

KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

STAFF REPORT

TO: Kittitas County Board of Adjustment

FROM: Kittitas County Community Development Services
Anna Nelson, AICP, Contract Planner

DATE: August 4, 2010 for August 11, 2010 Open Record Hearing

RE: Conditional Use Permit Application (CU-09-0005)

I. BACKGROUND INFORMATION

A. Proposal:

Teaway Solar Reserve LLC ("the applicant" or "TSR"), has submitted a Conditional Use Permit application to construct and operate the Teaway Solar Reserve ("the project"). As described in greater detail in the attached application materials, the project includes the following key components: solar modules; field inverters; field transformers; electrical conductors; electrical substation and switchyard; operations and maintenance (O&M) building and supervisory control and data acquisition (SCADA) system; overhead interconnection transmission line; and access and maintenance roads.

The Teaway Solar Reserve will be constructed on an approximately 982 acre site, though only up to 477 acres will be involved in land disturbance and development. The project will be completed over a period of 2 to 3 years, with 7-to 9-month construction periods each year, weather dependent. The subject property is zoned Forest and Range (F-R). The Kittitas County Code (KCC) allows solar farms and their components within the F-R zone as a conditional use. The project is proposed to generate up to 75MWdc of PV solar energy for distribution to utilities and communities in the region.

B. Location:

The property site is located approximately 4 miles northeast of Cle Elum, Washington, in Township 20N, Range 16E, within Sections 22, 23, and 27. The site is located on the eastern slopes of the Cascade Mountains on Cle Elum Ridge, which runs generally from east to west at elevations ranging from approximately 2,200 to 2,600 feet. The Teaway River is approximately 1 mile to the northeast of Cle Elum Ridge. The site is accessed from Highway 970 by way of County roads such as Red Bridge Road, and private roads such as Loping Lane. The site is also accessed via Wiehl Road, which is a dedicated public road but is not maintained by the County; it is maintained privately. The property is located in all of Section 22; the North Half of the Northeast Quarter, the Northwest Quarter and the North Half of the Southwest Quarter of Section 23; and Parcel 2 of that certain Survey as recorded May 6, 2003 in Book 28 of Surveys, pages 234, 235 and 236, under Auditor's File No. 200305060025, records of Kittitas County, Washington, being a portion of the Northeast Quarter of Section 27; All in Township 20 North, Range 16 East, W.M., in the County of Kittitas, State of Washington.

II. POLICY AND REGULATORY REQUIREMENTS

A. Comprehensive Plan

The Kittitas County Comprehensive Plan designates the subject property as Rural. Kittitas County has established goals, policies, and objectives (GPOs) to guide development in various land use areas. These GPOs were developed in response to existing conditions and identified needs within the county, and support the County Wide Planning Policies.

KIRK HOLMES, INTERIM DIRECTOR

COMMUNITY PLANNING • BUILDING INSPECTION • PLAN REVIEW • ADMINISTRATION • PERMIT SERVICES • CODE ENFORCEMENT • FIRE INVESTIGATION

The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan, particularly those found in the Land Use, Utilities, and Rural elements, as described below.

1. Chapter 2 Land Use Element:

- **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 Teanaway Solar Reserve will use a natural resource, the sun, to provide a source of clean-energy. Several hundred people will be employed during construction of the proposed facility. Workers' wages and increased use of businesses will provide an economic benefit to the County. The Teanaway Solar Reserve, a large-scale solar reserve, will provide new economic development and further diversify the Kittitas County economy. Though ongoing operation of the project will employ fewer full-time residents than during construction, the County will benefit from tax revenue generated from this facility.

2. Chapter 6 Utilities Element

- **GPO 6.7** Decisions made by Kittitas County regarding utility facilities will be made in a manner consistent with and complementary to regional demands and resources.
- **GPO 6.9** Process permits and approvals for all utility facilities in a fair and timely manner, and in accordance with development regulations that ensure predictability and project concurrency.
- **GPO 6.10** Community input should be solicited prior to county approval of utility facilities, which may significantly impact the surrounding community.
- **GPO 6.18** Decisions made regarding utility facilities should be consistent with and complementary to regional demand and resources and should reinforce an interconnected regional distribution network.
- **GPO 6.32** 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, UGA's, Master Planned Resorts, LAMIRDS, and Fully Contained Communities, including to and through rural areas of Kittitas County.

The County has reviewed this CUP proposal in accordance with its adopted codes and standards. The County will also review future construction permit applications in accordance with its adopted codes and standards. According to KCC Title 15A Project Permit Application Process, the County did solicit community input throughout the application review process. Recent State legislation chapter 19.285 RCW requiring energy from renewable resources suggests there will be a regional demand for solar-generated energy. The project will connect to existing Bonneville Power Administration (BPA) transmission lines, thus reinforcing an interconnected regional distribution network. The facility will be located in a rural area. Its transmission lines will travel from the generation facility to the BPA's existing Rocky Reach Maple Valley Transmission Line, which crosses through the southern portion of the project site. The BPA transmission line passes through both rural and urban areas of Kittitas County.

3. Chapter 8 Rural Element:

- **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, UGAs, Master

Planned Resorts, LAMIRDs, and Fully Contained Communities, 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 8.42** The development of resource based industries and processing should be encouraged.

As mentioned above, the proposed project will include energy generation and distribution facilities located in a Rural district. The proposed land use (solar farm) itself is a new type of development for this area, it will be located in a neighborhood already defined by electric transmission; an existing high voltage overhead transmission line operated by BPA crosses immediately south of the proposed project location. Impacts of the solar reserve on nearby rural properties have been carefully considered through the SEPA process. Finally, the proposed solar reserve represents development of a resource-based industry which will be compatible with nearby rural land uses.

B. Zoning and Development Standards

The proposed Teanaway Solar Reserve is located in the Forest and Range (F-R) zoning district. The F-R zone permits a variety of uses without a conditional use approval including, mining and associated activities, sand and gravel excavation and rock crushing, forestry and agriculture such as livestock and hog farms. KCC 17.56.020. Applicable development standards set forth in KCC Chapter 17.56 include lot size, lot width, and yard requirements, and structure height.

Forest and Range Development Standards:

Code Section	Applicable Standard	Proposal
17.56.050 Minimum size	20 acres	All parcels are larger than 20 acres
17.56.050 Lot width	(no platting is proposed; this section does not apply)	N/A
17.56.060 Yard requirements	Front Yard: 25 feet Side Yard: 10 feet Rear Yard: 10 feet to main building	No buildings are proposed within 25 feet of any lot line
17.56.065 Yard requirements: Zones Adjacent to Commercial Forest Zone	200' setback	Currently a photovoltaic array is located within 100' of a Commercial Forest Zone boundary. The applicant will seek a modification to this dimensional standard in the proposed Development Agreement. ¹
17.56.070 Structure height	Two and one-half stories or 35 feet, whichever is greater.	Solar modules and associated structures will be less than 35 feet in height; however transmission lines will be approximately 120 to 150 feet tall. The applicant will seek a modification to this dimensional standard to address the height of transmission lines in the proposed Development Agreement. ²
17.56.080 Setbacks	(these setback provisions apply to development along shorelines and do not apply to this project)	N/A

¹ The purpose of the 200' setback is to protect commercial forest lands from incompatible uses on neighboring property. Generally, this involves residences and other uses that may lead people to raise concerns about noise and logging activity on commercial forest lands. The proposed solar farm does not raise these concerns.

² It should be noted that the towers for the existing BPA transmission line exceed the 35-foot requirement.

C. Conditional Use Provisions

The proposed land use (solar farm) is allowed as a “Conditional Use” in the Forest and Range zone. KCC 17.61.020.4. In addition to specific review criteria contained in Chapter 17.61, the proposal is also subject to standard Conditional Use review criteria located in KCC 17.60A Conditional Uses, section 17.60A.010.

As described in detail below, this proposal meets the criteria found in Chapter 17.61 Utilities and Chapter 17.60A Conditional Uses. This analysis considers project as a whole, including components defined as “Special Utilities” (electrical transmission lines exceeding 115,000 volts and electrical substations) and the “Major Alternative Energy Facility” (solar farm).

The criteria for review for the proposal are found in KCC 17.61.030 and KCC 17.60A.

1. KCC Chapter 17.61 Utilities

- **Criterion 17.61.030.1:** The board of adjustment shall determine that adequate measures have been undertaken by the proponent of the special utility and/or associated facility to reduce the risk of accidents caused by hazardous materials.

This criterion is met. The proposed project includes a primary transmission line and substation, both of which are required to connect the project with the existing BPA transmission network. These are dedicated facilities, serving no other electrical purpose. The risk of exposure to hazardous materials will be minimal. The transmission line will contain no hazardous materials. The substation will contain oil-filled equipment; however, it will be designed to provide containment for any spills or leaks in accordance with a Spill Prevention Control and Countermeasures (SPCC) Plan. Basic safety and fire protection equipment, such as fire extinguishers, personal protective equipment, and other equipment as necessary, will be stored onsite.

- **Criterion 17.61.030.2:** The board of adjustment, as required by existing statutes, shall determine that the proposed special utility and/or associated facilities are essential and desirable to the public convenience and/or not detrimental or injurious to the public health or safety, or to the character of the surrounding neighborhood.

