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December 12, 2017

Land use #5

Energy Facilities Site Evaluation Council

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Chairman Roselyn Marcus

Thank you for the opportunity to comment on TUUSSO's proposed industrial scale solar production facility planned on five approximately 50 acre sites located on farmland in Kittitas County.

This permit application and this project are not eligible for an expedited process. It fails to meet the minimum requirement as outlined in WAC 463-43-040 which states:

The council prior to making a determination of eligibility for expedited processing shall:

- (1) Conduct a public informational meeting in the county
- (2) **Determine at a public hearing within sixty days of receipt of an application if the proposed site is consistent and in compliance with city, county or regional land use plans and zoning ordinances; (emphasis added)**

In addition an eligible proposal cannot be expedited unless the council finds that

(1) **The environmental impact of the proposed energy facility will be mitigated to a nonsignificant level under the State Environmental Policy Act; and**

(2) **The project is found to be consistent and in compliance with city, county, or regional land use plans. (Emphasis added.)** -- WAC 463-43-040

Here are a few highlights of why this application for expedited process is inconsistent with city county and regional land use and with the State Environmental Policy Act.

On November 30, 2017 Judge Hopper in the superior Court of Kittitas County upheld the county's current regulations regarding siting solar power projects on agriculture resource lands when she denied an appeal by Iron Horse Solar LLC to locate an industrial solar facility solar on 48 acres of farmland..

1) In particular, the Judge found that

"This land use decision was not outside the authority or the jurisdiction of the Kittitas county board of commissioners under RCW 36.70c.130(1)(e)

2) In addition the County Commissioners passed an ordinance 2017-004 which has placed a moratorium on issuing further solar energy permits within the county. The county is mapping farms sites and other areas of the county where solar energy production would be welcome.

3) An experienced county real estate broker, Marlene Pfeifer said there are 18,000 acres of non-irrigated land in the county that would be suitable for solar facilities, according to the criteria outlined by the solar companies. – December 7 Ellensburg Daily Record.

4) The proposed solar energy proposal is detrimental to the economic welfare of the county. Kittitas county agriculture contributes over \$68 million to the County's economy annually.

We feel that the TUUSSO proposed energy facility has not met the standard necessary to qualify for the use of an expedited process. The following questions need to be resolved before they can qualify:

1. Has the environmental impacts of the TUUSSO proposed energy facility been mitigated to a nonsignificant level under the State Environmental Policy Act;

In Judge Hopper decision the solar project raised concerns that "the aesthetics of thousands of steel racks of panels, up to eight feet high, which are supported by steel pillars, driven 6 to 8 feet into the ground throughout 47.5 acres of primes growing land, as well as accompanied by boxes and instruments of electrical equipment. Local persons were concerned with sixty acres of panels surrounded by huge chain link fence eight feet high with strands of barbed wire at the top that could be compared to heavy industry or a prison."

According to the judge: "The impact on the view from surround neighborhood at this valley location is indefensible. The commissioners were entitled to consider the aesthetics of such a facility." Page 22 of the November 30, 2017 decision.

In addition the judge found on page 23 that "There were assertions about glare, about noise, and about the impact to wildlife from neighbors who have seen wildlife on that particular property, which commissioners were entitled to believe despite SEPA findings."

And further on page 24, the judge said that "the finding that the proposed use (in an agriculture zone) in the proposed locations is not desirable to the public convenience and that it is detrimental to the character of the surrounding neighborhood. There is substantial evidence in the record as a whole to support the finding.

2. Has the proposed TUUSSO solar energy facility project been found to be consistent and in compliance with city, county, or regional land use plans. (Emphasis added.)?

The five proposed solar energy sites do not meet the requirements of Kittitas County ordinances which authorize major alternative energy facilities in the Agriculture-20, forest and range, commercial agriculture, and commercial forest zones.

In particular, the proposed energy sites would reduce by 250 acres the amount of irrigate land that is currently in agriculture is detrimental to the economic welfare of the county. Kittitas county agriculture contributes over \$68 million to the County's economy. Timothy hay is one of the prominent crops grown in the area of proposed sites.

- An acre of Timothy grosses a farm-gate value, \$ 1,875 per acre (2017). Although yields and prices vary from year to year, the harvest happens every year with a annual benefit to the community.
- If the hay harvest on 250 acres is replaced with the TUUSSO solar project, the loss to the community would be \$468,750 – nearly a half million dollars. This hay harvest generates

more economic activity in county when these farm gate dollars are spent and re-spent (1.6 economic multiplier) within the community to generate nearly \$700,000 annually.

-- **KCC 17.60A.015 2.** Requires that "the proposed energy sites at the proposed location will not be unreasonably **detrimental to the economic welfare of the county**

3. The Expedited Process can not be used until TUUSSO can demonstrate that they are consistent with the standards set in the county's comprehensive plan for location of energy sites.

Judge Hooper found that locating the Iron Horse solar site was not consistent with KCC 17.60A.015 6. which requires "the proposed use be **consistent with the intent and character of the zoning district** in which it is located."

According to KCC 17.60A.015 7.conditional uses permits located outside of Urban Growth Areas must preserve the "**rural character**" as defined in the Growth Management Act (RCW 36.70A.030(15))

4. The expedited process can not be used until the effect of these solar energy sites are mitigated to not compromise the long term viability of the county's agriculture production or to can demonstrate how a 30 year lease on prime agriculture land will preserve fertile farm lands from encroachment by non agriculture land uses

- **KCC 17.60A.015 7 D** a solar energy sites can not compromise the long-term viability of designated resource lands; and

- **KCC 17.31.010** states that "the intent of this zoning classification is **to preserve fertile farmland from encroachment by nonagricultural land uses** and protect the rights and traditions of those engaged in agriculture. (Ord. 96-15 (part), 1996)

5. **State Environmental Policy Act (SEPA).** The installation of five solar productions sites for a 30 year period would constitute a loss or destruction of prime farmland. Therefore the expedited process can not be used until the proposed solar sites are mitigated to a non-significant level to comply with SEPA.

In SEPA, in 197-11-330(3)(i), the proposed projects can not "Adversely affect environmentally sensitive or special areas, such as loss or destruction of historic, scientific, and cultural resources, parks, *prime farmlands*, wetlands, wild and scenic rivers, or wilderness;" (*Emphasis added.*)

In conclusion we ask that the EFSEC make a determination and declare the proposed project:

- Has not been adequately mitigated to meet the standards of SEPA; and that
- Is inconsistent with the county's moratorium on new solar energy projects and that it
- Is inconsistent with the county's comprehensive plan and zoning and therefore the expedited process cannot be used.

And further we request that TUUSSO provide an environmental impact analysis to comply with SEPA and work with the Kittitas County to find more suitable sites among the 18,000 acres of non-irrigated land in the county that are more be suitable for the proposed solar facilities,

Sincerely,

Dick Carkner.