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November 9, 2016

Mr. Jeff Watson
Kittitas County Community
Development Services
411 N. Ruby Street
Ellensburg, WA 98926



Re: CU 15-00006 Iron Horse Solar Farm Condition Use Decision
CU 15-00006 Iron Horse Solar Farm SEPA Appeal Decision

Dear Mr. Watson:

Enclosed please find the Hearing Examiner's decisions regarding CU 15-00006, Iron Horse Solar Farm.

Should you have any questions, please call.

Sincerely,

KOTTKAMP & YEDINAK, PLLC

A handwritten signature in blue ink that reads "Kelly Serván".

Kelly Serván
Legal Assistant to Andrew L. Kottkamp

Enclosures

**KITTITAS COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)
)
) **SEPA APPEAL DECISION**
CU-15-00006 SEPA APPEAL)
Iron Horse Solar Farm)

I. FINDINGS OF FACT

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on October 20, 2016, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and Decision as follows:

1. One Energy Development LLC authorized agent for Bill Hanson, landowner, has submitted a conditional use application for a Major Alternative Energy Facility on approximately 68 acres. The subject property is zoned Agriculture 20. This "Utility" (KCC 17.61.010(1)) is subcategorized as a major alternative energy facility (KCC 17.61.010(9)), and as such is an allowed conditional use for the zone (KCC 17.61.020(4)(b)).
2. This proposal contains 4 parcels, located approximately 1 mile east of the City of Kittitas at 320 South Caribou Road, in a portion of Section 01, T17N, R19E, WM in Kittitas County, bearing Assessor's map numbers 17-19-01000-0023, 17-19-01000-0028, 17-19-01000-0042, and 17-19-01000-0043.
3. Site Information:

Total Property Size:	68 acres
Total project size:	42.5 Acres
Number of Lots:	4; no new lots are being proposed
Domestic Water:	None required or planned at this time
Sewage Disposal:	None required or planned at this time
Fire Protection:	Kittitas Valley Fire and Rescue
Irrigation District:	Kittitas Reclamation District
4. Site Characteristics:

<u>North:</u>	Private residential, farming and grazing
<u>South:</u>	Private residential, farming and grazing
<u>East:</u>	Private residential, farming and grazing
<u>West:</u>	Private residential, farming and grazing

The subject property is generally flat disturbed farmland.

5. Access: The site is accessed from Caribou Road. Kittitas County Public Works has conditioned that the access be constructed to commercial standards.
6. The Comprehensive Plan designation is “Rural Working.”
7. Zoning and Development Standards: The subject property is located within the Agriculture 20 zone. The agriculture (A-20) zone is an area wherein farming, ranching and rural life styles are dominant characteristics. The intent of this zoning classification is to preserve fertile farmland from encroachment by nonagricultural land uses, and protect the rights and traditions of those engaged in agriculture. The Agriculture 20 zone allows for an array of permitted and conditional uses. This project is being proposed under KCC 17.61 Utilities as a major alternative energy facility, an allowed conditional use for the zone.
10. The conditional use permit application was submitted to Community Development Services (CDS) on November 12, 2015. On December 17, 2015 the application was deemed incomplete following a mandated pre-application meeting between county staff and representatives of the applicant. Materials required at that time included a transportation concurrency application and a stormwater management plan. On March 3, 2016, revised project materials were submitted by the applicant which included the required information as well as an updated narrative and SEPA checklist. The application was deemed complete on May 12, 2016. The Notice of Application for the conditional use permit was issued on May 23, 2016. This 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 submit written comments was on June 7, 2016.
11. Kittitas County acted as the lead agency for the SEPA Environmental Determination. A Mitigated Determination of Non-Significance (MDNS) was issued for this project on August 10, 2016. The appeal period for this SEPA determination ended on August 24, 2016 at 5:00 p.m.
12. On August 24, 2016, “Save Our Farms! Say No to Iron Horse” (hereinafter “Appellants”) timely filed an appeal of the SEPA decision.
13. Staff conducted an administrative critical area review in accordance with KCC 17A and found that this proposal is adjacent to a type 2 fish bearing stream. Kittitas County agreed with the comments provided by The Washington State Department of Fish and Wildlife regarding Caribou Creek’s designation as a Type 2 Fish Bearing Stream and will enforce the recommended 100’ buffer as well as require a Riparian Planting Plan developed in conjunction with and approved by the WDFW.
14. The Kittitas County Comprehensive Plan designates the subject property as Rural Working Land. Uses within this designation generally encourage farming, ranching and storage of agriculture products, and some commercial and industrial uses compatible with rural environment and supporting agriculture and/or forest activities. Areas in this designation often have low population densities with larger parcel size compared to Rural Residential areas. Agriculture and forestry activities are generally less in scope than in the Resource lands.
15. The Washington State Growth Management Act mandates the county to develop a comprehensive plan, and that within that plan a Rural Element be devised which “include

measures that apply to rural development and protect the rural character of the area as established by the County.” These measures must be used to control rural development, assure visual compatibility of rural development with surrounding areas, reduce sprawl and protect against conflict with the use of agricultural, forest and mineral resource lands (RCW 36.70A.070). “Rural Character” is defined in the Act thus:

“Rural character” refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

16. Significant and undisputed facts with respect to whether a solar farm is rural in character and a compatible use, are that the proposed use is allowed in this zone as a conditional use, and that the Kittitas County Board of Commissioners and the Growth Management Hearings Board have both found that Major Alternative Energy Facilities are consistent with rural areas. A conditional use permit, through a public hearing process, allows the county to consider uses which may be essential or desirable, but which are not allowed as a matter of right within a zoning district. The conditional use permit provides flexibility within a zoning ordinance and allows the county to control certain uses which could have detrimental effects on the area. The current Kittitas County Comprehensive Plan and Development Code have been subjected to years of scrutiny, discussion, litigation, and adaptation by numerous state and local, public and private entities. Notwithstanding that scrutiny, Major Alternative Energy Facilities continue to reside in the county code as conditional uses in the Agriculture 20, Forest and Range, Commercial Agriculture and Commercial Forest zones. Two major solar facilities have successfully navigated the conditional use process and achieved approval without appeal with respect to their conformance to rural element of the Comprehensive Plan. The Teanaway Solar Reserve Conditional Use Permit (CU-09-00005) was approved in August of 2010. The county at that time, was not in compliance with the Growth Management Act (Case No. 07-1-0004c) placing the Comprehensive Plan in a state of constant scrutiny and review. On February 11, 2013, The BOCC signed Ordinance 2013-001, mandating changes to the Comprehensive Plan and the development code (Titles 15A, 16, and 17) to bring county into Compliance with the GMA. On August 13, 2014, The Growth Management Hearings Board declared:

“that with the adoption of new restrictions on allowed rural uses and standards applicable in certain rural zones, Kittitas County has complied with the requirements of the Growth Management Act.”

17. Nearly one year later the BOCC signed Resolution 2015-106 unanimously approving the Osprey Solar Farm (CU-14-00003) and in the stated findings of fact declared:

"The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan."

and:

"This proposal is consistent with the Kittitas County Zoning Code as proposed under KCC 17.61 Utilities as a major alternative energy facility, a conditional use for the Agriculture 20 zone."

18. The identified use, Major Alternative Energy Facility, in various sizes, have been found to be compliant and consistent with both the comprehensive plan and the development code, by both the Board of County Commissioners and the Growth Management Hearings Board, notwithstanding the review and scrutiny of dozens of governmental and non-governmental agencies, entities, and individuals.
19. **Goals Policies and Objectives:** Kittitas County has established goals, policies, and objectives (GPOs) to guide activities within the rural working lands and utilities in general. These goals and policies were developed in response to identified needs within the county, and support the County Wide Planning Policies. The following GPOs assist with the assessment of this application:
 - 19.1 GPO 8.1 Rural lands are characterized by a lower level of services; mixed residential, agricultural and open space uses; broad visual landscapes and parcels of varying sizes, a variety of housing types and small unincorporated communities.
 - 19.2 GPO 8.3 The County shall promote the retention of its overall character by establishing zoning classifications that preserve rural character identified to Kittitas County.
 - 19.3 GPO 8.4 Development in rural areas is subject to agricultural and forestry activities that may take place as a right on adjacent properties.
 - 19.4 GPO 8.8 A certain level of mixed uses in rural areas and rural service centers is acceptable and may include limited commercial, service, and rural industrial uses.
 - 19.5 GPO 8.11 Policies will reflect a "right to farm" in agricultural lands.
 - 19.6 GPO 8.13 Encourage development activities and establish development standards which enhance or result in the preservation of rural lands.
 - 19.7 GPO 8.14C Development shall be located distances from streams, rivers, lakes, wetlands, critical areas determined necessary and as outlined within existing Shorelines Management Program, the Critical Areas Ordinance and other adopted resource ordinances in order to protect ground and surface waters.

- 19.8 GPO 8.15 Uses common in rural areas of Kittitas County enhancing rural character, such as agriculture uses in Lower Kittitas and rural residential uses and recreation uses in Upper Kittitas shall be protected from activities which encumber them.
- 19.9 GPO 8.16 Give preference to land uses in Rural designated areas that are related to agriculture, rural residential development, tourism, outdoor recreation, and other open space activities.
- 19.10 GPO 8.17 Land use development within the Rural area that is not compatible with Kittitas County rural character or agricultural activities as defined in RCW 90.58.065(2)(a) will not be allowed.
- 19.11 GPO 8.21 Kittitas County will provide criteria within its zoning code to determine what uses will be permitted within rural zone classifications in order to preserve rural character.
- 19.12 GPO 8.21B Functional separation and setbacks found necessary for the protection of water resources, rural character and/or visual compatibility with surrounding rural areas shall be required where development is proposed. The first sentence of this policy shall not apply to agricultural activities as defined in RCW 90.58.065(2)(a). When required by the county shoreline master program or critical area regulations, buffers shall be provided.
- 19.13 GPO 8.37 Conveyance instruments including plats and short plats, development permits and building permits, within 500 feet of land designated as Rural Working lands or Resource Lands shall contain a notice to potential buyers and residents as directed within RCW 36.70A.060(1)(b).
- 19.14 GPO 8.44A Commercial/Industrial development in rural areas shall be compatible to the rural environment, and must be developed as determined necessary to not significantly impact surface and groundwater.
- 19.15 GPO 8.44 Growth and development in rural lands will be planned to minimize impacts upon adjacent natural resource lands.
- 19.16 GPO 8.44C New commercial/industrial development shall be required to meet standards or any measures found needed to protect existing surface and groundwater users from impairment and contamination.
- 19.17 GPO 8.48 In addition to the notice requirements in RCW 36.70A.060(1)(b), non-farming residents should be informed on the practices of farming so that they are aware of the non-urban activities and impacts that occur in the agricultural environment.
- 19.18 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.

- 19.19 GPO 6.10 Community input should be solicited prior to county approval of utility facilities, which may significantly impact the surrounding community.
- 19.20 GPO 6.13 The County should coordinate with utility providers.
- 19.21 GPO 6.23 Kittitas County reserves the right to review all applications for utilities placed within or through the County for consistency with local policies, laws, custom and culture.
- 19.22 Webster's dictionary defines compatible as "*able to exist together without trouble or conflict*". The project as proposed is consistent with the above GPO's with respect to rural lands and utility location and review. Staff can find no issues, inconsistencies, incompatibilities, or contradictions between this project as proposed and the Kittitas County Comprehensive Plan.
20. The proposal contains an associated floodplain with Caribou Creek (FIRM panels 5300950580B & 5300950557B).
21. Kittitas County acted as the lead agency for the SEPA Environmental Checklist and threshold determination. As per WAC 197-11-355 and KCC 15A.04.010 the county utilized the optional DNS process. Notice was given that the County was expecting to issue a Determination of Non-Significance, and that the Notice of Application comment period (14 days) may be the only opportunity to provide comment on the environmental impacts of the proposal. The checklist was reviewed by staff in conjunction with the project narrative. On June 27, 2016 the application was placed on hold by the applicant and review was temporarily suspended. On July 15, 2016 the applicant requested that review continue and submitted supplemental documentation with respect to comments received. After a detailed review of the SEPA checklist, the project narrative, supplemental submission, and proposed mitigation measures the SEPA official determined that there would be no significant adverse environmental impacts under the provisions of WAC 197-11-350. With respect to the specific elements outlined in the SEPA checklist, the Hearing Examiner finds as follows:
- 21.1 **Earth**
The site is generally flat and the surface is a disturbed (farmed) range of local soils. Approximately 44 cubic yards of top soil is expected to be moved, and 95 cubic yards of gravel imported. The project will create approximately 8,700 square feet of impermeable surface (9%) of the development. There are no indications of unstable soils within the project area. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, a fugitive Dust Control Plan as well as a Grading Permit is required prior to final approval. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that, as mitigated, there will be no significant adverse environmental impacts related to earth.
- 21.2 **Air**
Solar farms do not consume, process, combust with, alter, or pollute the air. There will be no emissions or odors associated with the operations of the facility. Construction activities and equipment may generate emissions and fugitive dust. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the

project narrative and the supplemental materials, a fugitive Dust Control Plan is required prior to final approval. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that, as mitigated, will be no significant adverse environmental impacts related to air.

21.3 **Water**

Caribou Creek runs through and along the western boundary of the project/property. An irrigation ditch is located along the east boundary of the project site. There are no wetlands identified within the project/property. No dredging or filling will occur within the stream or canal. No surface water or groundwater withdrawals or diversions will be associated with the project. No septic or waste discharge systems are associated with the project. The project site will contain 9% impermeable surface. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials the following mitigation measures have been required:

1. A 100 foot buffer from the ordinary high water mark shall be placed on Caribou Creek within the project parcel; no development, structures, excavation, or clearing of existing vegetation may occur within the buffer.
2. The applicant shall develop a Riparian Planting Plan in conjunction with and approved by the Washington State Department of Fish and Wildlife (WDFW).
3. The applicant will need to consult and comply with the requirements set forth in the KRD General Guidelines prior to final approval of the Conditional Use Permit.
4. The irrigation canal on the east side of the project shall have a 30 foot buffer from all project related development and operations. Weed, vegetation, and fire control measures shall prevail.
5. No part of the project shall disrupt existing surface water rights or existing irrigation easements.
6. A floodplain development permit will be required for the construction of the fence within the floodplain.
7. If the final development plan calls for the placement of panels in the floodplain a Floodplain Development Permit will be required.
8. No flood control structures may be constructed on the project parcel.
9. An on-site Stormwater Management Plan that conforms to the specifications of the most current version of the 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. The Stormwater Management Plan shall be submitted to and approved by Kittitas County Public Works prior to final approval.
10. A Construction Storm water Permit may be required if over 1 acre of ground is disturbed for the project and there is a potential for discharge to waters of the state. This includes dewatering for foundation and utility trenching, access route, laydown, impervious pad construction and footings/foundations.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that, as mitigated, there will be no significant adverse environmental impacts related to Water.

