

**From:** [Larry Susanka](#)  
**To:** [Kelly Bacon \(CD\)](#)  
**Cc:** [Hugh Karen](#)  
**Subject:** Concerns regarding SEPA Checklist (SE-22-00002) Alice Road Project  
**Date:** Monday, June 6, 2022 9:12:18 PM

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Hello;

Our names are Larry Susanka and Karen Hugh and we own 1331 Alice Road, Cle Elum.

Alice Road and the connecting road to the higher terrain above it are the subject of a Determination of Nonsignificance for a project by a new owner who wants to put in miles of "improved" roadbed so he can build a big house above Alice Road.

We are not objecting to the fact that Robbie Cape wants to build a giant house here. We are most definitely concerned that this large project will cause expensive damage and a big mess along Alice Road, require major work on Alice Road itself, and that these expenses will be born in part by us, Robbie Cape's new neighbors, rather than Robbie Cape himself.

Apparently this project will require hundreds (500?) dump-truck loads of fill to alter road grades and there will be ongoing havoc in our little piece of paradise for many months.

We are absolutely satisfied with Alice Road as it is, and see no need for "improvements" of any kind. Mr. Cape promises we will not be financially harmed by this project, but it will be up to us to hire lawyers and take expensive action after-the-fact if this turns out to be a problem and Mr. Cape has the resources to tie us up forever in this kind of thing if he wishes.

It would be much better to make sure this cannot happen as part of any permit for his project, and we ask that strong enforceable guarantees be included as a condition of any permit that the county may grant.

Please call if you have any questions.

Regards,

Larry Susanka and Karen Hugh  
206-295-2138  
1331 Alice Road  
Cle Elum WA 98922



**From:** [Mae Hawkins](#)  
**To:** [Kelly Bacon \(CD\)](#); [Mark Cook](#); [Josh Fredrickson](#)  
**Subject:** Fw: SEPA comments on the Determination of Non significance Kittitas County SEPA checklist (SE-22-00002).  
**Date:** Monday, June 6, 2022 7:39:59 PM

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**From:** Mae Hawkins <maehawkins@wavecable.com>  
**Sent:** Sunday, June 5, 2022 6:41 PM  
**To:** kelly.bacon.cd@co.kittitas.wa.gov <kelly.bacon.cd@co.kittitas.wa.gov>; mark.cook@co.kittitas.wa.gov <mark.cook@co.kittitas.wa.gov>; josh.fredrickson@co.kittitas.wa.gov <josh.fredrickson@co.kittitas.wa.gov>  
**Subject:** SEPA comments on the Determination of Non significance Kittitas County SEPA checklist (SE-22-00002).

To Kittitas County including the following people:

Kelly Bacon in Community Development Services . Mark Cook, Director of Public Works Josh Fredrickson, County Engineer.

Thank you for giving me the opportunity to comment on this project. Let me introduce myself first. My name is Mae Hawkins and my husband Myron and I own 21 acres at 1006 Alice Road, parcel number 615734. We bought the land in 2011 for a getaway from the west side and to camp without all the rules in a campground or having to make reservations nine months out and where are our dogs don't have to be leashed. We enjoyed it in our trailer for the first several years then decided to build a garage to store things in and get out of the weather if need be. We enjoy the "camp" feeling and riding our quads, hiking, watching wildlife, sunsets and the views around the mountain. We also have friends from other areas come up to camp with us and our son travels from Nevada to spend long weekends. Many great memories have been made and we hope for more in the future! We travel to our place at least twice a month usually on weekends. Obviously, we need Alice Road to access our place. We contribute to the Lower Peoh Point Tracts yearly dues to help with the road maintenance and are very willing and appreciative of all the year-round residents.

It appears there are some discrepancies on the planning of this project.

First, The SEPA checklist and project proposal did not properly identify or account for all of the parcels and users that are served by the access road. The access road serves 9 parcels, five of which already have addressed residences in place, and so is not a "driveway" as defined by the County codes. We are one of the nine and have concerns why this was overlooked. It seems that others who live or own property on Alice and the access road should have more input than one new buyer.

Second, the equipment during construction will more than likely damage the roads. I really feel for the year-round residents as this will be a huge inconvenience. I am also concerned while construction is going on will any of us be notified? Who is responsible for this? If we drive 2 hours to get there and can't access our property due to road construction, we would not be happy campers!

In closing, I believe the County should withdraw the DNS based on insufficient information from the applicant regarding an accurate accounting of the parcels being served by the access road, and the full project scope as it impacts Alice Road. Also request that any determination should include mitigating conditions that will ensure that Alice Road is not damaged and that the applicant would be solely responsible for any improvements or conditions that the County may require.

Thank you,  
Mae Hawkins  
3164 SE Tucci Place  
Port Orchard, WA 98367  
360-265-6669

This is my original letter sent February 7, 2022

Hi Kelly,

My name is Mae Hawkins, co-owner of 21 acres at 1006 Alice Road. We have owned our property for over 10 years. We bought it for camping and just being out in nature, to get away from it all. It is our favorite get away and like it being rural.

Anyway, we have been contacted many times by Robbie Cape and know he has submitted permits to widen and pave the road we are on. I understand that when you buy property it is yours to do what you want with as long as you follow the rules. However, I don't understand how he alone is able to widen and pave an easement road that several of us share to get to our property. He has asked us to help with finances for the road if we intend to build on our property, which we do not in the near future.

A few things that concern us. We really don't know what the spring run-off will do to the area as every year is different. This winter there is so much snow and ice that the runoff will be a mess, and paving will not help. The neighbors below this property will be affected the most. I don't think Mr. Cape understands all of this.

I am also wondering whose responsibility it will be to maintain the road? As it is now, it is fine for all of us the way it is.

Another question, how will this affect our property taxes?

On the SEPA Environmental Checklist I noticed some discrepancies.

#7 Environmental Health (page 6-7.) I would like to have someone check into this please. The previous owner (Sean Wagner) who Mr. Cape still leases some of his land to has possibly contaminated it with many things including the natural springs. It needs to be looked into.

#8C Structures on site (page 8). Previous owner has many vehicles and trailers and garbage on site. Now belongs to Mr. Cape.

#12 Recreation (page 9-10). It will disrupt recreational use because this easement adjoins the Wenatchee National Forest which many of us bought our property in order to access for recreational purposes. Our wildlife has diminished in previous years due to the previous owner and his activities.

June 6, 2022

Kelly Bacon, Kittitas County CDS  
c: Mark Cooke, Director Public Works  
c: Josh Frederickson, County Engineer  
411 N. Ruby St., Suite 2  
Ellensburg, WA 98926

Re: SEPA comments on Cape (SE-22-00002)

Kelly and colleagues:

I'm Jon Osterberg (wife Luanne), property owner at 1100 Alice Road, Cle Elum, parcel 425834. We use the Little Peoh Point Tracts easement road (note, it is NOT a driveway) to access our home, which was built shortly after the previous owner, Gary Kalb, bought 5 acres in 1976. Kalb was an original owner in Little Peoh Point Tracts; we bought and have lived there since July 2004.

I'm commenting on the recent Determination of Nonsignificance (DNS), which Luanne and I believe overlooks key points.

- 1) Documents refer to the easement road as a "driveway." Clearly, by county-code definition, it is not. Eight property-owners access nine parcels via the easement road. (See attached map.) Our place has been accessed via the easement road since 1976. Also, the original covenants of Little Peoh Point Tracts state that all LPPT property owners – even those with properties not bordering the access road – may use that road.
- 2) As a LPPT property owner, we are part of the Alice Road Maintenance association and pay annual fees toward its upkeep and repair. We are concerned that Alice Road could be damaged by traffic required to deliver the heavy materials and equipment needed to develop the Cape driveway at the top of the easement road. We would be among those responsible for Alice Road repairs.
- 3) As stated in my February 3 letter, I'm concerned about grading or "improving" our lower end of the easement road, which was improperly expanded prior to July 2004 for Sapphire Skies' abandoned project. The prior dirt easement road had been crowned so that rainwater drained to its sides into shallow culverts. But the 30-foot-wide Sapphire road was not crowned, and Sapphire did not build swales or culverts. As a result, since 2004, runoff has gouged deep channels into the road itself with each rainstorm and snowmelt. (I believe the grade is 16% alongside our property.) If the county allows Cape's easement road changes, a crown-culvert solution must be included, and not at the expense of other property owners.

- 4) We're told the county also would require widening and paving Alice Road itself to 22' plus shoulders and ditches, up to 32' total. I don't see how that can be done without taking property from our neighbors, let alone eroding the rural nature of our community. And shouldn't those Alice Road improvements have been highlighted in the SEPA docs and responses?

I request that Kittitas County reassess its DNS based on the inaccurate description of a "driveway," a lack of addressing easement road water runoff, and no plan for mitigating possible damage to Alice Road. There should be assurances in writing that Alice Road Maintenance members will not be responsible for repairs or changes.

Thank you for your attention.

Jon and Luanne Osterberg  
1100 Alice Road  
Cle Elum, WA 98922  
jonosterberg@hotmail.com  
(425) 499-2169

Attached: LPPT map of property owners, Feb. 3 letter to Kelly

February 3, 2022

Kelly Bacon, Permit Coordinator  
Kittitas County CDS  
411 N. Ruby St., Suite 2  
Ellensburg, WA 98926

Re: Cape (SE-22-00002)

Kelly:

I'm the property owner at 1100 Alice Road, Cle Elum, parcel 425834. Ours is a home on 5 acres accessed via Alice Road and an easement road that leads to eight different properties. I just today became aware of this proposed project.

The Cape application concerns our shared easement road, calling it a "driveway."

I fear this project to resurface the easement road could be harmful. Your notice of application says, "A Determination of Non-Significance is expected to be issued." Please consider my comments, as I believe the project could indeed cause harm.

1. "Robbie and Bonnie Cape are proposing driveway improvements including surfacing, widening as needed to meet County standards, and re-establishing and installing new drainage swales as needed." Background: At its lower reaches, the easement road property is owned by myself and our next-door neighbors, the Thayers. The property line runs down the middle of the road. However, there is an easement, atop which the road (obviously) was built, circa 1976.

Sapphire Skies and HMIC sought to develop the acreage uphill from my home two decades ago. Shortly before we bought our home in July 2004, Sapphire had expanded the existing easement road (originally built to access Burlington Northern/Plum Creek timber above) by dumping fill, topped with a mix of dirt and crushed gravel. The original dirt road had been crowned so that rainwater drained to its sides into shallow culverts. But the new 30-foot-wide Sapphire road was not crowned, and Sapphire did not build swales or culverts. As a result, since 2004, rainstorms have gouged deep channels into the road itself. Sapphire never should have been allowed to develop the easement road without addressing drainage. Subsequent uphill-owners HMIC (Harold Kern, manager) promised in 2005 that engineers were "planning culverts and hydro-seeding" to resolve the problems near my property and the parcels uphill. But that never happened.

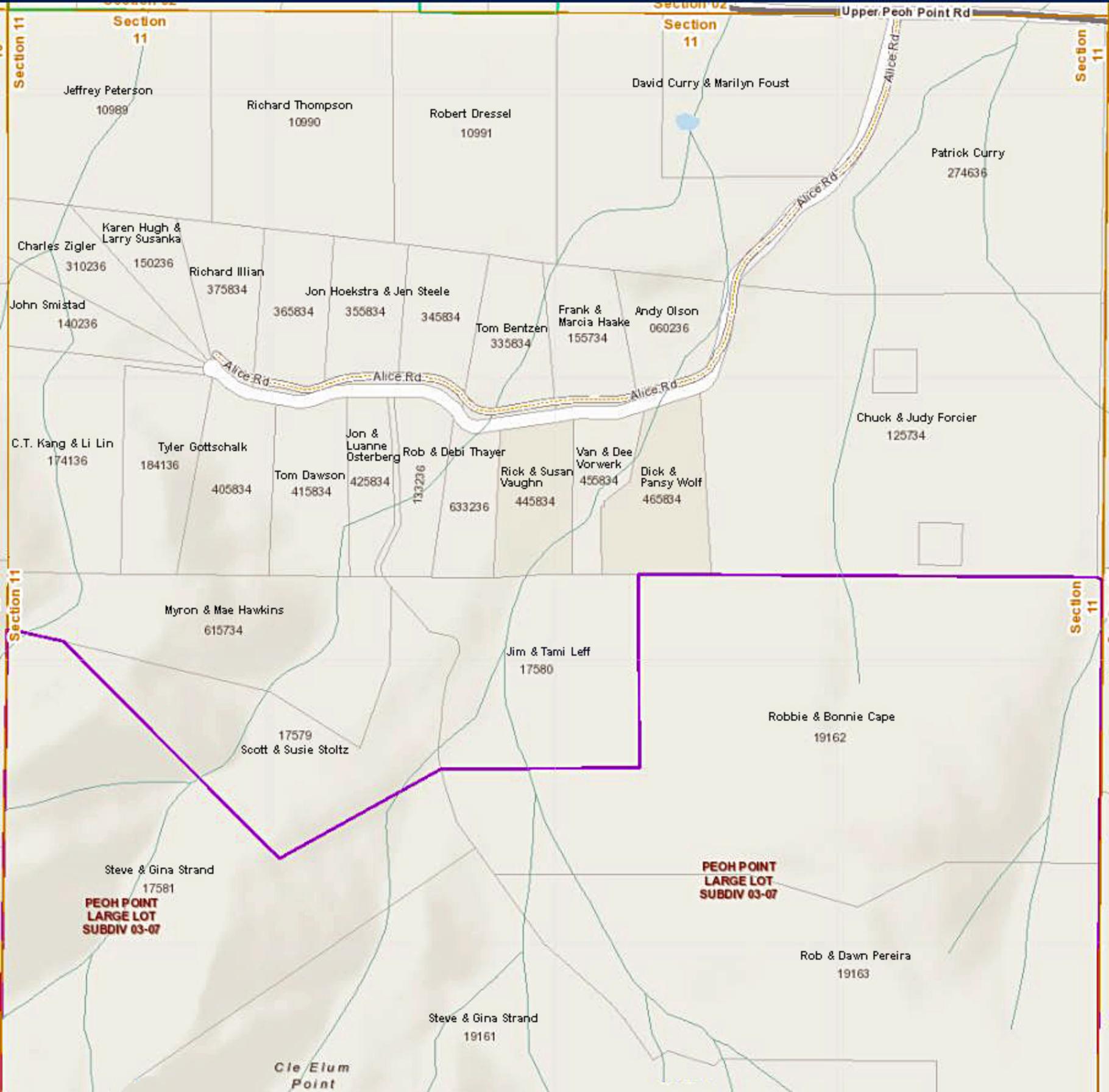
Currently, with each downpour, new gouges appear in the road. The runoff empties onto Alice Road and our neighbor's property below. Paving the easement road will only accelerate the speed of that water runoff. If the Cape project were to proceed, it must include a crowned roadway with swales and culverts, to protect the road itself and Alice Road below.

2. Re: "widening" the easement road (quoting from your notice) – please know that I have zero interest in selling or yielding any of my property to accommodate that.

3. Re: “approximately 5,000 cubic yards of regrading and base material” being delivered to the site, the only access is via Alice Road. Alice Road is a private road of compacted dirt and gravel maintained by the Little Peoh Point Tracts property owners. Delivering that much material, and the heavy equipment required to work it, might well damage Alice Road, incurring significant repair costs. The Alice Road property owners should not bear that burden. So, who will pay?
4. Re: “No changes to drainage patterns will occur,” and “No surface water withdrawal or diversions are proposed and existing drainage patterns will not be altered.” As noted above, drainage patterns SHOULD be changed to remediate the existing problem caused by Sapphire Skies.
5. Re: “animals known to be near the site” – aside from the songbirds, deer, and elk already noted, there are bear, cougars, bobcats, and wild turkeys known to frequent the area.
6. Re: “Is the site part of a migration route?” Perhaps irrelevant, but residents noted a change in deer and elk patterns after Sapphire Skies extended the easement road uphill. I’ve personally seen a marked decrease in the frequency of deer on my property since the road uphill was bulldozed in 2004-2005.
7. Re: “gas transmission pipelines located in the vicinity,” my two propane tanks border the easement road, just across the fence on my property.
8. Re: “Adjacent properties should benefit from the improved driveway.” A paved easement road would benefit us by reducing dust in the summer. Conversely, speeding on the road already is a problem, and a smooth paved surface would likely increase speeding, and vehicle noise. A paved road in general could erode the rural nature of our community.
9. Re: “Will the proposal require improvements to existing roads, not including driveways?” Yes. As noted earlier, runoff water will need to be diverted along the easement road and, at its intersection with Alice Road, perhaps diverted beneath Alice Road.
10. Re: “How many vehicular trips per day....” Note that the existing easement road serves eight property owners and nine parcels, not four as listed.
11. I see the proposed construction time is May-June. The easement road is my only access to our home. How do we drive to our home during those weeks? May-June is a busy time for hosting friends and family, including a wedding shower we’re hosting this May.

Thank you for listening, Kelly.

Jon and Luanne Osterberg  
1100 Alice Road  
Cle Elum, WA 98922  
jonosterberg@hotmail.com  
(425) 499-2169



Section 11

Section 11

Section 11

Upper Peoh Point Rd

Section 11

Jeffrey Peterson  
10989

Richard Thompson  
10990

Robert Dressel  
10991

David Curry & Marilyn Foust

Patrick Curry  
274636

Charles Zigler  
310236

Karen Hugh & Larry Susanka  
150236

Richard Illian  
375834

Jon Hoekstra & Jen Steele  
365834

355834

345834

Tom Bentzen  
335834

Frank & Marcia Haake  
155734

Andy Olson  
060236

John Smistad  
140236

C.T. Kang & Li Lin  
174136

Tyler Gottschalk  
184136

405834

Tom Dawson  
415834

Jon & Luanne Osterberg  
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Rob & Debi Thayer  
133236

Rick & Susan Vaughn  
445834

Van & Dee Vorwerk  
455834

Dick & Pansy Wolf  
465834

Chuck & Judy Forcier  
125734

Myron & Mae Hawkins  
615734

Jim & Tami Leff  
17580

17579  
Scott & Susie Stoltz

Robbie & Bonnie Cape  
19162

Steve & Gina Strand  
17581

**PEOH POINT  
LARGE LOT  
SUBDIV 03-07**

**PEOH POINT  
LARGE LOT  
SUBDIV 03-07**

Rob & Dawn Pereira  
19163

Steve & Gina Strand  
19161

Cle Elum  
Point

**From:** [Jon Osterberg](#)  
**To:** [Kelly Bacon \(CD\)](#)  
**Cc:** [Mark Cook](#); [Josh Fredrickson](#); [robtootall@comcast.net](mailto:robtootall@comcast.net)  
**Subject:** Addendum: my comments re: SEPA/Cape SE-22-00002  
**Date:** Wednesday, June 8, 2022 3:46:42 PM

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Kelly, Mark, Josh –

Please add this to my comments submitted June 6.

My neighbor and I realized there might be some confusion about exactly how our easement road is used, since my address (and the Thayers) is “Alice Road.” Please note, there is no direct access to our property from Alice Road.

Like us, the original owners of our home and property used the easement road as their only access to Alice Road, since 1976 for them and since 2004 for my wife and I. Again, there is no direct access directly from our property to Alice Road. From our home, we follow our driveway to the easement road, then downhill on the easement road about 500 feet to where it intersects with Alice Road, which then leads us to Upper Peoh Point Road and points beyond.

It’s much the same for our neighbors. When we bought in 2004, Dick Johnson was our neighbor in the home now owned by the Thayers. Johnson said he had used the easement road as his sole access to Alice Road all along, and his home is just a few years newer than ours, being built around 1978 or so.

Hope that adds some clarity.

Thanks,  
Jon Osterberg

c: Rob Thayer

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**From:** Jon Osterberg  
**Sent:** Monday, June 6, 2022 4:28 PM  
**To:** [kelly.bacon.cd@co.kittitas.wa.us](mailto:kelly.bacon.cd@co.kittitas.wa.us)  
**Cc:** [mark.cook@co.kittitas.wa.us](mailto:mark.cook@co.kittitas.wa.us); [josh.frederickson@co.kittitas.wa.us](mailto:josh.frederickson@co.kittitas.wa.us)  
**Subject:** My comments re: SEPA/Cape SE-22-00002

Kelly, Mark, Josh – please see my comments in the attached PDF. I’ve also attached my Feb. 3 comments and a map of our community.

Thank you,

Jon Osterberg

**From:** [robtootall@comcast.net](mailto:robtootall@comcast.net)  
**To:** [Kelly Bacon \(CD\)](#)  
**Subject:** Public Comments on the "Cape Driveway Improvement project" (SE-22-00002+Cape) from Rob and Debi Thayer  
**Attachments:** [Concerns about Cape paving project.pdf](#)  
[cape project concerns 2-8-2022.docx](#)

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February 8, 2022

Kelly Bacon-Permit Coordinator

Kittitas County CDS

411 N. Ruby Street, Suite 2

Ellensburg, Wa. 98926

Subject: Public Comments on the "Cape Driveway Improvement project" (SE-22-00002+Cape)

Attachment: Letter 2-3-2022 Osterberg to Kelly Bacon, same subject

Kelly,

We, (Rob and Debi Thayer) are adjacent and impacted property owners to the above proposed project. We own two 5 acre properties potentially impacted by this project, (parcels 133236 (address 1000 Alice Road) and 633236 (no address but adjoining other aforementioned parcel). One could be indirectly affected and the other directly affected. My direct concern is to parcel 133236 as it has frontage on both the subject easement road and the existing Alice Road. Both my wife and I have reviewed the associated documents in the following Kittitas county links:

<https://www.co.kittitas.wa.us/cds/land-use/project-details.aspx?title=Miscellaneous%20SEPA%20Applications&project=SE-22-00002+Cape> and have some additional questions, concerns and clarifications to share with you. Some of these are specific to our property and others are more overall/community concerns.

We are across the subject easement road from Jon and Luanne Osterberg, as such we carry all the same concerns that they have already noted and submitted to you (I have attached their letter as reference).

We would like to reiterate or emphasize the following from my wife and my perspectives:

1. When referencing "widening" of the easement road to a county Standard (I am not sure what this standard is and would like clarification if possible), I am not at all interested in any widening of the subject road that is adjacent to my property beyond it's current state or that would involve any further encroachment on to my property. Nor am I interesting in selling any further easements.
2. When referencing "gas transmission pipelines" we, like the Osterberg's have a propane tank right over the fence from the current easement road, which could be affected by this proposal.
3. What are the rules and process relative to one property owner wanting to make changes to a common, shared ownership road regardless of positive or negative benefits to others.

Lastly in general ours and others community concerns, as the Osterberg's letter detailed, evolve around the short- term impacts of the construction period, with increased traffic, noise, dust, damage to the existing road, damage liability, etc.

And the long-term impact, (similar to the short-term) to the environment, increased traffic, runoff, dust and increased future development.

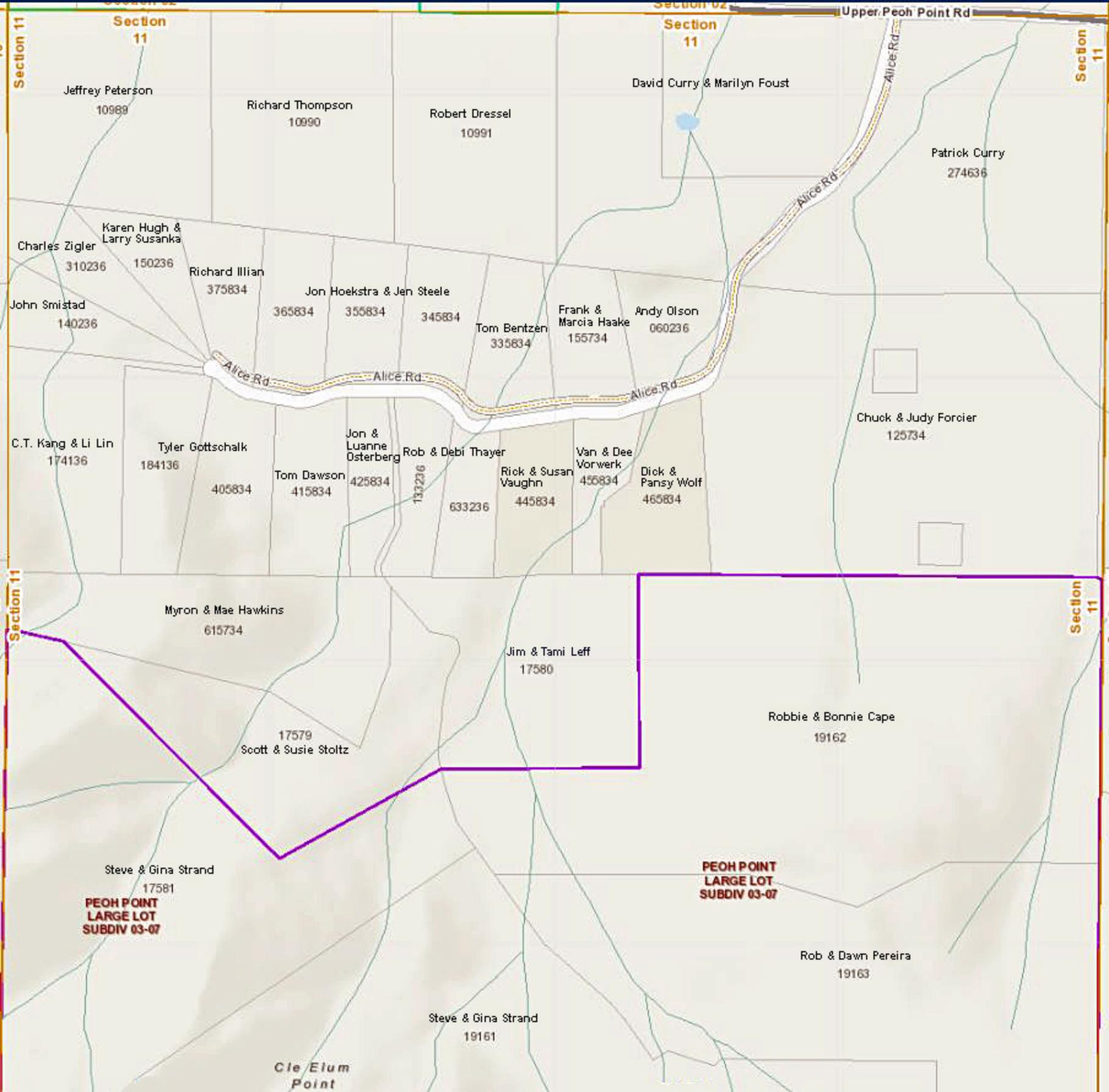
Thank you to your time and immediate attention to these community concerns. Feel free to call me at any time for questions and/or additional clarifications at my cell number below.