This criterion is met. The project is desirable to the public convenience, as it will have the capacity to generate up to 75 MWdc of PV solar energy for distribution to utilities seeking to optimize their renewable and sustainable energy sources. The project was conceived in response to the State of Washington’s Renewable Electricity Standard, (also known as the Energy Independence Act), chapter 19.285 RCW, which mandates that by the year 2020, the state’s largest electric utilities meet 15 percent of their retail electric load with renewable electricity (for example, wind and solar energy).³

The project will not be injurious to the public health, peace, or safety or to the character of the surrounding neighborhood. The proposal involves a clean energy source without emissions to air or water for the life of the project. The solar modules do not present a health or safety hazard. Contact with the modules will not lead to electrocution or contamination (see Expanded SEPA Checklist Supplement Attachment H, *Wildlife Mitigation Plan*, Appendix G). No combustible materials will be used except for fuel and oil used in construction equipment. The project will be constructed in accordance with applicable federal, state, and county regulations that pertain to fire prevention and suppression. In addition, standard construction safety measures would be implemented to reduce the risk of hazards and accidents. The project is proposed in a rural area with a limited existing neighborhood character and a limited number of surrounding residences. The surrounding area contains electric transmission uses, such as existing overhead electric transmission line and support structures owned by BPA, which cross through the

³ The law expressly excludes hydropower.

southern portion of the site. In addition, it is being designed and sited to minimize its visibility from all surrounding areas and will result in a minimal increase in noise and odors.

- **Criterion 17.61.030.3:** The board of adjustment shall determine that the proposed special utility and/or associated facilities will not be unreasonably detrimental to the economic welfare of the county and /or it will not create excessive public cost for the public services by finding that:
 - a. It will be adequately serviced by existing services such as highways, roads, police and fire protection, emergency response, and drainage structures, refuse disposal, water and sewers, and schools; or
 - b. The applicant shall provide such services or facilities.

This criterion is met. The project has been designed and conditioned through SEPA mitigation to ensure that adequate services and facilities will be provided. Construction and operation of the project will benefit the local and regional economies, as described in the applicant's *Economic Impact Analysis* (October 2009).

When the solar installation begins, it is estimated that the workload peak at 450 workers for a period of up to 27 months (two to three 7- to 9-month construction seasons). The total value of goods and services that will be purchased locally (within Kittitas County) during the three construction seasons is estimated by the applicant to be \$97.5 million. Operation of the project will employ up to eight O&M and security staff and is expected to require approximately \$500,000 in local goods and services per year during operation.

The project will be adequately served by existing public facilities, or by private facilities constructed and maintained by the applicant, as explained in further detail below and in the SEPA Staff Report, dated July 14, 2010.

Highways and Roads. The site will be accessible via Kittitas County and private roads that interconnect with Highway 970. The major County access road is Red Bridge Road. Loping Lane is a private road and Wiehl Road is a public road that is maintained privately. The project will be internally served by a network of existing and/or new maintenance roads. The applicant will improve these roads as set forth in the MDNS.

Police Protection. Police protection of the project area is provided by the County's Sheriff's Office. The project will include security staff on site around the clock. As a result of the security measures and personnel, it is not anticipated that the project will generate any new demand for police services. The applicant has indicated that the construction contractor will notify the police services of staging and active construction locations so these services can respond efficiently to emergencies, should any arise. During the operational phase, the Teanaway Solar Reserve will contact police services in the event of an emergency.

Fire Protection. The project area is currently subject to the fire suppression services of the Washington Department of Natural Services. The Applicant has entered into an agreement with Kittitas County Fire District 7 to provide fire and emergency services during and after the project is constructed (see *Fire Services Agreement*, February 2010). Further, the project will be bordered by a firebreak no less than 100 feet wide.

The project will be constructed in accordance with applicable federal, state, and county regulations that pertain to fire prevention and suppression. In addition, standard construction safety measures will be implemented to reduce the risk of hazards and accidents. Separate safety or fire protection systems will not be required at the site. Basic safety and fire protection equipment such as fire extinguishers, personal protective equipment, and other equipment as determined by the site's safety and emergency response

plan can be stored in the O&M equipment storage building.

Irrigation and Drainage. The project will be adequately served by existing drainage and does not propose any use of Kittitas County irrigation and drainage services. The project will maximize existing pervious surface on the site by maintaining natural ground cover wherever possible including areas in between the solar rows and under the solar modules themselves. In addition, the applicant has indicated that during grading and site preparation, existing contours will be maintained whenever possible; thereby leaving site runoff and drainage largely unchanged. During construction, the applicant will implement Best Management Practices (BMPs) to minimize erosion and sediment release.

Refuse. Construction workers will be directed to dispose of all refuse in defined containers. Following construction, the only refuse generated by the project will be from the Operations and Maintenance (O&M) staff. There is no public refuse service to this site; therefore any limited refuse must be disposed of privately, as required by the County.

Water and Sewers. The proposed Teanaway Solar Reserve will not provide any source for domestic or industrial water. The applicant proposes to truck-in water from the surrounding area or elsewhere, if and as needed, for dust control during construction and module cleaning for operation.

The proposed Teanaway Solar Reserve does not anticipate the need for sewer services and has proposed no sewage facilities. Portable toilets will be placed onsite during construction and as necessary during operation. Service visits to the onsite toilets will occur on a regular basis.

Schools. Due to nature of this development, i.e. non-residential, it is not anticipated that the project will generate a significant demand for additional schools, nor will the proposed project lead to an increased burden on local school resources.

- **Criterion 17.61.030.4:** Special utilities and/or associated facilities as defined by this chapter shall use public rights-of-way or established utility corridors when reasonable. Although Kittitas County may map utility corridors, it is recognized and reaffirmed that the use of such corridors is subject to conditional use and approval and just compensation to the landowner for the use of such corridor. While a utility corridor may be used for more than one utility or purpose, each utility or use should be negotiated with the landowner as a separate easement, right-of-way, or other agreement, or other arrangement between the landowner and all owners of interests in the property. Any county map which shows utility corridors shall designate such corridors as “private land closed to trespass and public use” where such corridors are on private land. Nothing in this paragraph is intended to conflict with the right of eminent domain.

This criterion is met. The proposed project is sited near an existing utility corridor (BPA 345-kV line “Rocky Reach-Maple Valley Transmission Line”) and no new transmission lines are needed to provide transmission services to the project. A 3,000-foot tap line (or primary transmission line dedicated to the project) will be constructed to connect the project to the grid. Support structures for this line will be steel mono-poles, and each structure will be approximately 120-150 feet tall. Up to three structures are expected to support the 3,000-foot-long line, and a 120-foot termination structure will be constructed as part of the substation. The project has been sited so that the tap-line will be constructed at the lowest elevation on the site to minimize its visibility, and the line route, right-of-way width, structure locations, conductor type, and span lengths were selected for compatibility with other land uses. The real property required for the tap line has been acquired from the underlying property owner. However, because this line can and will serve no electrical purpose other than connecting the project to the grid, there is no intention to develop the right-of-way as a utility corridor that could be used for more than one utility or purpose. This limited purpose, and the structure type, span lengths, and other physical characteristics of the line also keep it in character with surrounding existing and future land uses.

- **Criterion 17.61.030.5:** The board of adjustment shall consider industry standards, available technology, and proposed design technology for special utilities and associated facilities in promulgating conditions of approval.

This criterion is noted. Staff acknowledges the applicant’s intent to build and operate the tap-line and substation according to current industry standards as required by BPA. As noted above, the design of the tap line employs locational criteria and physical characteristics that minimize its visibility and ensure compatibility with other land uses. The tap-line and the substation are envisioned to utilize the most recent readily available technology for this type of structure.

- **Criterion 17.61.030.6:** The construction and installation of utilities and special utilities may necessitate the importation of fill material which may result in the displacement of native material. The incidental generation of earthen spoils resulting from the construction and/or installment of a utility or special utility, and the removal said material from the development site shall not require a separate zoning conditional use permit.

This criterion is met. The applicant has indicated it intends to comply with this provision. Clean, native fill will be used for structure foundations and the substation. To the extent that any additional fill material is required for these facilities, the applicant expects to obtain this material from local sources.

- **Criterion 17.61.030.7:** The operation of some utilities and special utilities identified within this chapter may necessitate unusual parcel configurations and/or parcel sizes. Such parcels...

This criterion does not apply to this proposal because no lots are being reconfigured or resized.

2. Chapter 17.60A Conditional Uses

The proposed use (solar farm) is allowed in the F-R zone with a Conditional Use permit. According to KCC 17.60A.010, the Board of Adjustment may permit and authorize a conditional use when the following requirements have been met.

- **Criterion 17.60A.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.

This criterion is substantively the same as criterion 17.61.030.2 above and is met for this proposal. See response for criterion 17.61.030.2 above.

- **Criterion 17.60A.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.

This criterion is substantively the same as criterion 17.61.030.3 above and is met for this proposal. See response for Criterion 17.61.030.3 above.

