

SHORELINE MANAGEMENT PERMIT  
ACTION SHEET



Application #: SD-13-00001  
CU-13-00004  
Administering Agency Kittitas County Community Development

Type of Permit:  Shoreline Substantial Development  
Recommended Action:  Conditional Use Permit  
 Approved  Denied

Date of Action: April 15<sup>th</sup>, 2015

Date Mailed to DOE/AG

Pursuant to Chapter 90.58 RCW and the Shoreline Master Program of the Kittitas County, the Hearing Examiner recommends that a permit be granted to:

**One Energy Development, LLC**  
**Agent for Pat Taylor**

To undertake the following development: One Energy Development LLC authorized agent for Pat Taylor, landowner, submitted a conditional use application and shoreline substantial development permit for the construction and operation of a 13.6 acre photovoltaic solar power generation facility on approximately 112 acres. The subject property is zoned Agriculture 20. This "Utility" (KCC 17.61.010{1}) is subcategorized as a major alternative energy facility (KCC 17.61.010{9}), and as such is a conditional use for the zone (KCC 17.61.020(4)(b)).

Upon the following property: This proposal is located approximately 3.5 miles northwest of Ellensburg on Highway 10 (US 97) in a portion of Section 20, T18N, R18E, WM in Kittitas County, bearing Assessor's map number 18-18-20030-0006. Access is provided for via an existing permit with WSDOT.

Within 3,000 feet of the Yakima River and/or its associated wetlands and is 200 feet of Dry Creek, a Type 2 fish bearing stream.

The project will be within a shoreline of state-wide significance (RCW 90.58.030). The project will be located within a rural designation. The following Shoreline Master Program provisions are applicable to this development:

Development pursuant to this permit shall be undertaken in conformance with the following terms and recommended conditions:

1. 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.
2. The Applicant shall obtain all permits required by all federal, state and local agencies with jurisdiction.

3. The Applicant shall comply with all federal, state and local laws and regulations.
4. Construction shall proceed substantially as shown on the application materials on file with Kittitas County, except as modified by conditions below.
5. The project shall proceed in substantial conformance with the plans and application materials on file dated September 26<sup>th</sup>, 2014 and November 3<sup>rd</sup>, 2014 except as amended by the conditions herein.
6. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
7. A 70 foot buffer from the ordinary high water mark shall be placed on Dry Creek within the project parcel. No development, structures, excavation, or clearing of existing vegetation may occur within the buffer.
8. No additional flood control structures may be constructed on the project parcel.
9. Development shall be limited to the proposal as submitted. Modifications or expansion of the development shall require additional environmental review.
10. The parcel's approach shall:
  - a. remain the same. No additional approaches to Highway 10/US 97 shall be permitted; and
  - b. be extended 50 feet from the centerline of US 97; and
  - c. have its permit updated
11. A fully executed Burlington Northern crossing permit shall be obtained and recorded before operation of the facility.
12. The project shall comply with all aspects of the International Fire Code Appendix D including twenty (20) foot wide access roads.
13. All current and future landowners must comply with the International Fire Code.
14. All development, design and construction shall comply with all Kittitas County Codes and the International Fire and Building Codes.
15. Building permits will be required for any construction or structure not exempted by 2012 IBC 105.2 Work exempt from permit.
16. Addressing of the parcel shall be clearly visible from the road.
17. All gates shall be a minimum of 12' wide. If gates are locked, keys or equivalent shall be provided to all emergency services.
18. The dike road (defined by easement) shall remain free of encroachments, fences, structures, vehicles, and debris.
19. On-site stormwater management that conforms to the specifications of the most current version of the Stormwater Management Manual for Eastern Washington is required of this development. Stormwater systems shall be designed to store stormwater generated by a 24-hour, 25-year storm event. Development of the site shall be in conformance with the stormwater report furnished with the application. Any deviation from the proposal as presented will require a stormwater report addendum, and may require at the discretion of the Planning Official, an amendment to the Conditional Use Permit.
20. Should ground disturbing or other activities related to the proposed plat result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State DAHP. Work shall remain suspended until the find is assessed and appropriate consultation is conducted. Should human remains be inadvertently discovered, as dictated by Washington State RCW 27.44.055, work shall be immediately halted



in the area and contact made with the coroner and local law enforcement in the most expeditious manner possible.

21. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties and Highway 10/US 97.
22. Developed areas of the project shall maintain vegetation control for fire protection purposes; vegetation in an around solar panels and other infrastructure shall be kept at or below six (6) inches. Other vegetation control measures may be required by the Kittitas County Fire Marshal.
23. Prior to final approval of the conditional use permit, the applicant shall provide to the County for its review and approval a Project Decommissioning and Site Restoration plan to meet the event of decommissioning of the project. Such Plan shall be prepared in sufficient detail to identify, evaluate, and resolve all major environmental, and public health and safety issues reasonably anticipated by the Applicant at the time of decommissioning of the project. The plan shall describe the measures that will be taken to decommission the project and restore the project site, including any measures necessary to finance the operation. Decommissioning the project shall involve removal of the project's components, including, without limitation, the solar panels, panel trackers, anchors, supports and mounts, inverter buildings, underground electrical conductors, substation, and operations and maintenance building, and any foundations or permanently fixed anchors; the re-grading of any areas significantly impacted by the removal of any components; removal of Project maintenance roads and overhead cables (except for any roads, buildings, and/or power cables that project area landowner may wish to retain).
24. The subject property is within or near designated mineral resource lands on which a variety of commercial activities and mineral operations may occur that are not compatible with residential or other development for certain periods of limited duration. Commercial natural resource activities and/or mineral operations performed in accordance with County, State and federal laws are not subject or legal action as public nuisances.

#### RECOMMENDED FINDINGS OF FACT

1. One Energy Development LLC authorized agent for Pat Taylor, landowner, submitted a conditional use application and shoreline substantial development permit for the construction and operation of a 13.6 acre photovoltaic solar power generation facility on approximately 112 acres. The subject property is zoned Agriculture 20. This "Utility" (KCC 17.61.010{1}) is subcategorized as a major alternative energy facility (KCC 17.61.010{9}), and as such is a conditional use for the zone 17.61.020(4)(b).
2. This proposal is located approximately 3.5 miles northwest of Ellensburg on Highway 10 (US 97), in a portion of Section 20, T18N, R18E, WM in Kittitas County, bearing Assessor's map number 18-18-20030-0006. Access is provided for via an existing permit with WSDOT.

3. Site Information:

Total Property Size:	112 acres
Total project size:	13.6 Acres
Number of Lots:	1. No new lots are being proposed
Domestic Water:	None required or planned at this time
Sewage Disposal:	None required or planned at this time
Power/Electricity:	Kittitas County PUD
Fire Protection:	Kittitas Valley Fire and Rescue
Irrigation District:	Ellensburg Water and Olsen Ditch

4. Site Characteristics:
  - North: Private Residential Farming and Grazing
  - South: Private Residential Farming and Grazing
  - East: Private Residential Farming and Grazing
  - West: Private Residential Farming and Grazing
5. Site Characteristics: The subject property is generally flat pasture land with perimeter and occasional internal clumps of deciduous trees and brush.
6. The Comprehensive Plan designation is "Mineral Land."
7. The subject property is zoned "Agriculture 20". Major alternative energy facilities are a conditional use in the zone (KCC 17.61.020(4)(b))
8. The conditional use permit application was submitted to Community Development Services (CDS) on September 26th, 2014. The shoreline substantial development permit was submitted to CDS on November 3rd, 2014. Both of these applications were deemed complete on December 11th, 2015. The Notice of Application for the conditional use and shoreline substantial development permits was issued on January 19th, 2015. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on February 19th, 2015.
9. Kittitas County acted as the lead agency for the SEPA Environmental Checklist; a Mitigated Determination of Non-Significance (MDNS) was issued for this project on March 25, 2015. The appeal period for this SEPA determination ended on April , 2015 at 5:00 p.m. No appeals were filed.
10. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan.
11. Staff conducted an administrative critical area review in accordance with KCC 17A and found that this proposal contains a wetland and is adjacent to a type 2 fish bearing stream. The applicant provided a critical areas assessment prepared by Sewall Wetland Consultants for the site and it is included in the Record. The onsite wetland has a designation of PEMC. Kittitas County agrees with the critical areas assessment that the wetland (identified as 'A' in the report) is a class IV and that no buffer is required. Kittitas County further agrees that the use of pin piles does not constitute fill of waters of the US and that no impacts or fill would occur from the project as proposed. Other wetlands on the property will not be impacted by the project as proposed, if expansion is contemplated at some point in the future, additional environmental review will be required. Kittitas County agrees with the comments provided by The Washington State Department of Fish and Wildlife regarding Dry Creek's designation as a Type 2 Fish Bearing stream and will enforce the recommended 70 buffer as well as prohibit the removal of trees and vegetation inside the buffer.
12. The proposal is covered by a Shoreline Master Program 'Rural' designation. Kittitas County finds that utilities are permitted within the "Rural" designation under the SMP (section 37) and that the development portion of the proposal is approximately 3,000 feet from the ordinary high water mark of the Yakima River. Kittitas County further finds that the project as proposed is designed and will be installed in a manner which would result in minimal damage to the normal qualities of the shoreline area, that the project as proposed will not destroy scenic views, and that as conditioned the project will restore the area to a status comparable to its current state at such time as it may be decommissioned. As conditioned, the proposal is consistent with the Shoreline Master Program.



13. This proposal is consistent with the Kittitas County Zoning Code as proposed under KCC 17.61 Utilities as a major alternative energy facility, a conditional use for the Agriculture 20 zone.
14. This proposal is consistent with the Kittitas County Zoning Code for Conditional Uses. The proposed conditional use will be adequately served by rural levels of service. As conditioned, staff finds the proposal is 1) desirable to public convenience, 2) will not be detrimental to public health, safety or welfare, 3) is not economically detrimental to the public, and 4) is adequately serviced by public facilities.
15. This proposal is consistent with the Kittitas County Building Code as conditioned.
16. As conditioned, the proposal is consistent with the provisions of KCC Title 12.
17. The following agency provided comments during the comment period: Kittitas County Public Works, Washington State Department of Transportation, Washington State Department of Fish & Wildlife, Washington State Department of Health, Kittitas County Fire Marshal, and Kittitas Valley Fire & Rescue. These comments have been included in the index file record and were considered when preparing the recommended conditions for this proposal.
18. The following individuals provided comments during the comment period. Sylvia Shriner, Martha Duskin-Smith, Rance Dewitt, and Larry Lowther. These comments have been included in the file record. All expressed support for the project as presented and were considered when preparing the recommended conditions for this proposal.
19. The Kittitas County Community Development recommended approval of the requested permits, subject to the recommended conditions of approval.
20. An open record public hearing after legal notice was held on April 9<sup>th</sup>, 2015.
21. Appearing and testifying at the hearing on behalf of the applicant were Jennifer Bradford and Pat Taylor. Ms. Bradford testified that she is an agent authorized to appear and speak on behalf of the applicant. She stated that she is the Director of Project Development for the applicant, One Energy Development, LLC. She was not sworn in as a witness and did not provide any sworn testimony. She did indicate, on behalf of the applicant, that all of the proposed conditions of approval were acceptable. Mr. Taylor testified that he was the property owner for the project location. Mr. Taylor testified that all of the proposed conditions of approval were acceptable to him. He indicated that he would be entering into a long term lease with the applicant.
22. At the open record public hearing, the following exhibits were admitted into the record:
  - 22.1 Exhibit 1. Pre-Application Meeting Documents - 1/22/2014.
  - 22.2 Exhibit 2. Pre-Application Meeting Documents - 8/27/2014.
  - 22.3 Exhibit 3. Receipts - 9/26/2014.
  - 22.4 Exhibit 4. Railroad Crossing Permit - 6/23/2014.
  - 22.5 Exhibit 5. Pre-Application Correspondence - Multiple Dates.
  - 22.6 Exhibit 6. Stormwater Report – 8/2014.
  - 22.7 Exhibit 7. Critical Areas Report – 6/27/2014.
  - 22.8 Exhibit 8. SEPA Checklist – 9/26/2014.
  - 22.9 Exhibit 9. Application – 9/26/2014
  - 22.10 Exhibit 10. Deem Incomplete Letter – 10/10/2014.
  - 22.11 Exhibit 11. Shoreline Substantial Development Application – 11/3/2014

11/3/2014

- 22.12 Exhibit 12. Deem Complete Letter and Email – 12/11/2014.
- 22.13 Exhibit 13. Affidavit of Posting Documentation – 12/19/2014.
- 22.14 Exhibit 14. Site Visit Photos – 12/19/2014.
- 22.15 Exhibit 15. Critical Areas Checklist – 12/18/2014.
- 22.16 Exhibit 16. Planner’s Evaluation Maps and Air Photos – 12/19/2014.
- 22.17 Exhibit 17. Notice of Application Documentation – 1/19/2015.
- 22.18 Exhibit 18. Transportation Concurrency Correspondence – 1/15/2015.
- 22.19 Exhibit 19. Project Brief From Applicant – 1/20/2015.
- 22.20 Exhibit 20. Comments – KVFR – 1/19/2015.
- 22.21 Exhibit 21. No Comments – Cascade Irrigation – 1/20/2015.
- 22.22 Exhibit 22. Comments – Fire Marshal – 1/20/2015.
- 22.23 Exhibit 23. Comments – State Dept. of Health – 1/20/2015.
- 22.24 Exhibit 24. Comments – Dewitt – 1/26/2015.
- 22.25 Exhibit 25. Comments – Lowther – 2/17/2015.
- 22.26 Exhibit 26. Comments – Duskin-Smith – 2/17/2015.
- 22.27 Exhibit 27. Comments – State Dept of Ecology – 2/19/2015.
- 22.28 Exhibit 28. Comments – State Dept of Transportation – 2/18/2015.
- 22.29 Exhibit 29. Comments – Public Works – 2/19/2015.
- 22.30 Exhibit 30. Comments – State Dept of Fish and Wildlife – 2/18/2015.
- 22.31 Exhibit 31. Excerpts from the Shoreline Master Program – 3/1975.
- 22.32 Exhibit 32. Transmittal of Comments – 3/16/2015.
- 22.33 Exhibit 33. Letter from Yakima Nation & Transmittal – 2/25/2015.
- 22.34 Exhibit 34. Notice of SEPA Action and Public Hearing Documentation -3/25/2015.
- 22.35 Exhibit 35. Mitigated Determination of Non-Significance – 3/25/2015.
- 22.36 Exhibit 36. Mineral Lands of Long Term Significance Documentation 6/2008.
- 22.37 Exhibit 37. Comments – Shriner – 2/19/2015.
- 22.38. Exhibit 38. The re-issued affidavit of posting.
- 22.39 Exhibit 39. Staff power point presentation provided at the hearing.

- 23. No member of the public testified at this hearing.
- 24. Public agencies with potential jurisdiction over this project were given an opportunity to review the proposal. Agencies that responded with comments were admitted into the record and considered by the Hearing Examiner in rendering this Decision.
- 25. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

RECOMENDED CONCLUSIONS OF LAW

- 1. The Hearing Examiner has been granted authority to render this Decision.
- 2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.



3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Kittitas County Code Title 17 Zoning, Title 17A Critical Areas, Title 14.04 Building Code, Title 12 Roads and Bridges and the Kittitas County Shoreline Master Program.
6. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

This permit is granted pursuant to the Shoreline Master Program of 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.

Approval recommended this 15<sup>th</sup> day of April, 2015.

KITTITAS COUNTY HEARING EXAMINER



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Andrew L. Kottkamp

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