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Kittitas County CDS

November 7, 2018

Kittitas County Comm. Develop Services
411 N. Ruby, Suite 2
Ellensburg, WA 98926

Re: **CU-18-00001 Vantage to Pamona Heights**

Greetings:

Enclosed please find the Hearing Examiner's Decision.

If you have any questions or concerns please feel free to contact me at your earliest convenience.

Sincerely,



KATHY CORTER

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**KITTITAS COUNTY
LAND USE HEARING EXAMINER**

<p>IN THE MATTER OF</p> <p>CU-18-00001 Vantage to Pamona Heights</p>	<p>))))</p>	<p>RECOMMENDED FINDINGS OF FACT, RECOMMENDED CONCLUSIONS OF LAW, RECOMMENDED DECISION AND RECOMMENDED CONDITIONS OF APPROVAL</p>
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THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on November 1, 2018, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Recommended Conclusions of Law, Recommended Decision and Recommended Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. David Dean, agent for Pacific Power, is proposing the development and continued maintenance of a 27.6 mile 230 kV transmission line to be built in the south east corner of Kittitas County. The transmission line will be used to service a connection between Pacific Powers Pomona Substation in Yakima County and the Bonneville Power Administration’s Vantage Substation in Grant County.

2. The transmission line route will cross into Kittitas County along the southern county line between Highway 821 and Interstate 82, and then continues north-northeast for approximately 6 miles. The transmission line turns northeast a mile before crossing interstate 82 south of Exit 11 and continues that direction to Badger Pocket where it turns east. The transmission line continues east for approximately 14 miles then turns northeast just before crossing the Columbia River. The new transmission line parallels existing transmission line corridors for most of the length through Kittitas County.

3. Site Information

Total Property Size:	Approximately 560 acres of ROW within the County
Number of Lots:	Proposal crosses 43 parcels within the county
Domestic Water:	N/A
Sewage Disposal:	N/A
Power/Electricity:	N/A
Fire Protection:	Fire Districts 4, Fire District 2 (KVFR), and areas outside of Fire Districts
Irrigation District:	N/A

4. Site Characteristics:
The transmission line as proposed will travel 27.6 miles through two zoning districts; Forest and Range, and Commercial Agriculture and across 43 individual parcels. Site characteristics

vary along this route. The transmission line will follow existing transmission line corridors for much of its path through Kittitas County.

5. Access:
The site is accessed from a variety of existing access roads as well as newly proposed roads along the 27.6 mile route.
6. The Comprehensive Plan land use designations span both “Rural Working” and “Commercial Agriculture.”
7. The project spans both “Forest and Range” and “Commercial Agriculture” zoning designations.
8. A Conditional Use Permit application for the Vantage to Pomona transmission line (CU-18-00001) was submitted to Kittitas County Community Development Services department on July 17, 2018. The application was deemed complete on August 13, 2018. A Notice of Application for the Vantage to Pomona 230 kV Transmission Line Conditional Use Permit (CU-18-00001) was mailed to adjacent landowners located within 500 feet of any portion of the boundary of the proposal's tax parcel & associated Agencies. Notice was given to and published in the official newspaper of record for Kittitas County, and notice was posted to the Kittitas County Website on August 27, 2018, all in conformance with the Kittitas County Project Permit Application Process (Title 15A).
9. An Environmental Impact Statement (EIS) has been completed for this project under the National Environmental Policy Act (NEPA) with the US Bureau of Land Management as the lead agency. A Final Environmental Impact Statement was published in October, 2016 identifying an Environmentally Preferred Alternative which reflects the route proposed in this Conditional Use application. This FEIS is a project lead review. Therefore, no further environmental review is required. Kittitas County CDS adopts the EIS issued in October, 2016 by reference.
10. This application is consistent with the goals, policies, and objectives of the Kittitas County Comprehensive Plan as follows:
 - 10.1. The project is consistent with GPO 6.1 as follows:
 - 10.1.1 The proposed project utilizes existing utility corridors for most of the project area. Nine (9) private landowners have provided authorization, by signature, to allow Pacific Power to serve as their agent in Kittitas County permitting matters in relation to this proposed project. Approximately 22% of the project path will utilize privately owned land.
 - 10.2 The project is consistent with GPO 6.2 as follows:
 - 10.2.1 The proposed use would utilize existing utility ROW's for most of transmission line path.
 - 10.3 The project is consistent with GPO 6.3 as follows:

10.3.1 Pacific Power has identified the need for a 230 kV transmission line to avoid overloading of adjacent transmission systems and to ensure continued reliable and efficient electric systems to the Yakima Valley.

10.4 The project is consistent with GPO 6.6 as follows:

10.4.1 This project proposal is consistent with utility service being the responsibility of the utility providers.

10.5 The project is consistent with GPO 6.7 as follows:

10.5.1 The project proposal is consistent and complimentary to regional demands.

10.6 The project is consistent with GPO 6.18 as follows:

10.6.1 The project is consistent with reinforcing an interconnected regional distribution network.

10.7 The project is consistent with GPO 6.21 as follows:

10.7.1 The project avoids urban areas.

11. The proposal is consistent with Kittitas County Review Criteria 17.60A.015 and Utility 17.61.030 as described in section VIII "Project Analysis" of this determination. Utility development is a permitted use in all Kittitas County zoning districts.

12. Road Standards and access requirements along State Routes are subject to KCC 12.01.080, requiring deference to the standards of the State agency of jurisdiction in relation to any applicable standards. The proposed project is accessed from State Route 821, requiring the Applicant to gain all necessary access and/or road permits from Washington State Department of Transportation.

13. The following agencies provided comments during the comment period: Kittitas County Public Health, Washington State Department of Transportation, and Washington State Department of Fish and Wildlife.

13.1 Washington State Fish and Wildlife reported a need for the applicant to continue working with them on establishing the need for any HPA permitting for stream crossings along the project route. The applicant responded by agreeing to continue working with WDFW (See Index #26).

13.2 Washington State Department of Transportation referenced the need for the applicant to maintain contact with WSDOT and gain approval for any access connections or work performed in WSDOT rights-of-way prior to beginning work. The applicant responded by citing that they are already working with WSDOT regarding the issues raised and will continue to meet WSDOT requirements (See Index #27).

13.3 Kittitas County Public Health Department stated that they had no issues with this application.

14. One comment from the public was received. This comment, from Michael Scanes on behalf of

Take 5 HOA expressed concerns regarding the potential for project access via Roza View Drive.

The Applicant responded that they do not intent on using Roza View Drive for access.

15. An open record Public Hearing after due legal notice was held on November 1, 2018.

16. At this hearing the following exhibits were admitted into the record:

- 16.1 Exhibit 1: Pre Application Materials
- 16.2 Exhibit 2: Application
- 16.3 Exhibit 3: Maps
- 16.4 Exhibit 4: Cover Letter
- 16.5 Exhibit 5: Application Letter
- 16.6 Exhibit 6: Abbreviations Table
- 16.7 Exhibit 7: Project Narrative
- 16.8 Exhibit 8: Mapped Parcels
- 16.9 Exhibit 9: Buffer Parcel Maps
- 16.10 Exhibit 10: Table of Contents
- 16.11 Exhibit 11: Pre Application Submittals/Correspondence
- 16.12 Exhibit 12: Site Plan
- 16.13 Exhibit 13: SEPA Checklist
- 16.14 Exhibit 14: Project Legal Descriptions
- 16.15 Exhibit 15: Tax Parcels
- 16.16 Exhibit 16: Landowner Authorizations
- 16.17 Exhibit 17: Project Resource Protective Measures
- 16.18 Exhibit 18: Receipt
- 16.19 Exhibit 19: Deemed Complete Letter
- 16.20 Exhibit 20: Affidavit of Posting
- 16.21 Exhibit 21: Notice of Application
- 16.22 Exhibit 22: Notice of Application Legal
- 16.23 Exhibit 23: Undeliverable Notices
- 16.24 Exhibit 24: Agency Request for Comment
- 16.25 Exhibit 25: Comment-Kittitas County Environmental Health - 9.04.18
- 16.26 Exhibit 26: Comment- Department of Fish and Wildlife - 8.30.18
- 16.27 Exhibit 27: Comment-Washington State Department of Transportation - 9.11.18
- 16.28 Exhibit 28: Comment-Michael Scanes - 9.03.18
- 16.29 Exhibit 29: Applicant Response to Comments
- 16.30 Exhibit 30: Notice of Hearing and EIS Adoption
- 16.31 Exhibit 31: Adoption of EIS Letter
- 16.32 Exhibit 32: Returned Hearing Notices
- 16.33 Exhibit 33: Staff Report Memo
- 16.34 Exhibit 34: Final Environmental Impact Statement
- 16.35 Exhibit 35: Public Works Memo dated October 30, 2018
- 16.36 Exhibit 36: Staff Powerpoint Presentation
- 16.37 Exhibit 37: Applicant's Powerpoint Presentation

17. Appearing and testifying on behalf of the Applicant was John Aniello. Mr. Aniello

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testified that he was an agent authorized to appear and speak on behalf of the Applicant and project proponent. Mr. Anniello testified that the overall purpose of this project is to provide reliable electric power delivery in case the system goes down due to equipment failure or some other event. This will provide a redundant power supply to the Yakima Valley and is required by law. He testified that all of the proposed Conditions of Approval were acceptable.

18. Also testifying for the Applicant was Dave Dean. Mr. Dean testified that he also was an agent authorized to appear and speak on behalf of the Applicant and project proponent. Mr. Dean testified that going through the process to obtain permits through Yakima and Grant Counties.

19. No member of the public testified at this hearing.

20. The project is consistent with the provisions of KCC 17.56, Forest and Range zoning as follows:

20.1 This proposal is consistent with the Kittitas County Zoning Code 17.56 as conditioned. Utilities are permitted in all zoning districts.

21. The project is consistent with the provisions of KCC 17.31, Commercial Agriculture as follows:

21.1 This proposal is consistent with the Kittitas County Zoning Code 17.31 as conditioned. Utilities are permitted in all zoning districts.

22. The project is consistent with KCC 17.61, Utilities as follows:

22.1 This proposal is consistent with the Kittitas County Zoning Code 17.61.030 as conditioned. The project proposal is classified as a "Special Utility" under 17.61.010 (2)(b).

23. The project is consistent with KCC 17.60A, Conditional Uses as follows:

23.1 This proposal, as conditioned, 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 conditioned, staff finds the proposal is 1) desirable to public convenience, 2) will not be detrimental to public health, safety or welfare, 3) is not economically detrimental to the public, 4) is adequately serviced by public facilities, 5) is compatible with the neighborhood character, and 6) is consistent with the character of the zoning district. The project is being proposed outside of the UGA. KCC 17.60A.015(7) requires 4 additional review criteria considerations; 1) the proposed project is consistent with the intent, goals, policies, and objectives of the Kittitas County Comprehensive Plan including Chapter 8, Rural and Resource Lands as demonstrated above, 2) preserves "rural character" as defined by GMA 36.70A.030, 3) requires only rural government resources, and does not compromise the long term viability of designated resource lands.