21.4 **Plants**

The project site is currently covered with non-native agricultural crops. There are no known endangered or threatened species on the site. There are no known noxious weeds currently on the site. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, a vegetation management plan approved by the Washington Department of Fish and Wildlife (WDFW) and the Kittitas County Noxious Weed Board is required prior to final approval. In addition, no vegetation control measures shall be utilized which might jeopardize the project site's future ability to return to productive agricultural use. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that, as mitigated, there will be no significant adverse environmental impacts related to plants.

21.5 **Animals**

A variety of birds and animals are known to exist on or near the site. No endangered species are known to exist on the site. A sage grouse was sighted 22 years ago three miles away from the site which is not considered to be an active lek (an area in which two or more males of a species perform courtship displays). The site is not known to be a migration route. There are no known invasive animal species on site. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the following mitigation measures are required:

1. A 100 foot buffer from the ordinary high water mark shall be placed on Caribou Creek within the project parcel; no development, structures, excavation, or clearing of existing vegetation may occur within the buffer.
2. The applicant shall develop a Riparian Planting Plan in conjunction with and approved by the Washington State Department of Fish and Wildlife (WDFW).
3. The applicant shall develop an Incidental Avian Monitoring Plan in conjunction with, and approved by, the WDFW. The plan and program shall be required to be in effect for a period of five years. The plan will designate thresholds and metrics to establish if additional monitoring is required beyond a period of five years.
4. A WDFW representative shall be provided ongoing access to the site for the purposes of assessing, monitoring, and analyzing wildlife activities and behavior.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that, as mitigated, there will be no significant adverse environmental impacts related to animals.

21.6 **Energy**

The project will require energy to power security lighting and metering. The facility will not impact the potential use of solar energy on adjacent sites. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that there will be no significant adverse environmental impacts related to energy.

21.7 **Environmental Health**

There is no known contamination at the site. Photovoltaic panels do not contain or emit hazardous chemicals or conditions. There will be no toxic or hazardous chemicals stored, used, or produced, during development, construction, or operation of the facility.

Electromagnetic fields generated by the inverters will dissipate to safe levels long before reaching the external boundaries of the project. In addition to and in conjunction with the content and measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the following mitigation measures are required:

1. Facility management will provide on-site training to KVFR and other emergency services personnel to assist in pre-incident planning and safe operations once the facility is producing electricity.
2. Fire Department key access will be provided for site access and any control panels. A site plan is to be provided for emergency responders prior to the site producing electricity.
3. A Fugitive and Construction Dust Control Plan utilizing best management practices found in the Dust Palliative Selection and Application Guide and the Eastern Washington Stormwater Management Manual (Chapter 7) shall be developed; the plan shall be submitted to and approved by Kittitas County Community Development Services prior to final approval.
4. Broken, damaged, or non-functional panels will be disposed of through consultation with Kittitas County Solid Waste in a safe and environmentally responsible fashion.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that, as mitigated, there will be no significant adverse environmental impacts related to environmental health.

21.8 Noise

There is no existing noise that will affect the project. Noise generated by the inverters will be within legal parameters by the time they reach the property's edge. In addition to and in conjunction with the content and measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the applicant shall limit development and construction practices during building of this project. Construction shall only occur between the hours of 7:00 am to 7:00 pm to minimize the effect of construction noise on nearby residences. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that, as mitigated, there will be no significant adverse environmental impacts related to noise.

21.9 Land Use and Shoreline

The current use of the site is agricultural. All surrounding zoning and land use is identified as agricultural and rural working respectively. The construction and operation of the solar facility is compatible with this zoning. The project will not encumber, constrain, or interfere with surrounding land uses. No designated agricultural or forestland of long term significance will be converted to other uses. The project will neither affect nor be affected by working farm or forest land. There are no existing structures on the development site. No structures will be demolished as a result of the project. The project does not fall under the provisions of the Shoreline Master Program. Caribou Creek is considered a critical area by Kittitas County. There will be no people residing on or working in the completed project on a permanent basis. Occasional maintenance would be performed on site. The project will not displace any people. The use is a conditional use under Kittitas County Code. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the following mitigation measures are required:

1. A 100 foot buffer from the ordinary high water mark shall be placed on Caribou Creek within the project parcel; no development, structures, excavation, or clearing of existing vegetation may occur within the buffer.
2. The applicant shall develop a Riparian Planting Plan in conjunction with and approved by the WDFW.
3. The applicant shall obtain a conditional use permit in order to operate the facility.
4. Financing of the decommissioning options must be approved by the county, and may include but not be limited to assignment of funds, a bond, or other financial measures equaling one hundred and twenty five percent (125%) of the estimated cost of the decommissioning efforts.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that, as mitigated, there will be no significant adverse environmental impacts related to land use and shorelines as mitigated.

21.10 Housing

No housing units will be provided or destroyed. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that there will be no significant adverse environmental impacts related to housing.

21.11 Aesthetics

The top of the panels would stand no higher than eight feet. The project will not obstruct any views in the immediate vicinity. The view from adjacent properties would be altered from hay fields to solar panels. This change in view is not materially different than that change in view caused most recently by wind turbines, cellular towers and in the past by electrical power poles and transmission lines. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined there will be no significant adverse environmental impacts related to aesthetics.

21.12 Light and Glare

Glare produced by the project would not be greater than common natural features and materials. Glare would be transitory and only be focused on a particular point or place for a brief time frame as the sun traverses the sky and the panels follow its location. Glare does not present a safety hazard and any interruption of views will minimal and brief. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the following mitigation measures are required:

1. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties and associated roads and streets.
2. No portion of the solar panels and arrays shall exceed 8 feet in height at any time during the operation cycle.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that there will be no significant adverse environmental impacts related to light and glare.

21.13 Recreation

There are no recreational opportunities in the immediate vicinity. The proposed project will not displace any existing recreational facilities. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that there will be no significant adverse environmental impacts related to recreation.

21.14 Historic and Cultural Preservation

No historic or cultural resources have been identified on or near the project site. In addition to and in conjunction with the content and measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, should ground disturbing or other activities related to the proposed project result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State DAHP. Work shall remain suspended until the find is assessed and appropriate consultation is conducted. Should human remains be inadvertently discovered, as dictated by Washington State RCW 27.44.055, work shall be immediately halted in the area and contact made with the coroner and local law enforcement in the most expeditious manner possible. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that, as mitigated, there will be no significant adverse environmental impacts related to historical and cultural preservation.

21.15 Transportation

Neither the site nor the geographic area is served by public transit. The project would not require nor would it eliminate any parking spaces. There would be no impacts to water, rail, or air transportation. Total trips are estimated to be less than 20 trips per day during the 3 month construction window, and near zero during the operational time frame because the site will be unmanned. The project will not affect or be affected by the movement of agricultural or forest products in the area. In addition to and in conjunction with the content and measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the following mitigation measures are required:

1. The access approach must be designed and constructed to commercial standards, as shown in the WSDOT Design Manual Exhibits 1340-1 and 1340-2. A Kittitas County Access Permit is required prior to driveway construction. Access driveways will need to be designed to meet standards.
2. A road standards variance application will be required for additional approaches being requested. Current road standards allow for a single access to a parcel of land or to contiguous parcels of land under the same ownership.
3. If any creek or irrigation waterway is to be crossed by bridge, it will need to be engineered and posted for 75,000lb capacity.
4. The project shall comply with all aspects of the International Fire Code Appendix D including twenty (20) foot wide access roads.
5. Addressing shall be clearly visible from the road.
6. All gates shall be a minimum of 12' wide; if gates are locked, keys or equivalent shall be provided to all emergency services.

7. The Kittitas Reclamation District has a recorded right of way and associated service road abutting Caribou Creek (and by inference the project site) on the west side of the stream. This right of way is not on the subject parcels and as such will not be availed to any use for the project development, construction, or operation without explicit permission from the District.
8. The primary transporter route will use Interstate 90; exit 115 to take Main St. North to Clerf Road and continue east on Clerf Road before turning North on Caribou Road to access the Site via an access road on the west side of Caribou Road. The applicant will make every effort to minimize traffic and its impacts to other State, County, and City streets and roads.
9. Under no circumstances shall construction or operational traffic related to the project utilize private roads.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that, as mitigated, there will be no significant adverse environmental impacts related to transportation.

21.16 **Public Services**

The project would not result in an increased need for fire, police, school, public transit, health care or other public services. In addition to and in conjunction with the content and measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the following mitigation measures are required:

1. A vegetation management plan to be maintained in accordance with the Fire Prevention Plan in the Project Narrative.
2. A site plan is to be provided for emergency responders prior to the site producing electricity. Facility management will provide on-site training to KVFR and other emergency services personnel to assist in pre-incident planning and safe operations once the facility is producing electricity.
3. Fire department key access will be provided for site access and any control panels.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official properly determined that, as mitigated, there will be no significant adverse environmental impacts related to public services.

22. The following findings related to compliance within Conditional Use criteria are also applicable to the SEPA Determination.
 - 22.1 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.
 - 22.1.1 The State of Washington has enacted aggressive legal and policy standards in pursuit of more renewable energy generation within its borders. Washington's Renewable Portfolio Standard ("RPS") mandates that fifteen percent (15%) of Washington's electricity be generated from renewable energy sources by 2020, with a ramp-up of increasing targets, including the next tranche of nine percent (9%) by 2016. This Project will help the State meet these objectives and create

more clean energy generation in Washington. This Project will deliver all of its output to the electricity grid through the PSE distribution system.

22.1.2 The Project will be the largest solar project in Washington and is desirable to the public convenience because it will fortify the County's electric grid with clean, local power. The facility will be quiet and have very few moving parts and thus will not pose a threat to public health, peace or safety. The low lying panels will be unobtrusive to any view sheds and won't alter Kittitas Valley's rural character in operations.

22.1.3 This Project will generate approximately 10,379 MWh of clean electricity each year, which is enough to power more than 950 average American homes and result in an annual emissions reduction of over 15.7 million pounds of CO₂e (equivalent to removing roughly 1,500 passenger vehicles from the road).

22.1.4 RCW 19.285 Energy Independence Act in its declaration of policy states that:

"Increasing energy conservation and the use of appropriately sited renewable energy facilities builds on the strong foundation of low-cost renewable hydroelectric generation in Washington State and will promote energy independence in the state and the Pacific Northwest region. Making the most of our plentiful local resources will stabilize electricity prices for Washington residents, provide economic benefits for Washington counties and farmers, create high-quality jobs in Washington, provide opportunities for training apprentice workers in the renewable energy field, protect clean air and water, and position Washington state as a national leader in clean energy technologies."

22.1.5 RCW 82.16.110 in its findings and intent conveys:

"The legislature finds that the use of renewable energy resources generated from local sources such as solar and wind power benefit our state by reducing the load on the state's electric energy grid, by providing nonpolluting sources of electricity generation, and by the creation of jobs for local industries that develop and sell renewable energy products and technologies.

The legislature finds that Washington State has become a national and international leader in the technologies related to the solar electric markets. The state can support these industries by providing incentives for the purchase of locally made renewable energy products. Locally made renewable technologies benefit and protect the state's environment. The legislature also finds that the state's economy can be enhanced through the creation of incentives to develop additional renewable energy industries in the state.

The legislature intends to provide incentives for the greater use of locally created renewable energy technologies, support and retain existing local industries, and create new opportunities for renewable energy industries to develop in Washington State."

22.1.6 RCW 80.60.005 concurs in its findings:

"The legislature finds that it is in the public interest to:

(1) Encourage private investment in renewable energy resources;

(2) Stimulate the economic growth of this state; and

(3) Enhance the continued diversification of the energy resources used in this state."

22.1.7 The applicant has stated that 40 to 60 jobs will be created during the construction phase of the project, and that where feasible, local labor will be hired. No taxpayer money is being used for the project and the property tax revenue increase for the life of the project is estimated at \$873,048. This Project will generate approximately 10,379 MWh of clean electricity each year, which is enough to power more than 950 average American homes and result in an annual emissions reduction of over 15.7 million pounds of CO₂e (equivalent to removing roughly 1,500 passenger vehicles from the road). Mr. Hanson is utilizing his property in his best interests. The property is subjected to no permanent change, damage, or encumbrance.

22.1.8 Webster's dictionary defines detrimental as "causing damage or injury; obviously harmful". A multitude of concerns were raised within the comment letters with respect to the potential detrimental effects of the proposed Solar Farm. In the Environmental section above the applicant has provided substantive and empirical data, studies, and research which demonstrated to the satisfaction of the SEPA Official of Kittitas County that there would be no adverse environmental impacts as a result of the construction and operation of the project. Outside of the environmental realm other concerns expressed within the comment letters that the project may be detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood include:

22.1.8.1 **Loss of farmland and/or dangerous precedent to oversaturation of solar farms:** The application has been considered on its own merits. The discussion at hand is about this project, in this place, by this person, at this time. That being said, the Kittitas County Comprehensive Plan lists 516,797 acres of land as being designated as agricultural use. The proposed solar farm project acreage to be removed represents 0.0009% of that acreage. The removal is temporary, and the land, as per the MDNS, will be restored to an agriculturally productive level upon decommissioning of the project. The property belongs to a private individual entering into a private contract, with a private corporation for a permitted conditional use. Nothing within the county code or comprehensive plan establishes or even contemplates an appropriate or acceptable threshold for "how much is enough" or "how much is too much" when it comes to Major Alternative Energy Facilities. The conditional use is deemed appropriate for 1,425,612 acres within the county. To date there are 13.6 acres of land approved for development as a Major Alternative Energy Facility in Kittitas County.

The SEPA checklist, which was made a part of the MDNS, allowed for a detailed assessment of impact to agricultural uses and proposed specific mitigation measures. This checklist (Exhibit 7) included a legally sufficient review and analysis of specific and material agricultural impacts. There was no impact to the actual day to day, farm to market, agricultural activities that could not be mitigated.

22.1.8.2 **Loss of farming jobs:** No data or research was presented with respect to this assertion. According to the application, the property owner retains 500+ acres of land in production; a reduction of less than 10% in the working area of the farm could conceivably manifest itself in a loss of hours for some individuals employed by the applicant. The extent which the loss of those hours would cause damage or injury is not discernable. As mentioned above there are over a half million acres of agriculturally designated lands in the county. By applying a proportional perspective one could only conclude that the damage to the agricultural workforce bottom line would be negligible.

