies economic development in the County. Moreover, the proposal has been designed to avoid disturbing critical areas and their buffers and therefore, is consistent with the goals and policies for critical areas and shorelines.

The Forest and Range Zone is considered a rural land use zoning designation for purposes of the Comprehensive Plan. The proposal is also consistent with the General Goals, Policies and Objectives of Rural Lands element:

- GPO 8.1 Municipal or public urban services should not be extend outside of urban growth areas in Rural Lands.
- GPO 8.2B Electric and natural gas transmission and distribution facilities may be sited within and through areas of Kittitas County both inside and outside of municipal boundaries . . . including to and through rural areas of Kittitas County.
- GPO 8.11 Existing and traditional uses should be protected and supported while allowing as much as possible for diversity, progress, experimentation, development and choice in keeping with the retention of Rural Lands.
- GPO 8.16 Growth in Rural Lands should be managed in a manner that minimizes impact on adjacent natural resource lands.

The proposed Project not extend municipal or public urban services to the project site and maintains the rural lands while allowing for diversity and progress in how rural lands are used.

As a result, this project will not impact the rural character by inviting urban sprawl. Additionally, the proposed site is ideal for this type of facility because the surrounding neighborhood is already defined by electric transmission; a high voltage transmission line operated by BPA already crosses immediately south of the Project. The proximity of the Project Site to the pre-existing transmission line makes it ideal for this type of development in the rural lands. Finally, the proposed solar facility is ideal for this area because it is a use that will have a minimal impact, if any, on adjacent natural resource lands.

2. The Proposal Will Not Create Excessive Public Costs for Facilities and Services.

The proposed project will not create an excessive public cost for facilities and services. The Project will not utilize the County's irrigation and drainage services, refuse disposal, water and sewer services, or schools. Improvements to roads will be made to accommodate any short-term impacts related to construction traffic, but no long-term impacts to the County's transportation structure are expected. Moreover, the Applicant has entered into an agreement with Fire District Number 7 to provide fire services to the Project Site. Use of police service is expected to be minimal because access to the property will be restricted.

Even if the BOA were to conclude that the proposal would result in a public cost or detriment, the economic benefit derived from the proposal more than compensates for any potential harm. As provided in the October 2009 Economic Impacts Analysis for the Project, the construction and operation of the project will yield a large amount of revenues for the County. For example, the Project will generate another 1.5 to 1.8 million dollars in additional property tax revenue on annual basis. These tax benefits more than offset any demand for public facilities and services generated by this project.

C. Conclusion

In sum, TSR has carefully designed its proposal to provide both economic benefits for the County at a minimal cost to the general public welfare and the surrounding neighborhood. The Project is environmentally sound, and TSR has undertaken exhaustive analysis and proposed numerous conditions for the CUP to ensure that short and long-term environmental impacts are mitigated to a less than significant level. The Project complies with the County's criteria for CUPs and we ask the County for its recommendation for its approval.