24. The project is consistent with KCC 17A, Critical Areas as follows:

24.1 CDS conducted an administrative critical areas review in accordance with KCC 17A and found that most of the project would rely on existing roads in areas that have critical area buffers. CDS staff did identify some access roads, both existing and proposed, that may require HPA permitting through WDFW should the projects access road changes require work within or along the banks of these streams (See Exhibit #26). CDS found no wetlands along the proposed route and no

structures are proposed to be placed within the floodplain. The FEIS document adopted by reference (See Exhibit # 34) addresses in detail, potential critical area interaction mitigations related to this project. Finally this project crosses a Priority Habitat Species (PHS) designation: Mount Baldy Big Horn Sheep Winter Range. As conditioned, this project is consistent with the provisions of KCC 17A.

25. 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 recommendation.
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 Kittitas County Code Title 17 Zoning, Title 14.04 Building Code, Title 12 Roads and Bridges, and Title 20 Fire and Life Safety.
6. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan.
7. This proposal is consistent with the provisions of KCC Title 12, Roads and Bridges as conditioned.
8. This proposal is consistent with the provisions of KCC Title 14, Buildings and Construction as conditioned.
9. This proposal is consistent with the provisions of KCC Title 17.56, Forest and Range zoning.
10. This proposal is consistent with the provisions of KCC Title 17.31, Commercial Agriculture zoning.
11. This proposal is consistent with the provisions of KCC 17.60A, Conditional Uses and meets the criteria of KCC 17.60A.015 (7).
12. This proposal is consistent with the provisions of KCC 17A, Critical Areas.
13. This proposal, as conditioned is consistent with KCC 20, Fire Life and Safety.
14. This proposal is consistent with KCC 17.61, Utilities.
15. 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 Findings of Fact and Conclusions of Law, Application CU-18-00001 is hereby recommended to be **APPROVED** subject to the following Recommended Conditions of Approval.

IV. RECOMMENDED 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 with CDS dated July 17, 2018 and subsequent information included in the complete file index except as amended by the conditions herein.
2. **State and Federal**
 1. Applicant must meet all applicable state and federal regulations.
 2. The Applicant shall work with Washington State Fish and Wildlife to determine if HPA permitting is required and obtain any necessary permits prior to any work involving stream crossings.
3. **Building**
 1. All new construction must meet the International Building Code requirements.
4. **Roads and Transportation**
 1. The subject project crosses Interstate 82 (I-82), a fully-controlled limited access facility with a posted speed limit of 70 miles per hour. Direct access to I-82 is prohibited. Access to the proposed project shall be via private property adjacent State Route 821 (SR 821). The Applicant is required to contact Mark Kaiser at the WSDOT - South Central Region Office at (509) 577-1668 to ensure all access connection permits are up to date.
 2. Any work to be performed in WSDOT rights-of-way must be coordinated with the South Central Regional Utilities office prior to beginning any work. The South Central Region Utilities Engineer is Jamil Anabtawi. He can be reached at (509) 577-1785.
 3. Any work moving more than 100 cubic yards of material will require grading permits through Kittitas County Public Works.
5. **Fire & Life Safety**
 1. All development, design and construction shall comply with the International Fire Code requirements.
6. **EIS Adoption**
 1. All development shall conform to the mitigation measures outlined in the Vantage to Pomona Heights Final Environmental Impact Statement published in October, 2016.
7. **Land Control**
 1. The Applicant shall acquire permission in writing from all private property owners whose property will be traversed and submit documentation of permission to Kittitas County CDS prior to construction.

8. **Shorelines**

1. Any change to the scope of the project that would involve any structural encroachment within 200 feet of a Shoreline of the State, shall require additional permitting through Kittitas County CDS.

9. **Kittitas County Department of Public Works**

1. Grading Permit: A grading permit may be required for any fill/excavation work exceeding 100 cubic yards of material.
2. Right-of-Way: All construction within County Right-of-Way (ROW), specifically Huntzinger Road, will require a right-of way permit.
3. Franchise Agreement: If construction of the transmission line necessitates use of County ROA, a franchise agreement will be required.
4. Haul Agreement: Over legal loads will require a County haul agreement prior to transport of system components on the County roadway network.

Dated this 6th day of November, 2018.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp