

**SHORELINE MANAGEMENT PERMIT  
ACTION SHEET**

**Application #:** SC 21-00001

**Administering Agency** Kittitas County Land Use Hearing Examiner

**Type of Permit:** ■ Shoreline Conditional Use Permit

**Recommended Action:** ■ Approved    □ Denied

**Date of Action:** October 28, 2021

**Date Mailed to DOE/AG**

Pursuant to Chapter 90.58 RCW and the Shoreline Master Program of Kittitas County, a permit is hereby granted to:

**Washington State Department of Transportation  
c/o William Saurio  
2809 Rudkin Road  
Union Gap, WA 98903**

To undertake the following development: The applicant proposes to construct a 743-foot-long bank protection revetment integrated into the existing roadway prism that combines a wood and rock crib-wall with two bioengineered rock and large woody material (LWM) sections. This project is proposed to stabilize the right bank of the Teanaway River to prevent further erosion of the State Route 970 (SR 970) roadway prism.

Upon the following property: Parcels 338436, 158336, 328536, 318336, 618134, 244935 and 234935, approximately 7.8 miles southeast of Cle Elum near milepost 6.1 of State Route 970 in SW ¼ Section 25, Township 20 N, Range 16 E, in Kittitas County.

Within 200 feet of the Teanaway River and/or its associated wetlands.

**I. CONDITIONS OF APPROVAL**

Development pursuant to this permit shall be undertaken in conformance with the following terms and conditions. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors:

1. The project shall proceed in substantial conformance with the plans and application materials on file with CDS dated May 13, 2021 and subsequent information included in the complete file index except as amended by the conditions herein.
2. Applicant must meet all applicable local, state and federal permitting requirements and regulations.
3. The applicant shall comply with all conditions established with Washington Department of Fish & Wildlife through the JARPA approval.

4. Compensatory Wetland Mitigation ratios shall be consistent with the ratios noted in the Kittitas County Shoreline Master Plan, except as otherwise determined acceptable by the Washington State Department of Ecology.

## II. FINDINGS OF FACT

1. The Washington State Department of Transportation submitted an application to construct a 743-foot-long bank protection revetment integrated into the existing roadway prism that combines a wood and rock crib-wall with two bioengineered rock and large woody material (LWM) sections. This project is proposed to stabilize the right bank of the Teanaway River to prevent further erosion of the State Route 970 (SR 970) roadway prism.
2. The project area is located approximately 7.8 miles southeast of Cle Elum near milepost 6.1 of State Route 970 in SW ¼ Section 25, Township 20 N, Range 16 E, in Kittitas County.
3. Site Information:

Total Property Size:	15.25 Acres
Number of Lots:	2
Domestic Water:	N/A
Sewage Disposal:	N/A
Power/Electricity:	N/A
Fire Protection:	Fire District 7 (Cle Elum)
Irrigation District:	N/A
4. Site Characteristics:

North: A mix of privately-owned lands and State Route 970 (SR 970)  
South: Primarily privately-owned lands  
East: Primarily privately-owned lands  
West: Primarily privately-owned lands
5. Access: The site is accessed from Teanaway Terrace Road and neighboring parcels 338436, 158336, 328536, 318336, and 618134, at the intersection of Teanaway Terrace Road and State Route 970 (SR 970).
6. Zoning and Development Standards: The project parcels are zoned Forest and Range within a Rural Working Land Use designation. The parcels abut the Teanaway River which is designated as a shoreline of statewide significance and has a shoreline designation of Rural Conservancy. The proposed project is classified as a "Shoreline Stabilization." Kittitas County Code permits Shoreline Stabilization as a Shoreline Conditional Use under KCC 17B.04.090.1 in a Rural Conservancy zone.
7. The purpose of the rural conservancy environment is to protect ecological functions, natural resources, and valuable historic and cultural areas in order to provide for sustained resource use, natural flood plain processes, and recreational opportunities.
8. Deem Complete: A shoreline conditional use permit application for the WSDOT Teanaway River Bank Stabilization (SC-21-00001) was submitted to Kittitas County Community Development Services department on May 13, 2021. The application was deemed complete on June 9, 2021.

CDS received an affidavit of posting from the applicant in accordance with KCC 15A.03.110 on June 18, 2021.

9. Notice of Application: A notice of application for the WSDOT Teanaway River Bank Stabilization (SC-21-00001) was mailed and/or emailed to adjacent landowners located within 500 feet of any portion of the boundary of the proposal's tax parcel & applicable agencies. Notice was given to and published in the official newspaper of record for Kittitas County, and notice was posted to the Kittitas County Website on June 29, 2021, all in conformance with the Kittitas County Project Permit Application Process (Title 15A).
10. Shoreline Master Program: The Kittitas County Shoreline Master Program is designated as part of the Comprehensive Plan under RCW 36.70A.480(1). The purpose and intent of the SMP is to “promote the public health, safety and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of shorelines within Kittitas County.” The following Goals and Objectives from the Shoreline Master Program have been identified as applicable to this application.
  - 10.1 SMP 3.2(A) Goals:
    - (1) Consider the use and development of shorelines and adjacent land areas for public and private land uses in relation to the natural environment.
    - (2) Ensure no net loss of ecological function.
      - 10.1.1 Hearing Examiner Finding: The proposed project will reduce or eliminate the need for frequent and repeated emergency maintenance actions to control erosion along a portion of SR 970. The project will result in a consistent shoreline stabilization strategy of a combination of bioengineered and wood and rock revetment along the SR 970 roadway prism and will improve long-term aquatic habitat by reducing the repeated disruption of ecological functions that frequent repairs cause. The project proposal is consistent with the goals of the SMP.
  - 10.2 SMP 3.2(B) Objectives:
    - (1) Give shoreline use preference to single-family residential uses, ports, shoreline recreational uses, and water-dependent commercial or industrial developments that are consistent with preservation of shoreline ecological processes and functions.
    - (3) Locate, design, and manage shoreline uses to prevent a net loss of shoreline ecological functions and process over time. Where adverse impacts are unavoidable, require mitigation to ensure no net loss of shoreline ecological functions.
      - 10.2.1 Hearing Examiner Finding: The proposed project will address current loss of ecological function due to erosion and improve safety to a public road and right-of-way. The combination of bioengineered and wood and rock revetment will provide a more permanent alternative to ongoing emergency maintenance and repairs, therefore allowing the aquatic habitat to flourish unencumbered by frequent construction activities.
  - 10.3 This application is consistent with the goals and objectives of the Kittitas County Shoreline Master Program as outlined above.
11. Washington State Department of Transportation (WSDOT) issued a Determination of Nonsignificance for this Shoreline Stabilization project on March 23, 2021. The determination

was not appealed. For purposes of processing this application, CDS has adopted the determination issued by WSDOT through a letter dated June 10, 2021. No further environmental review is required.

12. Critical areas on the project site include a Type 1 Stream and two category 2 wetlands associated with the shoreline. The establishment of bioengineered and wood/rock revetment will provide shoreline stabilization consistency and in turn reduce ecological impacts due to erosion and repeated and frequent emergency repairs. The applicant has obtained a JARPA application from the Washington Department of Fish & Wildlife for the project. Mitigation strategies and a subsequent monitoring plan have been established with the Department of Ecology. KCC 17B.05.020I-1 requires a 4:1 replacement ratio for mitigation through creation of a category II forested wetland. The Applicant proposes impacting 0.04 acres near the left bank with the mitigation comprising of a thin sliver of river cobble equaling 0.04 acres. This area is not currently wetland. This plan does not meet Kittitas County wetland compensatory mitigation requirements established in KCC 17B.05.020I, however, per 17B.05.020I(9), alternative mitigation ratios may be approved by the Administrator provided that federal and state resource agencies approve the mitigation plan and the plan achieves no net loss of wetland functions and values. A recommended condition in this staff report addresses mitigation options to ensure compliance with the Kittitas County Shoreline Management Program.
13. Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. All comments are on file and available for public review. The following are a summary of the substantive comments submitted.
  - 13.1 Yakama Nation submitted comments requesting a copy of the Cultural Resources survey that was conducted. The applicant provided Yakama Nation with a copy of the survey on July 20, 2021. No further comments were received from Yakama Nation.
  - 13.2 Kittitas County Public Health commented that they had no concerns with the application.
  - 13.3 Kittitas County Public Works commented that the project is exempt from a grading permit under KCC 14.05.060 and that the project requires a floodplain development permit and must demonstrate that KCC 14.08 (Flood Damage Prevention) requirements are met before a permit is issued.
  - 13.4 No public comments were submitted during the comment period.
14. Consistency with the Shoreline Master Program: The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The following Comprehensive Plan Goals and Objectives apply to this proposal: SMP 3.2(A)(1), SMP 3.2(A)(2), SMP 3.2(B)(1), and SMP 3.2(B)(4). Provided the applicant follows and maintains the Goals and Objectives noted in No. 10 above, they shall be in compliance with the Kittitas County Shoreline Master Program. The applicant is proposing a bioengineered revetment along approximately 743 feet of shoreline which is a conditional use within the Rural Conservancy zone in accordance with KCC17B.04.090.1. Therefore, the project is in compliance with the Kittitas County Shoreline Master Program.
15. Consistency with the provisions of KCC 17B.07.060(3), Review Criteria: KCC 17B.07.060 (3) provides the following review criteria to be considered in a shoreline conditional use analysis:
  - 15.1 KCC 17B.07.060 Review Criteria: 2. Substantial development permits. A substantial development permit shall be granted only when the applicant demonstrates all of the following:

- 15.1.1 That the proposed use is consistent with the policies of [RCW 90.58.020](#) and the Master Program;
- 15.1.2 Applicant Response: The proposed project is consistent with RCW 90.58.020 in the following aspects:
- 15.1.2.1 The proposed project will protect existing statewide transportation interests over the long run.
  - 15.1.2.2 As designed, the project will preserve and restore the shoreline within this reach of the Teanaway River.
  - 15.1.2.3 The proposed project is designed to reduce or eliminate the need for frequent and repeated emergency maintenance actions to repair this portion of SR 970 as a viable transportation facility and preserve the shoreline over the long-term.
  - 15.1.2.4 By reducing or eliminating the need for frequent and repeated emergency maintenance actions, aquatic habitat within this reach of the Teanaway River will improve over the long run.
  - 15.1.2.5 There are currently no public owned areas within the project site. However, the area where the bioengineered revetment will be built will become Department of Transportation right-of-way and available to public access.
  - 15.1.2.6 The design of the bioengineered revetment includes aquatic habitat features preferred by several species of fish present within the project site and may increase the use for recreational fishing.
- 15.1.3 Hearing Examiner Finding: The Hearing Examiner has reviewed the proposal for consistency with the RCW 90.58.020 and the Kittitas County Shoreline Master Program (SMP). The Kittitas County SMP is managed through the development regulations established in KCC 17B, which allows for shoreline revetment in a Rural Conservancy zone with a conditional use permit. As conditioned, the proposal is consistent with the Kittitas County Shoreline Master Program and RCW 90.58.020.
- 15.1.4 That the proposed use will not interfere with the normal public use of public shorelines.
- 15.1.4.1 Applicant Response: As stated above, there are currently no public owned areas within the project site. However, the area where the bioengineered revetment will be built will become Department of Transportation right-of-way and available to public access.
  - 15.1.4.2 Hearing Examiner Finding: The proposal location is not currently utilized for public use and is not anticipated to impact any adjacent shoreline uses.
- 15.1.5 That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and SMP;
- 15.1.5.1 Applicant Response: The proposed project is compatible with the Purpose, Management Policies, and Designation Criteria as stated in Section 4.5 "Rural conservancy environment" of the Kittitas County Shoreline Master Program.
  - 15.1.5.2 Hearing Examiner Finding: The proposal site is along the Teanaway River shoreline. A combination of bioengineered and wood/rock revetment has been commonly used for shoreline stabilization in this area. The project will establish a more complete shoreline stabilization system along 970 roadway prism.

- 15.1.6 That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located;
  - 15.1.6.1 Applicant Response: As stated above, by reducing or eliminating the need for frequent and repeated emergency maintenance actions, aquatic habitat within this reach of the Teanaway River will improve over the long run. Additionally, the design of the bioengineered revetment includes aquatic habitat features preferred by several species of fish present within the project site
  - 15.1.6.2 Hearing Examiner Finding: The proposal involves shoreline stabilization techniques that are consistent with the area. The project, as conditioned, will have no significant adverse impact on the shoreline environment.
- 15.1.7 That the public interest suffers no substantial detrimental effect;
  - 15.1.7.1 Applicant Response: Since the proposed project is compatible with the Purpose, Management Policies, and Designation Criteria as stated in Section 4.5 "Rural conservancy environment" of the Kittitas County Shoreline Master Program, WSDOT does not anticipate any substantial detrimental effect, but instead believes the project will be a public benefit, both in terms of preserving the existing transportation facility and the environment.
  - 15.1.7.2 Hearing Examiner Finding: The Hearing Examiner finds that the proposed project is not likely to be detrimental to the public interest in any way.
- 15.1.8 That if conditional use permits were granted for other developments in the area where similar circumstances exist, the cumulative impact of such uses would remain consistent with the policies of [RCW 90.58.020](#) and not produce substantial adverse effects to the shoreline environment.
  - 15.1.8.1 Applicant Response: If circumstances develop near the area of the proposed project that necessitates the design and construction of additional bioengineered bank-protection structures, then for the same reasons cited above, WSDOT believes that those projects would also be consistent with [RCW 90.58.020](#).
  - 15.1.8.2 Hearing Examiner Finding: The use of the combination of bioengineered and wood/rock revetment is a common shoreline stabilization measure in the area. Bioengineered and wood/rock revetment shoreline stabilization is used both upstream and downstream of the project site with no indication of adverse effects.
- 15.1.9 That the proposed use has been appropriately conditioned to prevent undesirable effects of the proposed use and to assure consistency of the project with the Act and the local Master Program.
  - 15.1.9.1 Applicant Response: If circumstances develop near the area of the proposed project that necessitates the design and construction of additional bioengineered bank-protection structures, then for the same reasons cited above WSDOT believes that those projects would also be consistent with [RCW 90.58.020](#).
  - 15.1.9.2 Hearing Examiner Finding: The project, as conditioned, ensures consistency with the Shoreline Management Act and the Kittitas County Shoreline Master program. As such no undesirable effects are anticipated.
- 15.1.10 When converting from one nonconforming use to a different nonconforming use, the applicant must demonstrate that no reasonable alternative conforming use is practical and that the proposed use will be at least as consistent with the policies

and provisions of the Act and the Master Program and as compatible with the uses in the area as the pre-existing use.

15.1.10.1 Applicant Response: The existing use of the shoreline within the project site conforms with the policies and provisions of the Act and the Master Program. The proposed project will not change the existing use of the shoreline within the project area to a nonconforming use.

15.1.10.2 Hearing Examiner Finding: The project is not proposing a change in use and the use of shoreline stabilization is not a nonconforming use under the Kittitas County Shoreline Master Program.

15.2 As conditioned, the proposed shoreline stabilization project is consistent with the provisions of KCC 17B.07.060(3) as described above.

16. Consistency with the provisions of 17B.06.150(B) Shoreline Stabilization: Regulations. KCC 17B.07.060(3) provides the following regulations to be considered in a shoreline stabilization analysis:

16.1 New uses and developments shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

16.1.2 Hearing Examiner Finding: The proposed project proposes a combination of bioengineered and wood/rock revetment along Teanaway River Bank. The proposed revetment will provide a more permanent shoreline stabilization and reduce or eliminate the need for repeated emergency temporary solutions.

16.2 Subdivision of land should not create lots that will require shoreline stabilization in order for reasonable use or development to occur.

16.2.1 Hearing Examiner Finding: The proposed project does not involve any subdivision of land.

16.3 New uses and developments on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.

16.3.1 Hearing Examiner Finding: The proposed shoreline stabilization is intended to stabilize the shoreline in an effort to prevent further erosion along the 970 Roadway prism. No new uses are being proposed.

16.4 New uses and developments that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

16.4.1 Hearing Examiner Finding: The proposed shoreline stabilization would prevent further erosion along the 970 Roadway prism and is not anticipated to create any significant impacts on adjacent or down-current properties.

16.5 New structural stabilization measures shall only be allowed for the following instances, and then only when necessity is demonstrated based on criteria included in this Section:

16.5.1 When necessary to protect an existing primary structure;

16.5.2 In support of new non-water-dependent development, including single-family residence;

16.5.3 In support of new water-dependent development; and

16.5.4 To protect projects for the restoration of ecological functions or hazardous substance remediation projects.

16.5.5 Hearing Examiner Finding: The proposed project would complete a combination of bioengineered and wood/rock revetment shoreline stabilization strategy to protect the SR 970 roadway prism.

16.6 New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, are permitted only if there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline

erosion caused by stream processes or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis shall evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

- 16.6.1 Hearing Examiner Finding: The need for the proposed shoreline stabilization is based on frequent and repeated emergency maintenance actions to repair the affected portion of SR 970 as a viable transportation facility. The erodibility of the roadway prism and its proximity to the active channel has required past emergency maintenance actions that can negatively affect aquatic organisms and their habitat.
- 16.7 New structural stabilization for new non-water-dependent development, including single-family residences, is permitted only if it can be demonstrated that:
- 16.7.1 The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;
- 16.7.2 Nonstructural measures, such as placing the proposed use or development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient; and
- 16.7.3 The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report that states damage was caused by natural processes, such as stream processes or waves.
- 16.7.4 Hearing Examiner Finding: The proposed project is not part of a non-water-development. The primary use of the property is the SR 970 Roadway prism, which cannot be moved.
- 16.8 New structural stabilization for water-dependent development is permitted only if it can be demonstrated that:
- 16.8.1 The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;
- 16.8.2 Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient; and
- 16.8.3 The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
- 16.8.4 Hearing Examiner Finding: Due to the heavy Teanaway River flows, nonstructural shoreline stabilization measures would be insufficient to protect the shoreline from further erosion, as demonstrated by the necessity of frequent and repeated emergency maintenance actions at the project location.
- 16.9 New structural stabilization to protect projects for the restoration of ecological functions or hazardous substance remediation projects is permitted only if it can be demonstrated that nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
- 16.9.1 Hearing Examiner Finding: Due to the heavy Teanaway River flows, nonstructural shoreline stabilization measures would be insufficient to protect the shoreline from further erosion, as demonstrated by the necessity of frequent and repeated emergency maintenance actions at the project location.
- 16.10 An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect primary uses or structures or public facilities from erosion caused by stream undercutting or wave action.
- 16.10.1 Hearing Examiner Finding: The proposal does not include the replacement of an existing structure.
- 16.11 Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the OHWM, provided a geotechnical analysis



documents that alternative solutions are not feasible or do not provide sufficient protection.

16.11.1 Hearing Examiner Finding: The project, as proposed, would include a combination of bioengineered and wood/rock revetment waterward of the OHWM and does not include soft shoreline stabilization.

16.12 Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

16.12.1 Hearing Examiner Finding: The project, as proposed, would include bioengineered revetment landward of the OHWM and does not include replacement walls or bulkheads.

16.13 All new, expanded, or replacement shoreline stabilization shall be permitted only if it can be demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the proposed measures will not result in a net loss of shoreline ecological functions.

16.13.1 Hearing Examiner Finding: The proposed project area is historically disturbed as demonstrated by the necessity of frequent and repeated emergency maintenance actions at the project location. The proposed project is not anticipated to have any additional impact on ecological functions.

16.14 For purposes of this Section, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

16.14.1 Hearing Examiner Finding: Pursuant to this definition the proposal is considered a replacement of existing temporary emergency repairs.

16.15 Geotechnical reports that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. Hard armoring solutions should not be authorized except when a geotechnical report confirms that there is a significant possibility that the primary structure will be damaged within three (3) years as a result of shoreline erosion in the absence of hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three (3) years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

16.15.1 Hearing Examiner Finding: The JARPA application submitted with this project application, explains that the need for the proposed shoreline stabilization is based on frequent and repeated emergency maintenance actions to repair the affected portion of SR 970 as a viable transportation facility. The erodibility of the roadway prism and its proximity to the active channel has required past emergency maintenance actions that can negatively affect aquatic organisms and their habitat. Kittitas County CDS acknowledges that a full report would be unnecessary under these circumstances and would not be consistent with the intention of this provision.

16.16 When structural shoreline stabilization measures are demonstrated to be necessary, the following provisions shall apply:

16.16.1 The size of stabilization measures shall be limited to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions;

- 16.16.2 Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses; and
- 16.16.3 Publicly financed or subsidized shoreline erosion control measures should not restrict appropriate public access to the shoreline except where such access is not feasible because of incompatible uses, safety, security, or harm to ecological functions. See [KCC 17B.05.040](#) Public access. Where feasible, incorporate ecological restoration and public access improvements into the project.
- 16.16.4 Hearing Examiner Finding: The proposed revetment is the minimum necessary to establish a cohesive shoreline stabilization measure along the Teanaway riverbank shoreline. No soft stabilization efforts are described in the application. Public access to the project site will not be restricted, as the project site will be a WSDOT right-of-way available for public use.
- 16.17 Breakwaters, jetties, groins, and weirs shall:
- 16.17.1 Be located waterward of the OHWM and shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purposes; and
- 16.17.2 Require a conditional use permit; except for those structures installed to protect or restore ecological functions.
- 16.17.3 Hearing Examiner Finding: No breakwaters, jetties, groins, and weirs are being proposed in this application.
- 16.18 Shoreline stabilization projects shall be designed to protect critical areas and shall avoid and reduce significant ecological impacts by providing for mitigation according to the sequence in [KCC 17B.05.020\(B\)\(2\)](#).
- 16.18.1 Hearing Examiner Finding: Critical areas on the project site include a Type 1 Stream and two category 2 wetlands associated with the shoreline. The establishment of bioengineered and wood/rock revetment will provide shoreline stabilization consistency and in turn reduce ecological impacts due to erosion and repeated and frequent emergency repairs. The applicant has obtained an JARPA application from the Washington Department of Fish & Wildlife for the project. Mitigation strategies and a subsequent monitoring plan have been established with the Department of Ecology. KCC 17B.05.020I-1 requires a 4:1 replacement ratio for mitigation through creation of a category II forested wetland. The mitigation plan submitted with the application will utilize vegetative plantings through a 0.04 acre section of land upland of the project site. This plan does not meet Kittitas County wetland compensatory mitigation requirements established in KCC 17B.05.020I, however, per 17B.05.020I(9), alternative mitigation ratios may be approved by the Administrator provided that federal and state resource agencies approve the mitigation plan and the plan achieves no net loss of wetland functions and values. Condition of Approval No. 4 addresses mitigation options to ensure compliance with the Kittitas County Shoreline Management Program.
- 16.19 Public access shall be required as part of publically-financed shoreline erosion control measures.
- 16.19.1 Hearing Examiner Finding: The finished project site will be a WSDOT right-of-way allowing public access.
- 16.20 Shoreline stabilization projects shall be designed and constructed to avoid or minimize impacts to sediment transport.
- 16.20.1 Hearing Examiner Finding: The project will utilize a common stabilization technique for high flow areas. No significant sediment transport changes are anticipated.
- 16.21 This proposal, as conditioned, is consistent with Kittitas County Code 17B.07.060(3), as described above.

17. Consistency with the provisions of the KCC Title 17A, Critical Areas: Critical areas on the project site include a Type 1 Stream and two category 2 wetlands associated with the shoreline. The establishment of bioengineered and wood/rock revetment will provide shoreline stabilization consistency and in turn reduce ecological impacts due to erosion and repeated and frequent emergency repairs. The applicant has obtained an JARPA application from the Washington Department of Fish & Wildlife for the project. Mitigation strategies and a subsequent monitoring plan have been established with the Department of Ecology. KCC 17B.05.020I-1 requires a 4:1 replacement ratio for mitigation through creation of a category II forested wetland. The mitigation plan submitted with the application will utilize vegetative plantings through a 0.082 acre section of land upland of the project site. The project site will potentially impact approximately 0.082 acres of a shoreline category II wetland. This plan does not meet Kittitas County wetland compensatory mitigation requirements established in KCC 17B.05.020I, however, per 17B.05.020I(9), alternative mitigation ratios may be approved by the Administrator provided that federal and state resource agencies approve the mitigation plan and the plan achieves no net loss of wetland functions and values. A recommended condition in this staff report addresses mitigation options to ensure compliance with the Kittitas County Shoreline Management Program.
18. Consistency with the provisions of the KCC Title 14.04, Building Code: The proposal is consistent with the provisions of Title 14.04. No building permits will be required for this project.
19. Consistency with the provisions of KCC Title 12, Roads and Bridges: As conditioned, the proposal is consistent with the provisions of KCC Title 12.
20. Consistency with the provisions of KCC Title 20, Fire and Life Safety: As conditioned, the proposal is consistent with the provisions of KCC Title 20.
21. An open record public hearing after due legal notice was held on October 28, 2021 via video conferencing due to the ongoing Covid-19 pandemic.
22. At the open record public hearing the following exhibits were entered into the record:
  - 22.1 Ex. 1 Application
  - 22.2 Ex. 2 Project Summary Letter
  - 22.3 Ex. 3 Project Narrative
  - 22.4 Ex. 4 Wetland & Stream Assessment Report
  - 22.5 Ex. 5 Wetland & Stream Assessment Mitigation Plan
  - 22.6 Ex. 6 JARPA Application
  - 22.7 Ex. 7 CDS Invoice
  - 22.8 Ex. 8 Receipt
  - 22.9 Ex. 9 CDS Staff Maps
  - 22.10 Ex. 10 SEPA Checklist
  - 22.11 Ex. 11 SEPA DNS
  - 22.12 Ex. 12 CDS SEPA Adoption Letter
  - 22.13 Ex. 13 Affidavit of Posting and Pictures
  - 22.14 Ex. 14 Publishing Notice of Application & SEPA Adoption
  - 22.15 Ex. 15 NOA & SEPA Adoption Legal
  - 22.16 Ex. 16 NOA & SEPA Adoption Email
  - 22.17 Ex. 17 NOA & SEPA Adoption Memo
  - 22.18 Ex. 18 Affidavit of Mailing & Publication- NOA & SEPA Adoption
  - 22.19 Ex. 19 Comments: Yakama Nation
  - 22.20 Ex. 20 Comments: Kittitas County Public Health

- 22.21 Ex. 21 Comments: Kittitas County Public Works
  - 22.22 Ex. 22 Transmittal of Comments
  - 22.23 Ex. 23 Publishing Notice of Public Hearing
  - 22.24 Ex. 24 Notice of Public Hearing Legal
  - 22.25 Ex. 25 Notice of Public Hearing Email
  - 22.26 Ex. 26 Notice of Public Hearing Memo
  - 22.27 Ex. 27 Affidavit of Mailing & Publication- Notice of Public Hearing
  - 22.28 Ex. 28 Staff Report
  - 22.29 Ex. 29 Hearing Presentation
  - 22.30 Ex. 30 All email correspondence with applicant
23. Appearing and testifying on behalf of the Applicant was Bill Sauriol. Mr. Sauriol testified that he was an agent authorized to appear and speak on behalf of the property owner and Applicant. Mr. Sauriol indicated that the only access to the project will be from the state highway and not through any private road. He indicated that all of the proposed Conditions of Approval were acceptable. He further stated that the Applicant had worked with the Colville Indian Nation, as well as the Yakama Indian Nation regarding their recommended mitigation on this site.
  24. No members from the public testified.
  25. The Kittitas County Hearing Examiner considered all evidence within the record in rendering this decision.
  26. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

### III. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development meets the goals, objectives and implementation recommendations as set forth in the Kittitas County Shoreline Master Program.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Kittitas County Code Title 17 Zoning, Title 17A Critical Areas, Title 17B Shorelines, Title 14.04 Building Code, Title 12 Roads and Bridges, and Title 20 Fire and Life Safety.
6. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

Dated this 29 day of October, 2021.

KITTITAS COUNTY HEARING EXAMINER

  
 \_\_\_\_\_  
 Andrew L. Kottkamp

**This permit is granted pursuant to the Shoreline Master Program of the Kittitas County, as amended, and nothing in this permit shall excuse the applicant from compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).**

This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

**CONSTRUCTION PURSUANT TO THIS PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).**

Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by this permit shall terminate five (5) years from the filing date of this permit.

**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A  
CONDITIONAL USE OR VARIANCE PERMIT**

Date received by the Department \_\_\_\_\_

Approved \_\_\_\_\_

Denied \_\_\_\_\_

This conditional use/variance permit is approved/denied by the Department pursuant to Chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Department Official