22.1.8.3 **Aesthetics and appearance:** The specifics on the potential injuries in this realm range from diminished property values, to diminished view quality, to loss of tourism, to change in historical character. No data or research was presented to support these assertions. There is no doubt that the conversion from 47 acres of green hayfield to 47 acres of glass, aluminum, and silicon represents a change in appearance. The applicant submitted some empirical and research data which indicates that there is *"...no impact in home values due to the adjacency to the solar farm as well as no impact to adjacent vacant, residential, or agricultural land."* and that there was *"no negative impact on the adjoining properties."* Another study espoused that *"A review of literature nationwide shows little evidence that solar arrays influence nearby property values."* Notwithstanding the above, staff acknowledged that this issue is perhaps the most challenging characteristic to quantify and address. The applicant points out that *"Given the fact that solar PV facilities are a relatively new land use, limited peer-reviewed studies exist regarding potential impacts on the values of adjacent and surrounding properties."* It is undeniable that aesthetic appeal or lack thereof with respect to anything is subjective. There can be no doubt that some unknown percentage of the population would find the appearance of the proposed project unappealing.

22.2.1 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:

- A. The proposed use 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
- B. The applicant shall provide such facilities; or
- C. The proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.

22.2.1.1 The city of Kittitas is a small community with a population of approximately 1,450 people. The town has a rural character with deep roots in agriculture. The City of Ellensburg lies just 10 miles west and is home to a much larger population of approximately 18,175 people and Central Washington University.

22.2.1.1. This project will be serviced by existing facilities including but not limited to, existing roads, highways, and police and fire protection.

22.2.1.2. Any additional facilities required by this Project will be provided by OER. These facilities may include utility infrastructure on Clerf Road, appropriate access improvements to comply with public works or Washington Department of Transportation, additional safety training for the local fire department and all necessary equipment.

22.2.1.3 The power generated from this Project will primarily be absorbed in PSE's service areas in and near Kittitas. The total Project capital investment is estimated to be approximately \$11.2 million. Beyond generating a source of renewable energy, this Project will deliver numerous economic benefits through direct capital investment in the local and regional economy.

In addition to local hired project development technical support and the spike of local spending during the construction period and a hired regional labor force. The Project will generate a consistent revenue stream over the operation life through recurring annual lease payments, which will bring revenue to the landowner as a different commercial enterprise. Property taxes, which will generate revenue for Kittitas County, that will contribute to the provision of improved roads, quality education, police, fire, and other municipal needs that would benefit the entire community; and long-term operations and maintenance expenses spent regionally.

22.2.1.2 The applicant has demonstrated that there would be no negative economic impacts to the county. The applicant has stated that 40 to 60 jobs will be created during the construction phase of the project, and that where feasible local labor will be hired. No taxpayer money is being used for the project and the property tax revenue increase for the life of the project is estimated at \$873,048. There would be

no significant detrimental effects to or increased demands on public services. Existing off sight roads and infrastructure are sufficient to service both the construction and operational phases of the project. As mitigated, the project would not result in an increased need for fire, police, school, public transit, irrigation, refuse, water or septic systems, health care or other public services. As mitigated, there are no costs or detriments for economic benefit to offset.

22.3 The proposed use complies with relevant development standards and criteria for approval set forth in this title or other applicable provisions of Kittitas County Code.

22.3.1 OER is dedicated to using best management practices during all phases of development, construction, and operations. This Project will comply with any and all relevant development standards laid out by Kittitas County code.

22.3.2 As mitigated and conditioned the project will be in full compliance with all relevant Titles and chapters of Kittitas County Code including but not limited to:

KCC Title 8 Health, Welfare, and Sanitation
KCC Title 9 Public Peace, Safety, and Morals
KCC Title 10 Vehicles and Traffic
KCC Title 12 Roads and Bridges
KCC Title 13 Water and Sewers
KCC Title 14 Buildings and Construction
KCC Title 15 Environmental Policy
KCC Title 17 Zoning
KCC Title 17A Critical Areas
KCC Title 20 Fire and Life Safety

22.4 The proposed use will mitigate material impacts of the development, whether environmental or otherwise.

22.4.1 OER employs a rigorous site selection process to mitigate, to the largest extent feasible, negative environmental impacts while partnering with landowners and local residents to generate positive community impacts and economic development for Kittitas County. The development process for this Project began in 2013 and OER has been working through the due diligence process to ensure the least amount of impacts while developing the Project to achieve successful financing and operations. OER has been and will continue to work to mitigate impacts. OER has a history of developing well-sited projects that avoid sensitive habitats.

22.5 The proposed use will ensure compatibility with existing neighboring land uses.

22.5.1 The project will be compatible with all neighboring land use. The project will have very limited visual or auditory impacts, keeping with the rural nature of the City of Kittitas.

22.5.2 As mitigated the use will be compatible with neighboring land uses.

- 22.6 The proposed use is consistent with the intent and character of the zoning district in which it is located.
- 22.6.1 The Parcel is currently zoned AG-20. Kittitas County Code states that alternative energy facilities may be authorized in this zoning. This Project is a clean energy generator defined in Chapter 17.61 as a "Major alternative energy facility" means a hydroelectric plant, solar farm, or wind farm that is not a minor alternative energy facility." The Project is consistent with the intent and character of the zoning district. As defined in 17.61.020 Permitted and Conditional Uses, "Major alternative energy facilities may be authorized in the Agriculture-20, forest and range, commercial agriculture, and commercial forest zones as follows: ... All other major alternative energy facilities may be authorized as a conditional use."
- 22.6.2 The use is consistent with the intent and character of the zoning district in which it is located.
- 22.7 For conditional uses outside of Urban Growth Areas, the proposed use:
- 22.7.1 Is consistent with the intent, goals, policies, and objectives of the Kittitas County Comprehensive Plan, including the policies of Chapter 8, Rural and Resource Lands;
- 22.7.1 Is consistent with the intent, goals, policies, and objectives of the Kittitas County Comprehensive Plan, specifically GPO 6.36, which states an intent to develop a criteria and design standard for siting solar farms in the county.
- 22.7.2 Preserves "rural character" as defined in the Growth Management Act (RCW 36.70A.030(15));
- 22.7.2.1 Preserves "rural character" as defined in the Growth Management Act by fitting into the patterns established by the county in RCW 36.70A.030 (15). The low lying panels will be unobtrusive to any view sheds and won't alter Kittitas Valley's rural character in operations. The facility will be quiet and have very few moving parts and thus will not pose a threat to public health, peace or safety. Native grasses will be planted beneath the panels. The low-lying natures and native grasses will perpetuate the visual landscapes of open space and vegetation that are traditionally found in rural area.
- 22.7.2.2 The project is compatible with use of the land by local wildlife. OER will continue to work with WDFW to address concerns related to existing wildlife habitat. Additionally, this Project will continue the protection of natural surface water and groundwater flows and surface water recharge and discharge areas. This Project will not inhibit traditional rural lifestyles, rural-based economies,

and opportunities to both live and work in rural areas as local farming practices will continue and no job opportunities will be lost. The Project will not require an extension of urban governmental services.

22.7.3 Requires only rural government services.

22.7.4.1 The Project requires only rural government services such as but not limited to, police and fire protection services.

22.7.4.2 Existing off sight roads and infrastructure are sufficient to service both the construction and operational phases of the project. As mitigated, the project would not result in an increased need for fire, police, school, public transit, irrigation, refuse, water or septic systems, health care or other public services. As mitigated, there are no costs or detriments for economic benefit to offset.

22.7.4 Does not compromise the long term viability of designated resource lands.

22.7.4.1 This Project does not compromise the long term viability of the agricultural resource value of this parcel. This Project will temporarily remove a maximum of 47.5 acres for a term to be no longer than 36 years from agricultural production. The landowner will have the ability to continue using the remainder of the land holdings for agricultural uses for the duration of this term. Within one year from the date the lease expires or terminates, all solar facilities and related infrastructure shall be removed and the land shall be returned to its original state at which time the land can return to an agricultural resource.

22.7.4.2 There are no resource lands adjacent to or impacted by the proposed project.

This proposal is consistent with the Kittitas County Zoning Code for Conditional Uses. The proposed conditional use will be adequately served by rural levels of service. As mitigated and conditioned, believes that the proposal meets or exceeds all of the criteria listed under KCC 17.60A.015 specifically, and Title 17 generally.

23. Consistency with the provisions of KCC 17A, Critical Areas:
Staff conducted an administrative critical area review in accordance with KCC 17A and found that this proposal has two environmental elements that warrant additional scrutiny:

23.1 **Caribou Creek:** Caribou Creek, a Type 2 fish bearing stream, is located along the west side of the project site. The stream has been altered from a naturally meandering streambed to a straight line bed running directly south to Clerf Road along the west edge of the property. As mentioned in the environmental review, under the recommendations of the WDFW, the county has imposed a 100 foot buffer from the ordinary high water mark. No development, structures, excavation, or clearing of existing vegetation may

occur within the buffer. Additionally under the provisions of the MDNS a Riparian Planting Plan shall be developed in conjunction with and approved by the WDFW which will improve habitat and assist with lowering stream temperatures.

- 23.2 **Floodplain:** There is an associated floodplain with Caribou Creek (FIRM panels 5300950580B & 5300950557B). A floodplain development permit will be required for the construction of the fence within the floodplain. Furthermore should the final site plan contemplate photovoltaic panel installation within the floodplain, a permit will be required.
24. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
25. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
26. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
27. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
28. The proposed conditional use will comply with all required performance standards specified in the Kittitas County Code.
29. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified in the Kittitas County Code.
30. An open record Appeal hearing was held on October 20, 2016.
31. At the hearing the following exhibits were admitted into the record:
- 31.1 Exhibit 1 KC CDS Receipt;
 - 31.2 Exhibit 2 Original SEPA Checklist;
 - 31.3 Exhibit 3 Original Application Packet;
 - 31.4 Exhibit 4 Pre-Application Conference Summary;
 - 31.5 Exhibit 5 Deem Incomplete Letter;
 - 31.6 Exhibit 6 Revised Application;
 - 31.7 Exhibit 7 Revised SEPA Checklist;
 - 31.8 Exhibit 8 Planners Notes;
 - 31.9 Exhibit 9 Site Plan;
 - 31.10 Exhibit 10 Transportation Concurrency;
 - 31.11 Exhibit 11 Deem Complete;
 - 31.12 Exhibit 12 Prior Survey;
 - 31.13 Exhibit 13 Regional Land Use Map;
 - 31.14 Exhibit 14 Critical Areas Checklist;
 - 31.15 Exhibit 15 Floodplain, Floodway, Streams, and Wetlands Map;
 - 31.16 Exhibit 16 Vicinity Map
 - 31.17 Exhibit 17 LiDAR Hillshade Elevation Model Map;

- 31.18 Exhibit 18 Oblique Air Photo;
- 31.19 Exhibit 19 Vertical Air Photo;
- 31.20 Exhibit 20 Land Use Action Signs Map;
- 31.21 Exhibit 21 Affidavit of Posting Signed;
- 31.22 Exhibit 22 Adjacent Property Owners Notification Map;
- 31.23 Exhibit 23 Adjacent Properties Mailing Labels;
- 31.24 Exhibit 24 Notice of Application Legal;
- 31.25 Exhibit 25 Notice of Application;
- 31.26 Exhibit 26 Notice of Application Email;
- 31.27 Exhibit 27 Site Visit Photos;
- 31.28 Exhibit 28 Correspondence with Authorized Agent;
- 31.29 Exhibit 29 Correspondence All Others;
- 31.30 Exhibit 30 Comment Letter – Charles;
- 31.31 Exhibit 31 Comment Letter – Woodworth;
- 31.32 Exhibit 32 Comment Letter – Williams R;
- 31.33 Exhibit 33 Comment Letter –Wenger;
- 31.34 Exhibit 34 Comment Letter – Stull;
- 31.35 Exhibit 35 Comment Letter – Kittitas County Public Works;
- 31.36 Exhibit 36 Comment Letter - Pfeifer;
- 31.37 Exhibit 37 Comment Letter – NW Energy Coalition;
- 31.38 Exhibit 38 Comment Letter - McKendrick;
- 31.39 Exhibit 39 Comment Letter – Kittitas Reclamation District;
- 31.40 Exhibit 40 Comment Letter - Johnson;
- 31.41 Exhibit 41 Comment Letter – Gigstead;
- 31.42 Exhibit 42 Comment Letter – Craig;
- 31.43 Exhibit 43 Comment Letter – Cooper T.;
- 31.44 Exhibit 44 Comment Letter – Cooper F.;
- 31.45 Exhibit 45 Comment Letter – Climate Solutions;
- 31.46 Exhibit 46 Comment Letter – Clerf R.;
- 31.47 Exhibit 47 Comment Letter – Clerf J.;
- 31.48 Exhibit 48 Comment Letter – Charlton/Weekes;
- 31.49 Exhibit 49 Comment Letter – Carr;
- 31.50 Exhibit 50 Comment Letter – Allphin R.;
- 31.51 Exhibit 51 Comment Letter – Allphin J.;
- 31.52 Exhibit 52 Comment Letter - Washington Fish and Wildlife;
- 31.53 Exhibit 53 Comment Letter – Washington Wool Growers;
- 31.54 Exhibit 54 Comment Letter – Warm Springs Ranch;
- 31.55 Exhibit 55 Comment Letter – Sierra Club;
- 31.56 Exhibit 56 Comment Letter – Sherman;
- 31.57 Exhibit 57 Comment Letter – Pentico;
- 31.58 Exhibit 58 Comment Letter – Miller;
- 31.59 Exhibit 59 Comment Letter – Lower;
- 31.60 Exhibit 60 Comment Letter – Jackson;
- 31.61 Exhibit 61 Comment Letter – Hubbard S.;
- 31.62 Exhibit 62 Comment Letter – Hubbard E.;
- 31.63 Exhibit 63 Comment Letter – Graham;
- 31.64 Exhibit 64 Comment Letter – Eslinger;
- 31.65 Exhibit 65 Comment Letter – Clean Tech Allaince;
- 31.66 Exhibit 66 Comment Letter – Caraway;

31.67 Exhibit 67 Comment Letter – Black;
31.68 Exhibit 68 Comment Letter – Adams;
31.69 Exhibit 69 Comment Letter – Walter;
31.70 Exhibit 70 Comment Letter – Meeks;
31.71 Exhibit 71 Comment Letter – Hein and Lee;
31.72 Exhibit 72 Comment Letter Hahn;
31.73 Exhibit 73 Comment Letter – Clerf Sherre;
31.74 Exhibit 74 Comment Letter - Clerf Shelley;
31.75 Exhibit 75 Comment Letter – Busch;
31.76 Exhibit 76 Comment Letter - Williams B;
31.77 Exhibit 77 Comment Letter – McNichol;
31.78 Exhibit 78 Comment Letter – Kenner;
31.79 Exhibit 79 Comment Letter – Hunt;
31.80 Exhibit 80 Comment Letter – Allred;
31.81 Exhibit 81 Comment Letter – Ridgeway;
31.82 Exhibit 82 Comment Letter - Kittitas County Public Health;
31.83 Exhibit 83 Comment Letter – Morgan & Son;
31.84 Exhibit 84 Comment Letter – McMeans;
31.85 Exhibit 85 Comment Letter – McCune;
31.86 Exhibit 86 Comment Letter – Martinez;
31.87 Exhibit 87 Comment Letter – Evans;
31.88 Exhibit 88 Comment Letter – Busch;
31.89 Exhibit 89 Comment Letter – Gremel;
31.90 Exhibit 90 Comment Letter – Kittitas County Building Dept.;
31.91 Exhibit 91 Comment Letter - Kittitas County Fire Marshal;
31.92 Exhibit 92 Comment Letter – Bates;
31.93 Exhibit 93 Comment Letter - Washington State Department of Health;
31.94 Exhibit 94 Comment Letter – Kittitas Valley Fire and Rescue;
31.95 Exhibit 95 Request to Place on Hold Applicant;
31.96 Exhibit 96 Late Comment Letter – Ecology;
31.97 Exhibit 97 Transmittal of Comments;
31.98 Exhibit 98 Applicant Supplemental Materials;
31.99 Exhibit 99 Request to Resume Processing;
31.100 Exhibit 100 Late Comment Letter – Kittitas County Weed Dept.;
31.101 Exhibit 101 Request for Notification – Yakima Herald Republic;
31.102 Exhibit 102 Correspondence Staff to HE;
31.103 Exhibit 103 Notice of Decision and Hearing Publication Confirmation;
31.104 Exhibit 104 Correspondence Williams R.;
31.105 Exhibit 105 Notice of Decision and Hearing Mailing Labels;
31.106 Exhibit 106 Notice of Decision and Hearing Affidavit of Mailing;
31.107 Exhibit 107 Notice of Decision and Hearing Email;
31.108 Exhibit 108 Correspondence Martinez;
31.109 Exhibit 109 Notice of Decision and Hearing;
31.110 Exhibit 110 SEPA MDNS;
31.111 Exhibit 111 HE Agenda;
31.112 Exhibit 112 HE Staff Report;
31.113 Exhibit 113 Appeal Letter;
31.114 Exhibit 114 Order Striking Hearing;
31.115 Exhibit 115 Email Cancelling Hearing;

- 31.116 Exhibit 116 Declaration of Representation;
 - 31.117 Exhibit 117 Correspondence;
 - 31.118 Exhibit 118 Appeal Documentation Transmittal Email Applicant;
 - 31.119 Exhibit 119 Applicant Witness List;
 - 31.120 Exhibit 120 Applicant Appeal Response with Appendices;
 - 31.121 Exhibit 121 Appeal Documentation Transmittal Appellant;
 - 31.122 Exhibit 122 Appellant Witness List;
 - 31.123 Exhibit 123 Appellant Opening Memorandum;
 - 31.124 Exhibit 124 Notice of Appeal and Hearing Request for Publication;
 - 31.125 Exhibit 125 Notice of Appeal and Public Hearing Memo;
 - 31.126 Exhibit 126 Notice of Appeal and Public Hearing Publication Confirmation;
 - 31.126 Exhibit 127 Appellant's Response Memorandum;
 - 31.128 Exhibit 128 Teanaway Solar Reserve Notice of Decision;
 - 31.129 Exhibit 129 Teanaway Solar Reserve MDNS;
 - 31.130 Exhibit 130 One Energy Response Final Legal;
 - 31.131 Exhibit 131 One Energy Response Docs;
 - 31.132 Exhibit 132 Appellant Memo RE: CUP;
 - 31.133 Exhibit 133 Applicant's Legal Response to Appellant Memo RE: CUP;
 - 31.134 Exhibit 134 SEPA Appeal Order on Prehearing Conference;
 - 31.135 Exhibit 135 SEPA Appeal Comments John Clerf;
 - 31.136 Exhibit 136 SEPA Appeal Email of Record;
 - 31.137 Exhibit 137 Appeal and Cup Hearing Agenda;
 - 31.138 Exhibit 138 Correspondence RE SEPA Hearing Process;
 - 31.139 Exhibit 139 Correspondence RE SEPA Hearing Process 2;
 - 31.140 Exhibit 140 Letter/Statement from Hearing – Clerf;
 - 31.141 Exhibit 141 Hearing Sign-in Sheet SEPA;
32. Appearing for Appellant was attorney James Carmody.
33. The following members of the public testified at this hearing:
- 33.1 Patricia Clerf;
 - 33.2 Craig Clerf;
 - 33.3 Ron Cline;
 - 33.4 Marlene Pfeifer;
 - 33.5 Sherre Clerf;
 - 33.6 Scott Downs;
 - 33.7 Greg Carr;
 - 33.8 Cheryl Pentico;
 - 33.9 Thomas Houghton;
 - 33.10 Stan Blazynski;
 - 33.11 Dwight Bates;
 - 33.12 Jerry Gilmore;
 - 33.13 Andrea Eklund;
 - 33.14 Paul Boguslawski;
 - 33.15 Jake Steign;
 - 33.16 Carol Martinez; and
 - 33.17 Roger Clerf.

34. Appearing on behalf of the applicant was attorney Tim McMahon. Testifying on behalf of the applicant was the following individual:
 - 34.1 Tayler Steele.
35. Analysis of alternative sites for this project is not required for this project.
36. In considering the entire record on appeal, the probable, significant environmental impacts were adequately considered.
37. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. A mitigated determination of non-significance (MDNS) involves changing or conditioning a project to eliminate its significant adverse environmental impacts.
3. To overturn a MDNS an Appellant must demonstrate that the decision was clearly erroneous.
4. A finding is clearly erroneous when, although there is evidence supported, the reviewing court on the record is left with the definite and firm conviction that a mistake has been committed.
5. For a MDNS to survive judicial scrutiny, the record must demonstrate that environmental factors were adequately considered in a manner sufficient to establish prima facie compliance with the State Environmental Protection Act (SEPA).
6. The decision to issue an MDNS must be based on information sufficient to evaluate the proposal environmental impacts.
7. An agency's decision to issue a MDNS and not to require an Environmental Impact Statement must be accorded substantial weight.
8. If, in the course of formulating an MDNS, the lead agency determines that a proposal continues to have probable significant adverse environmental impacts, even with mitigation measures, an Environmental Impact Statement must be prepared.
9. If a MDNS is issued and an appealing party proves that the project will still produce significant adverse environmental impacts, then the MDNS decision must be held to be clearly erroneous and an Environmental Impact Statement must be prepared.
10. A MDNS does not require that all environmental impacts be totally eliminated.
11. "Probable" means likely or reasonable likely to occur, as in "[A] reasonable probability of more than a moderate effect on the quality of the environment."

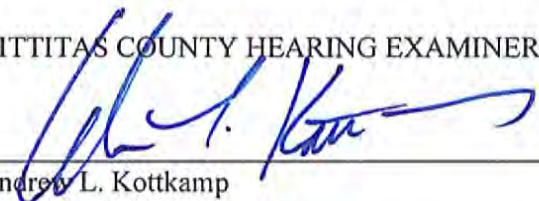
12. The term “probable” is used to distinguish likely impacts from those that merely have a possibility of occurring but are remote or speculative.
13. The Responsible Officials SEPA decision is reviewed under the clearly erroneous standard.
14. A threshold determination that an Environmental Impact Statement is not required is subject to review under the “clearly erroneous” standard, which means that the threshold determination should only be overturned where, in light of the entire record, the Hearing Examiner is left with a definite and firm conviction that a mistake has been committed.
15. The responsible official did not make a mistake in making the SEPA Determination of a Mitigated Determination of Non-Significance.
16. Analysis of alternative sites for this project is not required for this project.
17. A cumulative impact analysis is only required where there is evidence that the project under review is dependent upon a subsequent proposed development that will result in additional impacts.
18. There is no evidence that this project is dependent upon any subsequent proposed development that would result in additional impacts.
19. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

DECISION

Based upon the above Findings of Fact and Conclusions of Law, the August 10, 2016 SEPA determination by the responsible official in the above referenced matter is **AFFIRMED** in every respect.

Dated this 8th day of November, 2016.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

**KITTITAS COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	RECOMMENDED FINDINGS OF
)	FACT, CONCLUSIONS OF LAW,
)	DECISION AND CONDITIONS
CU-15-00006)	OF APPROVAL
Iron Horse Solar Farm)	

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on October 20, 2016, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. One Energy Development LLC authorized agent for Bill Hanson, landowner, has submitted a conditional use application for a Major Alternative Energy Facility on approximately 68 acres. The subject property is zoned Agriculture 20. This "Utility" (KCC 17.61.010(1)) is subcategorized as a major alternative energy facility (KCC 17.61.010(9)), and as such is a conditional use for the zone (KCC 17.61.020(4)(b)).
2. This proposal contains 4 parcels, located approximately 1 mile east of the City of Kittitas at 320 South Caribou Road, in a portion of Section 01, T17N, R19E, WM in Kittitas County, bearing Assessor's map numbers 17-19-01000-0023, 17-19-01000-0028, 17-19-01000-0042, and 17-19-01000-0043.
3. Site Information:

Total Property Size:	68 acres
Total project size:	42.5 Acres
Number of Lots:	4; no new lots are being proposed
Domestic Water:	None required or planned at this time
Sewage Disposal:	None required or planned at this time
Fire Protection:	Kittitas Valley Fire and Rescue
Irrigation District:	Kittitas Reclamation District
4. Site Characteristics:

<u>North:</u>	Private residential, farming and grazing
<u>South:</u>	Private residential, farming and grazing
<u>East:</u>	Private residential, farming and grazing
<u>West:</u>	Private residential, farming and grazing

The subject property is generally flat disturbed farmland.

5. Access:

The site is accessed from Caribou Road; Kittitas County Public Works has conditioned that the access be constructed to commercial standards.

6. The Comprehensive Plan designation is “Rural Working.”
7. Zoning and Development Standards:
The subject property is located within the Agriculture 20 zone. The agriculture (A-20) zone is an area wherein farming, ranching and rural life styles are dominant characteristics. The intent of this zoning classification is to preserve fertile farmland from encroachment by nonagricultural land uses; and protect the rights and traditions of those engaged in agriculture. The Agriculture 20 zone allows for an array of permitted and conditional uses. This project is being proposed under KCC 17.61 Utilities as a major alternative energy facility, an allowed conditional use for the zone.
8. Conditional Uses:
This application is consistent with KCC 17.60A. There are a number of requirements that must be met. Conditional use permits are required to have a public hearing before the Hearing Examiner for a recommendation and then a closed record hearing before the Board of County Commissioners (BOCC), where the BOCC will make the final decision.
9. The conditional use permit application was submitted to Community Development Services (CDS) on November 12th, 2015. On December 17th, 2015 the application was deemed incomplete following a mandated pre-application meeting between county staff and representatives of the applicant. Materials required at that time included a transportation concurrency application and a stormwater management plan. On March 3rd, 2016 revised project materials were submitted by the applicant who included the required information as well as an updated narrative and SEPA checklist. The application was deemed complete on May 12th, 2016. The Notice of Application for the conditional use permit was issued on May 23rd, 2016. This 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 submit written comments was on June 7th, 2016.
10. Kittitas County acted as the lead agency for the SEPA Environmental Checklist. A Mitigated Determination of Non-Significance (MDNS) was issued for this project on August 10th, 2016. The appeal period for this SEPA determination ended on August 24th, 2016 at 5:00 p.m.
11. A SEPA Appeal was timely filed. A decision affirming the SEPA determination was issued on November 9, 2016.
13. Staff conducted an administrative critical area review in accordance with KCC 17A and found that this proposal is adjacent to a Type 2 Fish Bearing Stream. Kittitas County agreed with the comments provided by The Washington State Department of Fish and Wildlife regarding Caribou Creek’s designation as a Type 2 Fish Bearing Stream and will enforce the recommended 100’ buffer as well as require a Riparian Planting Plan developed in conjunction with and approved by the WDFW.
14. The Kittitas County Comprehensive Plan designates the subject property as Rural Working Land. Uses within this designation generally encourage farming, ranching and storage of agriculture products, and some commercial and industrial uses compatible with rural environment and supporting agriculture and/or forest activities. Areas in this designation often have low population densities with larger parcel size compared to Rural Residential areas. Agriculture and forestry activities are generally less in scope than in the Resource lands.

15. The Washington State Growth Management Act mandates the county to develop a comprehensive plan, and that within that plan a Rural Element be devised which “include measures that apply to rural development and protect the rural character of the area as established by the County.” These measures must be used to control rural development, assure visual compatibility of rural development with surrounding areas, reduce sprawl and protect against conflict with the use of agricultural, forest and mineral resource lands (RCW 36.70A.070). “Rural Character” is defined in the Act thus:

“Rural character” refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

- (a) In which open space, the natural landscape, and vegetation predominate over the built environment;*
- (b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;*
- (c) That provide visual landscapes that are traditionally found in rural areas and communities;*
- (d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;*
- (e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;*
- (f) That generally do not require the extension of urban governmental services; and*
- (g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.*

16. An important fact as to whether the proposed solar farm is rural in character and a compatible use can be found in the fact that that the proposed use is an allowed conditional use, and that the Kittitas County Board of Commissions and the Growth Management Hearing Board have both found that a Major Alternative Energy Facility is consistent with the rural character of an agricultural zone. A conditional use permit, through a public hearing process, allows the county to consider uses which may be essential or desirable, but which are not allowed as a matter of right within a zoning district. The conditional use permit provides flexibility within a zoning ordinance and allows the county to control certain uses which could have detrimental effects on the area. The current Kittitas County Comprehensive Plan and Development Code have been subjected to years of scrutiny, discussion, litigation, and adaptation by numerous state and local, public and private entities. Notwithstanding that scrutiny, Major Alternative Energy Facilities continue to reside in the county code as conditional uses in the Agriculture 20, Forest and Range, Commercial Agriculture and Commercial Forest zones. Two major solar facilities have successfully navigated the conditional use process and achieved approval without appeal with respect to their conformance to rural element of the Comprehensive Plan. The Teanaway Solar Reserve Conditional Use Permit (CU-09-00005) was approved in August of 2010. The county at that time, was not in compliance with the Growth Management Act (Case No. 07-1-0004c) placing the Comprehensive Plan in a state of constant scrutiny and review. On February 11th, 2013, The BOCC signed Ordinance 2013-001, mandating changes to the Comprehensive Plan and the development code (Titles 15A, 16, and 17) to bring county into Compliance with the GMA. On August 13th, 2014, The Growth Management Hearings Board declared:

“That with the adoption of new restrictions on allowed rural uses and standards applicable in certain rural zones, Kittitas County has complied with the requirements of the Growth Management Act.”

17. Nearly one year later the BOCC signed Resolution 2015-106 unanimously approving the Osprey Solar Farm (CU-14-00003) and in the stated findings of fact declared:

“The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan.”

and:

“This proposal is consistent with the Kittitas County Zoning Code as proposed under KCC 17.61 Utilities as a major alternative energy facility, a conditional use for the Agriculture 20 zone.”

18. The identified use, Major Alternative Energy Facility, in various sizes, have been found to be compliant and consistent with both the comprehensive plan and the development code, by both the Board of County Commissioners and the Growth Management Hearings Board notwithstanding the review and scrutiny of dozens of governmental and non-governmental agencies, entities, and individuals.