Rob and Debi Thayer

1000 Alice Road

Cle Elum, Wa. 95531

Rob's cell (253)653-6517



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Point

**From:** [robtootall@comcast.net](mailto:robtootall@comcast.net)  
**To:** [Kelly Bacon \(CD\)](#)  
**Cc:** [Mark Cook](#); [Josh Fredrickson](#); ["Debi Thayer"](#)  
**Subject:** Public comments from Robert and Debi Thayer (Parcels #133236 & 633236) on Notice of SEPA Action - SE-22-00002 Cape  
**Date:** Wednesday, June 8, 2022 7:59:16 AM  
**Attachments:** [Public Comments on the Cape Driveway Improvement project \(SE-22-00002+Cape\) from Rob and Debi Thayer.msg](#)

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**CAUTION:** This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

Kelly Bacon, the following are our, Robert and Debi Thayer, comments relative to the Subject Notice of SEPA action SE-22-00002+Cape. We own 2 parcels on Alice Road and the subject easement road, affected by this project. I have also attached, above, my previous comments submitted as requested during the previous public comment timeline on this project. These previous comments I believe still apply to this project.

1. The one parcel #133236 and address 1000 Alice Road we own fronts both on Alice Road and on the easement road. But our driveway and only access is via the easement road and not Alice road. We have NO current Alice Road access. We use this easement road year round, for constant access to and from our home. The easement road is used for any and all access to our home, including deliveries, guests, trailers, etc.
2. This parcel (#133236) is zoned "single family-Residential" and not zoned as stated in the Notice of SEPA action provided as: "zoned Forest and Range within a Rural Working Land Use designation". Our Neighbors, The Osterbergs, parcel (#425834) is also zoned as "single family-Residential" per county records and their only access/driveway to their home is via the easement road and not off Alice Road.
3. I was told that to be considered as a "driveway" by the county, a project can only service up to four parcels. There are currently 9 parcels on this easement road, with 8 different owners and 5 structures. This easement does not seem to qualify as a driveway, as defined by the county, without an exemption. I have attached a parcel map of the subject area.
4. The SEPA and all documentation from Kittitas County states that the project will start at Alice Road between parcels 425834 and 133236 and extend up the easement road. As my previously submitted comments (attached) stated, we as owners of parcel #133236 will be impacted directly if the easement road right of way is changed/widened in any way beyond it's current width of 30 to 32 feet. We are greatly concerned about grading, and drainage/runoff control in the area that front our parcels. We do not plan nor will consider selling any further ROW at this time.

5. The SEPA and all documentation does not include any proposed work to the existing Alice Road other to gain access for this projects work and any subsequent work to repair damage to Alice Road after completion of said project. I have heard verbally that Alice Road may now need to be improved as a part of this project. If true I would like this additional impact be included in the SEPA documentation and also be assessed for impact. This will significantly increase the size, complexity and impacts of this project. Also clearly articulate the long term cost liability for maintaining these changes.

Above, are what my wife and I considers our biggest concerns from our perspectives, but we do have numerous concerns surrounding the details of the proposed work and the scope that we cannot articulate due to a lack of details on this project to date. Concerns such as grading, fill, culverts, runoff, continued access to our home, wildlife, noise, dust, etc.

My wife and I are requesting that the County withdraw their DNS based on an inaccurate accounting of the parcels being served by the easement road that defines this as a “driveway” project, and until the full project scope as it impacts Alice Road can be included in the SEPA checklist and adequately addressed in further detail. We also request that any determination should include mitigating conditions that will ensure that Alice Road is not damaged and that the applicant would be solely responsible for any improvements or conditions that the County may require initially and long-term.

We also feel that a public meeting is justified prior to approval of this SEPA, due to it’s size, complexity and number of property owners impacted.

We would appreciate some sort of documented response on our questions if possible, as we have not receive any to date and don’t see in the SEPA documentation where they have been addressed.

Feel free to call or e-mail us if you have any clarifications or questions concerning the above. Rob Thayer cell 253-653-6517 and Debi Thayer cell is 253-951-6568.

Thanks for your time and considerations to the concerns we have identified.

**From:** Kelly Bacon (CD) <[kelly.bacon.cd@co.kittitas.wa.us](mailto:kelly.bacon.cd@co.kittitas.wa.us)>

**Sent:** Thursday, May 26, 2022 9:53 AM

**To:** 'Early, Shane (DNR)' <[Shane.Early@dnr.wa.gov](mailto:Shane.Early@dnr.wa.gov)>; Marty Mauney <[Marty.mauney@DNR.wa.gov](mailto:Marty.mauney@DNR.wa.gov)>; 'Jon Osterberg' <[jonosterberg@hotmail.com](mailto:jonosterberg@hotmail.com)>; WDFW - Scott Downes <[scott.downes@dfw.wa.gov](mailto:scott.downes@dfw.wa.gov)>; Holly Erdman <[Holly.erdman@co.kittitas.wa.us](mailto:Holly.erdman@co.kittitas.wa.us)>; Jesse Cox <[jesse.cox@co.kittitas.wa.us](mailto:jesse.cox@co.kittitas.wa.us)>; 'robtootall@comcast.net' <[robtootall@comcast.net](mailto:robtootall@comcast.net)>; 'Jim Leff' <[jimleff@msn.com](mailto:jimleff@msn.com)>; 'tamileff@msn.com' <[tamileff@msn.com](mailto:tamileff@msn.com)>; 'V V V' <[tripleveew@yahoo.com](mailto:tripleveew@yahoo.com)>; 'stoltzs101@hotmail.com' <[stoltzs101@hotmail.com](mailto:stoltzs101@hotmail.com)>; Candie Leader <[candie.leader@co.kittitas.wa.us](mailto:candie.leader@co.kittitas.wa.us)>

**Cc:** 'Robbie Cape' <[caperobbie@gmail.com](mailto:caperobbie@gmail.com)>; 'Theo M Leonard' <[tleonard@granitecivil.com](mailto:tleonard@granitecivil.com)>; Jeremy Johnston <[jeremy.johnston@co.kittitas.wa.us](mailto:jeremy.johnston@co.kittitas.wa.us)>; Jeremiah Cromie

<[jeremiah.cromie@co.kittitas.wa.us](mailto:jeremiah.cromie@co.kittitas.wa.us)>; Rachael Stevie (CD) <[rachael.stevie.cd@co.kittitas.wa.us](mailto:rachael.stevie.cd@co.kittitas.wa.us)>

**Subject:** Kelly Bacon, the following are our, Robert send Debi Thayer, comments relative to the Subject Notice of SEPA action SE-22-00002+Cape. We own 2 parcels on Alice Road, affected by this project. I have also attached above my previous comments submitted as requested during the previous public comment timeline on this project. These previous comments I believe still apply to this project.

6. The one parcel #133236 and address 1000 Alice Road we own fronts both on Alice Road and on the easement road. But Our driveway and only access is via the easement road and not Alice road. We use this easement road year round, for constant access to and from our home. The easement road is used for any and all access to our home, including deliveries, guests, etc.
7. This parcel (#133236) is zoned “single family-Residential” and not zoned as stated in the Notice of SEPA action provided as: “zoned Forest and Range within a Rural Working Land Use designation”. Our Neighbors, The Osterbergs, parcel (#425834) is also zoned as “single family-Residential” per county records and their only access/driveway to their home is via the easement road also and not off Alice Road.
8. I was told that to be considered as a “driveway” by the county, a project can only service up to four parcels. There are currently 9 parcels on this easement road, with 8 different owners and 5 structures. This easement does not seem to qualify as a driveway, as defined.
9. The SEPA and all documentation from Kittitas County states that the project will start at Alice Road between parcels 425834 and 133236 and end. As mt previously submitted comments (attached) stated, we as owners of parcel #133236 will be impacted directly if the easement road right of way is widened in any way beyond it’s current width of 30 to 32 feet. We do not plan nor will consider selling any further ROW at this time.
10. The SEPA and all documentation does not include any proposed work to the existing Alice Road other to gain access for this projects work and any subsequent work to repair damage to Alice Road after completion of said project. I have heard verbally that Alice Road may now need to be improved as a part of this project. I would like this additional impact be included in the SEPA documentation and also be assessed for impact.

Above, are what my wife considers our biggest concerns, but we do have numerous concerns surrounding the details of the proposed work and the scope that we cannot articulate due to a lack of details on this project. Concerns such as grading, fill, culverts, runoff, continue access to our home, noise, dust, etc.

My wife and I are requesting that the County withdraw the DNS based on an inaccurate accounting of the parcels being served by the access road that defines this as a “driveway” project, and until the full project scope as it impacts Alice Road be included in the SDEPA checklist and adequately addressed. We also request that any determination should include

mitigating conditions that will ensure that Alice Road is not damaged and that the applicant would be solely responsible for any improvements or conditions that the County may require initially and long-term.

We also feel that a public meeting is justified prior to approval of this SEPA, due to its size, complexity and number of property owners impacted.

We would appreciate some sort of documented response on our questions if possible.

Feel free to call or e-mail us if you have any clarifications or questions concerning the above. Rob Thayer cell 253-653-6517 and Debi Thayer cell is 253-951-6568.

Thanks for your time and considerations to the concerns we have identified.

**From:** Kelly Bacon (CD) <[kelly.bacon.cd@co.kittitas.wa.us](mailto:kelly.bacon.cd@co.kittitas.wa.us)>  
**Sent:** Thursday, May 26, 2022 9:53 AM  
**To:** 'Early, Shane (DNR)' <[Shane.Early@dnr.wa.gov](mailto:Shane.Early@dnr.wa.gov)>; Marty Mauney <[Marty.mauney@DNR.wa.gov](mailto:Marty.mauney@DNR.wa.gov)>; 'Jon Osterberg' <[jonosterberg@hotmail.com](mailto:jonosterberg@hotmail.com)>; WDFW - Scott Downes <[scott.downes@dfw.wa.gov](mailto:scott.downes@dfw.wa.gov)>; Holly Erdman <[Holly.erdman@co.kittitas.wa.us](mailto:Holly.erdman@co.kittitas.wa.us)>; Jesse Cox <[jesse.cox@co.kittitas.wa.us](mailto:jesse.cox@co.kittitas.wa.us)>; 'robtootall@comcast.net' <[robtootall@comcast.net](mailto:robtootall@comcast.net)>; 'Jim Leff' <[jimleff@msn.com](mailto:jimleff@msn.com)>; 'tamileff@msn.com' <[tamileff@msn.com](mailto:tamileff@msn.com)>; 'V V V' <[tripleveew@yahoo.com](mailto:tripleveew@yahoo.com)>; 'stoltzs101@hotmail.com' <[stoltzs101@hotmail.com](mailto:stoltzs101@hotmail.com)>; Candie Leader <[candie.leader@co.kittitas.wa.us](mailto:candie.leader@co.kittitas.wa.us)>  
**Cc:** 'Robbie Cape' <[caperobbie@gmail.com](mailto:caperobbie@gmail.com)>; 'Theo M Leonard' <[tleonard@granitecivil.com](mailto:tleonard@granitecivil.com)>; Jeremy Johnston <[jeremy.johnston@co.kittitas.wa.us](mailto:jeremy.johnston@co.kittitas.wa.us)>; Jeremiah Cromie <[jeremiah.cromie@co.kittitas.wa.us](mailto:jeremiah.cromie@co.kittitas.wa.us)>; Rachael Stevie (CD) <[rachael.stevie.cd@co.kittitas.wa.us](mailto:rachael.stevie.cd@co.kittitas.wa.us)>  
**Subject:** Notice of SEPA Action - SE-22-00002 Cape

Good morning,

Please find the below correspondence in regarding the Cape SEPA application (SE-22-00002) attached:

1. Notice of SEPA Action
2. SEPA DNS
3. Cape SEPA Checklist

This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days. Any person, affected tribe, or agency may submit comments to the lead agency within 14 days of the date of issuance of the DNS, to the Kittitas County Community Development Services office at 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. The comment period ends Friday June 10, 2022 at 5pm.

Please contact me directly with any questions.

Thank you,

## **Kelly Bacon**

**Planner I**

**Kittitas County Community Development Services**

411 N. Ruby Street, Ste 2

Ellensburg, WA 98926

Office: (509) 962-7539

[Kelly.bacon.cd@co.kittitas.wa.us](mailto:Kelly.bacon.cd@co.kittitas.wa.us)

Good morning,

Please find the below correspondence in regarding the Cape SEPA application (SE-22-00002) attached:

4. Notice of SEPA Action
5. SEPA DNS
6. Cape SEPA Checklist

This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days. Any person, affected tribe, or agency may submit comments to the lead agency within 14 days of the date of issuance of the DNS, to the Kittitas County Community Development Services office at 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. The comment period ends Friday June 10, 2022 at 5pm.

Please contact me directly with any questions.