D. Other Development Standards

1. KCC Title 12 – Road and Bridges, and KCC Chapter 12.6 – Storm Water Management Standards and Guidelines

The County Department of Public Works has reviewed the proposal and in a memo dated June 22, 2010, recommends a list of development conditions to assure compliance with Title 12. The recommended conditions address road and stormwater impacts unique to this project and therefore are included as SEPA conditions in the MDNS (see Conditions 1-3 in Part II, Water; Conditions 1-15 in Part VIII, Transportation). A full review of compliance with Title 12 will be performed prior to construction of the proposed project, when construction drawings will be reviewed for consistency with all applicable parts of Title 12.

- **Criterion 12.01.020.** The requirements contained in this title apply to all new construction, improvements to existing roads, or other work done on, over, or under and land use development road, or other roads within the County.
- **Criterion 12.01.060.** The County will review all land-use applications for general compliance with the Specific Roadway Standards.
- **Criterion 12.01.090(c).** Any land development or parcel creation that contains internal roads shall construct or improve those roadways to these standards.

These criteria are met. The applicant has agreed to construct Wiehl Road, Loping Lane and the internal roads to meet required standards.

- **Criterion 12.06.030.** All development proposals will be evaluated based on location, size, existing runoff conditions, topography and nearest downstream tributary. Storm water plans will be required for those development proposals which demonstrate a potential for significant storm water impacts.

This criterion is met. The County acknowledges that Ecology has required that the applicant apply for and obtain a NPDES individual permit prior to commencing construction. The terms of the NPDES Permit will require the applicant to engineer a stormwater system that meets the requirements of the *Stormwater Management Manual of Eastern Washington*. In addition, County code provisions pertaining to stormwater in Title 12 must be completed prior to receiving a building permit.

- **Criterion 12.12 Table 12-1 Joint Use Driveway Requirements**

This criterion is met and will be exceeded. A joint use driveway is required to be a minimum of 12' in width. The roads within the project site will be either 16' or 20' wide to meet fire code requirements.

2. KCC Title 13 – Water and Sewers

The County Department of Public Health has reviewed this proposal for compliance with Title 13. The proposal contains no water service or septic system, and will not be served by public sewer. According to review comments received from the Department of Public Health on June 23, 2010, during construction the site must have adequate means to address the needs of the workforce bathroom facilities in the form of at least a sanitary port-a-potty that is serviced by a septic pumper approved by the Kittitas Department of Public Health; and hand-washing facilities must be present and available for use. If these two items are not provided, the State Department Labor and Industries Officials may be notified and applicable fines may be issued.

3. KCC Title 14 – Building Code

A full review of compliance with Title 14 will be performed prior to construction of the proposed project, when construction drawings will be reviewed for consistency with all applicable parts of the Title 14. During this early stage of development review, however, the project must be reviewed for compliance with those

sections of Title 14 pertaining to fire safety. Fire Marshal's Office has conducted a review of this proposal and in a memo dated June 14, 2010, recommends a list of development conditions to assure compliance and protect public safety. Some recommended conditions address impacts unique to this project and therefore are included as SEPA conditions in the MDNS (see Conditions 1-3 in Part XV, Public Services). Other conditions are provided to ensure code consistency and are recommended as conditions of this permit.

As noted above, this project will undergo additional review to ensure consistency with Title 14 at the time of building permit submittal.

4. KCC Title 17A - Critical Areas

An administrative review was conducted for critical areas on the project site. The subject property contains wetlands, habitat areas, and hazardous slope areas. KCC Title 17A establishes development regulations when a proposed project will interfere with critical areas. In particular, development standards for wetlands are provided in Chapter 17A.04. There are no adopted development standards for habitat areas or geologically hazardous areas. The Applicant has entered into a mitigation agreement with WDFW in which the state wildlife agency states that the project, as mitigated, will not cause significant impacts to wildlife habitat. The Applicant has also designed the proposal to avoid any disturbance of wetlands, streams and their associated buffers. The SEPA MDNS also contains mitigation conditions addressing wetlands, wildlife habitat, and erosion control for sloped areas.

5. Development Agreement

The County has determined that a Development Agreement will be required for this proposal that will govern development of the solar reserve and implement the project proposal, if approved by the Board of County Commissioners.

Development agreements are authorized by RCW 36.70B.170-210, and KCC 15A.11.020. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement must also be consistent with applicable development regulations. Development standards addressed in the agreement may include:

- a. Project elements such as permitted uses, facility densities and numbers, construction practices and facility locations;
- b. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;
- c. Mitigation measures, development conditions, and other requirements under SEPA;
- d. Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;
- e. Phasing;
- f. Review procedures and standards for implementing decisions;
- g. A build-out or vesting period for applicable standards; and
- h. Any other appropriate development requirement or procedure.

Development agreements are recorded with the real property to which they apply and are binding on the parties and their successors. The agreement and any development standards govern during the term of the agreement. They may not be amended by adoption of a new zoning ordinance or development regulations after the date of the agreement.

The Development Agreement must be approved by the Board of County Commissioners, only after the Conditional Use Permit has received approval from the Board of Adjustment.

III. ADMINISTRATIVE REVIEW

A. Notice of Application

A Conditional Use Permit application and SEPA Environmental Checklist were submitted to Community Development Services on August 18, 2009. The application was determined complete on August 22, 2009. The Notice of Application for the Conditional Use permit was issued on September 3, 2009. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, the Yakama Nation, adjacent property owners and other interested parties. The last day to submit written comments on the August 2009 materials was on September 18, 2009. In consideration and response to these and other comments, supplemental materials were submitted by the applicant in February 2010 and June 2010. The interested parties that commented during the initial comment period were given the opportunity to comment on the supplemental materials, as well.

B. Posting of Notice Sign at Site

In accordance with Kittitas County code 15A.030.110, this project was accurately posted with the “Land Use Action” sign as provided by Community Development Services. The Affidavit of Posting was signed by the applicant on September 2, 2009 and returned to the planner and is included as part of the record.

C. Written Testimony

The County received 184 public comments on this proposal during the initial comment period, and subsequent to the initial comment period. An alphabetical list of those who commented or provided signatures on petitions is presented in the table below. Copies of all comment letters are included as part of the record.

No.	Name	Date of Comment Doc
1.	Ackerson, Rand	
2.	Adams, Charles (Also see Pine Hills Ranch)	10/6/2009
3.	Adams, Chuck	8/27/2009
4.	Adams, LeRock W.	3/1/2010
5.	Alt, Fred	
6.	Altmann, Mark	
7.	Bates, Lee	9/9/2009
8.	Bates, Lee	7/19/2010
9.	Bender, W. J., Ph.D., Professor	9/29/2009
10.	Berg, Gary J.	3/3/2010
11.	Bonneville Power Administration (BPA) Lila Black, Field Realty Spec.	9/30/2009
12.	Boyle, James	3/21/2010
13.	Bricklin & Newman	11/12/2009
14.	Bricklin & Newman	11/16/2009
15.	Bricklin & Newman	11/16/2009
16.	Brose, James Chrmn, Citizens Alliance for Rural Teanaway (CART)	1/11/2010
17.	Brose, James, Chrmn, Citizens Alliance for Rural Teanaway (CART)	3/16/2010
18.	Brose, James, Chrmn, Citizens Alliance for Rural Teanaway (CART)	3/18/2010
19.	Brose, Janet	10/2/2009
20.	Brose, Janet	10/20/2009
21.	Brose, Janet	11/4/2009
22.	Brose, Janet	11/22/2009
23.	Brose, Jim & Janet	10/2/2009
24.	Brose, Jim, Chairman for CART (Attached ltr from EnCo (12/10/09)	1/11/2010
25.	Buhler, Michelle	3/22/2010
26.	Bull Frog Storage and Office - Jones, Laura and Sukert, Bob	10/26/2009