19. **Goals Policies and Objectives:** Kittitas County has established goals, policies, and objectives (GPOs) to guide activities within the rural working lands and utilities in general. These goals and policies were developed in response to identified needs within the county, and support the County Wide Planning Policies. The following GPOs assist with the assessment of this application:

19.1 GPO 8.1 Rural lands are characterized by a lower level of services; mixed residential, agricultural and open space uses; broad visual landscapes and parcels of varying sizes, a variety of housing types and small unincorporated communities.

19.2 GPO 8.3 The County shall promote the retention of its overall character by establishing zoning classifications that preserve rural character identified to Kittitas County.

19.3 GPO 8.4 Development in rural areas is subject to agricultural and forestry activities that may take place as a right on adjacent properties.

19.4 GPO 8.8 A certain level of mixed uses in rural areas and rural service centers is acceptable and may include limited commercial, service, and rural industrial uses.

19.5 GPO 8.11 Policies will reflect a “right to farm” in agricultural lands.

19.6 GPO 8.13 Encourage development activities and establish development standards which enhance or result in the preservation of rural lands.

19.7 GPO 8.14C Development shall be located distances from streams, rivers, lakes, wetlands, critical areas determined necessary and as outlined within existing Shorelines Management Program, the Critical Areas Ordinance and other adopted resource ordinances in order to protect ground and surface waters.

- 19.8 GPO 8.15 Uses common in rural areas of Kittitas County enhancing rural character, such as agriculture uses in Lower Kittitas and rural residential uses and recreation uses in Upper Kittitas shall be protected from activities which encumber them.
- 19.9 GPO 8.16 Give preference to land uses in Rural designated areas that are related to agriculture, rural residential development, tourism, outdoor recreation, and other open space activities.
- 19.10 GPO 8.17 Land use development within the Rural area that is not compatible with Kittitas County rural character or agricultural activities as defined in RCW 90.58.065(2)(a) will not be allowed.
- 19.11 GPO 8.21 Kittitas County will provide criteria within its zoning code to determine what uses will be permitted within rural zone classifications in order to preserve rural character.
- 19.12 GPO 8.21B Functional separation and setbacks found necessary for the protection of water resources, rural character and/or visual compatibility with surrounding rural areas shall be required where development is proposed. The first sentence of this policy shall not apply to agricultural activities as defined in RCW 90.58.065(2)(a). When required by the county shoreline master program or critical area regulations, buffers shall be provided.
- 19.13 GPO 8.37 Conveyance instruments including plats and short plats, development permits and building permits, within 500 feet of land designated as Rural Working lands or Resource Lands shall contain a notice to potential buyers and residents as directed within RCW 36.70A.060(1)(b).
- 19.14 GPO 8.44A Commercial/Industrial development in rural areas shall be compatible to the rural environment, and must be developed as determined necessary to not significantly impact surface and groundwater.
- 19.15 GPO 8.44 Growth and development in rural lands will be planned to minimize impacts upon adjacent natural resource lands.
- 19.16 GPO 8.44C New commercial/industrial development shall be required to meet standards or any measures found needed to protect existing surface and groundwater users from impairment and contamination.
- 19.17 GPO 8.48 In addition to the notice requirements in RCW 36.70A.060(1)(b), non-farming residents should be informed on the practices of farming so that they are aware of the non-urban activities and impacts that occur in the agricultural environment.
- 19.18 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.

- 19.19 GPO 6.10 Community input should be solicited prior to county approval of utility facilities, which may significantly impact the surrounding community.
- 19.20 GPO 6.13 The County should coordinate with utility providers.
- 19.21 GPO 6.23 Kittitas County reserves the right to review all applications for utilities placed within or through the County for consistency with local policies, laws, custom and culture.
- 19.22 Webster's dictionary defines compatible as "*able to exist together without trouble or conflict*". The project as proposed is consistent with the above GPO's with respect to rural lands and utility location and review. Staff can find no issues, inconsistencies, incompatibilities, or contradictions between this project as proposed and the Kittitas County Comprehensive Plan.
20. The proposal contains an associated floodplain with Caribou Creek (FIRM panels 5300950580B & 5300950557B). A floodplain development permit will be required for the construction of the fence in within the floodplain. Furthermore, should the final site plan contemplate photovoltaic panel installation within the floodplain, a permit will be required.
21. Kittitas County acted as the lead agency for the SEPA Environmental Checklist and threshold determination. As per WAC 197-11-355 and KCC 15A.04.010 the county utilized the optional DNS process. Notice was given that the County was expecting to issue a Determination of Non-Significance, and that the notice of application comment period (14 days) may be the only opportunity to provide comment on the environmental impacts of the proposal. The checklist was reviewed by staff in conjunction with the project narrative. On June 27th, 2016 the application was placed on hold by the applicant and review was temporarily suspended. On July 15th, 2016 the applicant requested that review continue and submitted supplemental documentation with respect to comments received. After a detailed review of the SEPA checklist, the project narrative, supplemental submission, and proposed mitigation measures the SEPA official determined that there would be no significant adverse environmental impacts under the provisions of WAC 197-11-350. With respect to the specific elements outlined in the SEPA checklist the following factual determinations are helpful in considering this conditional use application:
- 21.1 **Earth:**
The site is generally flat and the surface is a disturbed (farmed) range of local soils. Approximately 44 cubic yards of top soil is expected to be moved, and 95 cubic yards of gravel imported. The project will create approximately 8,700 square feet of impermeable surface (9%) of the development. There are no indications of unstable soils within the project area. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, a fugitive Dust Control Plan as well as a Grading Permit is required prior to final approval. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that, as conditioned, there will be no significant adverse environmental impacts related to earth.
- 21.2 **Air**
Solar farms do not consume, process, combust with, alter, or pollute the air; there will be no emissions or odors associated with the operations of the facility. Construction

activities and equipment may generate emissions and fugitive dust. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, a fugitive Dust Control Plan is required prior to final approval. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that, as conditioned, there will be no significant adverse environmental impacts related to air as mitigated.

21.3 Water

Caribou Creek runs through and along the western boundary of the project/property. An irrigation ditch is located along the east boundary of the project site. There are no wetlands identified within the project/property. No dredging or filling will occur within the stream or canal. No surface water or groundwater withdrawals or diversions will be associated with the project. No septic or waste discharge systems are associated with the project. The project site will contain 9% impermeable surface. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials the following mitigation measures have been required:

1. A 100 foot buffer from the ordinary high water mark shall be placed on Caribou Creek within the project parcel; no development, structures, excavation, or clearing of existing vegetation may occur within the buffer.
2. The applicant shall develop a Riparian Planting Plan in conjunction with and approved by the Washington State Department of Fish and Wildlife (WDFW).
3. The applicant will need to consult and comply with the requirements set forth in the KRD General Guidelines prior to final approval of the Conditional Use Permit.
4. The irrigation canal on the east side of the project shall have a 30 foot buffer from all project related development and operations. Weed, vegetation, and fire control measures shall prevail.
5. No part of the project shall disrupt existing surface water rights or existing irrigation easements.
6. A floodplain development permit will be required for the construction of the fence within the floodplain.
7. If the final development plan calls for the placement of panels in the floodplain a Floodplain Development Permit will be required.
8. No flood control structures may be constructed on the project parcel.
9. An on-site Stormwater Management Plan that conforms to the specifications of the most current version of the 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. The Stormwater Management Plan shall be submitted to and approved by Kittitas County Public Works prior to final approval.
10. A Construction Storm water Permit may be required if over 1 acre of ground is disturbed for the project and there is a potential for discharge to waters of the state. This includes dewatering for foundation and utility trenching, access route, laydown, impervious pad construction and footings/foundations.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that, as conditioned, there will be no significant adverse environmental impacts related to Water.

21.4 **Plants**

The project site is currently covered with non-native agricultural crops. There are no known endangered or threatened species on the site. There are no known noxious weeds currently on the site. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, a vegetation management plan approved by the Washington Department of Fish and Wildlife (WDFW) and the Kittitas County Noxious Weed Board is required prior to final approval. In addition, no vegetation control measures shall be utilized which might jeopardize the project site's future ability to return to productive agricultural use. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that, as conditioned, there will be no significant adverse environmental impacts related to plants.

21.5 **Animals**

A variety of birds and animals are known to exist on or near the site. No endangered species are known to exist on the site. A sage grouse was sighted 22 years ago three miles away from the site which is not considered to be an active lek (an area in which two or more males of a species perform courtship displays). The site is not known to be a migration route. There are no known invasive animal species on site. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the following mitigation measures are required:

1. A 100 foot buffer from the ordinary high water mark shall be placed on Caribou Creek within the project parcel; no development, structures, excavation, or clearing of existing vegetation may occur within the buffer.
2. The applicant shall develop a Riparian Planting Plan in conjunction with and approved by the Washington State Department of Fish and Wildlife (WDFW).
3. The applicant shall develop an Incidental Avian Monitoring Plan in conjunction with, and approved by, the WDFW. The plan and program shall be required to be in effect for a period of five years. The plan will designate thresholds and metrics to establish if additional monitoring is required beyond a period of five years.
4. A WDFW representative shall be provided ongoing access to the site for the purposes of assessing, monitoring, and analyzing wildlife activities and behavior.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that, as conditioned, there will be no significant adverse environmental impacts related to animals.

21.6 **Energy**

The project will require energy to power security lighting and metering. The facility will not impact the potential use of solar energy on adjacent sites. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that there will be no significant adverse environmental impacts related to energy.

21.7 **Environmental Health**

There is no known contamination at the site. Photovoltaic panels do not contain or emit hazardous chemicals or conditions. There will be no toxic or hazardous chemicals stored, used, or produced, during development, construction, or operation of the facility. Electromagnetic fields generated by the inverters will dissipate to safe levels long before reaching the external boundaries of the project. In addition to and in conjunction with the content and measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the following mitigation measures are required:

1. Facility management will provide on-site training to KVFR and other emergency services personnel to assist in pre-incident planning and safe operations once the facility is producing electricity.
2. Fire Department key access will be provided for site access and any control panels. A site plan is to be provided for emergency responders prior to the site producing electricity.
3. A Fugitive and Construction Dust Control Plan utilizing best management practices found in the Dust Palliative Selection and Application Guide and the Eastern Washington Stormwater Management Manual (Chapter 7) shall be developed; the plan shall be submitted to and approved by Kittitas County Community Development Services prior to final approval.
4. Broken, damaged, or non-functional panels will be disposed of through consultation with Kittitas County Solid Waste in a safe and environmentally responsible fashion.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that, as conditioned, there will be no significant adverse environmental impacts related to environmental health.

21.8 **Noise**

There is no existing noise that will affect the project. Noise generated by the inverters will be within legal parameters by the time they reach the property's edge. In addition to and in conjunction with the content and measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the applicant shall limit development and construction practices during building of this project. Construction shall only occur between the hours of 7:00 am to 7:00 pm to minimize the effect of construction noise on nearby residences. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that, as conditioned, there will be no significant adverse environmental impacts related to noise.

21.9 **Land Use and Shoreline**

The current use of the site is agricultural. All surrounding zoning and land use is identified as agricultural and rural working respectively. The construction and operation of the solar facility is compatible; it will not encumber, constrain, or interfere with surrounding land uses. No designated agricultural or forestland of long term significance will be converted to other uses. The project will neither affect nor be affected by working farm or forest land. There are no existing structures on the development site. No structures will be demolished as a result of the project. The project does not fall under the provisions of the Shoreline Master Program. Caribou Creek is considered a critical area by Kittitas County. There will be no people residing on or working in the completed project on a permanent basis. Occasional maintenance would be performed on site. The project will not displace any people. The use is a conditional use under Kittitas County

Code. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the following mitigation measures are required:

1. A 100 foot buffer from the ordinary high water mark shall be placed on Caribou Creek within the project parcel; no development, structures, excavation, or clearing of existing vegetation may occur within the buffer.
2. The applicant shall develop a Riparian Planting Plan in conjunction with and approved by the WDFW.
3. The applicant shall obtain a conditional use permit in order to operate the facility.
4. Financing of the decommissioning options must be approved by the county, and may include but not be limited to assignment of funds, a bond, or other financial measures equaling one hundred and twenty five percent (125%) of the estimated cost of the decommissioning efforts.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that, as conditioned, there will be no significant adverse environmental impacts related to land use and shorelines.

21.10 Housing

No housing units will be provided or destroyed. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that there will be no significant adverse environmental impacts related to housing.

21.11 Aesthetics

The top of the panels would stand no higher than eight feet. The project will not obstruct any views in the immediate vicinity. The view from adjacent properties would be altered from hay fields to solar panels. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that there will be no significant adverse environmental impacts related to aesthetics. The Hearing Examiner has recommended an additional condition to screen the project with vegetation to mitigate any view of the facility that is perceived by neighbors and the traveling public to be inconsistent with the rural character of the surrounding area.

21.12 Light and Glare

Glare produced by the project would not be greater than common natural features and materials. Glare would be transitory and only be focused on a particular point or place for a brief time frame as the sun traverses the sky and the panels follow its location. Glare does not present a safety hazard and any interruption of views will minimal and brief. In addition to and in conjunction with the measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the following mitigation measures are required:

1. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties and associated roads and streets.
2. No portion of the solar panels and arrays shall exceed 8 feet in height at any time during the operation cycle.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that, as conditioned, there will be no significant adverse environmental impacts related to light and glare.

21.13 Recreation

There are no recreational opportunities in the immediate vicinity. The proposed project will not displace any existing recreational facilities. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that there will be no significant adverse environmental impacts related to recreation.

21.14 Historic and Cultural Preservation

No historic or cultural resources have been identified on or near the project site. In addition to and in conjunction with the content and measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, should ground disturbing or other activities related to the proposed project result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State DAHP. Work shall remain suspended until the find is assessed and appropriate consultation is conducted. Should human remains be inadvertently discovered, as dictated by Washington State RCW 27.44.055, work shall be immediately halted in the area and contact made with the coroner and local law enforcement in the most expeditious manner possible. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that, as conditioned, there will be no significant adverse environmental impacts related to historical and cultural preservation.

21.15 Transportation

Neither the site nor the geographic area is served by public transit. The project would not require nor would it eliminate any parking spaces. There would be no impacts to water, rail, or air transportation. Total trips are estimated to be less than 20 trips per day during the 3 month construction window, and near zero during the operational time frame; the site will be unmanned. The project will not affect or be affected by the movement of agricultural or forest products in the area. In addition to and in conjunction with the content and measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the following mitigation measures are required:

1. The access approach must be designed and constructed to commercial standards, as shown in the WSDOT Design Manual Exhibits 1340-1 and 1340-2. A Kittitas County Access Permit is required prior to driveway construction. Access driveways will need to be designed to meet standards.
2. A road standards variance application will be required for additional approaches being requested. Current road standards allow for a single access to a parcel of land or to contiguous parcels of land under the same ownership.
3. If any creek or irrigation waterway is to be crossed by bridge, it will need to be engineered and posted for 75,000lb capacity.
4. The project shall comply with all aspects of the International Fire Code Appendix D including twenty (20) foot wide access roads.
5. Addressing shall be clearly visible from the road.

6. All gates shall be a minimum of 12' wide; if gates are locked, keys or equivalent shall be provided to all emergency services.
7. The Kittitas Reclamation District has a recorded right of way and associated service road abutting Caribou Creek (and by inference the project site) on the west side of the stream. This right of way is not on the subject parcels and as such will not be availed to any use for the project development, construction, or operation without explicit permission from the District.
8. The primary transporter route will use Interstate 90; exit 115 to take Main St. North to Clerf Road and continue east on Clerf Road before turning North on Caribou Road to access the Site via an access road on the west side of Caribou Road. The applicant will make every effort to minimize traffic and its impacts to other State, County, and City streets and roads.
9. Under no circumstances shall construction or operational traffic related to the project utilize private roads.

Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that, as conditioned, there will be no significant adverse environmental impacts related to transportation.

21.16 **Public Services**

The project would not result in an increased need for fire, police, school, public transit, health care or other public services. In addition to and in conjunction with the content and measures described by the applicant in the SEPA Checklist, the project narrative and the supplemental materials, the following mitigation measures are required:

1. A vegetation management plan to be maintained in accordance with the Fire Prevention Plan in the Project Narrative.
 2. A site plan is to be provided for emergency responders prior to the site producing electricity. Facility management will provide on-site training to KVFR and other emergency services personnel to assist in pre-incident planning and safe operations once the facility is producing electricity.
 3. Fire department key access will be provided for site access and any control panels.
22. Based on the information provided in the SEPA Checklist, the project narrative and the supplemental materials the SEPA Official determined that, as conditioned, there will be no significant adverse environmental impacts related to public services.
 23. The following conditional use criteria have been satisfied as follows:
 - 23.1 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 because:
 - 23.1.1 The State of Washington has enacted aggressive legal and policy standards in pursuit of more renewable energy generation within its borders. Washington's Renewable Portfolio Standard ("RPS") mandates that fifteen percent (15%) of Washington's electricity be generated from renewable energy sources by 2020, with a ramp-up of increasing targets, including the next tranche of nine percent (9%) by 2016. This Project will help the State meet these objectives and create

more clean energy generation in Washington. This Project will deliver all of its output to the electricity grid through the PSE distribution system.

- 23.1.2 The Project will be the largest solar project in Washington and is desirable to the public convenience because it will fortify the County's electric grid with clean, local power. The facility will be quiet and have very few moving parts and thus will not pose a threat to public health, peace or safety. The low lying panels will be unobtrusive to any view sheds and won't alter Kittitas Valley's rural character in operations.
- 23.1.3 This Project will generate approximately 10,379 MWh of clean electricity each year, which is enough to power more than 950 average American homes and result in an annual emissions reduction of over 15.7 million pounds of CO₂e (equivalent to removing roughly 1,500 passenger vehicles from the road).
- 23.1.4 RCW 19.285 Energy Independence Act in its declaration of policy states that:

"Increasing energy conservation and the use of appropriately sited renewable energy facilities builds on the strong foundation of low-cost renewable hydroelectric generation in Washington State and will promote energy independence in the state and the Pacific Northwest region. Making the most of our plentiful local resources will stabilize electricity prices for Washington residents, provide economic benefits for Washington counties and farmers, create high-quality jobs in Washington, provide opportunities for training apprentice workers in the renewable energy field, protect clean air and water, and position Washington state as a national leader in clean energy technologies."

- 23.1.5 RCW 82.16.110 in its findings and intent conveys:

"The legislature finds that the use of renewable energy resources generated from local sources such as solar and wind power benefit our state by reducing the load on the state's electric energy grid, by providing nonpolluting sources of electricity generation, and by the creation of jobs for local industries that develop and sell renewable energy products and technologies.

The legislature finds that Washington State has become a national and international leader in the technologies related to the solar electric markets. The state can support these industries by providing incentives for the purchase of locally made renewable energy products. Locally made renewable technologies benefit and protect the state's environment. The legislature also finds that the state's economy can be enhanced through the creation of incentives to develop additional renewable energy industries in the state.

The legislature intends to provide incentives for the greater use of locally created renewable energy technologies, support and retain existing local industries, and create new opportunities for renewable energy industries to develop in Washington State."

23.1.6 RCW 80.60.005 concurs in its findings:

"The legislature finds that it is in the public interest to:

(1) Encourage private investment in renewable energy resources;

(2) Stimulate the economic growth of this state; and

(3) Enhance the continued diversification of the energy resources used in this state."

The applicant has stated that 40 to 60 jobs will be created during the construction phase of the project, and that where feasible, local labor will be hired. No taxpayer money is being used for the project and the property tax revenue increase for the life of the project is estimated at \$873,048. This Project will generate approximately 10,379 MWh of clean electricity each year, which is enough to power more than 950 average American homes and result in an annual emissions reduction of over 15.7 million pounds of CO₂e (equivalent to removing roughly 1,500 passenger vehicles from the road). Mr. Hanson is utilizing his property in his best interests. The property is subjected to no permanent change, damage, or encumbrance.

23.1.7 Webster's dictionary defines "detrimental" as "causing damage or injury; obviously harmful". A multitude of concerns were raised within the comment letters with respect to the potential detrimental effects of the proposed Solar Farm. The applicant has provided substantive and empirical data, studies, and research which demonstrated to the satisfaction of the SEPA Official of Kittitas County that there would be no adverse environmental impacts as a result of the construction and operation of the project. Outside of the environmental realm, other concerns expressed within the comment letters that the project may be detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood include:

23.1.7.1 **Loss of farmland and/or dangerous precedent to oversaturation of solar farms:** The application should be considered on its own merits. The discussion at hand is about this project, in this place, by this person, at this time. That being said, the Kittitas County Comprehensive Plan lists 516,797 acres of land as being designated as agricultural use. The proposed solar farm project acreage to be removed represents 0.0009% of that acreage. The removal is temporary, and the land, as per the MDNS, will be restored to an agriculturally productive level upon decommissioning of the project. The property belongs to a private individual entering into a private contract, with a private corporation for a permitted conditional use. Nothing within the county code or comprehensive plan establishes or even contemplates an appropriate or acceptable threshold for "how much is enough" or "how much is too much" when it comes to Major Alternative Energy Facilities. The conditional use is deemed appropriate for 1,425,612 acres within the county; to date there are 13.6 acres of land approved for development as a Major Alternative Energy Facility in Kittitas County.

23.1.7.2 **Loss of farming jobs:** No data or research was presented with respect to this assertion. According to the application, the property owner retains 500+ acres of land in production; a reduction of less than 10% in the working area of the farm could conceivably manifest itself in a loss of hours for some individuals employed by the applicant. The extent which the loss of those hours would cause damage or injury is not discernable. As mentioned above there are over a half million acres of agriculturally designated lands in the county. By applying a proportional perspective one could only conclude that the damage to the agricultural workforce bottom line would be negligible.

23.1.7.3 **Aesthetics and appearance:** The allegations as to the potential injuries in this realm range from diminished property values, to diminished view quality, to loss of tourism, to change in historical character. No data or research was presented to support these assertions. There is no doubt that the conversion from 47 acres of green hayfield to 47 acres of glass, aluminum, and silicon represents a visual change. The applicant submitted some empirical and research data which indicates that there is “...no impact in home values due to the adjacency to the solar farm as well as no impact to adjacent vacant, residential, or agricultural land.” and that there was “no negative impact on the adjoining properties.” Another study espoused that “A review of literature nationwide shows little evidence that solar arrays influence nearby property values.” Notwithstanding the above, staff acknowledged that this issue is perhaps the most challenging characteristic to quantify and address. The applicant points out that “Given the fact that solar PV facilities are a relatively new land use, limited peer-reviewed studies exist regarding potential impacts on the values of adjacent and surrounding properties.” It is undeniable that aesthetic appeal or lack thereof with respect to anything is subjective; and there can be no doubt that some unknown percentage of the population would find the appearance of the proposed project unappealing. The Hearing Examiner finds that this same distaste for visual changes occur with wind turbines, cellular towers and in all likelihood, in an earlier time, with power poles and electrical transmission lines.

It is understood that the area residents do not want to look at this facility. No evidence, studies or data have been presented to provide support for actual detrimental or injurious impacts to the public health, peace, or safety or to the character of the surrounding neighborhood. Given the established overall desirability of the proposed project, Staff was compelled to issue an affirmative response to this conditional use permit criteria.

It should be noted at this time that several concerns or statements articulated within the comment letters submitted were deemed by the county as “not germane” to the discussion. The expense of the energy produced, the viability, efficiency, or cost effectiveness of the

project; questions or statements about being below the "fog line"; requests for free or reduced electricity to the neighbors; market factors stimulating or driving the project; statements that other property is available; or the overabundance of existing power. All of these topics/questions/requests extend beyond the jurisdictional framework of the county. Mr. Hanson is leasing property to a private corporation who is speculating that the electricity produced will cost less than what the market will pay. Staff concluded that the project as proposed is 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.

23.2.1 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:

- A. The proposed use 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
- B. The applicant shall provide such facilities; or
- C. The proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.

23.2.1.1 The city of Kittitas is a small community with a population of approximately 1,450 people. The town has a rural character with deep roots in agriculture. The City of Ellensburg lies just 10 miles west and is home to a much larger population of approximately 18,175 people and Central Washington University.

23.2.1.1.1 This project will be serviced by existing facilities including but not limited to, existing roads, highways, and police and fire protection.

23.2.1.1.2 Any additional facilities required by this Project will be provided by OER. These facilities may include utility infrastructure on Clerf Road, appropriate access improvements to comply with public works or Washington Department of Transportation, additional safety training for the local fire department and all necessary equipment.

23.2.1.1.3 The power generated from this Project will primarily be absorbed in PSE's service areas in and near Kittitas. The total Project capital investment is estimated to be approximately \$11.2 million. Beyond generating a source of renewable energy, this Project will deliver numerous economic benefits through direct capital investment in the local and regional economy.

23.2.1.1.4 In addition to local hired project development technical support and the spike of local spending during the construction period and a hired regional labor force. The Project will generate a consistent revenue stream over the operation life through recurring annual lease payments, which will bring revenue to the landowner as a different commercial enterprise: property taxes, which will generate revenue for Kittitas County, an injection that will contribute to the provision of improved roads, quality education, police, fire, and other municipal needs that would benefit the entire community; and long-term operations and maintenance expenses spent regionally.

23.2.1.2 The applicant has demonstrated that there would be no negative economic impacts to the county. The applicant has stated that 40 to 60 jobs will be created during the construction phase of the project, and that where feasible local labor will be hired. No taxpayer money is being used for the project and the property tax revenue increase for the life of the project is estimated at \$873,048. There would be no significant detrimental effects to or increased demands on public services. Existing off sight roads and infrastructure are sufficient to service both the construction and operational phases of the project. As mitigated, the project would not result in an increased need for fire, police, school, public transit, irrigation, refuse, water or septic systems, health care or other public services. As mitigated, there are no costs or detriments for economic benefit to offset.

23.3 The proposed use complies with relevant development standards and criteria for approval set forth in this title or other applicable provisions of Kittitas County Code because:

23.3.1 OER is dedicated to using best management practices during all phases of development, construction, and operations. This Project will comply with any and all relevant development standards laid out by Kittitas County code.

23.3.2 As mitigated and conditioned the project will be in full compliance with all relevant Titles and chapters of Kittitas County Code including but not limited to:

KCC Title 8 Health, Welfare, and Sanitation
KCC Title 9 Public Peace, Safety, and Morals
KCC Title 10 Vehicles and Traffic
KCC Title 12 Roads and Bridges
KCC Title 13 Water and Sewers
KCC Title 14 Buildings and Construction
KCC Title 15 Environmental Policy
KCC Title 17 Zoning
KCC Title 17A Critical Areas
KCC Title 20 Fire and Life Safety

23.4 The proposed use will mitigate material impacts of the development, whether environmental or otherwise.

- 23.4.1 OER employs a rigorous site selection process to mitigate, to the largest extent feasible, negative environmental impacts while partnering with landowners and local residents to generate positive community impacts and economic development for Kittitas County. The development process for this Project began in 2013 and OER has been working through the due diligence process to ensure the least amount of impacts while developing the Project to achieve successful financing and operations. OER has been and will continue to work to mitigate impacts. OER is committed to developing well-sited projects that avoid sensitive habitats and engages agencies early and often.
- 23.4.2 As mitigated the use will mitigate probable, substantial impacts.
- 23.5 The proposed use will ensure compatibility with existing neighboring land uses.
 - 23.5.1 The Project will be compatible with all neighboring land use. The Project will have very limited visual or auditory impacts, keeping with the rural nature of the City of Kittitas, as further described in the Project narrative.
 - 23.5.2 As mitigated and conditioned, the use will be compatible with neighboring land uses.
- 23.6 The proposed use is consistent with the intent and character of the zoning district in which it is located because:
 - 23.6.1 The Parcel is currently zoned AG-20. Kittitas County Code states that alternative energy facilities may be authorized in this zoning. This Project is a clean energy generator defined in Chapter 17.61 as a "'Major alternative energy facility' means a hydroelectric plant, solar farm, or wind farm that is not a minor alternative energy facility." The Project is consistent with the intent and character of the zoning district. As defined in 17.61.020 Permitted and Conditional Uses, "Major alternative energy facilities may be authorized in the Agriculture-20, forest and range, commercial agriculture, and commercial forest zones as follows: ... All other major alternative energy facilities may be authorized as a conditional use."
 - 23.6.2 The use is consistent with the intent and character of the zoning district in which it is located.
- 23.7 For conditional uses outside of Urban Growth Areas, the proposed use:
 - 23.7.1 The project is consistent with the intent, goals, policies, and objectives of the Kittitas County Comprehensive Plan, including the policies of Chapter 8, Rural and Resource Lands because:
 - 23.7.1 Is consistent with the intent, goals, policies, and objectives of the Kittitas County Comprehensive Plan, specifically GPO 6.36, which states an intent to develop a criteria and design standard for siting solar farms in the county.

23.7.2 Preserves "rural character" as defined in the Growth Management Act (RCW 36.70A.030(15));

23.7.2.1 Preserves "rural character" as defined in the Growth Management Act by fitting into the patterns established by the county in RCW 36.70A.030 (15). The low lying panels will be unobtrusive to any view sheds and won't alter Kittitas Valley's rural character in operations. The facility will be quiet and have very few moving parts and thus will not pose a threat to public health, peace or safety. Native grasses will be planted beneath the panels. The low-lying natures and native grasses will perpetuate the visual landscapes of open space and vegetation that are traditionally found in rural area.