Thank you,

## **Kelly Bacon**

**Planner I**

**Kittitas County Community Development Services**

411 N. Ruby Street, Ste 2

Ellensburg, WA 98926

Office: (509) 962-7539

February 3, 2022

Kelly Bacon, Permit Coordinator  
Kittitas County CDS  
411 N. Ruby St., Suite 2  
Ellensburg, WA 98926

Re: Cape (SE-22-00002)

Kelly:

I'm the property owner at 1100 Alice Road, Cle Elum, parcel 425834. Ours is a home on 5 acres accessed via Alice Road and an easement road that leads to eight different properties. I just today became aware of this proposed project.

The Cape application concerns our shared easement road, calling it a "driveway."

I fear this project to resurface the easement road could be harmful. Your notice of application says, "A Determination of Non-Significance is expected to be issued." Please consider my comments, as I believe the project could indeed cause harm.

1. "Robbie and Bonnie Cape are proposing driveway improvements including surfacing, widening as needed to meet County standards, and re-establishing and installing new drainage swales as needed." Background: At its lower reaches, the easement road property is owned by myself and our next-door neighbors, the Thayers. The property line runs down the middle of the road. However, there is an easement, atop which the road (obviously) was built, circa 1976.

Sapphire Skies and HMIC sought to develop the acreage uphill from my home two decades ago. Shortly before we bought our home in July 2004, Sapphire had expanded the existing easement road (originally built to access Burlington Northern/Plum Creek timber above) by dumping fill, topped with a mix of dirt and crushed gravel. The original dirt road had been crowned so that rainwater drained to its sides into shallow culverts. But the new 30-foot-wide Sapphire road was not crowned, and Sapphire did not build swales or culverts. As a result, since 2004, rainstorms have gouged deep channels into the road itself. Sapphire never should have been allowed to develop the easement road without addressing drainage. Subsequent uphill-owners HMIC (Harold Kern, manager) promised in 2005 that engineers were "planning culverts and hydro-seeding" to resolve the problems near my property and the parcels uphill. But that never happened.

Currently, with each downpour, new gouges appear in the road. The runoff empties onto Alice Road and our neighbor's property below. Paving the easement road will only accelerate the speed of that water runoff. If the Cape project were to proceed, it must include a crowned roadway with swales and culverts, to protect the road itself and Alice Road below.

2. Re: "widening" the easement road (quoting from your notice) – please know that I have zero interest in selling or yielding any of my property to accommodate that.

3. Re: “approximately 5,000 cubic yards of regrading and base material” being delivered to the site, the only access is via Alice Road. Alice Road is a private road of compacted dirt and gravel maintained by the Little Peoh Point Tracts property owners. Delivering that much material, and the heavy equipment required to work it, might well damage Alice Road, incurring significant repair costs. The Alice Road property owners should not bear that burden. So, who will pay?
4. Re: “No changes to drainage patterns will occur,” and “No surface water withdrawal or diversions are proposed and existing drainage patterns will not be altered.” As noted above, drainage patterns SHOULD be changed to remediate the existing problem caused by Sapphire Skies.
5. Re: “animals known to be near the site” – aside from the songbirds, deer, and elk already noted, there are bear, cougars, bobcats, and wild turkeys known to frequent the area.
6. Re: “Is the site part of a migration route?” Perhaps irrelevant, but residents noted a change in deer and elk patterns after Sapphire Skies extended the easement road uphill. I’ve personally seen a marked decrease in the frequency of deer on my property since the road uphill was bulldozed in 2004-2005.
7. Re: “gas transmission pipelines located in the vicinity,” my two propane tanks border the easement road, just across the fence on my property.
8. Re: “Adjacent properties should benefit from the improved driveway.” A paved easement road would benefit us by reducing dust in the summer. Conversely, speeding on the road already is a problem, and a smooth paved surface would likely increase speeding, and vehicle noise. A paved road in general could erode the rural nature of our community.
9. Re: “Will the proposal require improvements to existing roads, not including driveways?” Yes. As noted earlier, runoff water will need to be diverted along the easement road and, at its intersection with Alice Road, perhaps diverted beneath Alice Road.
10. Re: “How many vehicular trips per day....” Note that the existing easement road serves eight property owners and nine parcels, not four as listed.
11. I see the proposed construction time is May-June. The easement road is my only access to our home. How do we drive to our home during those weeks? May-June is a busy time for hosting friends and family, including a wedding shower we’re hosting this May.

Thank you for listening, Kelly.

Jon and Luanne Osterberg  
1100 Alice Road  
Cle Elum, WA 98922  
jonosterberg@hotmail.com  
(425) 499-2169

February 8, 2022

Kelly Bacon-Permit Coordinator

Kittitas County CDS

411 N. Ruby Street, Suite 2

Ellensburg, Wa. 98926

Subject: Public Comments on the "Cape Driveway Improvement project" (SE-22-00002+Cape)

Attachment: Letter 2-3-2022 Osterberg to Kelly Bacon, same subject

Kelly,

We, (Rob and Debi Thayer) are adjacent and impacted property owners to the above proposed project. We own two 5 acre properties potentially impacted by this project, (parcels 133236 (address 1000 Alice Road) and 633236 (no address but adjoining other aforementioned parcel). One could be indirectly affected and the other directly affected. My direct concern is to parcel 133236 as it has frontage on both the subject easement road and the existing Alice Road. Both my wife and I have reviewed the associated documents in the following Kittitas county links: <https://www.co.kittitas.wa.us/cds/land-use/project-details.aspx?title=Miscellaneous%20SEPA%20Applications&project=SE-22-00002+Cape> and have some additional questions, concerns and clarifications to share with you. Some of these are specific to our property and others are more overall/community concerns.

We are across the subject easement road from Jon and Luanne Osterberg, as such we carry all the same concerns that they have already noted and submitted to you (I have attached their letter as reference).

We would like to reiterate or emphasize the following from my wife and my perspectives:

1. When referencing "widening" of the easement road to a county Standard (I am not sure what this standard is and would like clarification if possible), I am not at all interested in any widening of the subject road that is adjacent to my property beyond it's current state or that would involve any further encroachment on to my property. Nor am I interesting in selling any further easements.
2. When referencing "gas transmission pipelines" we, like the Osterberg's have a propane tank right over the fence from the current easement road, which could be affected by this proposal.
3. What are the rules and process relative to one property owner wanting to make changes to a common, shared ownership road regardless of positive or negative benefits to others.

Lastly in general ours and others community concerns, as the Osterberg's letter detailed, evolve around the short-term impacts of the construction period, with increased traffic, noise, dust, damage to the existing road, damage liability, etc.

And the long-term impact, (similar to the short-term) to the environment, increased traffic, runoff, dust and increased future development.

Thank you to your time and immediate attention to these community concerns. Feel free to call me at any time for questions and/or additional clarifications at my cell number below.

Rob and Debi Thayer

1000 Alice Road

Cle Elum, Wa. 95531

Rob's cell (253)653-6517

**From:** [robtootall@comcast.net](mailto:robtootall@comcast.net)  
**To:** ["Jon Osterberg"](#); [Kelly Bacon \(CD\)](#)  
**Cc:** [Mark Cook](#); [Josh Fredrickson](#)  
**Subject:** RE: Addendum: my comments re: SEPA/Cape SE-22-00002  
**Date:** Wednesday, June 8, 2022 5:35:31 PM

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Rather than writing another, separate e-mail restating what John Osterberg has stated below. I would just like everyone to know I concur completely with Jon's statements of facts 100%. I did also state that my home's only access is/has always been from the easement road and I have never had access off of Alice Road directly when I submitted all my comments to the county via a separate e-mail earlier today.

Thanks for your time and attention to these comments.

---

**From:** Jon Osterberg <[jonosterberg@hotmail.com](mailto:jonosterberg@hotmail.com)>  
**Sent:** Wednesday, June 8, 2022 3:47 PM  
**To:** [kelly.bacon.cd@co.kittitas.wa.us](mailto:kelly.bacon.cd@co.kittitas.wa.us)  
**Cc:** [mark.cook@co.kittitas.wa.us](mailto:mark.cook@co.kittitas.wa.us); [josh.fredrickson@co.kittitas.wa.us](mailto:josh.fredrickson@co.kittitas.wa.us); [robtootall@comcast.net](mailto:robtootall@comcast.net)  
**Subject:** Addendum: my comments re: SEPA/Cape SE-22-00002

Kelly, Mark, Josh –

Please add this to my comments submitted June 6.

My neighbor and I realized there might be some confusion about exactly how our easement road is used, since my address (and the Thayers) is "Alice Road." Please note, there is no direct access to our property from Alice Road.

Like us, the original owners of our home and property used the easement road as their only access to Alice Road, since 1976 for them and since 2004 for my wife and I. Again, there is no direct access directly from our property to Alice Road. From our home, we follow our driveway to the easement road, then downhill on the easement road about 500 feet to where it intersects with Alice Road, which then leads us to Upper Peoh Point Road and points beyond.

It's much the same for our neighbors. When we bought in 2004, Dick Johnson was our neighbor in the home now owned by the Thayers. Johnson said he had used the easement road as his sole access to Alice Road all along, and his home is just a few years newer than ours, being built around 1978 or so.

Hope that adds some clarity.

Thanks,  
Jon Osterberg

c: Rob Thayer

---

**From:** Jon Osterberg  
**Sent:** Monday, June 6, 2022 4:28 PM  
**To:** [kelly.bacon.cd@co.kittitas.wa.us](mailto:kelly.bacon.cd@co.kittitas.wa.us)  
**Cc:** [mark.cook@co.kittitas.wa.us](mailto:mark.cook@co.kittitas.wa.us); [josh.frederickson@co.kittitas.wa.us](mailto:josh.frederickson@co.kittitas.wa.us)  
**Subject:** My comments re: SEPA/Cape SE-22-00002

Kelly, Mark, Josh – please see my comments in the attached PDF. I've also attached my Feb. 3 comments and a map of our community.

Thank you,

Jon Osterberg

TO:

June 8, 2022

Kelly Bacon

Jeremy Johnston

Mark Cook

Josh Fredrickson

RE: SEPA comments on the Determination of Nonsignificance issued by the County regarding SEPA Checklist (SE-22-00002).

FROM:

Van and Adriana Vorwerk

780 Alice Road

Cle Elum, WA 98922

1) We are submitting SEPA comments on the Determination of Non Significance issued by the County regarding SEPA Checklist (SE-22-00002).

2) We own the property at 780 Alice Road, and I am a year around resident at 780 Alice Road, Cle Elum, WA 98922. We live on Alice Road and it is a privately maintained right of way and we are part of the road maintenance association that is financially responsible for maintaining Alice Road.

3) The following points detail our objections to the DNS:

The SEPA checklist and project proposal did not properly identify or account for all of the parcels and users that are served by the access road. The access road serves 9 parcels, five of which already have addressed residences in place, and so is not a “driveway” as defined by the County codes.

The proposed project involves road grades that are too steep to comply with the County’s minimum design requirements for a private road. This point alone should prevent approval.

The easement from Alice Road through the Little Peoh Point Tracts (LPPT) is too narrow to meet the County’s minimum design requirements for a private road.

- Potential damage to Alice Road by heavy equipment during construction would create financial liability and hardship to Alice Road property owners who are responsible for road maintenance. The year around residents of Alice Road are retired and living on fixed incomes. We currently maintain the road through an annual contribution to a road maintenance fund. Each property owner on Alice Road contributes a modest sum to maintain the road for access of residents, owners/guests, first responders and the general public. We accept the burden, the responsibility, and the honor of maintaining Alice Road. After all, it is our lifeline.
- SEPA comments from the Public Works department indicated that the developer would be required to bring Alice Road up to private road standards. However, that full project scope was not identified in the SEPA checklist or evaluated by the County in making its SEPA determination.
- In short, the County ignored significant critical and relevant factors that would have prevented the DNS conclusion.
- The idea that an access road 1.5 miles long that provides access to 9 parcels of land with 5 separate addresses, be considered a “driveway”, is ludicrous and irresponsible and will likely not stand in a legal challenge. This smacks of a rigged process, when the County ignores these basic facts. This is NOT a driveway. This is an access road and the improvement requirements must be in line with access road designation.

4) We hereby request that the County withdraw the DNS based on insufficient information from the applicant regarding an accurate accounting of the parcels being served by the access road, and the full project scope as it impacts Alice Road. Also request that any determination should include mitigating conditions that will ensure that Alice Road is not damaged and that the applicant would be solely responsible for any improvements or conditions that the County may require.

Van and Adriana Vorwerk  
780 Alice Road  
Cle Elum, WA 98922  
425 471 8743

**From:** [Scott Stoltz](#)  
**To:** [Kelly Bacon \(CD\)](#)  
**Cc:** [Mark Cook](#); [Josh Fredrickson](#); [Susan Stoltz](#)  
**Subject:** SEPA Checklist Comments SE-22-00002 Cape  
**Date:** Thursday, June 9, 2022 9:10:52 PM

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**CAUTION:** This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

Dear Kelly:

Please consider our comments regarding the Determination of Nonsignificance (DNS) issued by Kittitas County, SEPA Checklist (SE-22-00002) and associated grading permit application (GP-22-00009).

Last July, we purchased parcel #17579, now known as 1010 Alice Road, Cle Elum, WA 98922. We use our property regularly for recreation and camping. The only access to the property is the easement road, via Alice Road, and we currently tow a travel trailer to and from the property. We are considering the building of a recreation structure in the future following the recent receipt of an address permit.

Off Alice Road, there are (9) parcels and many land owners that use the easement ROAD, therefore, it is clearly not a "private driveway" as referenced in the proposed grading application. We maintain our prior reported concerns (submitted to you on 2/16/22) that any significant work on the easement road could impede our access to the property. We contribute financially to the maintenance of Alice Road along with surrounding neighbors. We request written clarification to explain how the project can be deemed a "driveway" when there are (9) parcels that use the road for access to properties and the work application mentioned (3) parcels.

It appears the project involves road grades with inclines that exceed the County's design requirements for a private road. There are sections of the easement from Alice Road through the Little Peoh Point Tracts that appear to be too narrow to meet the requirements for a private road.

Comments noted in the SEPA from Public Works indicated the developer would need to alter lower Alice Road to bring it up to private road standards. We request further evaluation of the potential impact to lower Alice Road and surrounding areas. We have concerns about potential damage to Alice Road with construction equipment and

altering of the lower portion of the road could disrupt or destroy existing waterways running under the road.

We request the County withdraw or at least pause the DNS based on the need for additional information and/or assessment of the affected parcels and potential impact to the entire Alice Road community. We also request that any determination should include mitigating conditions that will ensure Alice Road is not damaged or negatively altered and the applicant would be solely responsible for any improvements, construction, remediation, additional assessment or conditions that the County may require.

Please confirm receipt of this email. Please also contact us with any questions. Thank you for your assistance.

Sincerely,  
Scott and Susan Stoltz

1010 Alice Road, Cle Elum, WA 98922  
-----

Cc:  
Mark Cook, Director of Public Works  
Josh Fredrickson, County Engineer

**From:** [Jon Hoekstra](#)  
**To:** [Kelly Bacon \(CD\)](#)  
**Cc:** [Jeremy Johnston](#); [Mark Cook](#); [Josh Fredrickson](#)  
**Subject:** SEPA Comments on DNS regarding SEPA Checklist (SE-22-0002) Cape  
**Date:** Thursday, June 9, 2022 9:32:05 AM  
**Attachments:** [Hoekstra-Steele SEPA Comments-SE-22-00002 9Jun22.pdf](#)

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Dear Kelly,

Please find attached written SEPA comments on the Determination of Nonsignificance (DNS) issued by the County regarding the SEPA Checklist (SE-22-00002 Cape) and associated grading permit application (GP-22-00009). In our attached comments, we raise a number of objections to the DNS and associated grading permit application. We request that the County withdraw the determination based on insufficient information from the applicant.

We kindly request acknowledgement and confirmation from you that these comments have been received by the County.

Should you have any questions or want clarification regarding any of our comments, we can be reached at this email.

Thank you for your consideration.

Respectfully,  
Jon Hoekstra and Jen Steele

1101 Alice Road, Cle Elum, WA 98922

Cc:  
Jeremy Johnston, Responsible Official  
Mark Cook, Public Works Director  
Josh Fredrickson, County Engineer

June 9, 2022

Kelly Bacon  
Kittitas County Community Development Services  
411 N. Ruby Street, Suite 2  
Ellensburg, WA 98926

Subject: SEPA Comments on the Determination of Nonsignificance issued by the County regarding SEPA Checklist for Application SE-22-00002 (Cape)

Dear Kelly,

We are writing to provide SEPA comments on the Determination of Nonsignificance (DNS) issued by the County regarding the SEPA Checklist (SE-22-00002 Cape) and associated grading permit application (GP-22-00009).

We (Jon Hoekstra and Jen Steele) live at 1101 Alice Road, Cle Elum, WA 98922 (parcel 355834). Our driveway, home, and property are immediately downhill and downstream of the intersection where the proposed project accesses Alice Road. Our property is one of 20 parcels in the Little Peoh Point Tracts that is served by Alice Road, and we, together with the other owners of these tracts, privately maintain Alice Road through the nonprofit Little Peoh Point Tracts Alice Road Maintenance.

While we do not object to the residential construction proposed, at this time we object to the SEPA DNS and associated proposed grading for several reasons:

**1) The SEPA checklist and project proposal did not properly identify or account for all of the parcels and users that are served by the access road and is thus mischaracterized as a driveway.** The access road proposed for grading and improvement is used by the owners of nine separate parcels. At least five of those parcels already have addressed residences, and each residence is accessed from the access road. The proposed residence at 1008 Alice Road (Parcel 19162), which is the subject of the application, would be the sixth improved residence relying on the access road. The remaining parcels also rely on the access road to access their properties for recreational and other uses. For reference, a list of these parcels and respective owners is provided on Attachment A along with maps showing addressed parcels and their respective access points onto the access road. The applicant's own engineering drawings note eight places along the access road where access to adjacent properties needs to be maintained. The number of parcels and users served by the access road exceeds the County's minimum design standards for a "joint use driveway" which is to serve no more than four "parcels and/or units" (see Kittitas County Code 12.04.080, Table 4-4A). Accordingly, under the County Code, the County should require that the proposed project properly adhere to the design standards for a private road serving 3-14 parcels and/or users.

**2) The SEPA checklist and determination did not adequately address or evaluate the presence of steep grades along the access road.** While the checklist identified that portions of the existing access road "is in a hazardous slope area" and noted that the "steepest slope on the site" is "[a]pproximately 16%", no further evaluation of such critical area or steep slope concerns was addressed. In fact, as the application materials detail, adjacent slopes at the larger site are in places "over 25%," and reiterate that grades along the proposed improved access road are up to 16%.

These slopes exceed the maximum slopes allowed under the minimum design requirements for private roads. See KCC 12.04.080, Table 4-4A; see also KCC 12.04.080 Table 4-4B. Notably, the access road exceeds the 15% grade as it approaches Alice Road. As residents living immediately downhill of that intersection, we are concerned that vehicles traveling downhill, especially during winter or inclement weather, could lose control and fail to stop at the intersection and crash into cross traffic or our property. We are also concerned that a paved surface will accelerate runoff and funnel stormwater flows to the bottom of the hill where they could washout Alice Road or flood our property if drainage controls are inadequately engineered or inappropriately constructed. These concerns were not sufficiently disclosed or evaluated in the SEPA determination.

**3) The SEPA checklist and determination did not adequately address the right of way for the proposed widening and paving project where it passes through the easement from Alice Road through the Little Peoh Point Tracts.** The easement for the portion of the access road is 30 feet wide at its northern extent as it approaches Alice Road. When properly evaluated as a private road instead of a driveway, under the County Code, there is insufficient right-of-way. As proposed, the project roadway improvements include two 10-foot lanes with 1-foot shoulders and 4-foot drainage ditches on either side for a total width of 30 feet. While this might technically “fit” within the easement, there is no margin for alignment errors that would encroach on adjacent properties, and a narrower roadway would fail to meet minimum design standards.

**4) The SEPA checklist and determination did not adequately address potential damage to Alice Road by construction activities.** The SEPA checklist states that the proposed project will not require improvements to any existing roads. As such, it is lacking any identification and evaluation of the impacts to Alice Road. With respect to construction activities, we are very concerned that the high volume and heavy weight of construction traffic associated with this proposed project will cause damage to Alice Road that requires expensive repairs. The applicant estimates that “approximately 5,000-cubic yards of regrading and base material for surfacing” will have to be brought in for the proposed project. That suggests that as many as 500 fully-loaded dump truck trips in and out of Alice Road will be required. Alice Road is a gravel-surfaced road that is privately maintained by the owners of the 20 parcels in the Little Peoh Point Tracts. Our annual budget for road maintenance, snow removal, etc. is approximately \$5,000. Any damage to Alice Road from the proposed project would cause an expensive, undue, and unfair financial burden on the Little Peoh Point Tract owners. We believe that the County should add as a condition on any permits issued to the developer that the developer assume full financial liability for repairing any damage that their project may cause to Alice Road.

**5) The SEPA checklist and determination did not address use of and any required improvements to Alice Road.** The SEPA checklist limited its evaluation and disclosures to the portion of the access road south of Alice Road. However, SEPA comments from Kittitas County Public Works dated February 17, 2022 indicate that the accessing portions of Alice Road would have to be certified to private road standards. This would include at a minimum certification up to the point of an approved fire apparatus turnaround. No such issues were identified or evaluated as part of the SEPA review. We understand from Public Works staff that the costs of any improvements necessary to achieve that certification would be borne by the developer. However, that requirement was not identified as a required mitigating condition in the determination, and the potential environmental impact of that full project scope was not identified in the SEPA checklist or evaluated by the County in making its SEPA determination. In fact, Alice Road is not addressed in the grading permit application at all.

We request that the County withdraw the DNS based on insufficient information from the applicant, especially in regard to 1) an accurate accounting of the parcels and users who are served by the

access road, 2) assessment of how the proposed project will address steep grades and a narrow right of way within the County's minimum design requirements for a private road, and 3) environmental review of the full project scope as it impacts Alice Road. We also request that any determination should include required mitigating conditions that will ensure that Alice Road will not be damaged by construction activity associated with the proposed project, and that the applicant would be solely responsible for the costs of any repairs, improvements, conditions, or mitigation that the County may require. If the grading permit is actually contingent on Alice Road improvements, we also request that those improvements are included in the application and evaluated as part the SEPA review before any determination is made.

We previously provided comments on the original SEPA review, submitted February 13, 2022, which comments are attached hereto and incorporated by reference.

Thank you for the opportunity to make comments. We kindly request confirmation that our comments have been received. We also request notice of any action that the County takes regarding this SEPA determination or the underlying grading permit application.

Sincerely,

Jon Hoekstra and Jen Steele  
1101 Alice Road, Cle Elum, WA 98922  
jonhoekstra1@gmail.com

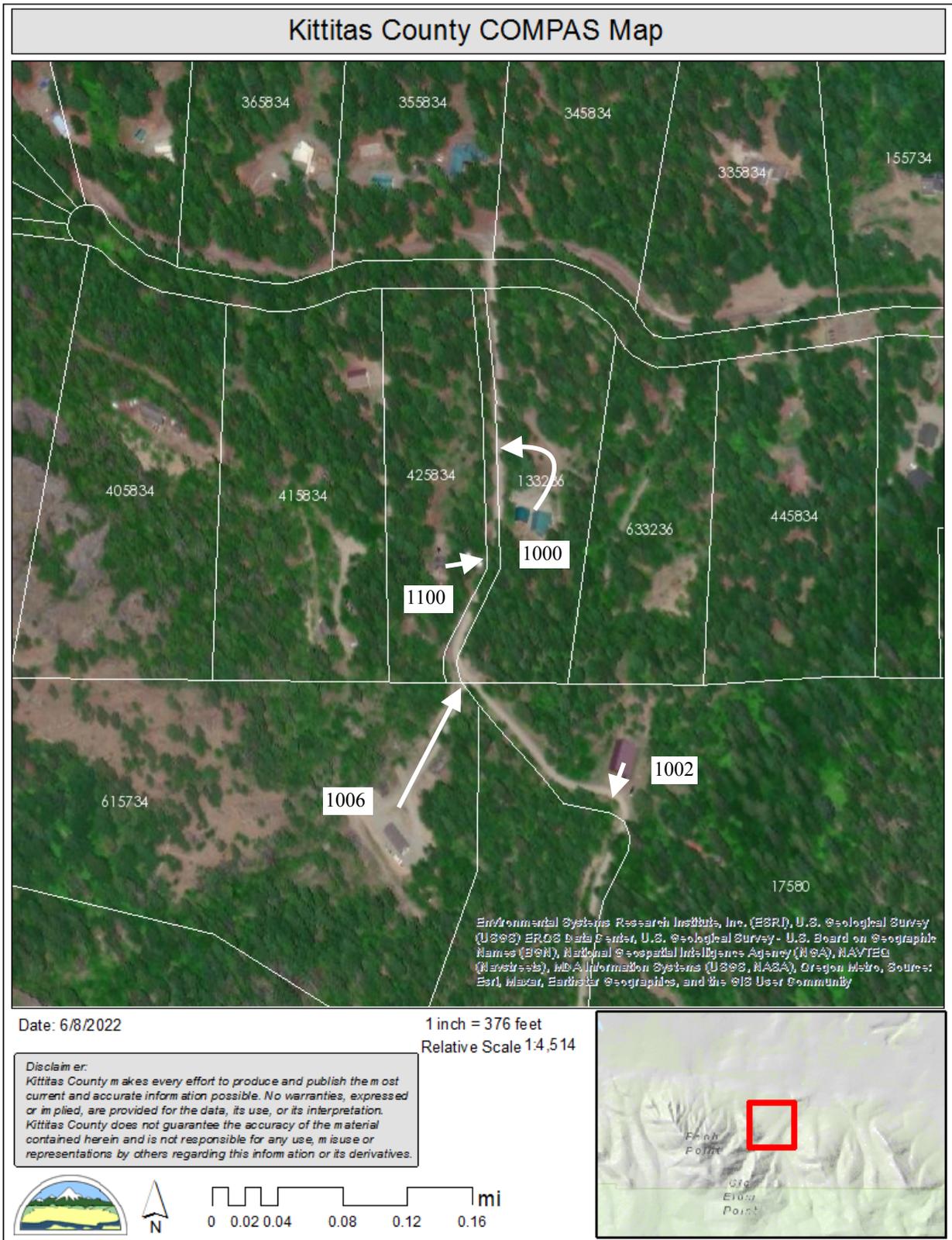
cc: Jeremy Johnston, Responsible Official  
Mark Cook, Director of Public Works  
Josh Fredrickson, County Engineer