No.	Name	Date of Comment Doc
27.	Burrows-Parypa, LeAnne	3/17/2010
28.	Cascade Land Conservancy - Michelle Connor	3/23/2010
29.	Central Cascades Land Co. - Nathan R. Weis, VP	3/22/2010
30.	City of Cle Elum - Charles J. Glondo, Mayor	9/18/2009
31.	City of Cle Elum - Charles J. Glondo, Mayor	3/23/2010
32.	Cle Elum/Roslyn Chamber of Commerce, Ryan Munsey, VP	2/5/2010
33.	Clerf, Catherine	10/23/2009
34.	Clerf, Catherine	3/23/2010
35.	Climate Solutions - K. C. Golden, Policy Director	9/15/2009
36.	Climate Solutions - K. C. Golden, Policy Director	
37.	Conolly, Catherine	9/17/2009
38.	Conolly, Catherine	11/1/2009
39.	Conservation Services Group - Forest Eckley	3/20/2010
40.	Cowin, Bill and Nyberg, Rebecca	3/22/2010
41.	Crosetto, Maralyn	3/5/2010
42.	Crosetto, Maralyn	3/5/2010
43.	Danubio, Melody	3/18/2010
44.	Dantzler, Teri	3/24/2010
45.	DeWalt, Melinda	3/22/2010
46.	Dins, Candice	3/16/2010
47.	Dolejsi, Nathan	3/22/2010
48.	Douglas, Chris (Mr.)	11/19/2009
49.	Dunn, Reagan	10/5/2009
50.	Dunn, Reagan	10/14/2009
51.	Dunn, Reagan	1/12/2010
52.	Dunn, Reagan	2/2/2010
53.	Dunn, Reagan	3/19/2010
54.	Dunn, Reagan	3/19/2010
55.	Dunn, Reagan	3/19/2010
56.	Dunn, Reagan	3/23/2010
57.	Dunn, Reagan; King, Barb; Smith, James	9/30/2009
58.	Ecology - Clear, Gwen	3/25/2010
59.	Ecology - Clear, Gwen	9/18/2009
60.	Ecology - Clear, Gwen	9/23/2009
61.	Ecology - Charles McKinney and Doug Howie	7/1/2010
62.	Ecology - Doug Howie	7/30/2010
63.	Economic Development Group of Kittitas County - Ron Criddlebaugh	10/2/2009
64.	Eichstaedt, Rick	12/18/2009
65.	Elliott, Jeffrey A.	
66.	Enco Environmental Corp. - Attn: Jonathan M. Kemp (Attached to James Brose email)	3/17/2010
67.	Enco Environmental Corp. - Attn: Jonathan M. Kemp (Attached to James Brose email)	12/10/2009
68.	Everett-Osiadacz, Laura	3/16/2010
69.	Faulkner, Barbara	10/1/2009
70.	Fite, Bart	9/18/2009
71.	Foss, Tim	12/12/2009
72.	Foss, Tim	3/18/2010
73.	Geiger, Jesse	3/1/2010
74.	Gonser, Terry	3/6/2010
75.	Gordon, Craig	
76.	Hammons, Gary J.	3/15/2010
77.	Hansen, Michael R.	9/17/2009
78.	Hanson, Erik & Laura	3/18/2010
79.	Hardline Construction LLC - Alex Hoyt	3/17/2010
80.	Haschak, Mike & Tory	9/29/2010
81.	Haschak, Mike	9/29/2009

No.	Name	Date of Comment Doc
82.	Haschak, Mike	8/2/2010
83.	Hatcher, Lynn (Mr.)	10/5/2009
84.	Headrick, Curtis	3/22/2010
85.	Hermanson, Rick	3/8/2010
86.	Hess, Phil (Consulting Forester)	3/10/2010
87.	Hieb, Mary, Pres., Marina Diversified Investments, Inc.	3/22/2010
88.	Hill, Robert & Diane	10/4/2009
89.	Hill, Robert & Diane	3/16/2010
90.	Hill, Robert & Diane	3/16/2010
91.	Hill, Robert & Diane; Hanson, Erik & Laura; Hill, Todd & Cheri	8/3/2010
92.	Hill, Todd & Cheri	3/18/2010
93.	Hinton, Lori	10/5/2009
94.	Hodgson, Barbara & Jack	3/16/2010
95.	Hodgson, Barbara M.	10/1/2009
96.	Hodgson, Jack (Partners Pine Hills Ranch)	9/14/2009
97.	HopeSource - JoAnn Rushton, Upper County Office Supervisor	3/17/2010
98.	Inland Telephone - James K. Brooks, Treas.	3/22/2010
99.	Jester, Terri	3/17/2010
100.	King, Barb	10/1/2009
101.	King, Barb	3/22/2010
102.	King, Bill	10/1/2009
103.	King, Bill	3/22/2010
104.	King, William	
105.	Kirkpatrick, Marc - Encompass Engineering & Surveying	3/16/2010
106.	Kittitas County Fire Marshal - Brenda Larsen, Fire Marshal	9/23/2009
107.	Kittitas County Fire Marshal - Brenda Larsen, Fire Marshal	6/14/2010
108.	Kittitas County Public Health Dept. - James Rivard, Environmental Health Supervisor	6/23/2010
109.	Kittitas County Public Works - Christina Wollman, Planner	6/22/2010
110.	Lambert, Jack D. and Lambert, Tom W. , III	3/22/2010
111.	Leaf, Barry	7/25/2010
112.	Leishman, Nathan	3/1/2010
113.	Lester, Karin	3/22/2010
114.	Locati, Steve - Pres. Stewart Title of Kittitas Co.	3/16/2010
115.	Loen, Jim	3/22/2010
116.	Loranger, Steve	
117.	Loveland, Dale	3/19/2010
118.	Lowatchie, Frank	
119.	Marusa, Rob & Cheri	9/29/2009
120.	Matthews, Lois J.	3/20/2010
121.	Maybo, Joseph, Sam & Claudette	9/17/2009
122.	McCann, Stephanie	3/9/2010
123.	McClenney, Jane and Luchsinger, Richard	10/3/2009
124.	McCormick, Kent	2/24/2010
125.	McCormick, Marli	3/16/2010
126.	MF Williams Construction Co., Inc. -Mitch Williams, Pres.	3/18/2010
127.	Myhre, Meg	11/21/2009
128.	Myhre, Meg	12/18/2009
129.	Nass, Brian	3/18/2010
130.	Nass, Brian	3/23/2010
131.	Nevil, Craig	3/12/2010
132.	Novack, Anthony	3/15/2010
133.	O'Hollasen, Kevin M. (sp?)	3/22/2010
134.	Parkway Capital, Inc. - Koeppler, Craig R.	10/23/2009
135.	Pegasus Global Holdings - Galloway, Patricia (CEO)	10/7/2009
136.	Pine Hill Ranch LLC - Charles Adams, Gen Mgr	9/17/2009
137.	Pine Hill Ranch LLC - Charles Adams, Gen Mgr	10/5/2009

No.	Name	Date of Comment Doc
138.	Pine Hill Ranch LLC - Charles Adams, Gen Mgr	3/23/2010
139.	Proctor, Beverly A.	3/1/2010
140.	Red Hawk Horse & Hay Ranch, LLC - Bill Cowin, Member	02/33/10
141.	Robbins, Bonnie - (Parnter, Pine Hills Ranch)	9/17/2009
142.	Robbins, Richard J. - (Partner Pine Hills Ranch)	9/17/2009
143.	Rooney, Tracy	3/8/2010
144.	Rust, Michael, PhD - UW Fisheries	3/22/2010
145.	Sansaver, Jack	3/23/2010
146.	Schoon, Karla	3/16/2010
147.	Senger, Sandy & Steve	3/17/2010
148.	Senger, Steve	3/17/2010
149.	Senger, Steve - Senger Construction LLC	3/23/2010
150.	Sheahan, Shane	
151.	Shoemaker Manufacturing - Richard Low, Pres.	3/19/2010
152.	Shusta, Ann	3/17/2010
153.	Sierra Club, Cascade Chapter Aaron Robins, Energy Committee Chair and Tristin Brown, Conservation Committee Chair	3/22/2010
154.	Sims, Robert	3/18/2010
155.	Simmons, Stephanie	3/8/2010
156.	Simmons, Stephanie	3/8/2010
157.	Sims, Rob, Energy Detective Agency	3/18/2010
158.	Smith, James	9/30/2009
159.	Smith, Wendy; Kirkpatrick, March & Tammi; Schweitzer, Dena	3/19/2010
160.	Smith, Wendy - Sister Moon Spa	3/16/2010
161.	SociusLawGroup By: Hamel, Denise M. for Robert & Diane Hill	3/23/2010
162.	South Central Workforce Council - A. K. Wintzer, Project Mgr	9/30/2009
163.	South Central Workforce Council - Dennis Flabetich, Board Chair	1/22/2010
164.	South Central Workforce Council - Dennis Flabetich, Board Chair	3/18/2010
165.	Sparks, Bill	10/3/2009
166.	Stephenson, Eliza - ReMax Alpine Realty	3/23/2010
167.	Sun Country Drywall Incorporated - Bill Cowin, Vice Pres.	3/22/2010
168.	Swan, Dan L. - Potelco, Inc., Engineering Supervisor, Kittitas County	3/23/2010
169.	Swihart, Steve - Four C's Transport & Logistics	3/8/2010
170.	Talley, Jack & Sarah	10/5/2009
171.	Vaughan, Derek - Owner/Broker ReMax Alpine	3/17/2010
172.	Vaughn, Laura	3/17/2010
173.	Vincent, Betty	3/17/2010
174.	Vituli, Joe R. - President, Lease Equities NW, Inc.	3/18/2010
175.	Walker, Terry L.	10/1/2009
176.	Warnick, Judy - WA State Representative 13th Dist.	10/5/2009
177.	WDFW - Harvester, Perry	9/28/2009
178.	WDFW - Teske, Mark S.	9/16/2009
179.	WDFW - Teske, Mark S.	7/7/2010
180.	Wodddwell, Myke	
181.	Wrasse, Jon	
182.	Yakama Nation (Confederated Tribes and Bands of the Yakama Nation) Philip Rigdon, Deputy Director Natural Resources Division David W. Powell, TFW Archaeologist	4/5/2010
183.	Zahajko, Mike	7/27/2010
184.	Zaske, Allen	3/22/2010

D. State Environmental Policy Act

Based on review of submitted application materials, public comments, and other information on file at the County, and after conducting site visits, Kittitas County issued a Mitigated Determination of Nonsignificance

(MDNS) on July 15, 2010 in accordance with WAC 197-11-355 (Optional DNS process). The deadline for SEPA appeals to be filed was July 29, 2010. A timely SEPA appeal along with the required \$500.00 filing fee was received July 26, 2010 from James Brose and Paige Green Dunn, two adjacent landowners. The SEPA appeal hearing will be consolidated with the CUP hearing.

The following SEPA mitigation conditions were included in the MDNS:

A. Air

1. The applicant has submitted a *Fugitive Dust Control Plan* (February 2010), which has been reviewed by the Department of Ecology. The proposed project shall be constructed and operated in accordance with the *Fugitive Dust Control Plan* and other application documents, such as the *Vegetation Management Plan*. In addition, following optional mitigation measures have been suggested by Ecology to further minimize adverse air quality impacts:
 - a. Fully implement the no-burn option described in the Vegetation Management Plan, which includes making beneficial use of all organic matter being displaced and ensuring no waste disposal into the atmosphere or breathing air. If burning is to occur, a permit will be required from the Department of Ecology, Central Regional Office – Air Quality.
 - b. Seek and employ the cleanest possible mobile source technology reasonably available especially for construction vehicles, including using low emission vehicles wherever possible, keeping all vehicles tuned-up and running well, using the lowest sulfur fuel available, and eliminating unnecessary idling.
2. The current proposal does not contain assembly or manufacturing components. If at any time the project is changed to include these components, the applicant shall contact the Department of Ecology to discuss emissions and permit requirements. Air quality permits would be required prior to construction, and the Department of Ecology wishes to advise the applicant that sufficient lead time should be considered for any additional review and permit processing.

B. Water (Surface and Ground)

1. On-site stormwater management that conforms to the specifications of the *2004 Stormwater Management Manual for Eastern Washington* is required of this development. Stormwater systems shall be designed to store stormwater generated by a 24-hour, 25-year storm event. Stormwater system designs shall be prepared and stamped by a civil engineer licensed in the State of Washington. The stormwater system design shall be presented to Public Works and approved by the County Engineer prior to permit issuance. The stormwater system construction shall be certified by a licensed engineer and is required prior to issuance of a building permit. Stormwater plans shall be submitted in accordance with KCC 12.06 and 12.08.

C. Plants

1. According to the *Mitigation Agreement Between Washington State Department of Fish and Wildlife and Teanaway Solar Reserve LLC*, TSR shall control the spread of noxious weeds caused by the Project. Prior to construction, TSR shall present a Noxious Weed Control Plan to the Kittitas County Noxious Weed Control Board for review and approval.
2. No later than August 31st, 2010, the applicant shall submit to the County a *Final Draft Tree Planting Plan* based on review comments from the Technical Advisory Committee on the *Draft Tree Planting*

Plan. Following the TAC meeting tentatively scheduled for September 2010, at which the *Final Draft Tree Planting Plan* will be discussed, the applicant shall submit the *Final Tree Planting Plan* for review and approval by the County prior to building permit issuance.

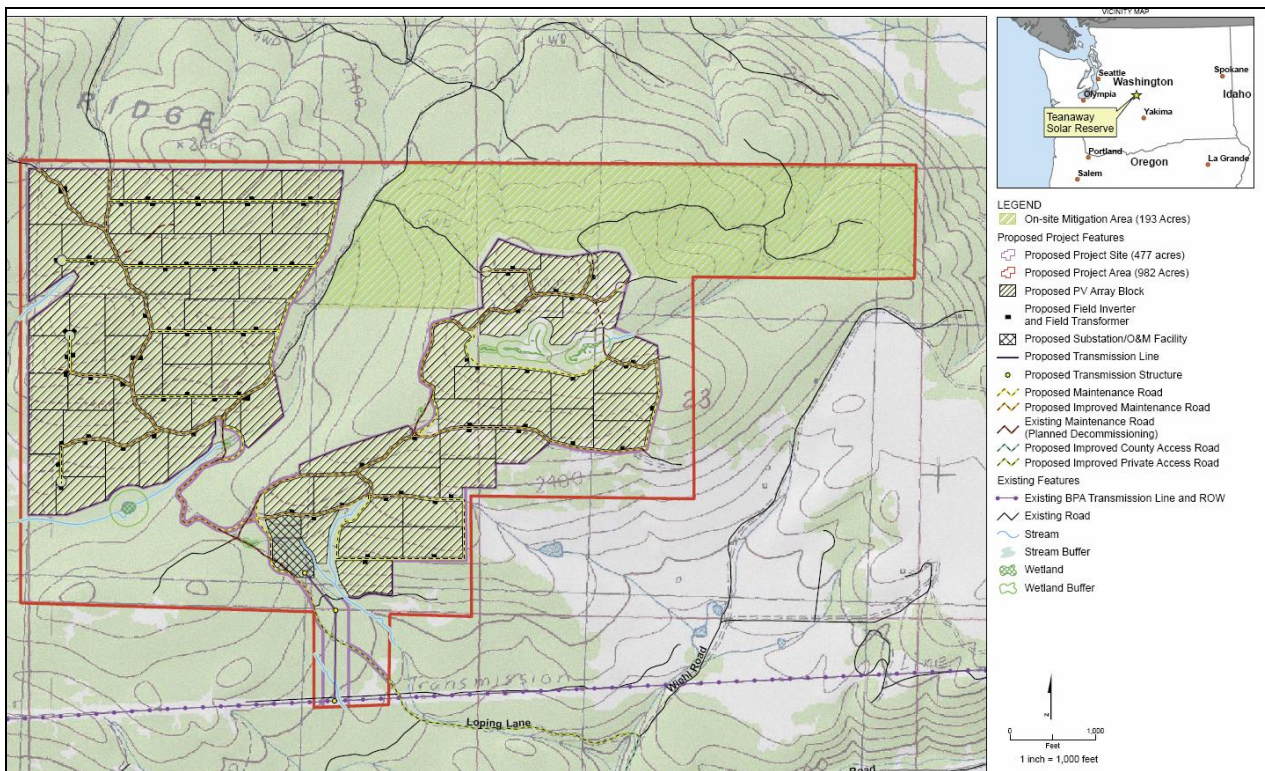
D. Animals

As a voluntary measure, TSR agreed to develop mitigation under *The Washington Department of Fish and Wildlife Wind Power Guidelines* (April 2009) ("*Wind Power Guidelines*") where feasible even though the Project is a solar facility. The WDFW Mitigation Agreement between TSR and WDFW was also developed pursuant to the *Wind Power Guidelines*. The WDFW Mitigation Agreement and applicant's voluntary mitigation contain the following requirements pertaining to animals:

1. The applicant has conducted sensitive species surveys to identify potential impacts to plants and animals. Pursuant to the *Sensitive Species Surveys for the Teanaway Solar Reserve, Kittitas County, Washington* (February 2010), the applicant shall implement Best Management Practices wherever surface disturbance occurs during construction to avoid and reduce temporary and permanent impacts to wildlife to the extent practicable. In the event that a state or federally listed threatened or endangered wildlife species is observed during project development, work will be halted immediately and a qualified biologist notified.

On-Site Mitigation (Animals)

2. TSR will permanently impact 477 acres of Class II habitat, requiring a mitigation value of 2:1, or 954 acres, under *The Washington Department of Fish and Wildlife Wind Power Guidelines* (April 2009) ("*Wind Power Guidelines*"). To satisfy this mitigation in part, TSR will protect and preserve from further development, for the life of the project, a Category II area on-site of approximately 193 acres of similar elk habitat within the proposed Project Area identified as "Mitigation Area" below and in Figure 3 of the *Teanaway Solar Reserve Wildlife Mitigation Plan, Kittitas County, Washington* (February 2010).



The amount of on-site replacement habitat (193 acres) may be increased as a result of a pre-construction

on-site habitat analysis jointly conducted by WDFW and the TSR qualified biologist. The 193 acre on-site mitigation and any additional acreage approved for on-site mitigation shall be preserved and protected through a conservation easement with a non-governmental organization from further development for as long as a solar energy project remains within the project area, regardless of who holds the lease or owns the property. The conservation easement must be in a form approved by WDFW and must be completed and recorded before construction begins on the Project. If TSR is unsuccessful in recording the conservation easement for the on-site mitigation, TSR will either contribute money to a mutually acceptable third party that owns or will purchase mitigation habitat or pay WDFW a fee as provided for in “Off-Site Mitigation” below.

3. Several existing roads located within the northeast parcel which are not used to access WDNR property, will be restricted for general use to minimize human impacts on elk.
4. To reduce impacts to elk, visual barriers will be created and reasonably maintained between (1) the array fields and Mitigation Area, and (2) along the corridor between the arrays. These barriers will consist of local native coniferous trees (ponderosa pine and Douglas fir) placed and maintained in such proximity and density to provide a visual screen approximately 8’ or greater in height within 6-8 years after planting. It must be noted that this is a vegetation requirement independent of tree stocking criteria required by the Washington Department of Natural Resources, and that soils, weather, elevation, drainage, planting density, nutrients, fire, wind and other factors heavily influence the rate of growth and mortality of trees and other vegetation. Accordingly, TSR cannot guarantee that any vegetation barrier will block all views of the Project at any particular location or time. WDFW does not oppose any trees used for the visual barriers counting towards fulfillment of TSR’s 3:1 tree replacement mitigation for the CUP. The Technical Advisory Committee shall guide in the location and placement of the trees, provided that creation of the visual barriers cited above shall be the first priority of the tree replacement program.
5. TSR shall design and engineer the Project to avoid and/or minimize impacts on elk and elk habitat. The Project already includes, or shall include, the following design features and commitments:
 - a. The Project footprint is designed to avoid, or minimize impacts on, possible migration routes previously identified by landowners and densely forested winter habitat along the Teanaway River corridor.
 - b. No Project facilities will be placed within any riparian corridor, wetland, or stream. Stream buffers will be flagged and clearly marked to prevent inadvertent clearing by construction crews.
 - c. Artificial lighting will be directed on Project facilities to avoid light disturbance to surrounding wildlife mitigation areas and potential wildlife corridors.
 - d. Electrical conductors from the array field to the inverters will be supported above-ground within the solar module framework and installed per National Electrical Code standards. Collector lines between field transformers and the substation will be below grade.
 - e. Overall site selection is designed to avoid all areas with documented endangered, threatened species.
 - f. No fencing will be erected along the boundary of the Project Area to help maintain access for large mammals and minimize disruption of movement or migration of wildlife.
 - g. TSR will not place a planned solar panel between the two major solar array fields in the southwest portion of the Project Area to provide opportunity for wildlife movement between the two major arrays. Vegetation within the corridor will not be altered.
 - h. During the initial timber clearing process, TSR will temporarily stockpile (up to one year), load and haul up to 100 trees greater than 14” dbh cut from the project site for use by WDFW or third party in stream projects within the upper Yakima River Basin. The trees will remain in lengths of 40-45 feet wherever possible. WDFW or third party will be responsible for identifying a location for TSR to haul and deposit the trees, and shall provide TSR notice requesting the trees within the one year stockpiling period.

- i. TSR shall install filter bags, weed free mulches, sediment fences, sediment filter fabric traps, and graveled construction accesses as necessary for erosion control. The primary means of erosion control will involve methods that preclude initial mobilization of fines and sediment rather than attempting to catch or trap it after mobilization. Straw mulches and similar mechanisms will be used to prevent erosion and mobilization of sediment contaminated runoff.
- j. TSR shall ensure that the hydrology of the seasonal streams on-site is not altered.
- k. TSR shall reseed areas temporarily affected by construction activities using seed sources of native biotypes. Where installed, erosion control mulches, sediment fences and check dams will remain in place until the affected areas are well vegetated and the risk of erosion has been eliminated.
- l. During project construction, vehicle servicing and refueling will occur in a temporary staging area equipped for fuel or oil spills.
- m. Onsite vehicles used during construction, operation, maintenance, and decommissioning will be monitored for petroleum leaks.
- n. Spills will be cleaned up immediately upon discovery and reported to the appropriate agency. Equipment found to be visibly leaking petroleum products will not be used at the project site until repaired.
- o. Any hazardous waste material generated by project construction or operation will be disposed of in a manner specified by local and state regulations or if there are no applicable regulations, according to the manufacturer's recommendations.
- p. Cleanup materials will be kept readily available onsite, either at the equipment storage area, O&M building or on the construction contractor's trucks.
- q. Speed limits on access roads will be set at 20 m.p.h. in order to minimize vehicle strikes on wildlife.
- r. The Project site will be restored to approximate or improved pre-project conditions as provided in TSR's Development Agreement. Surrounding lands with similar habitat will be used as reference sites to guide restoration. The project site will be revegetated with plant species and densities representative of undisturbed areas adjacent to the site.

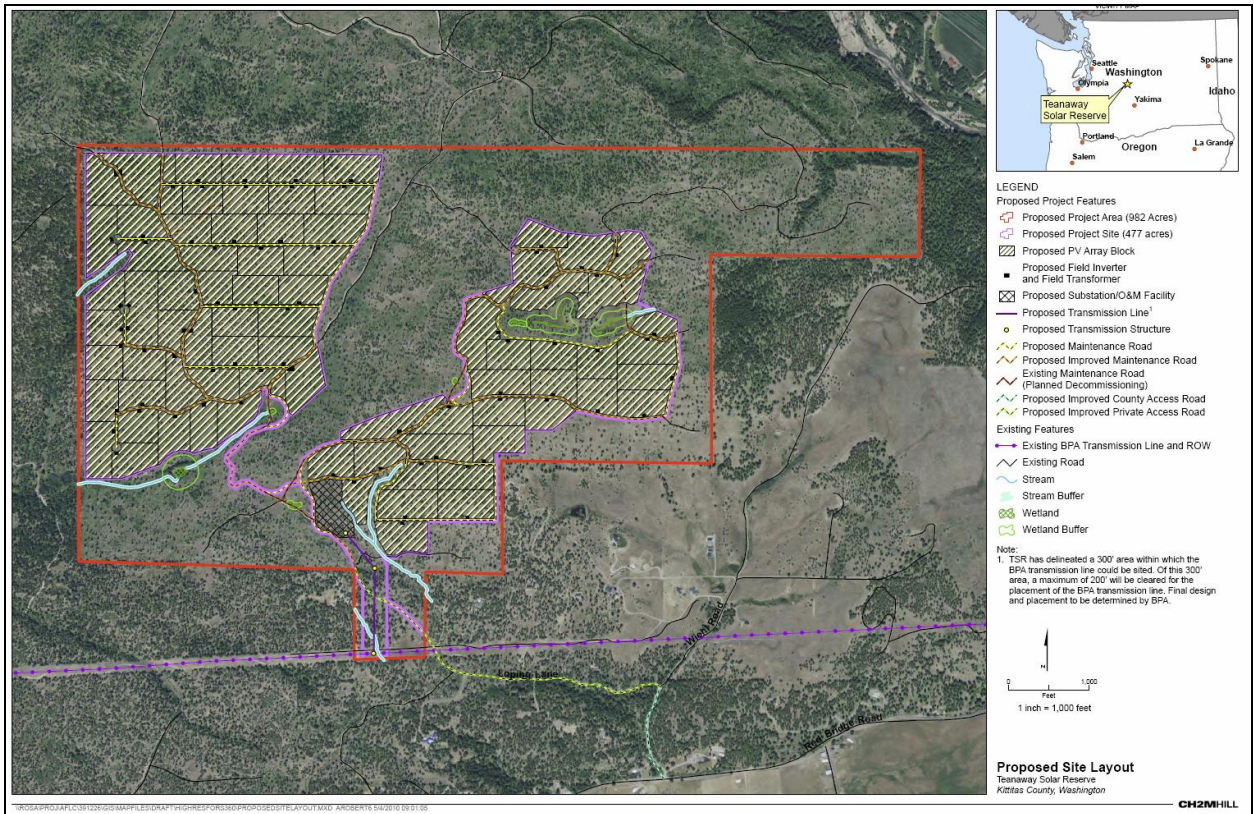
Off-Site Mitigation (Animals)

- 6. The *Wind Power Guidelines* suggest two fundamental mitigation approaches for mitigating permanent impacts to habitats by wind energy projects: Mitigation "be fee" and, secondarily, acquisition of replacement habitats. The Project will permanently impact 477 acres of Class II habitat, requiring a mitigation value of 2:1, or 954 acres, under the *Wind Power Guidelines*. As provided above, a maximum of approximately 193 acres of the remaining 505 undeveloped acres within the Project Area will be considered mitigation habitat; *provided* that the amount of on-site replacement habitat (193 acres) may be increased as a result of a pre-construction on-site habitat analysis jointly conducted by WDFW and a TSR qualified biologist, and provided that this mitigation habitat is not altered or developed, and is managed exclusively for fish and wildlife benefit as long as any form of type of solar energy project remains on the 477 acres referenced above. Moreover, this 193 acre on-site mitigation and any additional acreage set aside for on-site mitigation must be secured by a conservation easement as provided for above (On-Site Mitigation). In accordance with the *Guidelines*, TSR will provide off-site mitigation for the number of remaining acres necessary to satisfy its 2:1 habitat mitigation (Mitigation Obligation) through fee or habitat acquisition.
- 7. Consistent with the *Wind Power Guidelines*, TSR may satisfy its remaining Mitigation Obligation either by purchasing mutually acceptable mitigation habitat and deeding it to WDFW or a mutually acceptable third party, contributing money to a mutually acceptable third-party that owns or will purchase mitigation habitat, or by paying to WDFW a fee of one-thousand four hundred fifty dollars (\$1450.00) per acre plus

\$30,000.00 or the actual funds necessary, for appraisal costs, a hazardous waste assessment, closing costs, and transaction time invested by WDFW real estate staff. WDFW and TSR agree in utilizing any of the proceeding approaches for TSR to satisfy habitat permanently impacted by the Project shall be a priority. The mitigation proposed by TSR will be subject to WDFW’s final approval and such approval will not be unreasonable withheld. If TSR has not satisfied its mitigation obligation prior to commencing construction, TSR will provide a letter of credit, bond, or other financial security to WDFW in an amount and form sufficient to provide for its Mitigation Obligation prior to commencing operation of the Project.

E. Land Use

1. The width and location of the transmission corridor, the location of the substation facility, and the southeasterly edge of the southern solar module field shall be located no closer to residences than shown on the proposed site layout below.



2. The northern solar module field shall be setback at least 100 feet from adjacent properties zoned Commercial Forest.

F. Aesthetics

1. Consistent with the *Tree Planting Plan*, new trees will be planted at visually strategic locations around the perimeter of the site that could provide visual screening to power lines, sub-stations, and other project components, and to screen views or help “soften” views of the project.

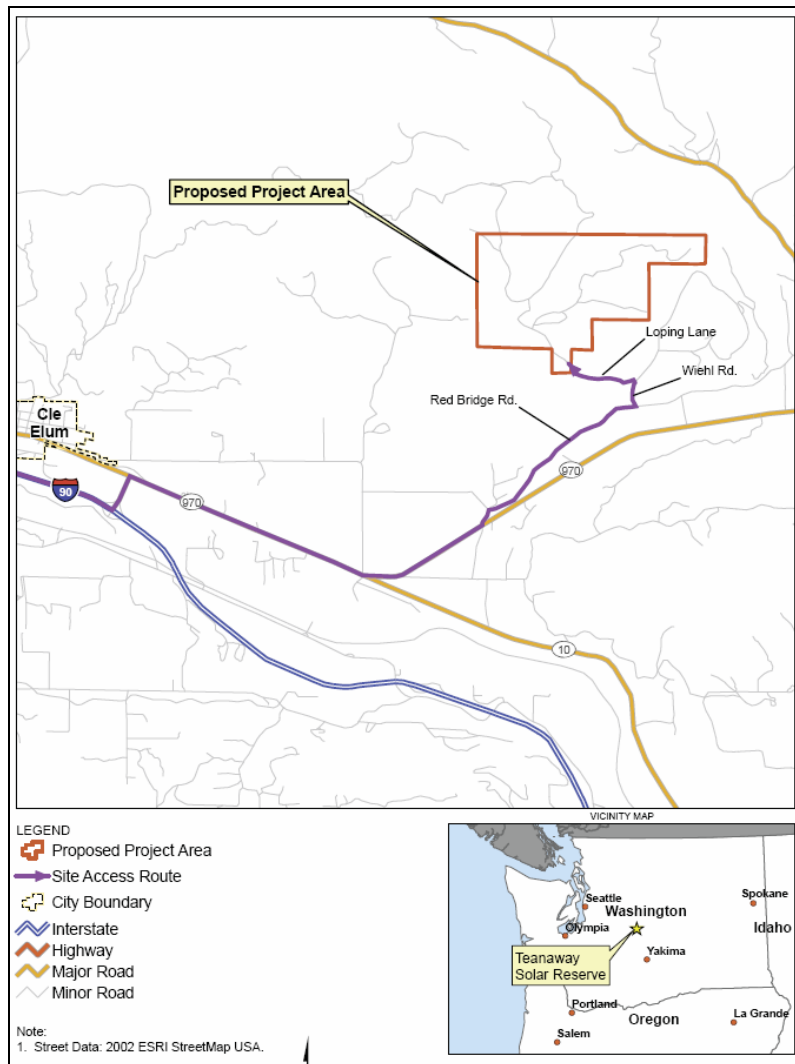
G. Historic and Cultural Preservation

1. The project shall be constructed and operated pursuant to the August 2009 *Cultural Resources Report*, referenced in the expanded SEPA Checklist.

H. Transportation

Construction Mitigation (Excluding Site Preparation—SEPA Checklist page 10-11)

1. Construction traffic shall access Red Bridge Road from the southwest entrance, directly from SR 970. If road closures along this access route occur, Public Works shall be consulted to establish a temporary detour route.
2. The applicant shall prepare a *Traffic Management Plan* with the construction contractor outlining steps for minimizing construction traffic impacts. The *Traffic Management Plan* shall be submitted to the Department of Public Works and WSDOT for review and approval prior to construction.
3. The applicant shall prepare a Construction Road Signage Plan for Red Bridge Road and Wiehl Road that conforms to the most recent edition of the Manual on Uniform Traffic Control Devices. The Construction Road Signage Plan shall be submitted to the Department of Public Works prior to construction for review and approval.
4. The applicant shall assist in minimizing access disruptions to residents along roadways impacted by construction activities. Five days prior to the commencement of road construction, the applicant shall provide notice by mail of upcoming construction activities to landowners gaining access from the portion of the “Site Access Route” extending from the intersection of Red Bridge Road and Highway 970 northeastward to the intersection of Loping Land and the TSR onsite access point, as depicted below.



5. When hauling slow or oversized wide loads, appropriate vehicle and roadside signing and warning devices shall be deployed per the Traffic Management Plan. Pilot cars shall be used as WSDOT dictates, depending on load size and weight. WSDOT requirements shall also apply to county roads.
6. The applicant shall encourage carpooling for the construction workforce to reduce traffic volume.
7. The applicant shall provide Detour and Warning Sign Plans to the Department of Public Works in advance of any traffic disturbances. When temporary road closures cannot be avoided the applicant shall post "To Be Closed" signs and place a legal notice in the newspaper a minimum of five working days prior to the closing. The types and locations of the signs shall be shown on a detour plan. A Detour Plan must be submitted to the Department of Public Works at least ten working days prior to the proposed closure. No County roadway shall be closed until after the Detour Plan has received approval from the Department of Public Works. In addition, at least five working days prior to the closing the contractor must provide written notification to local fire, school, law enforcement authorities, postal service and any other affected persons as directed by the Department of Public Works.
8. The applicant shall maintain one travel lane at all times when construction occurs on Loping Lane or Wiehl Road. A flagger shall be employed at all times when only one travel lane is open.

9. The applicant shall employ flaggers as necessary to direct traffic when large equipment is exiting or entering public roads to minimize risk of accidents.
10. The applicant shall provide a roadway pavement analysis and visually inspect the condition of pavement and the quantity and severity of pavement distresses utilizing a county approved rating system and a video, prior to and immediately after each phase of construction, including substation construction. The analysis shall document roadway and shoulder conditions before and after construction and shall include Red Bridge Road east of Wiehl Road. The applicant shall be responsible for restorative work made necessary by the project.
11. Loping Lane and Wiehl Road shall be constructed to meet the minimum requirements of the IFC as adopted by the County, prior to receiving building permit approval.

Project Mitigation

12. Loping Lane and Wiehl Road shall be constructed and/or repaired as required below. Prior to receiving permit approval, a bond shall be submitted which covers 135% of the engineer's estimate of the full costs of road construction requirements and repairs and follows all requirements of KCC 12.01.150.
 - a. After construction is completed, Loping Lane shall be constructed and/or repaired to comply with International Fire Code standards. The road must be certified by a civil engineer licensed in the state of Washington prior to release of the bond.
 - b. Wiehl Road must be constructed to 24-foot total paved width, or as approved by the County Engineer from the intersection at Red Bridge Road to the intersection with Loping Lane. All road designs shall be engineered as specified by AASHTO A Policy on Geometric Design of Highways and Streets, 5th edition (2004). Engineering justification shall be included with the design for proposed total pavement width less than 24 feet. The road must be certified by a civil engineer licensed in the state of Washington prior to release of the bond.
13. Within the project boundaries, the primary access roads shall be constructed with an all-weather surface and be a minimum of 20 feet in width. Secondary roads shall be a minimum of 16-foot wide. A turnout shall be provided every 1000 feet, or if the segment of road is less than 2000-feet long, the turnout shall be located in the middle of that segment. Each turnout shall provide at least 5 feet of additional driving surface for a length of 50 feet. All changes to the road layout must be approved by County staff.
14. The turning radius at all corners shall be a minimum of 28 feet. Cul-de-sacs shall have a minimum driving surface radius of 50 feet.
15. Primary access roads throughout the site shall be kept clear of snow for emergency access.

I. Public Services

1. A 50' cleared area shall be maintained around the solar module fields, with an additional 50' of area with reduced natural vegetation. Trees greater than 4" in diameter are to be limbed up, ladder fuels are to be removed, dead fall is to be removed, etc.
2. Emergency fire, supportive medical, and other standard emergency response services shall be provided to the Teanaway Solar Reserve by Fire District 7, according to the Fire Protection Agreement (Teanaway Solar Reserve) dated April 17th, 2010. Any future amendments to this agreement shall be reviewed by the Fire Marshal's Office prior to adoption.

3. Pursuant to the Fire Protection Agreement, the applicant will seek annexation of the Teanaway Solar Reserve property into Fire District 7 following permit approvals. The applicant shall provide a copy of the petition for Annexation of the Property to the District No. 7, and any other subsequent proceedings regarding the annexation process.

E. Recommended Conditional Use Conditions

According to KCC 17.60A.020.1 the Board of Adjustment may impose such conditions as it deems necessary to protect the best interests of the surrounding property, neighborhood or the county as a whole. Based on the entire record for the proposed project, the Staff recommends that the mitigation measures contained in the MDNS, including the voluntary mitigation measures proposed by the Applicant incorporated into the MDNS and outlined in the SEPA Staff Report accompanying the MDNS, be incorporated into the CUP as conditions.

IV. SUGGESTED FINDINGS OF FACT

This matter having come before the Kittitas County Board of Adjustment upon the above-referenced Conditional Use Application from CH2M HILL, authorized agent for Teanaway Solar Reserve, LLC, staff recommends the Board of Adjustment make the following Findings of Fact, Conclusions at Law and Decision related to the above referenced matter:

General Description of Proposal

1. Teanaway Solar Reserve LLC (“the applicant” or “TSR”), has submitted a Conditional Use Permit application to construct and operate the Teanaway Solar Reserve (“the project”). The project includes the following key components: solar modules; field inverters; field transformers; electrical conductors; electrical substation and switchyard; operations and maintenance (O&M) building and supervisory control and data acquisition (SCADA) system; overhead interconnection transmission line; and access and maintenance roads.
2. The Teanaway Solar Reserve will be constructed on an approximately 982 acre site, though only up to 477 acres will be involved in land disturbance and development. The remaining acres are currently undeveloped open space. Approximately 193 acres onsite will be preserved with a conservation easement as part of the Applicant's wildlife mitigation plan, and an open corridor will be maintained to allow for wildlife migration through the site.
3. The project will be completed over a period of 2 to 3 years, with 7-to 9-month construction periods each year, weather dependent.
4. The project is proposed to generate up to 75MWdc of PV solar energy for distribution to utilities and communities in the region.
5. The Comprehensive Plan’s Land Use Element designates the subject parcel as Rural.
6. The subject property is zoned Forest and Range. The surrounding properties are zoned Commercial Forest, Forest and Range, and Rural-3.
7. The purpose and intent of the Forest and Range zone is to provide for areas of Kittitas County wherein natural resource management is the highest priority and where the subdivision and development of lands for uses and activities incompatible with resource management are discouraged.
8. The solar farm is considered a "Major Alternative Energy Facility" (KCC 17.61.010.9) and certain components of the solar farm (overhead transmission line and substation) are considered "Special

Utilities" (KCC 17.61.010.2). According to the Kittitas County Code a "Major Alternative Energy Facility" and "Special Utilities" are allowed with a Conditional Use Permit in the Forest and Range zoning district, subject to the conditions set forth in Chapter KCC 17.60A Conditional Uses and KCC 17.61 Utilities. KCC 17.61.020.4; 17.61.020.6.

9. An administrative site analysis was completed by the staff planner in compliance with Kittitas County Code Title 17A, Critical Areas. Wetlands, wildlife habitat areas, and geologically hazardous areas were identified onsite.

Procedural Background for the Subject Application

10. On August 18, 2009 Teanaway Solar Reserve, LLC ("TSR" or "the applicant") submitted to Kittitas County Community Services Department ("CDS") an application for a Conditional Use Permit ("CUP"), a draft Development Agreement ("DA") for the project, and an expanded SEPA Environmental Checklist dated August 14, 2009. The expanded SEPA Checklist included a *Sensitive Species Report*; a *Wetland Delineation Report*, a *Cultural Resources Report*, and a *Zone of Visual Influence Memorandum*.
11. On August 22, 2009 the County deemed the application complete and sent a letter to the applicant stating this conclusion.
12. On September 3, 2009 a Notice of Application was issued. This notice was mailed to government agencies, adjacent property owners, and the applicant. The public notice period lasted from September 3, 2009 to September 18, 2009. A notice of application was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners, and other interested parties. Written comments were received and included in the record for consideration.
13. On September 2, 2009, the applicant's authorized agent signed an Affidavit of Posting, confirming that in accordance with Kittitas County Code 15A.03.110, this project was accurately posted with the "Land Use Action" sign as provided by Community Development Services. The Affidavit of Posting was returned to the planner and is included as part of the record.
14. The County reviewed comments with the Applicant and requested that additional studies addressing issues raised by the comments be submitted by February 22, 2010.
15. In February 2010, TSR supplemented its CUP application and Expanded SEPA checklist with additional reports and information per the County's request including, but not limited to, a Geology and Soils Hazard Evaluation, a Fugitive Dust Control Plan, a Vegetation Management Plan, a Hydrologic Analysis, a Wildlife Mitigation Plan, and a Transportation and Road Plan.
16. The Applicant submitted additional hydrology and stormwater modeling as well as executed agreements between the Applicant and WDFW and the Kittitas County Fire Protection District 7 in June of 2010.
17. Based upon a review of these materials, on July 15, 2010 the County issued a SEPA Mitigated Determination of Non-significance (MDNS). The Board finds that the notice of said determination was provided to all required parties of record pursuant to 43.21C RCW and that said notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners, and other interested parties. The last day to appeal this decision was July 29, 2010 at 5:00 PM.

Conduct of Hearing

18. On August 11, 2010 a consolidated open record hearing was held to consider the SEPA Appeal and the underlying Conditional Use Permit. Testimony was taken from those persons present who wished to be heard. On July 15, 2010, due notice of the CUP public hearing was given as required by law, and the necessary inquiry was made into the public interest to be served by this proposed project.
19. The public hearing was conducted in the standard manner for a Board of Adjustment consolidated hearing to consider an application for conditional use permit. County staff presented an overview of the project and summarized its Staff Reports on the CUP, including the recommended conditions of approval. The applicant made their presentation requesting approval of the CUP. Public testimony was taken from [redacted] citizens.

Conditional Use Permit

20. The Board of Adjustment finds that the proposed development has met the requirements of KCC 17.60A.010 Review criteria—Conditional uses, which include the following:
 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 cost or economic detriment. (Ord. 2007-22, 2007; Ord. 88-4 § 11 (part), 1988; Res. 83-10, 1983)
21. The Board of Adjustment finds that the proposed development has met the requirements of KCC 17.61.030 Review Criteria—Special utilities and associated facilities, which include the following:
 1. The board of adjustment shall determine that adequate measures have been undertaken by the proponent of the special utility and/or associated facility to reduce the risk of accidents caused by hazardous materials.
 2. The board of adjustment, as required by existing statutes, shall determine that the proposed special utility and/or associated facilities are essential or desirable to the public convenience and/or not detrimental or injurious to the public health or safety, or to the character of the surrounding neighborhood.
 3. The board of adjustment shall determine that the proposed special utility and/or associated facilities will not be unreasonably detrimental to the economic welfare of the county and/or that it will not create excessive public cost for public services by finding that: (a) It will be adequately serviced by existing services such as highways, roads, police and fire protection, emergency response, and drainage structures, refuse disposal, water and sewers, and schools; or (b) The applicant shall provide such services or facilities.
 4. Special utilities and/or associated facilities as defined by this chapter shall use public rights-of-way or established utility corridors when reasonable. Although Kittitas County may map utility corridors, it is recognized and reaffirmed that the use of such corridors is subject to

conditional use approval and just compensation to the landowner for the use of such corridor. While a utility corridor may be used for more than one utility or purpose, each utility or use should be negotiated with the landowner as a separate easement, right-of-way, or other agreement, or other arrangement between the landowner and all owners of interests in the property. Any county map which shows utility corridors shall designate such corridors as "private land closed to trespass and public use" where such corridors are on private land. Nothing in this paragraph is intended to conflict with the right of eminent domain.

5. The board of adjustment shall consider industry standards, available technology, and proposed design technology for special utilities and associated facilities in promulgating conditions of approval.

6. The construction and installation of utilities and special utilities may necessitate the importation of fill material which may result in the displacement of native material. The incidental generation of earthen spoils resulting from the construction and/or installment of a utility or special utility, and the removal of said material from the development site shall not require a separate zoning conditional use permit.

7. The operation of some utilities and special utilities identified within this chapter may necessitate unusual parcel configurations and/or parcel sizes. Such parcels: (a) Need not conform with applicable zoning requirements; provided, they comply with the procedures provided in KCC Title 16, Subdivisions, and so long as used for a utility or special utility; (b) Are not eligible for any other use or any rights allowed to nonconforming lots in the event the utility or special utility use ceases; (c) Shall continue to be aggregated to the area of the parent parcel for all other zoning and subdivision requirements applicable to the parent parcel. (Ord. 2001-12)

22. According to KCC 17.60A.020, in permitting conditional uses the Board of Adjustment may impose such conditions as it deems necessary to protect the best interests of the surrounding property or neighborhood or the county as a whole. The Board of Adjustment grants this Conditional Use Permit subject to the following conditions are required for approval of the Conditional Use Permit.
- a. All development, design and construction shall comply with Kittitas County Code, Kittitas County Zoning and the 2006 International Fire and Building Codes, including those mitigation measures listed as "Code Mitigation" in the SEPA Staff Report, dated July 14, 2010.
 - b. All development, design and construction shall comply with those mitigation measures listed as "Voluntary Mitigation" in the SEPA Staff Report, dated July 14, 2010.
 - c. All development, design and construction shall comply with the SEPA mitigation measures listed in the MDNS, dated July 15, 2010.