23.7.2.2 The project is compatible with use of the land by local wildlife. OER will continue to work with WDFW to address concerns related to existing wildlife habitat. Additionally, this Project will continue the protection of natural surface water and groundwater flows and surface water recharge and discharge areas. This Project will not inhibit traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas as local farming practices will continue and no job opportunities will be lost. The Project will not require an extension of urban governmental services.

23.7.3 Requires only rural government services;

23.7.4.1 The Project requires only rural government services such as but not limited to, police and fire protection services.

23.7.4.2 Existing off sight roads and infrastructure are sufficient to service both the construction and operational phases of the project. As mitigated, the project would not result in an increased need for fire, police, school, public transit, irrigation, refuse, water or septic systems, health care or other public services. As mitigated, there are no costs or detriments for economic benefit to offset.

23.7.4 Does not compromise the long term viability of designated resource lands.

23.7.4.1 This Project does not compromise the long term viability of the agricultural resource value of this parcel. This Project will temporarily remove a maximum of 47.5 acres for a term to be no longer than 36 years from agricultural production. The landowner will have the ability to continue using the remainder of the land holdings for agricultural uses for the duration of this term. Within one year from the date the lease expires or terminates, all solar facilities and related infrastructure shall be removed and the land shall be returned to its original state at which time the land can return to an agricultural resource.

23.7.4.2 There are no resource lands adjacent to or impacted by the proposed project.

23.8 This proposal is consistent with the Kittitas County Zoning Code for Conditional Uses. The proposed conditional use will be adequately served by rural levels of service. As mitigated and conditioned, the proposal meets or exceeds all of the criteria listed under KCC 17.60A.015 specifically, and Title 17 generally.

24. This proposal is consistent with the Kittitas County Zoning Code as proposed under KCC 17.61 Utilities as a major alternative energy facility, a conditional use for the Agriculture 20 zone.
25. Based on the facts set forth herein, this proposal is consistent with the Kittitas County Zoning Code for Conditional Uses as follows:
 - 25.1 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 because:
 - 25.2 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 because:
 - 25.2.1 The proposed use 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.
 - 25.3 The proposed use will mitigate material impacts of the development, whether environmental or otherwise.
 - 25.4 The proposed use will ensure compatibility with existing neighboring land uses.
 - 25.5 The proposed use is consistent with the intent and character of the zoning district in which it is located.
 - 25.6 As a conditional use located outside of an Urban Growth Areas, the proposed use:
 - 25.6.1 Is consistent with the intent, goals, policies, and objectives of the Kittitas County Comprehensive Plan, including the policies of Chapter 8, Rural and Resource Lands;
 - 25.6.2 Preserves "rural character" as defined in the Growth Management Act (RCW 36.70A.030(15));
 - 25.6.3 Requires only rural government services, and
 - 25.6.4 Does not compromise the long term viability of designated resource lands.
26. As conditioned, the proposal is consistent with the provisions of KCC Title 12 Roads and Bridges, Title 13 Water and Sewers, Title 14 Buildings and Construction, Title 15 Environmental Policy, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire and Life Safety.
27. An open record public hearing after due legal notice was held on October 20, 2016.

28. At the hearing the following exhibits were admitted into the record:

- 28.1 Exhibit 1 KC CDS Receipt;
- 28.2 Exhibit 2 Original SEPA Checklist;
- 28.3 Exhibit 3 Original Application Packet;
- 28.4 Exhibit 4 Pre-Application Conference Summary;
- 28.5 Exhibit 5 Deem Incomplete Letter;
- 28.6 Exhibit 6 Revised Application;
- 28.7 Exhibit 7 Revised SEPA Checklist;
- 28.8 Exhibit 8 Planners Notes;
- 28.9 Exhibit 9 Site Plan;
- 28.10 Exhibit 10 Transportation Concurrency;
- 28.11 Exhibit 11 Deem Complete;
- 28.12 Exhibit 12 Prior Survey;
- 28.13 Exhibit 13 Regional Land Use Map;
- 28.14 Exhibit 14 Critical Areas Checklist;
- 28.15 Exhibit 15 Floodplain, Floodway, Streams, and Wetlands Map;
- 28.16 Exhibit 16 Vicinity Map
- 28.17 Exhibit 17 LiDAR Hillshade Elevation Model Map;
- 28.18 Exhibit 18 Oblique Air Photo;
- 28.19 Exhibit 19 Vertical Air Photo;
- 28.20 Exhibit 20 Land Use Action Signs Map;
- 28.21 Exhibit 21 Affidavit of Posting Signed;
- 28.22 Exhibit 22 Adjacent Property Owners Notification Map;
- 28.23 Exhibit 23 Adjacent Properties Mailing Labels;
- 28.24 Exhibit 24 Notice of Application Legal;
- 28.25 Exhibit 25 Notice of Application;
- 28.26 Exhibit 26 Notice of Application Email;
- 28.27 Exhibit 27 Site Visit Photos;
- 28.28 Exhibit 28 Correspondence with Authorized Agent;
- 28.29 Exhibit 29 Correspondence All Others;
- 28.30 Exhibit 30 Comment Letter – Charles;
- 28.31 Exhibit 31 Comment Letter – Woodworth;
- 28.32 Exhibit 32 Comment Letter – Williams R;
- 28.33 Exhibit 33 Comment Letter –Wenger;
- 28.34 Exhibit 34 Comment Letter – Stull;
- 28.35 Exhibit 35 Comment Letter – Kittitas County Public Works;
- 28.36 Exhibit 36 Comment Letter - Pfeifer;
- 28.37 Exhibit 37 Comment Letter – NW Energy Coalition;
- 28.38 Exhibit 38 Comment Letter - McKendrick;
- 28.39 Exhibit 39 Comment Letter – Kittitas Reclamation District;
- 28.40 Exhibit 40 Comment Letter - Johnson;
- 28.41 Exhibit 41 Comment Letter – Gigstead;
- 28.42 Exhibit 42 Comment Letter – Craig;
- 28.43 Exhibit 43 Comment Letter – Cooper T.;
- 28.44 Exhibit 44 Comment Letter – Cooper F.;
- 28.45 Exhibit 45 Comment Letter – Climate Solutions;
- 28.46 Exhibit 46 Comment Letter – Clerf R.;
- 28.47 Exhibit 47 Comment Letter – Clerf J.;

28.48 Exhibit 48 Comment Letter – Chalrton/Weekes;
28.49 Exhibit 49 Comment Letter – Carr;
28.50 Exhibit 50 Comment Letter – Allphin R.;
28.51 Exhibit 51 Comment Letter – Allphin J.;
28.52 Exhibit 52 Comment Letter - Washington Fish and Wildlife;
28.53 Exhibit 53 Comment Letter – Washington Wool Growers;
28.54 Exhibit 54 Comment Letter – Warm Springs Ranch;
28.55 Exhibit 55 Comment Letter – Sierra Club;
28.56 Exhibit 56 Comment Letter – Sherman;
28.57 Exhibit 57 Comment Letter – Pentico;
28.58 Exhibit 58 Comment Letter – Miller;
28.59 Exhibit 59 Comment Letter – Lower;
28.60 Exhibit 60 Comment Letter – Jackson;
28.61 Exhibit 61 Comment Letter – Hubbard S.;
28.62 Exhibit 62 Comment Letter – Hubbard E.;
28.63 Exhibit 63 Comment Letter – Graham;
28.64 Exhibit 64 Comment Letter – Eslinger;
28.65 Exhibit 65 Comment Letter – Clean Tech Allaince;
28.66 Exhibit 66 Comment Letter – Caraway;
28.67 Exhibit 67 Comment Letter – Black;
28.68 Exhibit 68 Comment Letter – Adams;
28.69 Exhibit 69 Comment Letter – Walter;
28.70 Exhibit 70 Comment Letter – Meeks;
28.71 Exhibit 71 Comment Letter – Hein and Lee;
28.72 Exhibit 72 Comment Letter Hahn;
28.73 Exhibit 73 Comment Letter – Clerf Sherre;
28.74 Exhibit 74 Comment Letter - Clerf Shelley;
28.75 Exhibit 75 Comment Letter – Busch;
28.76 Exhibit 76 Comment Letter - Williams B;
28.77 Exhibit 77 Comment Letter – McNichol;
28.78 Exhibit 78 Comment Letter – Kenner;
28.79 Exhibit 79 Comment Letter – Hunt;
28.80 Exhibit 80 Comment Letter – Allred;
28.81 Exhibit 81 Comment Letter – Ridgeway;
28.82 Exhibit 82 Comment Letter - Kittitas County Public Health;
28.83 Exhibit 83 Comment Letter – Morgan & Son;
28.84 Exhibit 84 Comment Letter – McMeans;
28.85 Exhibit 85 Comment Letter – McCune;
28.86 Exhibit 86 Comment Letter – Martinez;
28.87 Exhibit 87 Comment Letter – Evans;
28.88 Exhibit 88 Comment Letter – Busch;
28.89 Exhibit 89 Comment Letter – Gremel;
28.90 Exhibit 90 Comment Letter – Kittitas County Building Dept.;
28.91 Exhibit 91 Comment Letter - Kittitas County Fire Marshal;
28.92 Exhibit 92 Comment Letter – Bates;
28.93 Exhibit 93 Comment Letter - Washington State Department of Health;
28.94 Exhibit 94 Comment Letter – Kittitas Valley Fire and Rescue;
28.95 Exhibit 95 Request to Place on Hold Applicant;
28.96 Exhibit 96 Late Comment Letter – Ecology;
28.97 Exhibit 97 Transmittal of Comments;

28.98 Exhibit 98 Applicant Supplemental Materials;
 28.99 Exhibit 99 Request to Resume Processing;
 28.100 Exhibit 100 Late Comment Letter – Kittitas County Weed Dept.;
 28.101 Exhibit 101 Request for Notification – Yakima Herald Republic;
 28.102 Exhibit 102 Correspondence Staff to HE;
 28.103 Exhibit 103 Notice of Decision and Hearing Publication Confirmation;
 28.104 Exhibit 104 Correspondence Williams R.;
 28.105 Exhibit 105 Notice of Decision and Hearing Mailing Labels;
 28.106 Exhibit 106 Notice of Decision and Hearing Affidavit of Mailing;
 28.107 Exhibit 107 Notice of Decision and Hearing Email;
 28.108 Exhibit 108 Correspondence Martinez;
 28.109 Exhibit 109 Notice of Decision and Hearing;
 28.110 Exhibit 110 SEPA MDNS;
 28.111 Exhibit 111 HE Agenda;
 28.112 Exhibit 112 HE Staff Report;
 28.113 Exhibit 113 Appeal Letter;
 28.114 Exhibit 114 Order Striking Hearing;
 28.115 Exhibit 115 Email Cancelling Hearing;
 28.116 Exhibit 116 Declaration of Representation;
 28.117 Exhibit 117 Correspondence;
 28.118 Exhibit 118 Appeal Documentation Transmittal Email Applicant;
 28.119 Exhibit 119 Applicant Witness List;
 28.120 Exhibit 120 Applicant Appeal Response with Appendices;
 28.121 Exhibit 121 Appeal Documentation Transmittal Appellant;
 28.122 Exhibit 122 Appellant Witness List;
 28.123 Exhibit 123 Appellant Opening Memorandum;
 28.124 Exhibit 124 Notice of Appeal and Hearing Request for Publication;
 28.125 Exhibit 125 Notice of Appeal and Public Hearing Memo;
 28.126 Exhibit 126 Notice of Appeal and Public Hearing Publication Confirmation;
 28.126 Exhibit 127 Appellant’s Response Memorandum;
 28.128 Exhibit 128 Teanaway Solar Reserve Notice of Decision;
 238.129 Exhibit 129 Teanaway Solar Reserve MDNS;
 28.130 Exhibit 130 One Energy Response Final Legal;
 28.131 Exhibit 131 One Energy Response Docs;
 28.132 Exhibit 132 Appellant Memo RE: CUP;
 28.133 Exhibit 133 Applicant’s Legal Response to Appellant Memo RE: CUP;
 28.134 Exhibit 134 SEPA Appeal Order on Prehearing Conference;
 28.135 Exhibit 135 SEPA Appeal Comments John Clerf;
 28.136 Exhibit 136 SEPA Appeal Email of Record;
 28.137 Exhibit 137 Appeal and Cup Hearing Agenda;
 28.138 Exhibit 138 Correspondence RE SEPA Hearing Process;
 28.139 Exhibit 139 Correspondence RE SEPA Hearing Process 2;
 28.140 Exhibit 140 Letter/Statement from Hearing – Clerf;
 28.141 Exhibit 141 Hearing Sign-in Sheet SEPA;
 28.142 Exhibit 142 Hearing Sign-in Sheet CUP; and
 28.143 Exhibit 143 Staff Power Point;
 28.144 Exhibit 144 One Energy Power Point;
 28.145 Exhibit 145 Tables from R Williams; and
 28.146 Exhibit 146 KC Economic Impact Analysis (R. Williams).

29. Appearing on behalf of the applicant was attorney Tim McMahon. Testifying on behalf of the applicant were the following individuals:
- 29.1 Tayler Steele;
 - 29.2 Anne Siqveland; and
 - 29.3 Travis Bryan.
30. The following members of the public testified at the SEPA appeal hearing. Their testimony is incorporated into the CUP hearing.
- 30.1 Patricia Clerf;
 - 30.2 Craig Clerf;
 - 30.3 Ron Cline;
 - 30.4 Marlene Pfeifer;
 - 30.5 Sherre Clerf;
 - 30.6 Scott Downs;
 - 30.7 Greg Carr;
 - 30.8 Cheryl Pentico;
 - 30.9 Thomas Houghton;
 - 30.10 Stan Blazynski;
 - 30.11 Dwight Bates;
 - 30.12 Jerry Gilmore;
 - 30.13 Andrea Eklund;
 - 30.14 Paul Boguslawski;
 - 30.15 Jake Steign;
 - 30.16 Carol Martinez; and
 - 30.17 Roger Clerf.
31. Additional public testimony was provided by the following persons:
- 31.1 Stan Blazynski;
 - 31.2 Dan Morgan;
 - 31.3 Patricia Clerf;
 - 31.4 Craig Clerf;
 - 31.5 Rolf Williams;
 - 31.6 Jeff Green;
 - 31.7 Margie VanCleve; and
 - 31.8 James Carmody on behalf of "Save Our Farm! Say No to Iron Horse" provided legal argument.
32. One of the primary concerns of neighboring property owners was the visual appearance of the fence and solar panels. The Hearing Examiner believes that the visual objections to this facility can be mitigated by the use of vegetation growing on or in front of (street side) the chain link fencing. The Hearing Examiner would recommend that vegetation growing on or in front of the chain link fence be provided on a permanent basis to reach a height equal to that of the chain link fence. The selection of vegetation should be determined in consultation with agencies with jurisdiction, including Washington State Fish and Wildlife (so as not to be vegetation that would unduly attract wildlife and cause a safety issue for the traveling public). The primary purpose of this mitigation is to shield the project from the traveling public.