## Attachment A

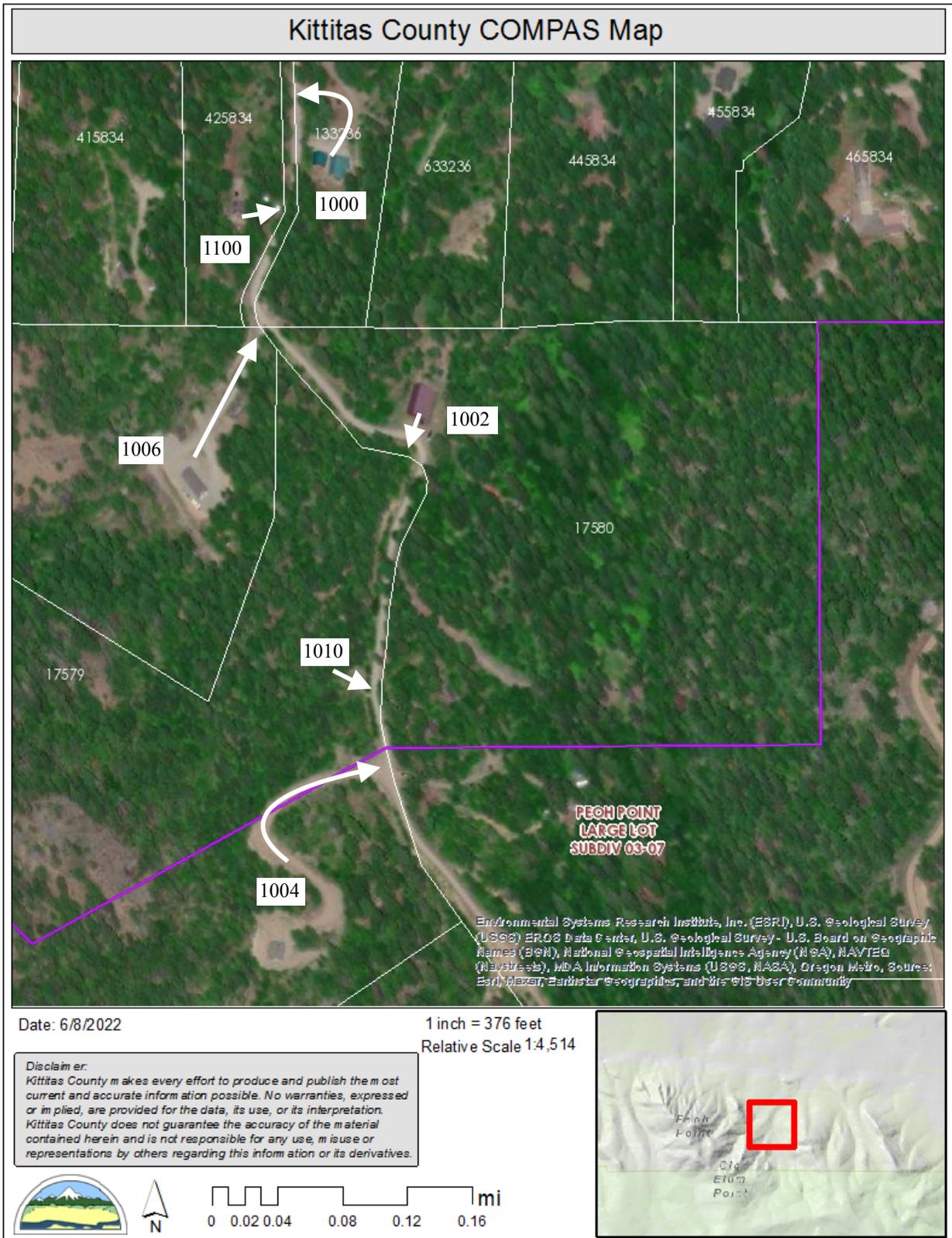
Parcels and users served by the Access Road (9 parcels, 5 addressed residences)

Parcel #	Owner	Address	Residence
133236	Thayer	1000 Alice Rd	Yes
425834	Osterberg	1100 Alice Rd	Yes
615734	Hawkins	1006 Alice Rd	Yes
17580	Leff	1002 Alice Rd	Yes
17579	Stoltz	1010 Alice Rd	
17581	Strand	1004 Alice Rd	Yes
19161	Strand	N/A	
19162	Cape	1008 Alice Rd	Proposed
19163	Pereira	N/A	

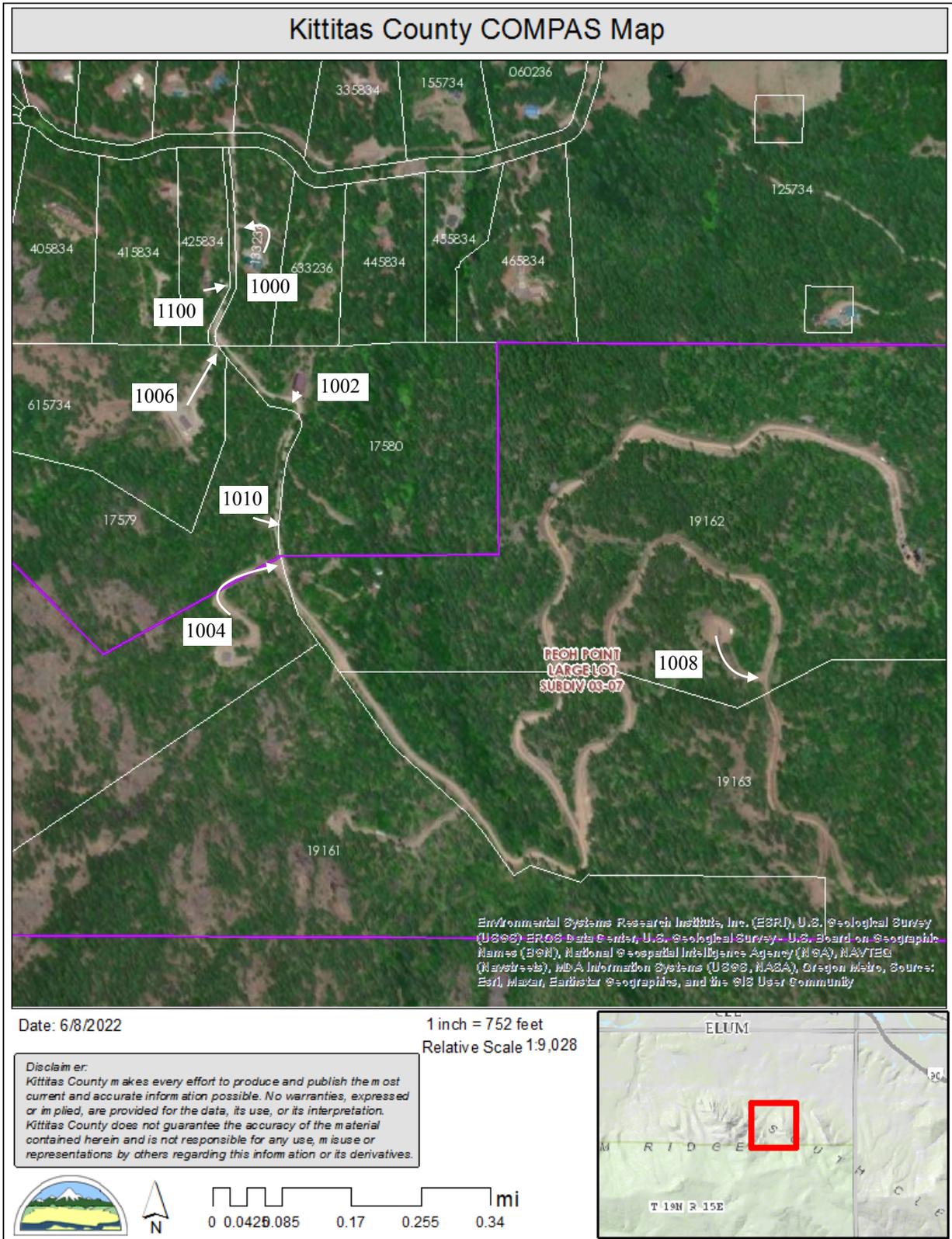
Vicinity Map 1



Vicinity Map 2



Vicinity Map 3



Parcels and users served by Alice Road (20 parcels, 13 addressed residences in the Little Peoh Point Tracts)

Parcel #	Owner	Address	Residence
060236	Olson	491 Alice Road	Yes
155734	Haake	791 Alice Road	Yes
335834	Bentzen	871 Alice Road	Yes
345834/355834	Hoekstra/Steele	1101 Alice Road	Yes
365834	Hoekstra/Steele	1111 Alice Road	Yes
375834	Ilian	1211 Alice Road	Yes
150236	Hugh/Susanka	1331 Alice Road	Yes
310236	Zigler	1391 Alice Road	
140236	Smisted	1393 Alice Road	
174136	Kang/Lin	1330 Alice Road	Yes
184136/405834	Gottschalk	1230 Alice Road	
415834	Powell	1110 Alice Road	Yes
633236	Thayer	N/A	
445834	Vaughn	880 Alice Road	Yes
455834	Vorwerk	780 Alice Road	Yes
465834	Wolf	680 Alice Road	Yes
125734	Forcier	630 Alice Road	Yes
274636	Curry	N/A	

Plus all parcels and users served by the access road (total of 29 parcels, 18 addressed residences)



**From:** Jon Hoekstra jonhoekstra1@gmail.com  
**Subject:** Comments re SE-22-00002 Cape  
**Date:** February 13, 2022 at 5:07 PM **To:** kelly.bacon.cd@co.kittitas.wa.us  
**Cc:** Jon Hoekstra jonhoekstra1@gmail.com Dear Kelly,

Please find attached written comments about the proposed project SE-22-00002 Cape as described in the SEPA checklist and application materials posted online. In the letter, we detail a number of comments and concerns regarding the project's compliance with County codes, its infringement on others' private property rights, and its potentially significant environmental impacts.

Should you have any questions or need clarification regarding any of our comments, I can be reached at this email. Thank you for your consideration.

Sincerely, Jon Hoekstra

Comments re SE-22-...pe.pdf



February 13, 2022

Kelly Bacon  
Kittitas County Community Development Services 411 N. Ruby Street, Suite 2  
Ellensburg, WA 98926

Subject: Comments regarding the "Cape Driveway Improvement project" (SE-22-00002 Cape)  
Dear Kelly,

This letter is to provide a number of comments and concerns with regard to the SEPA process concerning a Clearing and Grading Permit and proposed road paving project described in SE-22-00002 Cape.

We (Jon Hoekstra and Jen Steele) live at 1101 Alice Road, Cle Elum, WA 98922 (parcel 355834). Our driveway, home and property are immediately downhill and downstream of the intersection where the proposed project accesses Alice Road. We, along with the other owners of property in the Little Peoh Point Tracts served by Alice Road, are financially responsible for privately maintaining Alice Road, and we have use and access rights to the easement through which the lower segment of the subject access road passes (along the boundary between parcels 425834 and 133236).

We have a number of concerns about the proposed project as described in the SEPA checklist regarding its compliance with County codes, its infringement on others' private property rights, and its potentially significant environmental impacts. We are particularly concerned about factual misrepresentations and incomplete information that make it difficult for the County SEPA official to make an informed determination regarding appropriate mitigation for this proposed project.

#### A. Background

The proposed project is repeatedly described in this and subsequent sections of the SEPA checklist as a "driveway improvement" for parcel 19162; and in B.14.f it is described as an "existing driveway that serves four parcels." This is a misleading and inaccurate characterization. As can be seen on the extents that accompany the SEPA checklist, and according to online County GIS data, the access road serves 9 separate parcels owned by 8 different property owners:

425834 Osterberg	17581 Strand
133236 Thayer	19161 Strand
615734 Hawkins	19162 Cape (the applicant)
17579 Stoltz	19163 Pereira
17580 Leff	

The extents accompanying the SEPA checklist identify approximately 1.34 miles of "driveway" that is proposed to be paved, of which more than 60% runs through these other owners'

properties, *not* on the applicant's parcel. This raises fundamental questions about whether the applicant has any right to alter and independently pave a road through someone else's private property, and whether the County can permit such action without the affected owners' consent?

The 9 parcels served by the access road have an average lot size of 37.9 acres (range 4.72-83.00 acres). According to Kittitas County Code (see 12.04.080, Table 4-4A), private roads that serve 3-14 properties and average lot sizes >10.0 acres are classified as a "Private Road." That same table indicates that a "Joint Use Driveway" can only serve up to 4 parcels. The subject access road does not meet the definition of "Driveway"; it should be appropriately classified as a "Private Road."

The proposed paving project does not meet at least two of the County's minimum design standards for a Private Road. Along the lower segment of the road, where it accesses Alice Road, the right of way easement is only 30' wide, and the adjacent property owners have expressed their opposition to any widening of that easement through their property (see letters from Jon Osterberg dated February 3, 2022 and Rob Thayer dated February 8, 2022). The grade along this lower segment of the road is more than 13%, and additional sections in excess of 10% grades would be required for the proposed road to make its >800-foot ascent above the base elevation at the intersection with Alice Road. We note that a similar attempt to "improve" this access road in the early 2000's fell through when County road standards could not be met.

We also note that while the applicant states in A.7 that they have no plans for future additions, expansion, or further activity related to or connected with this proposal, they describe their project "as part of a single family residential building permit for Parcel #19162", which could have additional environmental impacts during and after construction.

## B. Environmental Elements 1. Earth

The applicant's response to B.1.b states that the steepest slope on the site is "Approximately 16%." However, the soil map accompanying the SEPA checklist identifies that about 80% of the project area is characterized by soils with 45-65% slopes. The property report for parcel 19162 states that it contains slopes >30%. And in B.8.1.h, the applicant acknowledges that a portion of the road is in a hazardous slope area. Inspection of hazardous slope areas on COMPAS 3.0 indicates that much of the upper portions of the road are in hazardous slope areas.

We are concerned about erosion and earth movement hazards that may be created or exacerbated by the proposed project. Road cuts along such steep slopes can create slope instabilities that pose hazards to adjacent properties above or below the road if not properly designed, engineered and constructed. Such instabilities may also result in siltation and debris flowing into area streams and drainage structures, impacting aquatic habitat, slope stability, and compromising the integrity of stormwater management systems. The applicant's response

to B.1.f states that “erosion is not anticipated due to the controls that will be in place during the work including a stabilized construction entrance, covering of stockpiles, and silt fence as needed.” However, no engineering, design drawings or detailed plans are presented to demonstrate how and where specific controls would be deployed to comply with County requirements and to ensure that erosion and stability impacts are effectively avoided, minimized or mitigated.

We are also concerned by the applicant’s reference in B.1.f to “a stabilized construction entrance.” The applicant has provided no details about how the construction entrance at Alice Road would be delineated and what modifications they are proposing to “stabilize” that area. We are concerned that the applicant is proposing actions on property he does not own, or promising a control measure that he cannot implement. We are further concerned that a “stabilized” construction entrance would alter or damage Alice Road in a way that puts an undue and unfair financial burden on the owners of Little Peoh Point Tracts who are financially responsible for maintaining Alice Road.

## 2. Air

In addition to diesel emissions acknowledged in the SEPA checklist, we are concerned that the proposed project will generate large quantities of dust that will significantly affect adjacent properties and residents.

In B.1.e, the applicant estimates that the project will require “approximately 5,000-cubic yards of regrading and base material for surfacing.” This suggests that the project would require as many as 500 fully loaded dump truck trips in and out of Alice Road and up and down the access road. No information is provided about how the applicant will minimize and control dust emissions associated with such heavy and frequent traffic along these gravel roads. If this project were to be approved, we request that the County require stringent dust controls including, but not limited to, oiling of Alice Road and the access road before and after construction at the applicant’s sole expense, supplemental oiling as necessary during construction to avoid dust generation, also at the applicant’s sole expense, and enforced low speed limits for all vehicles associated with construction.

## 3. Water

We are very concerned about the impacts the proposed project would have on streams and stormwater runoff in the area, and the downstream consequences for our property and that of other neighbors.

The applicant states in B.3.a.1 that “there are (3) Non-Fish (Type 4) streams in the vicinity of the proposed driveway improvements” and in B.3.a.2 that “no changes to the drainage patterns will occur.”

Inspection of County GIS data shows that the access road actually crosses 1 perennial stream and 4 seasonal streams. These streams have important habitat value for wildlife, and they convey significant amounts of snowmelt and other precipitation from higher elevation

properties and through lower elevation properties in the vicinity. The elevation in this vicinity is 2400-4000' and, as noted above, the landscape is characterized by very steep slopes. The area receives heavy winter snow accumulation that is subject to rain-on-snow events that have, in the past, caused significant and erosive runoff events on the existing access road, and downstream on Alice Road and on surrounding properties.

We are concerned that if stream culverts are inadequate for handling peak flows, streams could become blocked or diverted and create risks of flooding, washout, or erosion on the road and adjacent properties. The SEPA Checklist does not include any engineering, design drawings or other information to show how the proposed project will comply with County requirements regarding drainage structures and ensure that these stream crossings, especially during peak flows, will not be impeded.

With respect to stormwater runoff, the applicant states in B.3.c.1 that "no changes to water runoff including stormwater are proposed as part of the improvements" despite earlier reference in A.11 that the project would include "re-establishing [sic] and installing new drainage swales as needed." But no engineering, detailed drawings or other information was included with the SEPA checklist to demonstrate how drainage along the road would be designed and constructed to comply with County stormwater requirements and design standards, and ensure adequate and safe conveyance of stormwater.

While the project may not alter the total quantity of runoff in the area, the proposed conversion to impervious surfacing will alter the timing and distribution of that runoff. Impervious surfaces accelerate the speed of runoff from the road. And where that water goes will be directly determined by how and where ditches, swales, culverts and other drainage structures are constructed, none of which have been presented in design drawings or plans. As noted above, the project vicinity receives heavy winter snowfall and is subject to rain-on-snow events and other storms that generate significant bursts of runoff. Absent detailed engineering, design drawings or other evidence that the proposed project will comply with stormwater management requirements, we are very concerned that inappropriate design, improper construction, and inadequate drainage associated with the proposed project will result in runoff, erosion or debris flows off of the steep access road that damage Alice Road and downstream properties such as ours.

#### 5. Animals

In addition to deer, elk and songbirds marked by the applicant in 5.a, we note that bear, cougar, bobcat, mountain goat and various small mammals are frequently observed in the vicinity. Hawks, owls, eagles, and turkey occur throughout the area. Ruffed grouse use the stream corridors, and peregrine falcons nest in the nearby rock outcrop.

#### 7. Environmental health

We have already noted our concerns about dust emissions that would be generated during construction of the proposed project. Dust, especially any PM2.5 particulates, would also present a respiratory health hazard to area residents. We reiterate our request that the County

require stringent dust control measures along both Alice Road and the access road, and at the applicant's sole expense, if this project were to be approved.

#### 14. Transportation

In 14.d, the applicant states that the proposed project will not require improvements to any existing roads. However, we are very concerned that the high volume and heavy weight of construction traffic associated with this proposed project will cause damage to Alice Road that require expensive repairs. The applicant estimates that "approximately 5,000-cubic yards of regrading and base material for surfacing" will have to be brought in for the proposed project. That suggests that as many as 500 fully loaded dump truck trips in and out of Alice Road will be required.

Alice Road is a gravel-surfaced county right-of-way that is privately maintained by the owners of the 20 parcels in the Little Peoh Point Tracts. Our annual budget in total for road maintenance, snow removal and insurance, etc. is approximately \$5000. Any damage to Alice Road from the proposed construction traffic would place an expensive, undue and unfair financial burden on the Little Peoh Point Tracts owners to pay for repairs. If this project is permitted, we request that the County require and enforce a slow and safe speed limit for construction traffic along this residential road, and that the applicant be required to bond the project so that any damage to Alice Road can be immediately and completely repaired without any expense to Little Peoh Point Tract owners.

Another traffic concern is about safety. The volume of anticipated construction traffic and the lack of information about how and where equipment will be staged and materials will be stockpiled raises concerns that the proposed project will impact the use and accessibility of Alice Road and the access road for other property owners and for emergency vehicles. Also, as noted above, the approach down the access road to the intersection with Alice Road is very steep. During winter, snow and ice make even moderate slopes in the area very slippery. We are concerned that a paved road, especially if plowed for winter access, will create a hazardous situation in which vehicles are unable to stop before reaching the intersection with Alice Road, risking collisions with cross-traffic or crashing through the intersection onto our property.

We trust that the County will review the permit request in light of the concerns raised and environmental protections needed. We ask that you visit the site before making any determinations. Should you need any clarifications regarding our comments, please contact me. Thank you for your consideration of our comments, and for your attention to compliance with County codes, protection of others' private property rights, and minimization of environmental impacts associated with this proposed project.

Sincerely,  
Jon Hoekstra  
1101 Alice Road  
Cle Elum, WA 98922  
email: jonhoekstra1@gmail.com

**From:** [Strand](#)  
**To:** [Kelly Bacon \(CD\)](#); [Mark Cook](#); [Josh Fredrickson](#)  
**Subject:** access road paving project  
**Date:** Thursday, June 9, 2022 8:42:15 AM

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**CAUTION:** This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

I am writing to express some concerns regarding the proposed road improvement on Alice Road.

I have doubts that SEPA checklist SE-22-00002 are accurate.

My wife, Gina Stand, and I own parcels 19161 and 17581. We have finished our garage/ accessory building with an address of 1004 Alice Road.

We use the access road to access both of our parcels at multiple points along the road. There are a total of 9 parcels that use this access road. Since many of these parcels are able to subdivide, including my own, the traffic could increase significantly.

I contribute yearly to the road maintenance association that maintains Alice Road.

My primary concern is the designation as a driveway and not a private road. It is clearly a road that serves well over 9 parcels including my 2. I also think that paving some of the steeper portions will cause destructive water runoff.

I have not researched the width and slope requirements to see what that means for me personally, but suspect it will be negative.

I am requesting that the county withdraw the DNS based on faulty information from the applicant.

I would also appreciate some assurances that the applicant alone is responsible for all costs for building the road and its yearly maintenance costs. I would also like some assurances that this work will not deny me access to my property before, during, or after installation.

Thank you for considering my objections.  
Steve Strand

**From:** [Richard Vaughn](#)  
**To:** [Kelly Bacon \(CD\)](#)  
**Subject:** Regarding SEPA-action-S-2200002 Cape  
**Date:** Friday, June 10, 2022 2:50:45 PM

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**CAUTION:** This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

Hello Kelly, On June 4th, 2022 we were notified by the county that they are requiring Alice Rd. to be widened and paved to 20' with shoulders and ditches up to 32'. The present width is 15' at our residence at 880 Alice Rd. We have a row of trees next to the road, widening the road would eliminate our privacy, noise and dust would impact us greatly. This is a public road, privately maintained at the expense of all Alice Rd. residents, at a cost of \$6,000. annually. for oiling, gravel and snow removal. This is a small community, the present owners like it this way. Our speed limit is 15 m.p.h. We do not want cars speeding up our road, as it poses a safety threat to families and pets who use the road. It would be a detriment to all that reside here. Who is going to pay for paving and widening of the road? We want to preserve this rural setting, and are definitely opposed to having the road widened. We do not want the integrity of a safe quiet community to be changed by all this development. Thank you for your consideration, Rick & Susan Vaughn

June 10, 2022



Kelly Bacon  
Kittitas County Community Development Services  
411 N. Ruby Street, Suite 2  
Ellensburg, WA 98926

RE: *SEPA File No. SE-22-00002 (Cape)*  
*SEPA Comments on the Determination of Nonsignificance*

Dear Ms. Bacon:

This firm represents Jon Hoekstra and Jen Steele. Mr. Hoekstra and Ms. Steele own property and reside at 1101 Alice Road, Cle Elum, WA 98922 (Parcel No. 355834), located along Alice Road and immediately to the north of the proposed improved access road south of Alice Road. This letter sets forth supplemental comments on the Determination of Nonsignificance (DNS) issued by Kittitas County under SEPA File No. SE-22-00002 and associated grading permit application (GP-22-00009). These comments are provided pursuant to chapter 43.21C RCW, WAC 197-11-340 and WAC 197-11-500, *et. seq.*, and Kittitas County Code chapter 15.04, Art. V.

## INTRODUCTION

A DNS should only issue “[i]f the responsible official determines there will be no probable significant adverse environmental impacts from a proposal.” WAC 197-11-340(1). The County’s threshold determination of a DNS should be withdrawn because (1) the SEPA checklist and application materials did not properly disclose the number of lots served by the access road and apply the correct County standards; (2) the project site includes steep slopes that require further evaluation; (3) actual identification and evaluation of emergency access, fire protection and public safety is necessary; (4) in issuing the DNS, the County failed to evaluate impacts to Alice Road as part of the project; and (5) any threshold determination should, at a minimum, include all necessary mitigating conditions as evinced by the comments received. Mr. Hoekstra and Ms. Steele respectfully request the County reconsider the DNS pursuant to WAC 197-11-340, and withdraw the determination.

**Cascadia Law Group PLLC**

[cascadialaw.com](http://cascadialaw.com)

### SEATTLE

1201 Third Avenue  
Suite 320  
Seattle, WA 98101  
(206) 292-6300 voice  
(206) 292-6301 fax

### OLYMPIA

606 Columbia Street NW  
Suite 212  
Olympia, WA 98501  
(360) 786-5057 voice  
(360) 786-1835 fax

## COMMENTS

### Roadway Standards – Traffic Safety

First, the County’s SEPA review did not properly consider application of appropriate Title 12 standards applicable to the project in reviewing the application as a “driveway” proposal.

Kittitas County Code is clear in denoting the proper classification of the subject “access road” as a “private road” and not a “driveway”. Kittitas County Code defines a “driveway” as being an “[a]ccess road used by no more than two privately maintained residential, commercial, agricultural or industrial properties.” KCC 12.02.020(T) (emphasis added). In contrast, the Code defines a “private road” as “[a]n access road serving three or more lots, residences or multi-family units that is privately owned and maintained for the use of the owner(s) or those having expressed or implied permission from the owner(s).” KCC 12.02.020(AI) (emphasis added). Comments submitted by Mr. Hoekstra and Ms. Steele show that the proposed access road serves nine properties or lots, at least five of which are already developed with residential structures.<sup>1</sup> In fact, while undercounting the actual lots and developed residences, the applicant’s own application materials also note the existence of existing residences and properties accessing the subject access road.<sup>2</sup> Accordingly, under County Code provisions, the access road proposed for improvements is properly characterized as a “private road” and not a “driveway” for purposes of the County review and Code application.

Based on the above, the application materials’ reliance on Table 4-4B (Driveway Design Standards) is erroneous.<sup>3</sup> Table 4-4B is applicable only to single and joint-use “driveway[s].” Rather, Table 4-4A (Private Road Minimum Design Standards) provides the applicable required standards for this project. Further, as the subject access “private road” serves at least nine separate “lots” (and,

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<sup>1</sup> See SEPA Comment Letter of Jon Hoekstra and Jen Steele dated June 9, 2022.

<sup>2</sup> See SEPA Checklist at ¶ 14.f. noting “existing driveway that serves four parcels.” The Applicant’s civil drawings note the necessity for and preservation of multiple existing property accesses along the “access road.” The Applicant’s subsequent Drainage Report, possibly cognizant of this deficiency and limitation, ignores the number of parcels actually served, and notes it “appears there are (3) or less parcels with single-family residences.” In fact at least nine parcels and at least five improved properties all rely on the access road for access to their respective properties.

<sup>3</sup> See, e.g., Civil Sheet 1 (noting improvements to “standards per Table 4-4B; see also Grading Permit Application (attached Drainage Report) (noting “[t]he proposed work would include improving an existing access . . . per Table 4-4B”).

upon completion of the applicant's project would serve at least six residences or improved properties), the standards in Table 4-4A applicable to a "private road" serving 3-14 parcels and/or units need to be evaluated and satisfied.

As neither the SEPA checklist nor the application materials identify the appropriate standards, it is evident that the County's review was based on either insufficient or incorrect information. The County's roadway standards, as codified in chapter 12.01 KCC, are specifically designed with general safety considerations in mind and to ensure proper safety, drainage, maintenance, and related considerations. See KCC 12.01.010; see also KCC 12.01.070(A) (Noting Title 12 KCC provisions "shall be regarded as the minimum requirements for the protection of the public health, safety, and welfare of the residents of Kittitas County") (emphasis added). These are all relevant SEPA considerations that should be properly identified and evaluated as part of the County's threshold determination process.<sup>4</sup>

### **Critical Areas and Steep Slopes**

Second, related to the above, the proposed access road is across property on steep slopes in excess of 15% (and as part of a larger site with slopes in excess of 25%). Steep slopes in excess of 15% are located near the intersection with Alice Road and present safety, erosion, and drainage concerns that necessitate careful evaluation under both the Title 12 standards and SEPA. These acknowledged steep slopes exceed the maximum grade allowable under Title 12 (Table 4-4A).

### **Emergency Access**

In addition to the general concerns outlined above, the steep slopes and grade associated with the proposed improvements raise issues that do not appear to have been identified or evaluated with respect to fire and emergency access. Steep terrain (here in excess of permitted County standards) is often inaccessible to emergency vehicles and fire response apparatus. Further, as Public Works has commented, Alice Road would need to be certified up to the point of an approved fire apparatus turnaround. Lacking from the SEPA checklist or documents reviewed is any identification or evaluation of how the proposal will meet the minimum access requirements of the International Fire Code as adopted by the County, see KCC 12.04.070(A), where an approved

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<sup>4</sup> Based on this apparent mischaracterization of the project as a "driveway", it is uncertain whether the other proper standards in Title 12 have been evaluated and applied to this project. This evaluation is required as a predicate to a threshold determination and permit approval.

fire apparatus turnaround exists or is being proposed, see KCC 12.01.095(E), or other related and associated emergency access and public safety considerations.

### **Alice Road – Traffic Safety and Improper Piecemealing**

Third, the application materials and SEPA Checklist include no identification of or evaluation of the probable impacts to Alice Road. Kittitas County Public Works has commented that improvements to Alice Road would likely be required such that it can be properly approved and certified, requiring issuance of a road certification permit.<sup>5</sup> Despite this comment by Public Works, the impacts to Alice Road and necessary County review as part of the proposal have not been identified or evaluated.<sup>6</sup> This raises significant concerns regarding probable construction impacts, and uncertainty regarding emergency and fire access (including without limitation, appropriate fire apparatus turnarounds), intersection and access point considerations, and ongoing maintenance obligations.

Review by the County of only the “access road” without consideration of the impacts to and project component related to Alice Road would constitute improper piecemealing under SEPA. See, e.g., *Merkel v. Port of Brownsville*, 8 Wn. App. 844, 851 (1973); see also WAC 197-11-960 (confirming SEPA checklist “appl[ies] to all parts of [the] proposal, even if [the applicant] plan[s] to do them over a period of time or on different parcels”). In this regard, to avoid misleading, piecemeal environmental review, the SEPA Rules require that ‘proposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action shall be evaluated in the same environmental document.’<sup>7</sup> See WAC 197-11-060(3)(b).

Proper review by the County must consider all of these impacts. The DNS should be withdrawn so a complete SEPA Checklist can be submitted identifying these impacts such that they can be properly evaluated by the County.

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<sup>5</sup> See SEPA Comments of Public Works dated February 17, 2022.

<sup>6</sup> In fact, the SEPA Checklist in response to the question “[w]ill the proposal require any new or improvements to existing roads” answers “no.” See SEPA Checklist at 14.d. This answer appears incorrect in light of the proposed required improvements to the subject “access road” together with Public Works’ comments that Alice Road would also “need to be certified up to the point of an approved fire apparatus turnaround.”

<sup>7</sup> SETTLE, RICHARD L., WASHINGTON STATE ENVIRONMENTAL POLICY ACT: A LEGAL AND POLICY ANALYSIS § 11.01 (2021) (citing WAC 197-11-060(3)) (emphasis added).

### **Mitigating Conditions**

Fourth, following proper review, in any subsequent threshold determination, such determination should include and impose appropriate necessary mitigating conditions as part of an MDNS. These should include, without limitation, mitigating conditions that:

- Require all improvements (to both the access road and Alice Road) meet Title 12 standards.
- Requirements to satisfy emergency access and fire protection.
- Address and incorporate the comments provided by Kittitas County Public Works.<sup>8</sup>
- Incorporate and confirm the proposed conditions proffered by the applicant, as may be appropriately modified or clarified by the County.<sup>9</sup>
- Include appropriate conditions to address comments from Washington Department of Fish & Wildlife regarding stream crossings, construction impacts, and culverts.<sup>10</sup>
- Imposition of and confirmation of maintenance obligations.<sup>11</sup>
- Such other and further mitigating conditions based on the comments received and County review.

Each of these categories, at a minimum, should be included as mitigating conditions on any threshold determination.

### **Miscellaneous SEPA Considerations.**

A DNS must be based upon “information reasonably sufficient to evaluate the environmental impact of a proposal.” WAC 197-11-335; *see also Moss v. City of Bellingham*, 109 Wn. App. 6, 14 (2001). Therefore, to receive a DNS, an applicant must furnish reasonably complete information about the impacts. In this regard, SEPA cases instruct that “the [local jurisdiction] must demonstrate

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<sup>8</sup> See SEPA Comments of Public Works dated February 17, 2022.

<sup>9</sup> See Drainage Report Parcel #19162 Access Improvements (Granite Civil Services, LLC) dated May 4, 2022.

<sup>10</sup> See Email SEPA Comments from WDFW dated February 4, 2022 and May 20, 2022.

<sup>11</sup> See, e.g., KCC 12.04.070(F).

that it actually considered relevant environmental factors before [issuing the threshold determination]. Moreover, the record must demonstrate that the [local jurisdiction] adequately considered the environmental factors in a manner sufficient to be a prima facie compliance with the procedural dictates of SEPA.” *Boehm v. City of Vancouver*, 111 Wn. App. 711, 718 (2002).

The SEPA rules require that the lead agency withdraw a DNS where “new information is presented indicating a proposal’s probable significant environmental impact,” WAC 197-11-340(3)(a)(ii), or where the “DNS was procured by misrepresentation or lack of material disclosure.” WAC 197-11-340(a)(iii).<sup>12</sup> Here, commentors, including Mr. Hoekstra and Ms. Steele, have raised new information not clearly disclosed in the SEPA checklist or evaluated by the County related to the number of lots served by the access road and the appropriate design criteria intended to ensure safety for the traveling public and other considerations, including issues related to Alice Road impacts and requirements, and others. This new information requires withdrawal of the DNS. WAC 197-11-340(3)(a)(ii). Similarly, the lack of material disclosure on these issues requires withdrawal of the DNS. WAC 197-11-340(a)(iii). Withdrawal of the DNS will permit the County to ensure proper SEPA review consistent with WAC 197-11-335 and applicable law.

### **CONCLUSION**

The County’s SEPA evaluation and pending DNS fail to address significant environmental impacts of the proposed action. Given these substantial deficiencies, and in accordance with the provisions of WAC 197-11-340(3) we respectfully request the County withdraw the DNS issued on May 26, 2022 to ensure all appropriate impacts are evaluated and mitigated.

We request notice, directed to the undersigned, of any action the County takes relating to this threshold determination and the underlying grading permit application.

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<sup>12</sup> See also KCC 15.05.120(4).

Kelly Bacon  
Kittitas County Community Development Services  
June 10, 2022  
Page 7

Thank you in advance for your consideration of these comments. Please feel free to contact me if you have any questions or require any additional information. We appreciate the County's careful review of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Rehberger". The signature is fluid and cursive, with the first name "J." and the last name "Rehberger" clearly distinguishable.

Joseph A. Rehberger  
Direct Line: (360) 786-5062  
Email: [jrehberger@cascadialaw.com](mailto:jrehberger@cascadialaw.com)  
Office: Olympia

JR:en

cc: Jeremy Johnston, Kittitas County Planning Official  
Jon Hoekstra and Jen Steele

**From:** [Joe Rehberger](#)  
**To:** [Kelly Bacon \(CD\)](#)  
**Cc:** [Jeremy Johnston](#); [CDS User](#); [Eleanor Nickelson](#)  
**Subject:** SEPA Comments (SE-22-00002) (Cape)  
**Date:** Friday, June 10, 2022 1:01:09 PM  
**Attachments:** [Lt. K. Bacon-SEPA Comments-SE-22-00002 \(061022\).pdf](#)

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Re: SEPA File No. SE-22-0002 (Cape)  
Project File No. GP-22-0009

Ms. Bacon:

Please find attached a comment letter submitted on behalf of Jon Hoekstra and Jen Steele related to SEPA File No. SE-22-00002 (Cape), associated with the grading permit application No. GP-22-00009. Please let me know if you have any difficulty opening or downloading the attached letter. **Please acknowledge and confirm receipt of these comments.**

By this email, our office further requests notice of any decisions or actions related to the above-referenced project.

We appreciate the opportunity to provide comments and appreciate your consideration of the same.

Thank you.

**Joseph A. Rehberger**  
Cascadia Law Group PLLC  
606 Columbia St. NW, Suite 212  
Olympia, WA 98501  
Direct Phone: 360-786-5062  
Main Phone: 360-786-5057  
Fax: 360-786-1835

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**From:** [J. Thomas Bentzen](#)  
**To:** [Kelly Bacon \(CD\)](#)  
**Cc:** [Mark Cook](#)  
**Subject:** Alice road community concerns  
**Date:** Friday, June 10, 2022 10:06:31 AM

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**CAUTION:** This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

To whom it may concern. My name is John T Bentzen. I live at (parcel #335834) 871 Alice Road, Cle Elum Wash 98922.

I'm writing to provide SEPA comments on the Determination of Nonsignificance issued by the County regarding SEPA Checklist (SE-22-00002).

- The SEPA checklist and project proposal did not properly identify or account for all of the parcels and users that are served by the access road. The access road serves 9 parcels, five of which already have addressed residences in place, and so is not a "driveway" as defined by the County codes.
- The proposed project involves road grades that are too steep to comply with the County's minimum design requirements for a private road.
- The easement from Alice Road through the Little Peoh Point Tracts is too narrow to meet the County's minimum design requirements for a private road.
- Potential damage to Alice Road by heavy equipment during construction would create financial liability and hardship to Alice Road property owners who are responsible for road maintenance.
- SEPA comments from the Public Works department indicated that the developer would be required to bring Alice Road up to private road standards. However, that full project scope was not identified in the SEPA checklist or evaluated by the County in making its SEPA determination.
- I'm requesting that the county withdraw the DNS based on insufficient information from the applicant regarding an accurate accounting of the parcels being served by the access road, and the full project scope as it impacts Alice Road. Also request that any determination should include mitigating conditions that will ensure that Alice Road is not damaged and that the applicant would be solely responsible for any improvements or conditions that the County may require.
- The easement road in question provides access to eight individual property owners along the road. Of those eight five have permanent dwellings that can be lived in.
- There is no logical or rational way that that 2 mile long access road can be considered a "Drive Way"!
- Furthermore, Alice road doesn't meet the necessary requirements to complete the work on or about the easement road in the first place. Said requirements cant be made without taking multiple peoples property during the process, and

that is not going to happen!

Thank you for the opportunity to comment on this project and to voice my concerns about some concrete issues I have.

JTBentzen