33. The proposal conforms to the standards specified in Kittitas County Code.
34. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
35. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
36. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
37. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
38. The proposed conditional use will comply with all required performance standards specified in the Kittitas County Code.
39. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified in the Kittitas County Code.
40. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. RECOMMENDED CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with the provisions of KCC Title 12.
6. As conditioned, the proposal is consistent with the provisions of KCC Title 13.
7. As conditioned, the proposal is consistent with the Kittitas County Building Code.
8. As conditioned, the proposal is consistent with KCC Title A.
9. As conditioned, the proposal is consistent with KCC Title 20.
10. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. RECOMMENDED DECISION

Based on the above Recommended Findings of Fact and Conclusions of Law, Conditional Use Permit Application CU-15-00006, Iron Horse Solar Farm, is recommended to be **APPROVED** subject to the following Recommended Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. The project shall proceed in substantial conformance with the plans and application materials on file dated March 3rd, 2016 and July 20, 2016 except as amended by the conditions herein.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. The applicant shall obtain a conditional use permit in order to operate the facility.
4. A 100 foot buffer from the ordinary high water mark shall be placed on Caribou Creek within the project parcel; no development, structures, excavation, or clearing of existing vegetation may occur within the buffer.
5. The applicant shall develop a Riparian Planting Plan in conjunction with and approved by the Washington State Department of Fish and Wildlife (WDFW).
6. A WDFW representative shall be provided ongoing access to the site for the purposes of assessing, monitoring, and analyzing wildlife activities and behavior.
7. The applicant shall develop an Incidental Avian Monitoring Plan in conjunction with, and approved by, the Washington State Department of Fish and Wildlife (WDFW). The plan and program shall be required to be in effect for a period of five years. The plan will designate thresholds and metrics to establish if additional monitoring is required beyond a period of five years.
8. No additional flood control structures may be constructed on the project site.
9. Development shall be limited to the proposal as submitted; substantive modifications (as determined by the Planning Official) or expansion of the development may require additional environmental review.
10. The access approach must be designed and constructed to commercial standards, as shown in the WSDOT Design Manual Exhibits 1340-1 and 1340-2. A Kittitas County Access Permit is required prior to driveway construction. Access driveways will need to be designed to meet standards.
11. A road standards variance application will be required for additional approaches being requested. Current road standards allow for a single access to a parcel of land or to contiguous parcels of land under the same ownership.

12. If any creek or irrigation waterway is to be crossed by bridge, it will need to be engineered and posted for 75,000lb capacity.
13. Addressing shall be clearly visible from the road.
14. The project shall comply with all aspects of the International Fire Code Appendix D including twenty (20) foot wide access roads.
15. All gates shall be a minimum of 12' wide; if gates are locked, keys or equivalent shall be provided to all emergency services.
16. Facility management will provide on-site training to KVFR and other emergency services personnel to assist in pre-incident planning and safe operations once the facility is producing electricity.
17. Fire department key access will be provided for site access and any control panels. A site plan is to be provided for emergency responders prior to the site producing electricity.
18. A Fugitive and Construction Dust Control Plan utilizing best management practices found in the Dust Palliative Selection and Application Guide and the Eastern Washington Stormwater Management Manual (Chapter 7) shall be developed; the plan shall be submitted to and approved by Kittitas County Community Development Services prior to final approval.
19. The Kittitas Reclamation District has a recorded right of way and associated service road abutting Caribou Creek (and by inference the project site) on the west side of the stream. This right of way is not on the subject parcels and as such will not be availed to any use for the project development, construction, or operation without explicit permission from the District.
20. The primary transporter route will use Interstate 90; exit 115 to take Main St. north to Clerf Road and continue east on Clerf Road before turning north on Caribou Road to access the Site via an access road on the west side of Caribou road. The applicant will make every effort to minimize traffic and its impacts to other State, County, and City streets and roads.
21. Under no circumstances shall construction or operational traffic related to the project utilize private roads.
22. All current and future landowners must comply with the International Fire Code.
23. All development, design and construction shall comply with all Kittitas County Codes and the International Fire and Building Codes.
24. Building permits will be required for any construction or structure not exempted by 2015 IBC 105.2 Work exempt from permit.
25. Addressing of the parcel shall be clearly visible from the road.
26. A vegetation management plan to be maintained in accordance with the Fire Prevention Plan in the Project Narrative.

27. No vegetation control measures shall be utilized which might jeopardize the project site's future ability to return to productive agricultural use.
28. A site plan is to be provided for emergency responders prior to the site producing electricity. Facility management will provide on-site training to KVFR and other emergency services personnel to assist in pre-incident planning and safe operations once the facility is producing electricity.
29. Fire Department key access will be provided for site access and any control panels.
30. The applicant will need to consult and comply with the requirements set forth in the KRD General Guidelines prior to final approval of the Conditional Use Permit.
31. The irrigation canal on the east side of the project shall have a 30 foot buffer from all project related development and operations. Weed, vegetation, and fire control measures shall prevail.
32. No part of the project shall disrupt existing surface water rights or existing irrigation easements.
33. An on-site Stormwater Management Plan that conforms to the specifications of the most current version of the 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. The Stormwater Management Plan shall be submitted to and approved by Kittitas County Public Works prior to final approval.
34. A Construction Storm water Permit may be required if over 1 acre of ground is disturbed for the project and there is a potential for discharge to waters of the state. This includes dewatering for foundation and utility trenching, access route, laydown, impervious pad construction and footings/foundations.
35. Should ground disturbing or other activities related to the proposed plat result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State DAHP. Work shall remain suspended until the find is assessed and appropriate consultation is conducted. Should human remains be inadvertently discovered, as dictated by Washington State RCW 27.44.055, work shall be immediately halted in the area and contact made with the coroner and local law enforcement in the most expeditious manner possible.
36. Financing of the decommissioning options must be approved by the county, and may include but not be limited to assignment of funds, a bond, or other financial measures equaling one hundred and twenty five percent (125%) of the estimated cost of the decommissioning efforts.
37. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties and associated Roads and Streets.
38. The applicant shall limit development and construction practices during building of this project shall only occur between the hours of 7:00 am to 7:00 pm to minimize the effect of construction noise on nearby residences.
39. A vegetation management plan to be maintained in accordance with the Fire Prevention Plan in the Project Narrative.

40. No portion of the solar panels and arrays shall exceed 8 feet in height at any time during the operation cycle.
41. Broken, damaged, or non-functional panels will be disposed of through consultation with Kittitas County Solid Waste in a safe and environmentally responsible fashion.
42. Disclosure Statement; The owners of the property shall be required to sign a statement of acknowledgment containing the Disclosure set out in sub-part (2)(a) on forms provided, which shall then be recorded with Kittitas County. "The County of Kittitas supports the continuation and development of properly conducted agricultural operations within the County and has enacted a Right to Farm For the Protection of Agricultural Activities Ordinance (KCC 17.74). If the property you are purchasing is located near agricultural lands or operations or included within an area zoned for agricultural purposes, you may be subject to inconveniences arising from such operations. Inconveniences may occur as a result of agricultural operations which are in conformance with existing laws and regulations and accepted customs and standards. These inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft), and the driving of machinery and/or livestock on public and private rights-of-way during any 24 hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. If you live near an agricultural area, you should be prepared to accept such conditions as part of the custom of a county with a strong rural character and an active agricultural sector". (Ord. 2007-22, 2007; Ord. 96-5 (part), 1996)
43. A SEPA Mitigation Determination of Non-Significance (MDNS) was issued by Community Development Services on August 24th, 2016. The following are the mitigation contained within the MDNS and shall be conditions of approval:

Water

- 1) A 100 foot buffer from the ordinary high water mark shall be placed on Caribou Creek within the project parcel; no development, structures, excavation, or clearing of existing vegetation may occur within the buffer.
- 2) The applicant shall develop a Riparian Planting Plan in conjunction with and approved by the Washington State Department of Fish and Wildlife (WDFW).
- 3) Required mitigation measures including but not limited to weed control, vegetation management, fire control and suppression, noise, visual aesthetics, and irrigation shall not encroach into the riparian buffer or conflict with the Riparian Planting Plan.
- 4) Any construction or maintenance work affecting the Caribou Creek, including the construction of bridges or culverts, installation of utilities under the channel (e.g. drilling, boring, jacking or open cut installations), bank or channel modifications, etc. will require a Hydraulic Project Approval from the WDFW.
- 5) This property is within the boundaries of the KRD and all parcels contain irrigable ground. The applicant will need to consult and comply with the requirements set forth in the KRD General Guidelines prior to final approval of the Conditional Use Permit.
- 6) The irrigation canal on the east side of the project shall have a 30 foot buffer from all project related development and operations. Weed, vegetation, and fire control measures

shall prevail. No part of the project shall disrupt existing surface water rights or existing irrigation easements.

- 7) A floodplain development permit will be required for the construction of the fence in within the floodplain.
- 8) If the final development plan calls for the placement of panels in the Floodplain a Floodplain development permit will be required.
- 9) No flood control structures may be constructed on the project parcel.
- 10) Development shall be limited to the proposal as submitted; modifications or expansion of the development shall require additional environmental review.

Stormwater

- 1) An on-site Stormwater Management Plan that conforms to the specifications of the most current version of the 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. The Stormwater Management Plan shall be submitted to and approved by Kittitas County Public Works prior to final approval.
- 2) A Construction Storm water Permit may be required if over 1 acre of ground is disturbed for the project and there is a potential for discharge to waters of the state. This includes dewatering for foundation and utility trenching, access route, lay down, impervious pad construction and footings/foundations.

Earth

- 1) A Fugitive and Construction Dust Control Plan utilizing best management practices found in the Dust Palliative Selection and Application Guide and the Eastern Washington Stormwater Management Manual (Chapter 7) shall be developed; the plan shall be submitted to and approved by Kittitas County Community Development Services prior to final approval.
- 2) A Grading Permit shall be obtained from the Kittitas County Public Works department prior to final approval.

Animals

- 1) The applicant shall develop an Incidental Avian Monitoring Plan in conjunction with, and approved by, the Washington State Department of Fish and Wildlife (WDFW). The plan and program shall be required to be in effect for a period of five years. The plan will designate thresholds and metrics to establish if additional monitoring is required beyond a period of five years.
- 2) A WDFW representative shall be provided ongoing access to the site for the purposes of assessing, monitoring, and analyzing wildlife activities and behavior.

Vegetation

- 1) The Vegetation Management Plan Submitted as Appendix C within the Project Narrative shall be utilized as the foundational document for mitigation measures with respect to Vegetation Management, Weed Management, and Fire Protection. Final approval of the Conditional Use Permit will be subject to the approval as adjusted by the WDFW and the applicant for vegetation management, and the Kittitas County Noxious Weed Board and the applicant for weed management as noted in supplemental discussions, comments, exhibits, and submissions.

- 2) No vegetation control measures shall be utilized which might jeopardize the project site's future ability to return to productive agricultural use.

Transportation

- 1) The access approach must be designed and constructed to commercial standards, as shown in the WSDOT Design Manual Exhibits 1340-1 and 1340-2. A Kittitas County Access Permit is required prior to driveway construction. Access driveways will need to be designed to meet standards.
- 2) A road standards variance application will be required for additional approaches being requested. Current road standards allow for a single access to a parcel of land or to contiguous parcels of land under the same ownership.
- 3) If any creek or irrigation waterway is to be crossed by bridge, it will need to be engineered and posted for 75,000 lb. capacity.
- 4) The project shall comply with all aspects of the International Fire Code Appendix D including twenty (20) foot wide access roads.
- 5) Addressing shall be clearly visible from the road.
- 6) All gates shall be a minimum of 12' wide. If gates are locked, keys or equivalent shall be provided to all emergency services.
- 7) The Kittitas Reclamation District has a recorded right of way and associated service road abutting Caribou Creek (and by inference the project site) on the west side of the stream. This right of way is not on the subject parcels and as such will not be available to any use for the project development, construction, or operation without explicit permission from the District.
- 8) The primary transporter route will use Interstate 90; exit 115 to take Main St. North to Clerf Road and continue east on Clerf Road before turning north on Caribou Road to access the site via an access road on the west side of Caribou road. The applicant will make every effort to minimize traffic and its impacts to other State, County, and City streets and roads. Under no circumstances shall construction or operational traffic related to the project utilize private roads.

Cultural Resources and Historic Preservation

- 1) Should ground disturbing or other activities related to the proposed plat result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State DAHP. Work shall remain suspended until the find is assessed and appropriate consultation is conducted. Should human remains be inadvertently discovered, as dictated by Washington State RCW 27.44.055, work shall be immediately halted in the area and contact made with the coroner and local law enforcement in the most expeditious manner possible.

Light and Aesthetics

- 1) All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties and associated roads and streets.
- 2) No portion of the solar panels and arrays shall exceed 8 feet in height at any time during the operation cycle.

Noise

- 1) Development and construction practices during building of this project shall only occur between the hours of 7:00 am to 7:00 pm to minimize the effect of construction noise on nearby residences.

Public Services

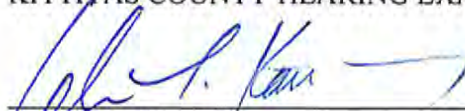
- 1) Vegetation management plan to be maintained in accordance with the Fire Prevention Plan in the Project Narrative.
- 2) A site plan to be provided for emergency responders prior to the site producing electricity.
- 3) Facility management will provide on-site training to KVFR and other emergency services personnel to assist in pre-incident planning and safe operations once the facility is producing electricity.
- 4) Fire Department key access will be provided for site access and any control panels.

Reclamation

- 1) Financing of the decommissioning options must be approved by the county, and may include but not be limited to assignment of funds, a bond, or other financial measures equaling one hundred and twenty five percent (125%) of the estimated cost of the decommissioning efforts.
 - 2) Broken, damaged, or non-functional panels will be disposed of through consultation with Kittitas County Solid Waste in a safe and environmentally responsible fashion.
44. The Hearing Examiners recommended Conditions:
- 44.1 One of the primary concerns of neighboring property owners was the visual appearance of the fence and solar panels. The Hearing Examiner believes that the visual objections to this facility can be mitigated by the use of vegetation growing on or in front of (street side) the chain link fencing. The Hearing Examiner would recommend that vegetation growing on or in front of the chain link fence be provided on a permanent basis to reach a height equal to that of the chain link fence. The selection of vegetation should be determined in consultation with agencies with jurisdiction, including Washington State Fish and Wildlife (so as not to be vegetation that would unduly attract wildlife and cause a safety issue for the traveling public). The primary purpose of this mitigation is to shield the project from the traveling public.
 - 44.2 The applicant shall comply with environmental noise levels set forth in WAC 173-60 et seq.

Dated this 9th day of November, 2016.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp