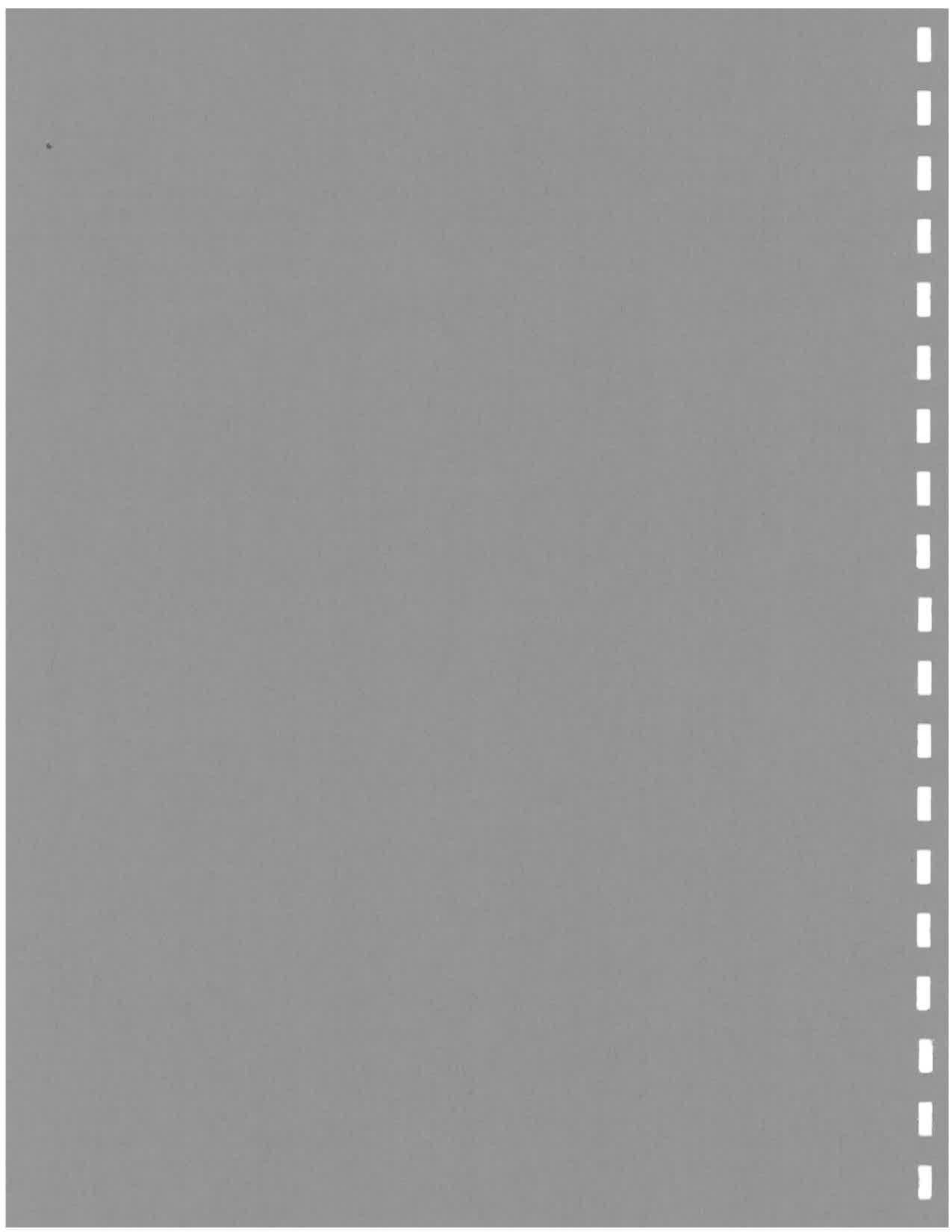


## 4. Response to Comments

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## **4.1 Public Comment Letters and Responses**

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April 18, 2001

TO: Cle Elum City Council  
 Cle Elum Planning Commission

FROM: Evelyn Nelson, Superintendent  
 Cle Elum-Roslyn School District

RE: Cle Elum UGA Environmental Impact Statement (EIS)

The Cle Elum-Roslyn School District would like to take this opportunity to express concerns regarding the published EIS for the Cle Elum UGA. Upon reviewing the document we are left with a number of concerns. Those include:

1. Appendix H, Fiscal and Economic Impact Analysis, page 110 states, "The 25-acre land donation to the school by the applicant has been deemed adequate to accommodate such growth." Four major limitations to this statement include:
  - a. Not all of the acreage is useable as required in state law (WAC 180-26-020) for a school site. (See diagram on page 2-5, main text) 1
  - b. The value of the parcel does not offset the local fiscal impact. The fiscal aspects of anticipated growth in student enrollment and subsequent housing are references on pages 3.19-15 and table 3.19-6. The information cites an 80% state match for construction costs. Those construction costs are also listed as \$110.00 per square foot. These statistics do not match the school district's capital facilities plan data. The findings resulting from the school district's research on school facilities construction reveal a current state match of 30.73% of those items which the state will match or 13.23% of the total cost for constructing a new school. The current cost of construction is \$182.58 per square foot for an elementary school, \$214.96 per square foot for a middle school and \$246.70 per square foot for a high school. 2
  - c. The cost for interim housing for students is borne totally by the local community; state matching funds are not available for such costs. 3
  - d. The total fiscal impact of space needs is estimated on page 114, Appendix H to be \$1.5 million in excess of state matching funds. The 4

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2690 SR 903 Cle Elum, Washington 98922 509.849.2393 • Fax 509.849.2404




school district's research indicates that the space needs will cost \$25,647,114, of which \$3,088,670 is state match and \$22,558,444 is local responsibility. Eighty percent of these costs are the result of anticipated student enrollment from the Cle Elum UGA and MountainStar Resort.

4 (cont.)

2. School district concerns not addressed in the EIS include:

- a. Anticipated growth in student population will far exceed the district's current septic capacity. 5
- b. Anticipated growth in student population and expansion of facilities will cause an increase in water usage. Availability of water resources to meet these needs is a concern. Questions remain concerning the district's use of potable water as a source of irrigation. 6
- c. The current UGA boundary may create a fiscal impact to the school district if necessary services must be purchased from a neighboring municipality. 7
- d. Increased assessed valuation is seen in the EIS as a solution to local fiscal impacts. However, increased assessed valuations tend to follow the arrival of new students by a period of 2.5 to 3 years. How should the district offset the impact of interim housing needs during this time period? 8
- e. For a district to realize any increase in revenue from increased assessed valuation, it must first successfully validate and pass a levy or bond measure by a supermajority vote (60%). Thus, increased assessed valuation does not guarantee increased revenue. 9

The aforementioned limitations cause concern by school officials on behalf of the district, its children and the local community. Therefore, we strongly encourage county and city officials to support the district's position that a signed mitigation agreement must be in effect prior to issuance of any permits or approvals. 10

  
Evelyn Nelson  
Superintendent and Secretary to the Board of Directors

Cc City of Roslyn

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2690 SR 903 Cle Elum, Washington 98922 509.649.2393 • Fax 509.649.2404

**Comment 1**

Comment noted. Land for school mitigation would be required to meet state law (WAC 180-26-020). Since the Draft EIS was published, a mitigation agreement between Trendwest and the Cle Elum-Roslyn School District has been negotiated. The agreement includes dedicating a 25-acre site to the School District suitable for new construction. The donation would occur upon the recording of the first plat in either the MPR or the UGA. Refer to Section 3.18, Fiscal Conditions, of the Final EIS for additional information.

**Comment 2**

Comment noted. The analysis of potential enrollment-induced impacts on the School District, including capital facilities cost projections, has been revised to reflect the state of Washington capital facilities matching rate and school construction costs identified in the Cle Elum-Roslyn School District Capital Facilities Plan, which was published after the Draft EIS was issued. Refer to Section 3.18, Fiscal Conditions, and Appendix D of the Final EIS.

**Comment 3**

Comment noted. Section 3.18 of the Final EIS and Appendix D have been revised to reflect costs of single and double portable classrooms identified in the Cle Elum-Roslyn School District Capital Facilities Plan. Purchase of portable classrooms and Trendwest's fiscal responsibility are outlined in the mitigation agreement between Trendwest and the Cle Elum-Roslyn School District.

**Comment 4**

Refer to the responses to Comments 2 and 3, above.

**Comment 5**

The Cle Elum-Roslyn School District is included in the regional wastewater service area. The School District is included in flow projections for the regional wastewater treatment plant.

**Comment 6**

Comment noted. As part of the RIDGE Settlement Agreement, Trendwest has agreed to mitigate for increased water demands on the City of Roslyn. Updated language was added to Section 3.4 of the Final EIS.

**Comment 7**

Comment noted. Mitigation for potential fiscal impacts on the School District is outlined in the agreement between Trendwest and the School District. Refer to the responses to Comments 1, 2, and 3 above and to Section 3.18 and Appendix D of the Final EIS for updated analysis and discussion of impacts and mitigation.

**Comment 8**

Refer to the response to Comment 3, above.

**Comment 9**

Yes, local voters can reject a School District levy. However, inherent in the statement that the School District would operate throughout the project development period is the assumption that future revenue potential would include local bond funds and operations and maintenance (O&M) levies. This reflects the fact that the School District has historically been funded, at least in part, by such local levies. Section 3.18 of the Final EIS identifies any failure to pass these levies as potentially creating adverse fiscal impacts. The mitigation agreement between Trendwest and the School District mitigates for potential shortfalls in revenue necessary for capital facilities construction only.

**Comment 10**

Comment noted. Since the Draft EIS was published, a mitigation agreement between Trendwest and the School District has been negotiated.





received  
4/17/2001

**Kittitas County Solid Waste Programs**  
925 Industrial Way, Ellensburg, WA 98926  
Telephone: (509) 962-7070 Fax: (509) 962-7087

April 17, 2001

Mr. Brian Carrico, Planner  
City of Cle Elum  
119 West First Street  
Cle Elum, WA 98922

**RE: Solid Waste Comment on the Draft EIS for the City of Cle Elum Bullfrog UGA**

Dear Mr. Carrico:

Kittitas County Solid Waste staff reviewed the Cle Elum UGA Internal Review Draft EIS and provided written comments by letter dated January 12, 2001. We have reviewed the Draft EIS and find that Solid Waste issues have not been adequately addressed.

The document, as submitted, is not in compliance with RCW 70.95, the 1997 Kittitas County Solid Waste Management Plan or the Kittitas County Board of Health Ordinance #1999-01.

The following are issues for consideration and are not to be considered all-inclusive but address the discrepancies and inconsistencies noted:

1. **Solid Waste Management Plan** – At this time, a project specific amendment to the Kittitas County Solid Waste Management Plan has not been received in this office. Impacts to the Solid Waste System can not be determined until such time as that plan has been received and reviewed in accordance with the rules and regulations as set out in the Countywide Solid Waste Management Plan. This project was specifically excluded from the 1997 Countywide Solid Waste Management Plan, adopted by all entities in Kittitas County, due to the unavailability of information relative to the proposed project. Until such time as a plan amendment for this project is received and reviewed, the EIS has inadequately addressed impacts to the Solid Waste System.
2. **Fiscal and Economic Impacts** – Solid Waste is not addressed in this document, we therefore consider the document inadequate and are unable to determine the fiscal and economic impacts to the Solid Waste System.
3. **Inert/Demolition Debris** – We can find no mention of how Inert and Demolition Debris will be handled during the construction phases of this project. How does Trendwest intend to handle this waste stream? What quantities are expected? What manner of recycling will be done and when? Where will it be disposed?
4. **Moderate/Hazardous Risk Waste** – How will this waste stream be tracked and handled during construction or occupancy? What quantities are expected? Where will it be disposed?

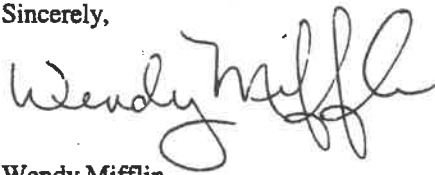
**Letter 2**

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- 5. **Yardwaste** – How will this waste stream be tracked and handled from the project? What quantities are expected? Where will it be disposed? Will it be composted? | 6
  
- 6. **Waste Reduction/Recycling** – Not addressed in the Draft EIS. What recycling services will be offered in this development? What commodities will be recycled? What quantities are expected? Where will the recyclables go? How will this waste stream be tracked? | 7
  
- 7. **Municipal Solid Waste** – Not adequately addressed in the Draft EIS. What quantities are expected from the project? What impacts will be faced at the Upper Kittitas County Transfer station in order to handle this waste stream? What infrastructure will need to be added in order to accommodate this waste stream? What level of service will be provided to the residents and guests of this project? | 8
  
- 8. **Septage** – Will there be septage generated from this project? If so, how much and where will it be disposed of? | 9
  
- 9. **Stall Wastes** – What quantities will be generated? What permits are required? Where is the approved compost site? Where and how will it be disposed of? | 10

Thank you for the opportunity to comment. We look forward to working with your office and Trendwest staff to address the inadequacies noted above for inclusion in the final EIS document. If you have any questions, or concerns, please feel free to contact me.

Sincerely,



Wendy Mifflin  
Director

Cc: SWAC Members

**Comment 1**

Trendwest is participating with the City of Cle Elum and the County in a project-specific amendment to the Kittitas County Solid Waste Management Plan (SWMP) to address the projected waste streams from the UGA development. This amendment is coordinated with efforts to revise the SWMP to address waste streams and programs for the MPR development. A project-specific amendment to the SWMP for Trendwest-related development in the UGA has been drafted and is being reviewed by the City of Cle Elum. The City will define the solid waste management plan for other uses in the UGA, which include the Business Park, Community Recreation Center, cemetery, school expansion areas, and the water treatment plant. Refer to Section 3.16 of the Final EIS and Section 5 of Appendix E for estimated solid waste loadings (including estimates for the Business Park) and measures for solid waste management.

**Comment 2**

Refer to the response to Comment 1, above.

**Comment 3**

Solid waste disposal fees and associated costs for solid waste disposal were not separately addressed in the Draft or Final EIS. It is assumed that service fees would be set to fully compensate for service costs. This is identified in Section 3.18, Fiscal Conditions, of the Final EIS. As described above, Trendwest would contribute a pro-rata share of the costs to construct a new or expanded transfer station, as necessary, to handle projected waste streams. Refer to the response to Comment 1, above.

**Comment 4**

Inert construction and demolition debris (CDL) is quantified and discussed in Section 3.17 of the Draft EIS. CDL that is not recycled would be collected onsite and hauled to the Ryegrass landfill. Refer to Section 3.16 and Appendix E of the Final EIS for additional discussion of onsite CDL management under Alternative 5.

**Comment 5**

Hazardous waste generation is quantified in Section 3.17 of the Draft EIS (Alternatives 2, 3, and 4) and in Section 3.16 of the Final EIS (Alternative 5). Residents and commercial operators/tenants would dispose of hazardous waste at local community-sponsored disposal events (see Appendix E).

**Comment 6**

Yard waste production is quantified in Section 3.17 of the Draft EIS (Alternatives 2, 3, and 4) and in Section 3.16 of the Final EIS (Alternative 5). Yard waste disposal will either be handled by Waste Management of Ellensburg or its successor or by self-haul to an approved transfer station (see Appendix E).

**Comment 7**

Recycling within the UGA will be encouraged. Refer to the mitigation measures in Section 3.16 and Appendix E of the Final EIS for additional discussion of recycling.

**Comment 8**

Municipal waste generation is quantified and potential impacts are discussed in Section 3.17 of the Draft EIS (Alternatives 2, 3, and 4). Impacts associated with Alternative 5 are discussed in Section 3.16 and Appendix E of the Final EIS. Waste Management of Ellensburg or its successor will collect UGA waste. Refer to the response to Comments 1 and 3 above for additional information.

**Comment 9**

Septage waste is discussed in Appendix E of the Final EIS. Septage waste under Alternative 5 would be minor. Septic tanks associated with a temporary sales and maintenance facility (prior to the availability of sewer service) and a maximum of three permanent comfort stations (serving trails and/or a golf course, depending on the alternative) would be pumped as needed every three to five years and hauled to the County evaporation lagoons at Ryegrass landfill. The regional wastewater treatment plant may include a septage receiving facility that could accommodate waste from the UGA.

**Comment 10**

Stall wastes for the Horse Park are discussed in Section 3.17 of the Draft EIS. Under Alternative 5, the Horse Park is not part of the proposed project. Under the terms of its agreement with Trendwest, the Washington State Horse Park Authority will be responsible for all environmental compliance related to that facility.

received 4/25/2001 City of Cle Elum

March 25, 2001  
POB 622  
Roslyn, WA 98941

To: The City of Cle Elum  
RE; Comments of the DEIS of the proposed Cle Elum UGA

"What do we want? We want more school houses and less jails, more books and less guns, more learning and less vice, more leisure and less greed, more justice and less revenge... we want more opportunities to cultivate our better natures." So said Samuel Gompers decades ago.

What do we want here, what do we all want:

- + jobs.
- + Cle Elum as a vibrant community, not simply an "easy drive through", and we want this for all the Upper County municipalities and communities.
- + clean air and water.
- + some peace and quiet.
- + community (human and natural).
- + affordable services that meet our needs and that have predictability in rates and what's delivered.
- + an ability to know what exactly all this development is, before it happens.

1

what are we getting?

- + a non-specific "phased environmental review" of a variety of aspects of development that are really part of one huge development. There are a lot of projects that should be in this DEIS. Examples include the MPR, the Horsepark, the water supply for the UGA and the MPR, related impacts on other water consumption and quality, the water delivery system (including intakes), the sewer and stormwater systems, Cle Elum's proposed re-do of its zoning code, the range of secondary development and speculation that is occurring in the Cle Elum Lake and River corridor and elsewhere in the county, I could go on and on.
- +shifting corporate entities that will be involved in all this development (JeldWen, Trendwest Resources, Trendwest Investments, Trendwest Properties, MountainStar Resources, WorldMark, and whatever comes next).
- + unidentified water use.
- + private residential development (long and short-term occupancy) vs. integrated community housing (check out the golfcourse lots and "equestrian village" vs. apartment house sitings, compare the MPR development types to those in the UGA).
- + how many equestrian centers? So far I can count the Horse Park, the "temporary equestrian area," and another equestrian center in its own "village." How many of these convert to snowmobiles in the winter?
- + storm water run-off from both MPR and UGA that contaminates surface water (water that is contiguous with the Cle Elum River).
- + jammed traffic. Think about Bullfrog road, including its freeway entrance and exit with both the MPR and UGA in place. Think about 903 through Ronald and Roslyn coming into this. Consider the part of Cle Elum between the UGA and where anyone can exit or enter I90 east.

2

3

4

5

6

7

March 25, 2001  
POB 622  
Roslyn, WA 98941

I could go on and on about what is not addressed in this DEIS, nor in the MPR EIS. I could write pages on what is not addressed in the proposed POSSIBLE mitigation for those impacts that are identified. RIDGE will do this in writing. Tonight, in the very few minutes I am allowed, I want to speak to what will be lost and destroyed with Trendwest's development.

Respect for this place will be destroyed. The piecemeal quantification of impacts into what can be measured in a few weeks of monitoring does not begin to address this. The various corporate entities that include Trendwest or Mountainstar in their names have no respect for the property they currently hold title to.

What do I mean by "this place?"

The property Trendwest currently holds title to is a grand living place that is more of the natural world than not: you can see the stars at night and the weather during the day, you can smell the river, the trees, the wetlands, the mushrooms. You can hear the wind and such trees as are left, and animals, and the river. You can sometimes even hear the land, as I have, when spring melt loosens rocks in some of the cliffs and there are rockfalls, or when rains whispers on the rocks. This place right now is bigger than what humans have done to it.

When TW "builds out" and the entire development on all this property is "operational" this place will no longer be. There will be lots of buildings and roads and right of ways and golfcourse holes. There will be a comfortable way to tour virtually every foot of the physical location. There will not be a grand living place that is more of the natural world than not.

When Trendwest has "had its way" with this place, much will be destroyed. Not lost, because it will have been right here until it is gone.

Then, when I come from behind, toward an older gentleman, we will not be following a game trail. We will not be on one of the benches above the Cle Elum River. I will not need to make extra noise so he is not unduly startled. He will not jump and be surprised to see another human; nor will he say, "Jeez, I thought you were a big old elk."

Mitigate that.

*Ellie Belew*  
Ellie Belew

8

**Comment 1**

Comment noted.

**Comment 2**

Under certain circumstances, phased environmental review is authorized under the State Environmental Protection Act (SEPA) (WAC 197-11-060[5]). The Horse Park was programmatically analyzed in the Draft EIS; however, the site design has since been changed. Alternative 5 does not include a Horse Park proposal and instead sets aside a Reserve tract. Trendwest has offered to donate land for a Horse Park contingent, in part, on the Washington State Horse Park Authority completing all required environmental review and having funds available for the project.

As discussed in Section 1.6 of the Draft EIS, the UGA and MPR are independent projects. The purpose and need for the two projects are different, and the two projects fall under different legislative mandates and local code requirements. Indirect impacts from induced growth and cumulative impacts from construction of the UGA and MPR are addressed under each element of the environment in the Draft and Final EISs.

The water and wastewater treatment plants currently in the design and planning phases are facilities proposed by the City of Cle Elum to implement the City's water and wastewater comprehensive plans. Some upgrades of those treatment plants, and accompanying environmental evaluations, would have been necessary to meet the City's projected demand even without the Trendwest project in the UGA. The City of Cle Elum is lead agency on construction of both the water and wastewater treatment plants, and is responsible for environmental review and compliance for those projects. A discussion of potential water quality impacts from the regional wastewater treatment plant is included in Section 3.16 and Appendix E of the Final EIS.

The proposed action includes adoption of a subarea plan and zoning regulation for the UGA that will take effect upon annexation of the property.

**Comment 3**

Comment noted.

**Comment 4**

Comment noted. Alternative 5 does not include timeshare condominiums, a lodge, or a golf course.

**Comment 5**

Comment noted. Alternative 5 does not contain a Horse Park or an equestrian village.

## **Letter 4**

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### **Comment 6**

Stormwater runoff would not contaminate the Cle Elum River. Refer to Section 3.3, Water Quality, of the Final EIS for an expanded analysis of potential water quality impacts.

### **Comment 7**

Transportation impacts of both the UGA and MPR are addressed in Section 3.15 of the Draft EIS for Alternatives 2, 3, and 4 and are addressed in Section 3.14 and Appendix F in the Final EIS for Alternative 5. The study area extends from northwest of Ronald to (and including) the I-90/SR 970 interchange. Figure F-5 of Appendix F shows intersections that were analyzed for level-of-service impacts. Mitigation for identified traffic impacts in Years 5 and 10 is in Section 3.14 of the Final EIS and in the Conditions of Approval for the project.

### **Comment 8**

Comment noted.



1)Trendwest has not obtained approval to move water up to the Cle Elum area. Whether they will be able to move water, how much, and the time frame, is highly speculative at this point.

For example, Department of Ecology consultants have raised questions about whether there is a true environmental benefit that comes from TW's tributary (eg, Teanaway, Big Creek) water rights that it proposes to leave instream as mitigation for all this development. TW offers, as mitigation for its water right impacts, to "not divert water from the Yakima River if flows are insufficient to meet Yakima River target flows." UGA DEIS at p. 3.5-35. If TW is not diverting, where will the water come from to serve the UGA and the MPR?

1

2) We continue to disagree with the cumulative effects analysis. The impact of the UGA, combined on the MPR, is likely to be much greater than predicted. The ancillary buildup - already with speculation around the resort - will only intensify with the full buildout of your UGA. Take a drive up Rt. 903 thru Roslyn and Ronald to see what the future will bring. Are the County's lax oversight of development your problem? You bet - as there will not be enough water to go around. TW keeps insisting that folks who work at the resort will live elsewhere in the County. This is unrealistic. So what water will be used to serve all these people? Exempt wells, Roslyn's water, and CE and So. CE water? This is going to put a huge burden on local communities.

2

Because TW has been in litigation over this, they refuse to admit how great the impacts are actually going to be. The MPR analysis was inadequate and underestimated impacts. But they continue to defend that analysis and use the same assumptions because they are still in court. This means that important impacts are not being considered.

3

For example, TW proposes to move water from properties in other places. But many of those "sending" properties are being developed. Example - the [redacted] Teanaway is being logged and will be divided up and sold in the coming years. The DEIS refuses to acknowledge that the impacts associated with moving that water is really connected to the UGA and the MPR. See DEIS at 3.5-37. This is short-sighted and incorrect.

4

With all these people moving into the area, there will be water quality impacts related to impervious surfaces, people pouring bad things down their drains, run-off from road and bridge surfaces, increased use of pesticides and herbicides, etc. It's inevitable. How does CE propose to maintain the relatively pristine environment in those circumstances?

5

Increased population will mean more people <sup>will</sup> want to go <sup>to</sup> the rivers. This will put pressure on fish species at the brink of extinction. How are you going to keep people from fishing, walking around in the rivers, etc.?

6

3) Are we not factoring in swings in precipitation in the region? Here we are in the middle of a drought year – as significant as any we have had in the last 25 years - and there is no mention, from my reading – of options related to low water years. Correct me if I am wrong – but hasn't CE been under a water hookup moratorium for the last several years. Where do you think all of this water will come from in low water years and in competition with downstream irrigators and ranching interests? These questions continue to be left unanswered. I believe it is bordering on criminal for these questions to go unanswered.

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4) Where will the water come from for the Horse Park, Com Ctr., School Expansion - funds to be donated by Trend west?

Len Novak

P.O. Box 775

Roselyn, WA  
98941

**Comment 1**

In December 2000, Trendwest entered into a contract with the Department of Ecology for the purpose of conducting additional environmental review and processing of Trendwest's water rights transfer applications. Additional analysis of the impacts of the transfer of Trendwest's water rights on the Yakima River target flows has been conducted and mitigation measures for these impacts have been identified.

The Water Supply Technical Report Supplement in the Final EIS includes additional analyses prepared by Ecology's Consultant Team, the Department of Ecology, Trendwest, and the City of Cle Elum's consultant team. Proposed mitigation has been expanded since the Draft EIS was published. Trendwest also has withdrawn its request for water rights processing under the Hillis Rule, which requires a determination by Ecology of environmental "benefit." Refer to Section 3.4, Water Supply, and Appendix B for additional detail and an updated discussion of mitigation measures.

**Comment 2**

Comment noted. Since the Draft EIS was published, an analysis of where employment-induced households might locate was conducted to assess potential indirect water demand impacts. Refer to Section 3.4, Water Supply, and Appendix C of the Final EIS for additional detail.

**Comment 3**

Comment noted. As part of the RIDGE Settlement Agreement, the proposed density of the MPR was reduced by approximately 18%. Cumulative impacts from the Reduced Density MPR and Alternative 5 of the UGA are analyzed in the Final EIS.

**Comment 4**

An analysis of fallowed lands was conducted as part of the expanded water supply analysis. This analysis is Exhibit H of the Water Supply Technical Report. Trendwest has agreed to mitigate for these indirect impacts (see Section 3.4, Water Supply, Mitigation Measures).

**Comment 5**

A quantitative water quality analysis for the UGA under Alternative 5 is included in Section 3.3 of the Final EIS. Mitigation measures addressing stormwater runoff, herbicides, and pesticides are identified. In addition, the City is incorporating mitigation for stormwater, including monitoring, as part of the Conditions of Approval for the project.

**Comment 6**

Fishing pressure and mitigation measures for increased human use of streams is addressed in Section 3.7 of the Draft EIS. A more specific fishing pressure analysis was conducted for the Final EIS and is summarized in Section 3.6. The Washington Department of Fish and Wildlife

## Letter 5

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(WDFW) would continue to manage the regional fishery. Trendwest would explore additional angler management options with the WDFW and Yakama Nation.

### Comment 7

The drought of 2001 and the continuous drought period from 1992 through 1994 are factored into the water availability analysis contained in Section 3.4, Water Supply, and in the Water Supply Technical Report Supplement, included as Appendix B to the Final EIS. Section 3.4 describes actual water availability compared with cumulative water demands from the UGA and MPR as well as indirect and offsite demands from employment-induced in-migrant housing and from lands fallowed by Trendwest's water rights transfers. Mitigation to ensure there is no net increase in consumptive use of water in the Yakima River basin as a result of the combined Trendwest proposals is also described in Section 3.4.

### Comment 8

Water demand for the Washington State Horse Park is discussed in Section 3.5 of the Draft EIS. Alternative 5 (Preferred Alternative), submitted since the Draft EIS was published, does not include the Horse Park. The capacity of the City of Cle Elum to provide water to the Community Recreation Center and the school expansion area is described in Section 3.4, Water Supply, of the Final EIS. As part of the RIDGE Settlement Agreement, Trendwest has agreed to provide Roslyn with water for induced growth (see Mitigation Measures in Section 3.4).

At the Crossroads of Washington State



**PHOENIX GROUP**  
ECONOMIC DEVELOPMENT

Received 4/25/2001  
City of Cle Elum

April 25, 2001

Mr. Brian Carrico, Planning Director  
City of Cle Elum  
119 W First Street  
Cle Elum, WA 98922

Dear Mr. Carrico,

As Chair of the Kittitas County contracted Associate Development Organization, the Phoenix Economic Development Group, I would like to address the economic and fiscal impacts of the Cle Elum Urban Growth Area as detailed in the Draft Environmental Impact Statement.

It is heartening that so many jobs will be created by the UGA project. I was pleased to see that the local labor pool can fill half of the construction jobs and 80% of the operation jobs on the UGA. Even those who are hired from outside the area will be spending some of their dollars here which is certain to give our economy a much needed boost.

As a distressed, timber impacted county I recognize the importance of creating and retaining family wage jobs such as those this project will create. The business park truly has unlimited potential for our area. While existing services and retail sectors will benefit from the construction of lodging, restaurants and recreational facilities, the business park will greatly enhance our expansion and recruitment efforts to bring light manufacturing and high tech businesses to our community.

In terms of fiscal impacts, the city will benefit from the cost sharing approach to the construction of state of the art water and wastewater treatment plants. Finally, the shortfall mitigation agreements that Trendwest is willing to commit to will certainly ensure that local jurisdictions are fully funded if the impacts of the project are greater than expected.

The Cle Elum Urban Growth Area development is positively a win-win for Cle Elum, Kittitas County and Trendwest. Let's move it forward now.

Sincerely,

Ellen Murray Howe  
Chair

PO Box 598 Ellensburg, WA 98926-0598 (509) 962-7244 Fax (509) 962-7141 ebdainc@kvalley.com

**Letter 6**

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**Comment 1**

Your support of the project is noted.

RECEIVED  
4/25/2001  
City of Cle Elum

# REBOUND

• The Seattle/King County Building & Construction Trades Council •

April 25<sup>th</sup>, 2001

Comments on Cle Elum UGA DEIS

By Brian Carpenter

Research Analyst

REBOUND

3049 S. 36<sup>th</sup>, #208

Tacoma, WA 98409

Good evening and thank you for the opportunity to comment on the DEIS. I am here speaking on behalf of REBOUND, an organization representing the interests of skilled construction trade workers. REBOUND and its affiliates have many members who live in the area and would be affected by the proposed UGA expansion. We appreciate the extensive efforts the City has made to mitigate the proposed resort but continue to believe that more can and should be done. While many impacts have been studied, others have not been addressed.

My comments will be limited to the section on traffic impacts.

Generally, increased growth and development puts severe strains on local transportation infrastructures. The lack of upfront improvements leads to growth occurring before local roads can accommodate it. The results are traffic jams, automobile accidents and accidents between pedestrians and automobiles. Accompanying this is a general decline in the 'quality of life' of the region.

Furthermore, cities and counties face a severely restricted and limited source of transportation funding. 695's passage eliminated a major source of transportation funding for cities and counties. Kittitas County's entire road budget for 2001 is \$14.7 million. The County's 6-year Transportation Plan contains only one item in the UGA area and that is a deck rehab for the Cle Elum River bridge on Bullfrog Road. No capacity improvements are planned.

Cle Elum's total <sup>2001</sup> street budget is \$302,882,000 with an additional \$101,764 for arterial work. This situation is not likely to improve any time soon as the state legislature is unwilling to implement any kind of transportation tax increase without voter approval.

The end result, as seen in many formerly small, rural communities on the west side of the mountains, will be increased traffic and accidents, calls for road improvements, a lack of action by the city and county due to inadequate funding and a growing frustration by the public due to a lack of understanding of the fiscal constraints cities and counties face.

**Lack of Public Transit Heightens transportation impacts**

The lack of public transportation alternatives in the area increases the impacts of the resort, as automobiles will be the main source of transportation. Resort visitors will be forced to use their cars for all trips to and from the resort and Cle Elum, Roslyn and nearby recreational opportunities. Visitors from out of the county will have no choice but to drive to the resort. This situation cannot be avoided but should be understood as increasing the impacts on the transportation infrastructure.

2

**Trip Generation**

Peak hour trip generation figures are likely underestimated. Table 3.15-10 on page 3.15-21 of the DEIS shows trip generation figures based on each type of dwelling. A single-family residence is listed as generating slightly less than 1 trip on Saturday and on Sunday.

Condominiums are also listed as generating less than 1 trip both on weekdays and weekends.

These numbers seem suspect given the likely use of many such dwellings as weekend getaways. Such use will generate many additional trips related to arrival and departure for the weekend, while engaging in recreational activities, travel to and from town for purposes of shopping and eating and running errands. Furthermore, each dwelling is likely to generate multiple automobiles, either within individual families or from friends and family members who visit for the weekend. The prevalence of multiple car families and modern schedules mean that different family members will be coming and going to different times. Additionally, when one family purchases a vacation home, it then becomes a magnet for all of their friends and associates, who will be driving as well.

3

We believe the trip generation figures underestimate the number of trips that will be generated by the resort and thus underestimate the total impacts on the local transportation infrastructure.

Page 3.15-25 says:

“The component of traffic not reflected in Table 3.15-17 is a ‘peak’ event such as an international competition at the Horse Park, a holiday weekend or an event in the local communities or the MPR. The additional volumes would increase traffic substantially during those time periods and would require a traffic mitigation plan for the area.”

4

Unfortunately the mitigation plan is not discussed in great detail, nor is there any discussion of who is responsible for paying for it or for implementing it. The impacts of such ‘peak’ times or events are left unstudied. These should be looked at in advance, planned for in advance and mitigated in advance. Otherwise the impacts on the transportation infrastructure will be again understated.



**Parking**

UGA-generated traffic could make parking in downtown Cle Elum and Roslyn problematic due to a lack of current parking restrictions, absence of meters and lack of space.

If the Cities increase parking restrictions in the central downtown core, this could cause overflow of parking into surrounding residential areas, particularly in the area one or two blocks around the central downtown cores. Why feed a meter or worry about a parking limit if you can simply park a block farther out on some residential street? This will cause problems for the residents of the area.

5

Other than a brief mention in the development agreement of studying parking, parking problems are an unmitigated impact not addressed by the EIS or any of the development agreements.

**Pedestrian Safety**

Bullfrog Road, SR 903 and 1<sup>st</sup> Street in Cle Elum could all become more hazardous to pedestrians. The lack of signed crosswalks in many locations combined with unsignalled intersections and increased traffic could result in pedestrian-auto accidents.

The downtown Cle Elum and Roslyn areas will see increased foot and car traffic and the lack of clearly signed crosswalks as well as the lack of controlled intersections in several places could result in serious and dangerous accidents from pedestrians dashing across the road.

6

Of particular concern is the stretch of SR 903 that passes next to the schools. This road will see greatly increased traffic and the likelihood of children in or near the vicinity of the road as well as the likelihood of children crossing the road could lead to serious and dangerous problems.

Pedestrian safety is briefly mentioned as an item of study and possible mitigation, but should be addressed in more detail with specific mitigation measures required.

**I-90**

WSDOT's web site points out the obvious fact that I-90 already suffers congestion, especially on weekends:

7

“On many weekends traffic volumes are approaching or exceeding 50,000 vehicles a day. When traffic is this heavy the freeway cannot get enough vehicles through and traffic slows to a crawl.”

I have experienced this myself, especially on Sunday afternoons.

WSDOT does not currently have the money to address this situation and given the political climate in Olympia, which is currently unwilling to make the tough decisions needed to fix our statewide transportation system by raising taxes, there will not be any improvements made anytime soon. The proposed UGA development will only increase this congestion.

7 (cont.)

#### **I-90/Bullfrog Rd. Intersection (exit 80)**

This intersection will require additional improvements to avoid congestion. Congestion points include the turns onto I-90 westbound and eastbound due to the lack of turning lanes or pockets. Unless the entire overpass is widened and the entrances to I-90 widened, this intersection will become congested. No funds have been identified to address this problem.

8

#### **I-90/First St. Intersection (exit 84)**

This intersection has a very narrow, one-lane overpass over the freeway. Unless widened, this intersection will become congested. Traffic exiting the highway here is deposited onto 1<sup>st</sup> Street and if 1<sup>st</sup> Street is backed up due to traffic, then traffic will likely back up onto the overpass and part or all of the exit ramp. This could be hazardous to cars attempting to exit the freeway here.

9

No money has been identified to address this situation and this impact is not addressed by the EIS or any of the development agreements.

With both intersections, even if Trendwest were to provide a proportionate share of the cost, the state, city and county would be hard pressed to meet their proportionate shares.

#### **SR 903**

State Route 903 will face additional traffic loads that it is not designed to handle. In addition to the UGA, two churches are planned on the opposite side of SR 903. The lack of turn pockets in various places, especially in front of the middle and elementary schools, will cause traffic to stack up behind turning vehicles. In Roslyn and on the outside of Cle Elum, many houses have driveways that lead directly on to the highway. Residents will face increasing difficulty and likelihood of accidents while trying to turn onto or off of the highway.

10

The short distance between the Bullfrog Road/SR 903 intersection and the cities of Roslyn and Cle Elum will likely lead to frequent traffic jams the entire length of SR 903 between the Bullfrog Rd. intersection and the towns. The fact that the highway has one lane either direction with no center lane could lead to dangerous passing attempts on the shoulder or in opposite lanes. In winter of course the shoulder will not an option.

10 (cont.)

While Trendwest is being required to update the intersection of Bullfrog Road and SR 903, this intersection will need a signal right away to avoid huge traffic backups on SR 903 and Bullfrog Rd. A traffic signal should be required and paid for by Trendwest prior to development of the UGA and not after the fact.

11

Appealing to the state for help with SR 903 will not work either because as previously noted, WSDOT faces a money shortage and the local grant programs such as the CRAB or TIB are under-funded and any request would have to compete with projects all over the state.

12

While the development agreement calls for a study of SR 903 and possible ways to improve it, it is silent on how or who is to pay for such improvements. This should be spelled out in more detail, as the Cities, County and State do not currently have the money to fund improvements to the road.

### **Bullfrog Road**

Where turnoffs are located to access the UGA, pockets and turn lanes should be required and paid for by Trendwest. Otherwise traffic will back up behind turning vehicles. Also, the main entrance to the resort will require a traffic signal to avoid head-on collisions with oncoming vehicles and provide smooth traffic flow. This intersection with Bullfrog Rd. and the entrance to the UGA located across from it should be combined into one signalized intersection. If they are staggered, traffic backed up at one intersection will tie up the other intersection on a regular basis.

13

The intersection with SR 903 is to be paid for by Trendwest, but the development agreement specifically leaves out the cost of signalization, saying that if it is warranted, it will be treated as an off-site improvement subject to the proportionate share provision. The traffic signal should be installed at the same time the intersection is reconfigured to avoid having to later rip up pavement. Installing the signal at the same time as the other intersection work is done will save money. Also, UGA and resort traffic will be responsible for the backups at the intersection, therefore Trendwest should be required to pay 100% of the cost of signalization and NOT a proportionate share.

14

Unless these actions are taken before the UGA and resort are developed, Bullfrog Rd. will be routinely backed up due to vehicles turning into and out of the UGA and resort.

15

### Proportionate Share

Trendwest and the City have agreed to a cost-reimbursement mechanism for some transportation improvements related to the UGA and the resort. This agreement calls for Trendwest to pay either a proportionate share of the cost of necessary improvements or, if the County does not have its part of the proportionate share, then Trendwest is to pay the entire cost of the project and seek reimbursement from the County.

It is this reimbursement mechanism that could be problematic and should be clarified. The development agreement with Trendwest states that the County should seek to reimburse Trendwest for its share of the cost of traffic improvements by imposing fees on new development that benefits from the traffic improvements.

Even if the County share is small, in the range of 5-10% of the project's total cost, the amount of money is still large. Any kind of intersection with turn lanes and/or signals will cost at least a million dollars. If the County share is \$100,000, then it will have to go recover this from others who come along and develop after the fact. Thus we have a built in requirement for some sort of "growth tax" on people to pay for Trendwest's traffic impacts. Also, we face the problem that if the County share is to be paid only by those who develop in the immediate vicinity, each person's 'tax' will have to be quite large, thus imposing a significant burden on and hindrance to other new development. If we expand the area to include a larger area then we run the risk of unfairly taxing development that does not benefit from the improvements. Either way is unfair and could result in a hidden subsidy of Trendwest.

16

Furthermore, this agreement appears to only include the County. If the City has to pay a share of a traffic improvement related to the UGA or resort, where will the City get its share? Again, the city share may be a small percentage, but when you have a \$400,000 street budget, any amount is significant. Again, we face the possibility of the City ending up subsidizing the UGA development and its traffic impacts.

Some certainty surrounding the payment of any state share should be determined in advance. Given the fiscal restraints facing the state transportation budget, expecting the state to kick in money for a project is not a sure thing. Should Trendwest end up paying the state share up front, how will it reimburse itself, from the state or from the County or City? No method exists that I know of whereby private developers pay the costs of a project up front and then get reimbursed by the state. There may or may not even be a legal mechanism whereby a developer can recover such costs from the state. Waiting for the state to kick in its share of a project would likely mean that the improvement is delayed at least several years. In the meantime, the community suffers.

The agreement with Trendwest that deals with proportionate share and paying for traffic improvements requires additional thought and study. It should be clarified and strengthened to avoid any hidden or unfair subsidies of the UGA development. Trendwest is quite capable of paying for its impacts, if it is required to do so. The

residents of the area should not have to pay for growth they may not necessarily want or benefit from.

16 (cont.)

**Conclusion**

It is clear that many traffic impacts were not addressed in the EIS and are not dealt with in the development agreement with Trendwest. Additional mitigation should be required of Trendwest or the size of the resort shrunk to fit what the local roads are capable of handling. Otherwise the result will be many years of traffic congestion, accidents and a decline in the quality of life. I don't think anybody lives here or moved here so they could sit in traffic like in Seattle.

17

Thank you for the opportunity to comment.

Respectfully Yours,

Brian Carpenter  
Research Analyst

opeiu8/afl-cio

**Comment 1**

Comment noted. Traffic improvements/mitigation is addressed in Section 3.15 of the Draft EIS. Mitigation associated with Alternative 5 is identified in Section 3.14 of the Final EIS and in the City's Conditions of Approval for the project. Traffic monitoring would occur and Trendwest would be responsible for a pro-rata share of necessary offsite improvements, including several traffic signals within the city.

**Comment 2**

Comment noted. Public transportation does not currently operate in Kittitas County. The transportation analysis considered cumulative impacts from the MPR and UGA and identified mitigation measures to address those impacts. The analysis does not rely on public transportation, so it accurately reflects existing conditions and looks at the worst-case scenario for future impacts.

**Comment 3**

Comment noted. Vehicle trip generation rates were taken from the Institute of Transportation Engineer's (ITE) Trip Generation Manual, 6<sup>th</sup> Edition, and were used to estimate the magnitude of vehicle trips that may be expected from the Cle Elum UGA development. The ITE manual is the standard reference document used by transportation engineers and planners.

**Comment 4**

Typically, "peak events" are not analyzed as part of an operational analysis because they represent the occasional variation from normal traffic operation. Alternative 5 (Preferred Alternative) does not include the Horse Park, to which the majority of "peak events" were attributed. The Washington State Horse Park Authority will be responsible for all environmental compliance related to construction of a Horse Park, including transportation studies and preparation of a Transportation Mitigation Plan.

**Comment 5**

Parking capacity is not identified as a significant impact in the Draft EIS. Since the Draft EIS was published, a parking demand and supply survey was performed in the downtown areas of the cities of Cle Elum and Roslyn. On Friday and Sunday in August, between approximately 40% and 60% of the parking spaces were occupied (see Section 3.14 of the Final EIS). Impacts on parking will continue to be monitored as part of an agreed-upon monitoring program.

**Comment 6**

Pedestrian safety is discussed in Section 3.14 of the Final EIS. Observations of vehicle and pedestrian circulation patterns made at the School District campus indicate that all students are currently transported by bus or private vehicle. No pedestrian activity was observed.

Development of the UGA would increase travel along the residential streets and would not require crossing SR 903 or any other major roadway.

**Comment 7**

Comment noted. Intersections with I-90 at Bullfrog Road and at SR 970 are included in the traffic analysis prepared for the Draft and Final EISs. No level-of-service impacts are identified for the intersection with SR 970. Mitigation associated with changing intersection operation has been suggested for the I-90 eastbound off-ramp at Bullfrog Road, which could experience significant delays (LOS D on weekdays and LOS F on weekends) due to cumulative traffic impacts. This intersection could improve to LOS C by changing the stop-controlled movement to northbound-southbound from eastbound (see Section 3.14 and Appendix F of the Final EIS).

**Comment 8**

The I-90/Bullfrog Road westbound intersection would function at an acceptable level-of-service in future years both with the UGA and with the MPR. Refer to the response to Comment 7 above for a discussion of the eastbound off-ramp.

**Comment 9**

Queuing problems are not anticipated on the exit ramp from I-90 to West First Street. Since the Draft EIS was published, the proposed connector road from West First Street to Ranger Station Road has been moved east to further reduce the likelihood of any queuing problems. Also, no level-of-service problems were identified at the intersection of West First Street and the Ranger Station Road connector (Intersection 29 of the traffic forecast locations, Figure F-5, Appendix F).

**Comment 10**

As identified in Section 3.15 of the Draft EIS, the design capacity of SR 903 is 2,450 vehicles per hour east of Bullfrog Road and 2,310 vehicles per hour west of Bullfrog Road. Projected roadway volumes are not anticipated to exceed the design capacity of SR 903. The intersection of SR 903 and Bullfrog Road was re-analyzed for the Reduced Density MPR and Alternative 5 scenario in Section 3.14 of the Final EIS. Assuming buildout as predicted, a traffic signal would be required in Project Year 5. Construction of this traffic signal would depend on whether signal warrants were met and Trendwest would be responsible for its pro-rata share (City of Cle Elum draft Conditions of Approval).

**Comment 11**

The traffic analysis did not identify this location as needing a signal immediately. Refer to the response to Comment 10, above.

**Comment 12**

Comment noted. Refer to the response to Comment 10, above.

**Comment 13**

Under Alternative 5 (Preferred Alternative), the main entrances to the UGA and MPR from Bullfrog Road will be separated (see Figure 2-5). In part, this change in access was made to eliminate the potential need for a future traffic signal. Based on the traffic analysis for Alternative 5, no entrances to the UGA or MPR would require separate turn lanes (see Appendix F of the Final EIS).

**Comment 14**

Comment noted. Refer to the response to Comment 10, above.

**Comment 15**

Refer to the response to Comment 13, above.

**Comment 16**

Comment noted. The City is incorporating a number of traffic improvements into the Conditions of Approval for the project that Trendwest would either fund outright or by pro-rata share. Any Conditions of Approval and/or Development Agreement would include an equitable method to calculate shares. Both SEPA and impact fee statutes require the public sector and/or future developers to contribute for their share of the impacts and necessary mitigation. Refer to Section 3.14 of the Final EIS for additional discussion of traffic mitigation.

**Comment 17**

The cumulative impact analysis contained in the Final EIS includes the MPR and UGA, and mitigation is identified to address identified impacts (refer to the response to Comment 16, above). Since the Draft EIS was published, the total number of units in the MPR has been reduced by approximately 18% (see Section 1.6, Summary, of the Final EIS). The analysis in the Final EIS reflects this reduction in units.



COMMENT SHEET  
 City of Cle Elum - UGA / Trendwest Properties DEIS

4/25/2001  
 City of Cle Elum

Having Attended 4 different Meetings Held at the Schools, I came To one Realisation; The general audiences are NOT afforded The kindness of an adequate Sound System. The Events need better Microphones, Properly Elevated Volume Levels, and Possibly speaker Facing audience conditions. Most People, Even with good hearing, could NOT Hear distinctly what The speakers were saying. The Future meetings would be better served if There was a Sound Engineer involved. The chairperson as well as The Speakers Hear Themselves both Through Their own heads and the Amplified System. The Audience doesn't get This Help, so They cannot hear Properly. The Microphones would Help if they were used better. Many people Leave The meetings because of sound Problems. To get more willing participation, it would behoove The group To address This Problem. My hearing has been tested and Found in the upper 90% of Perfect, so That is Not The problem.

Thank you For Reading This.

Ken Bales	Po Box 236	Ronald	98140
Name	Street Address	City/Town	ZIP

**Letter 8**

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**Comment 1**

Comment noted.

received  
5/2/01 3:05pm

City of Cle Elum  
119 West First Street  
Cle Elum, WA 98922

Upper Kittitas County Senior Center  
618 B East First Street  
Cle Elum, WA 98922

**RE: Concerns of the Affects of Urban Growth on Senior Citizens**

The seniors of this area could be greatly affected by urban growth. But what type of effect will it have? Many of the seniors in this area have lived here their lifetime and their mothers and fathers before them. Right now there is a comfortable life style in a quiet community. What would this type of growth do to their taxes? Many are on a fixed income. What about the traffic situation? The seniors that do drive in town have minimal traffic flow to drive in and only one stoplight to deal with. With there being more traffic and congestion in town, will there also be some kind of transportation system to get the seniors where they need to go if they can't deal with the heavier traffic situation? These are a couple of the concerns that have been mentioned to me by the senior citizens of the upper county. Will you please take this into consideration.

1

Thank You



Erin Nelson  
Director  
UKC Senior Center

**Comment 1**

Comment noted. Consistent with the terms outlined in the Pre-Annexation Agreement between the City of Cle Elum and Trendwest, existing citizens and ratepayers should not suffer negative financial impacts as a result of Trendwest development activities within the UGA. Property values are not expected to be significantly affected by combined MPR and UGA development (see Section 3.17, Economics, of the Final EIS). Mitigation for potential transportation impacts is identified in Section 3.14, Transportation, of the Final EIS and also in the City's draft Conditions of Approval.



April 28, 2001

To: Cle Elum City Council,

This letter is to show my support for lighting codes regarding the new resort development.

I am an amateur astronomer who has been observing under your dark skies for about ten years. I live in the Seattle area do to economic reasons. To go East of the mountains for star gazing is something I look forward to every new moon. I spend at least three nights at Peoh Point, Manashtash Ridge, or Table Mt., depending on the Season and snow fall. Sky glow from Yakima, Ellensburg, and Wenatchee gets brighter every year. It would be a shame to add to this light pollution.

Please do all you can to save your beautiful, night sky. It should not be taken for granted.

Sincerely,

A handwritten signature in cursive script that reads "Fred Hein".

Fred Hein  
6608 130th Ave. NE #J-102  
Kirkland, Wa. 98033

1

**Comment 1**

Comment noted. All lighting for development within the MPR and UGA would meet the International Dark Sky Association's Zone E1 standards. These standards are recommended for use in "areas with intrinsically dark landscapes." Roadway lighting would be consistent with the Illuminating Engineering Society and WSDOT lighting criteria.

received  
5/7/01  
City of Cle Elum

DATE: May 5, 2001

TO: City of Cle Elum  
119 W. 1<sup>st</sup> St.  
Cle Elum, WA 98922

FROM: Shannon Cernick  
P.O. Box 1381  
Ronald, WA 98940

RE: City of Cle Elum Draft EIS, Bullfrog UGA

After reviewing Trendwest's DEIS for the proposed UGA, I have the following concerns:

1. Traffic-The traffic impacts on our quiet rural area will be huge. Currently, many of our elderly citizens enjoy independent lifestyles because they are able to drive themselves to the grocery store, drug store, church, etc. The immense increase in traffic will make driving more hazardous and will affect this independence. Traffic patterns resulting from the proposed UGA should have minimal impact on the existing communities. 1
2. Schools- The cost of building and maintaining the new schools accommodate the huge population increase will be staggering. Our community is sometimes reluctant to pass school levies, and this problem may increase when vacation property owners vote against levies to keep taxes down on their vacation property. Also, the property given to the school for school expansion should NOT be in close proximity to the power lines. There has been much controversy over the effects of power lines on human health, and our children deserve a better location. 2
3. Highway 903 and Bullfrog Road- These highways are currently scenic. The wooded nature of these roads provides a physical division between the cities of Cle Elum, Roslyn, and Ronald and a barrier between these communities and the freeway. The DEIS mentions that the frequent users of 903 will suffer the biggest visual impact from the UGA. Well, that includes most of the current local residents of Ronald, Roslyn, and Cle Elum. There needs to be a much bigger buffer between the UGA and these two roads. This will help to maintain the rural quality of our area and retain the individuality of the three towns. Also, these roads should remain two-lane roads. Widening them to create more lanes and accommodate the increase in traffic would also ruin the rural atmosphere, especially if trees and houses along the route were to be removed. 3
4. Coal Mine Trail- The DEIS mentions that the Horse Park will be connected to the MPR, the Coal Mine Trail, and the John Wayne Trail. With such a high volume of visitors expected to attend "regional and national competitions," I feel that this would again impose on the current trail users. The Coal Mine Trail is currently a wonderful place to walk with children or others who have a hard time getting around on rougher terrains. It is quiet and peaceful and often private. The high volume of users from the proposed horse park would ruin this local asset. Use of the trail by horse park visitors should not be encouraged. 4

5. Air Quality- The increase in population will inevitably increase air pollution. This is important at all times, but especially during our winter inversion periods. There should be strict regulations about heating sources for the homes and businesses in the UGA. Any other available precautions to preserve air quality should also be taken. 5
6. Water- The Rosiyn water supply feeds the current school system. If we have to build more schools to accommodate the growth, where will the schools get the water? More generally, where will anyone get water? At a time when water shortage is a reality, we really need to think about the future. A far smaller UGA, without such wasteful uses as golf courses and horse parks, needs to be considered. 6
7. Noise- One of the greatest things about our area is the peace and quiet found here. A huge population increase also increases noise levels from things such as traffic, machinery, construction, off-road vehicle use, etc. Steps need to be taken to preserve the quiet. 7
8. Night Sky- Many people in our area value the clear night sky. It is a precious thing to be able to sit outside at night and actually see the stars, especially during August, when meteor showers are at their most spectacular. Trendwest needs to follow the recommendations of Bruce Workman and the Dark Sky Society when planning for the lighting of the proposed UGA. 8
9. Quality of Life- Many people live in a small, rural setting because they choose to. They value the closely knit community, the wide open spaces, the wildlife, the natural recreational opportunities, the history, and the tranquility of the area. Something as large and invasive as the proposed UGA will destroy many of these qualities. 9
10. Secondary Growth- Many pieces of land are already being sold and divided for future development in anticipation of the increased demand triggered by the MPR and UGA. What impacts will these developments have on the above issues, and how will Trendwest help our small communities meet our needs regarding this growth? 10

Many of the above issues would be at least partially addressed by reducing the size of the UGA, both in population and area. I consider it a privilege to live in a small town, especially one that is surrounded by such natural beauty. We really need to preserve what we have. 11

Thank you.

Sincerely,

  
Shannon Cernick



**Comment 1**

Comment noted. Growth in traffic volumes would occur, and traffic patterns would change over time. The City of Cle Elum is incorporating mitigation for future traffic impacts into the Conditions of Approval for the project. Refer to the response to Letter 9, Comment 1 for additional information.

**Comment 2**

Comment noted. An updated analysis of future school construction costs and revenues is included in Section 3.18 and Appendix D of the Final EIS. Regarding vacation homeowners and the uncertainty of levy passage, citizens may be registered to vote in only one location. The UGA is planned to provide primary housing, but if vacation homeowners buy in the UGA, they wouldn't be able to vote in Upper Kittitas County. For further discussion of the uncertainty of levies, refer to the response to Letter 1, Comment 9. Since the Draft EIS was published, Trendwest and the Cle Elum-Roslyn School District have negotiated a mitigation agreement (see response to Letter 1, Comment 1). The property proposed for future construction is adjacent to the School District property; the power lines currently border the eastern edge of both properties.

**Comment 3**

Comment noted. No widening of Highway 903 or Bullfrog Road is planned. Buffers along Bullfrog Road would be 100 feet. A buffer of 50 feet has been added along SR 903. The Business Park's building design (e.g., styles, colors, and materials) would be identified in the development standards for the UGA. Refer to Section 3.11 of the Final EIS for additional discussion of aesthetics, light, and glare impacts and mitigation associated with Alternative 5.

**Comment 4**

Alternative 5 (Preferred Alternative) does not include a Horse Park. The discussion on page 2-18 of the Draft EIS refers to potential linkages of the Horse Park to other trails for "less formal equestrian activities such as trail riding." In the event a Horse Park is constructed in the future, those kinds of linkages would require careful planning and coordination among local jurisdictions, Trendwest, and equestrian groups to regulate use and limit potential environmental impacts.

**Comment 5**

Wood-burning fireplaces and woodstoves would be prohibited in all individual residential units within the Cle Elum UGA.

**Comment 6**

Comment noted. Alternative 5, as analyzed in the Final EIS, is the Preferred Alternative and does not include a Horse Park or a golf course. As part of the RIDGE Settlement Agreement,

## **Letter 11**

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Trendwest has agreed to provide Roslyn with water for induced growth (see Mitigation Measures in Section 3.4 of the Final EIS).

### **Comment 7**

Mitigation measures to reduce noise impacts are identified in Section 3.9 of the Draft EIS and Section 3.8 in the Final EIS.

### **Comment 8**

Comment noted. Refer to the response to Letter 10, Comment 1 for a discussion of lighting standards.

### **Comment 9**

Comment noted.

### **Comment 10**

Indirect impacts on land use are discussed in Section 3.10 of Draft EIS and Section 3.9 of the Final EIS. All growth within the County would be consistent with adopted land use plans and zoning regulations. Section 3.18 and Appendix D of the Final EIS describe mitigation agreements negotiated between Trendwest and local public service providers that address potential fiscal impacts caused by UGA growth. These mitigation agreements include programs to monitor actual revenues and expenditures for each provider and shortfall mitigation payments, as may be necessary.

### **Comment 11**

Comment noted. Development under Alternative 5 has been condensed into a smaller area than under Alternatives 2, 3, and 4. Undeveloped open space and perimeter and residential buffers have been increased (see Figure 2-5).



State of Washington  
**DEPARTMENT OF FISH AND WILDLIFE**  
Region 3 Office: 1701 South 24<sup>th</sup> Street - Yakima, Washington 98902-5720 - (509) 575-2740

May 6, 2001

City of Cle Elum  
ATTENTION: Mayor Gary Berndt  
119 West First Street  
Cle Elum, WA 98922

Dear Mayor Berndt:

**SUBJECT: WDFW Comments on Trendwest Properties: Cle Elum Urban Growth Area (UGA) Draft Environmental Impact Statement (DEIS)**

Thank you for the opportunity to comment on this proposal. WDFW looks forward to working with the City of Cle Elum on the evaluation of the proposed UGA.

**Water**

On page 3.3-7 of the UGA DEIS under section 3.3.3 is the following statement: "Surface water quality is directly related to ground water quality because the majority of percolation and stormwater volume generated by impervious surface would infiltrate. As such, there is some overlap between surface water quality and groundwater quality discussed in Section 3.4."

Additionally, in the MountainStar Master Planned Resort (MPR) DEIS on page 7-16 is the following statement: "Because the water table aquifer beneath the floodplain is in direct hydraulic continuity with the Cle Elum River....."

Again on page 5-4 of the MPR EIS in the last paragraph it reads: "The shallow outwash aquifer is in direct hydraulic continuity with the water flowing in the Cle Elum and Yakima Rivers."

On page 3.3-7 of the UGA DEIS in the first complete paragraph it reads: "Although river temperatures are generally cool, temperatures above the Class AA standard of 16 degrees C were recorded during August and September 1998."

These various quotes establish the relationship between surface water, groundwater and stream flow. One of the water quality issues, temperature, is also highlighted.

Currently, the UGA and the MPR are essentially comprised of pervious surfaces throughout. Precipitation, primarily in the form of snow, falls and slowly infiltrates into the vadose and

Mayor Berndt  
May 6, 2001  
Page 2

ultimately is released in the form of groundwater to the Cle Elum and Yakima Rivers. When impervious surfaces are in place as would be the case with the proposed UGA and MPR, there are spacial and temporal disruptions to this cycle. The slow diffuse infiltration that currently exists would be replaced with an accelerated more focused infiltration generated from the impervious surfaces.

The disruptions to the existing hydrology essentially follow this pattern. Stormwater is captured and directed to the infiltration infrastructure. Infiltration then occurs over a relatively small area. What is created in these areas of infiltration is a supersaturated area of soil that acts as a conduit. This conduit delivers the surface water through the vadose to become groundwater which in turn is routed from the site in the form of surface flow to the Cle Elum and Yakima Rivers. Again, the existing slow gradual release of water that occurs is altered to a more efficient routing of the water off the site. In an area where late season flows are a major concern and the receiving bodies of water are on the 303(d) list for temperature, this more efficient routing of water off site is a highly undesirable condition.

1 (cont.)

This dynamic is further confirmed in Appendices Volume 1 of the UGA DEIS. In Appendix C groundwater is discussed. On the last page of Appendix C it reads: "As groundwater is not laterally confined within the UGA, any infiltrating water will co-mingle with the site groundwater and flow out of the UGA."

Timing is everything when it comes to the hydrology of the Yakima River Basin (YRB). If for example the timing of runoff in the YRB were markedly later, none of the infrastructure that the Bureau of Reclamation has in place would even be necessary. The modification to the local hydrology that will result from the UGA and the MPR are not water neutral. Further impacts to an impaired body of water cannot occur.

2

In the UGA DEIS at the bottom of page 3.5-36 is the following statement: "Future consumptive use of water on lands made fallow by retirement of irrigated acres in or near Ellensburg associated with Trendwest's water rights is not considered an impact." This statement is unsupported by anything presented in the DEIS. Clearly, future consumptive use of water is an issue at this location because of the direct actions taken by representatives of Trendwest to facilitate development of their property into a UGA and MPR. This is a connected action.

3

Later in the same paragraph on page 3.5-37 it reads: "Any such public or private developments pursued in the future are outside the scope of this Draft EIS as they are not interdependent with the UGA development". Again this is a connected action and this reasonably foreseeable action is a cumulative impact. There are issues here of less groundwater recharge, a net increase in consumptive use, increase in impervious surface and potential exempt wells. Conversely, in upper Reecer Creek, there is a modest but insufficient qualitative attempt to address groundwater

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recharge impacts as a result of the developments. This can be found on page 3.5-36. This area that is referred to as in or near Ellensburg is of similar impact, but receives no such consideration within the document. A distinction is being drawn without any real difference between the two areas.

4 (cont.)

In the UGA DEIS on page 3.5-20 winter water impacts are discussed. The following paragraph is found here. It reads: "During flip-flop, Trendwest diversions from the Yakima River would reduce flows downstream from the City of Cle Elum Yakima River diversion to Swauk Creek. This reduction would not adversely affect Yakima River stream flow because BOR's goal is to keep streamflow low in the upper Yakima River during this period. A reduction in the flip-flop streamflow would lower the flow required for winter incubation flows, enabling BOR to release less water from its reservoirs to maintain winter incubation flows from Trendwest diversions than without."

The preceding paragraph is entirely erroneous as are the assumptions that are based on it. How can removing water at a downstream location enable the BOR to have more water in their upstream reservoir? Following the logic employed here, the greater the withdrawals downstream, the fuller the reservoir becomes. The flip-flop management is to reduce flows so spawning will not occur in stream margin areas that would require large continuous releases from reservoirs to prevent de-watering of salmon redds. This management is not biologically based. It simply allows BOR to store more water over the winter and spring and prevents redd de-watering. The management objective of a more normative river flow will modify current management. Current management should not be viewed as static in nature or desirable. It is highly likely that a biological assessment of BOR operations will modify irrigation project operations.

5

In Appendices Volume 1 of the UGA DEIS on page 4-37 is section 4.3.2. Here a comparison of zero flow days with and without the project is made. In light of the federal fish listings and the illegal act that drying up streams entails, the benefits portray are overstated.

6

**Groundwater Quality**

On page 3.3-12 of the UGA DEIS is the following statement: "Pollutant concentrations reaching the Cle Elum and Yakima rivers are anticipated to be small and would be further reduced through instream mixing." Also on the same page is the following quote: "Frequent detections of pesticides in urban and suburban areas indicate that stormwater infiltration significantly contributes to pesticide occurrences in shallow groundwater (AESI 1999)." The Yakima and Cle Elum rivers are already on the Ecology 303 (d) list. Fecal coliform occurs in the groundwater of the proposed UGA (page 3.4-10). Ammonia, which is lethal to fish, is a byproduct of horse urine. Composting would only deal with a portion of the horse manure. The golf course will be

7

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very chemically intensive. The yards and grounds of the various residences are unregulated as to private applications of fertilizers and pesticides. The dilution or mixing that the proponent refers to as mitigating circumstance is already insufficient in dealing with pollutants. Clearly, the quality of surface water via groundwater will be degraded.

7 (cont.)

### Wildlife

In Appendix E of Appendices Volume 1 of the UGA EIS is a list of species from the U.S. Fish and Wildlife Service. The list is dated January 14, 1999. A current list should be incorporated into the analysis. Listings have occurred over the last two years.

8

A considerable amount information regarding wildlife was not incorporated in the DEIS of the UGA and the MPR EIS. The I-90 Land Exchange EIS and the Snoqualmie Pass Adaptive Management Area EIS are extensive studies immediately adjacent to Trendwest properties. Clearly they are relevant to the proposed projects. Additionally, the paper titled: The Biological Case for preserving Lands in the I-90 Corridor authored by Mariann Armijo should be included in the UGA analysis. This study is available over the internet at the Cascade Conservation Partnership's web site. The Wildlife Habitat Linkage Assessment authored by Peter Singleton and John Lehmkuhl out of the PNW Wenatchee Forestry Sciences Lab for the Washington State Department of Transportation (DOT) is also important information that is omitted. It is available on the DOT website.

9

Thank you for the opportunity to provide this information. If you have any questions, please contact me at (509) 457-9322.

Sincerely,



Mark S. Teske  
Area Habitat Biologist

MST:mst

cc: Clausing, WDFW  
Deusen, WDFW  
Doneen, Ecology

**Comment 1**

Neither the Reduced Density MPR nor Alternative 5 (Preferred Alternative) for the UGA propose development near the Cle Elum River corridor where the alluvial aquifer is in direct continuity with the Cle Elum River. Water infiltrated on the MPR and UGA sites after treatment would not reach the river immediately, and could have no thermal impact after subsurface transit. Refer to Section 3.3, Water Quality, for an updated analysis of potential water quality impacts for Alternative 5 and potential cumulative impacts with the MPR.

**Comment 2**

Comment noted. Refer to the updated analysis of impacts on Yakima River flow provided in Section 3.4, Water Supply, and in Appendix B of the Final EIS. Both of these sections contain mitigation measures to avoid adverse flow changes or an increase in net consumption of water in the Yakima River basin.

**Comment 3**

Comment noted. Since the Draft EIS was published, an analysis of fallowed lands as an indirect impact has been conducted; Trendwest has agreed to mitigate for these indirect impacts. Refer to Section 3.4 of the Final EIS and Exhibit H of Appendix B, the Water Supply Technical Report Supplement, for additional information.

**Comment 4**

Trendwest has entered into a Cooperative Agreement with the Washington Department of Fish and Wildlife and the Yakama Nation to address agency and tribal concerns about environmental impacts from Trendwest's development proposals for the MPR and UGA. The Cooperative Agreement provides measures to protect against environmental impacts outside of Trendwest property. Among other provisions, the agreement establishes that Trendwest will provide funding for the MountainStar Conservation Trust to acquire water rights from the upper Yakima River and its tributaries, to increase instream flows and to reduce consumptive uses of water within the upper basin. The purpose is to protect aquatic resources and downstream water users from impacts resulting from activities that are indirectly related to Trendwest's development activities. The water rights to be purchased under the agreement are in addition to the water rights Trendwest has purchased to serve the projected water demand for the MPR and UGA development projects.

Since the Draft EIS was published, the analysis of potential water supply impacts has been expanded and updated to reflect the current Reduced Density MPR and Alternative 5 development scenario. Additional studies have been conducted on affected basins, including potential water demand from exempt groundwater wells and the effect on baseflow. Refer to Section 3.4 and Appendix B of the Final EIS for this revised analysis.

**Comment 5**

Comment noted. Trendwest discussions with the U.S. Bureau of Reclamation (USBR) since the Draft EIS was published have established that USBR is not restricted by flows in the portions of the mainstem Yakima River that is affected by the MPR and UGA proposals. Rather, USBR regulates releases in the Yakima River basin based on target flow requirements upstream of the projects. The paragraph referenced in your comment has been removed. An updated discussion of potential impacts to water supply is provided in Section 3.4, Water Supply, in the Final EIS.

**Comment 6**

Comment noted. The number of zero flow days is not presented as a measure of impact in the updated water supply analysis contained in the Final EIS.

**Comment 7**

In response to comments on the Draft EIS, a quantitative analysis of potential water quality impacts has been conducted for Alternative 5 and cumulatively with the MPR. Alternative 5 (Preferred Alternative) does not contain a Horse Park or a golf course. A higher level of stormwater treatment is proposed for Alternative 5 than had been included in the Draft EIS evaluation. The stormwater treatment and benefits of infiltration through native soils are analyzed in Section 3.3 and Appendix A of the Final EIS. The analysis shows that stormwater infiltration from either the UGA or the combined UGA and MPR developments would not adversely affect groundwater quality or water quality in the Yakima River. The evaluation shows the results of treatment prior to any mixing with the groundwater or with the Yakima River, and provides a comparison of the undiluted results to background water quality, regulatory surface and groundwater standards, and sublethal data in the literature for fisheries. Non-point water quality changes from landscaping under Alternative 5 also are evaluated.

**Comment 8**

Comment noted. Threatened and endangered species information requested from WDFW and the USFWS in October 2001 is included in Section 3.5, Plants and Animals, of the Final EIS. Agency response letters from WDFW and USFWS are included in Appendix G of the Final EIS. Threatened and endangered species that were not identified in the Draft EIS are discussed in the Final EIS. Refer to Section 3.5, Plants and Animals, of the Final EIS for additional detail.

**Comment 9**

Comment noted. The following documents were reviewed and information was incorporated into Section 3.5, Plants and Animals, of the Final EIS.

- *Final Report on the I-90 Snoqualmie Pass Wildlife Habitat Linkage Assessment,*
- *The Biological Case for Preserving Lands in the Interstate 90 Corridor,* and
- *Snoqualmie Pass Adaptive Management Area Plan Final EIS.*



OSHIE & SPURGIN  
ATTORNEYS AT LAW

PATRICK J. OSHIE  
PATRICK D. SPURGIN

received  
5/7/2001

City of Cle Elum

VIA TELEFAX & SURFACE MAIL

May 7, 2001

Honorable Gary Berndt, Mayor  
City of Cle Elum  
119 West First Street  
Cle Elum, WA 98922

Dear Mayor Berndt:

On behalf of the Confederated Tribes and Bands of the Yakama Nation, we are submitting the following initial comments on the *Trendwest Properties: Cle Elum UGA Draft EIS* issued by the City of Cle Elum in March 2001. The Yakama Nation will continue to review the technical basis for the characterization of impacts and will provide additional comment to the city and the proponent as may be appropriate. In accordance with the cooperative agreement between the Yakama Nation, Trendwest, and the Washington Department of Fish and Wildlife, the Yakama Nation will be prepared to meet with the proponent to discuss comments and potential responses as may be appropriate.

The Yakama Nation is committed to assuring the protection of its rights as recognized in the Treaty of 1855. The proposed project is located on lands ceded to the United States by the Treaty. Yakama ancestors traveled and occupied the project area since time immemorial. The protection of cultural resources located on the subject property is a crucial objective in the review of the proposed project. Enhancement of salmonid species and associated habitat and stream flows in the Yakima River Basin is also a critical consideration. As well, the Total Water Supply Available (TWSA) in the Yakima River Basin managed by the U.S. Bureau of Reclamation to serve the Yakama Nation and its members, as well as other public and private interests, must be protected.

Any proposed action that has the potential to affect these values presents the potential for significant environmental impacts and must be carefully and thoroughly assessed. The environmental review of the UGA and the proposed water supply strategy must provide a satisfactory level of confidence in the technical analyses of the current conditions, predicted impacts, and effectiveness of mitigation is key issue. The Yakama Nation is particularly interested in following aspects of the project:

1. *Protection of cultural resource values.* The Yakama Nation considers threatened destruction of cultural resources on these ceded lands to be an inescapably significant impact. Mitigation can only be assured if appropriate identification methods are employed in property development. In

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PHONE: (509) 248.4282 • FAX: (509) 575.5661

Comment letter to Mayor Gary Berndt  
May 7, 2001  
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particular, it is not appropriate for the proponent to render an independent determination of the significance of newly discovered cultural resources sites without consultation with the Yakama Nation Cultural Resources Program.

2 (cont.)

2. *Fish and aquatic resource impacts that may be encountered as a consequence of the proposed new diversions near Cle Elum and the other applications.* We have previously noted the Supplemental Documentation in Support of Trendwest Resorts, Inc. Applications to the Department of Ecology (Sept. 2000). That study report focuses solely on how the Trendwest diversion would affect existing irrigation diversions downstream of the new proposed site. We have not yet been made aware of any analysis of the fisheries, wildlife or other aquatic life impacts of hydraulic changes associated with the diversion other than the characterization of hydraulic impacts as insignificant in the DEIS. In this and other uses of predictive or analytical models in the development of the DEIS, the statistical reliability of the inputs, data sensitivity of results, and model validation results must be made clear.

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3. *Impact on aquatic and other resources of changing the time, place and purpose of use of water in accordance with the pending change applications.* Discontinuation of all or part of the diversions used for water rights acquired by Trendwest will have an effect on the timing and magnitude of shallow aquifer discharge and recharge, as well as potential riparian habitat in the various tributaries in the Upper Yakima Basin. These impacts and their relation to fisheries resources must be adequately understood and discussed in the EIS.

5

4. *Whether the proposed transfers impair the Yakama Nation's water rights delivered through the Wapato Irrigation Project or otherwise present implications of direct, indirect or cumulative increases in consumptive use of water in the Yakima Basin beyond current uses that may result from the proposed transfers.* As noted, protection of TWSA is fundamentally important, and project aspects that directly or indirectly affect TWSA, including purported enhancements, must be clearly understood for effective decision-making on water resources management matters. No action by the Yakama Nation should be construed as supporting a reduction in TWSA. Water reuse should not be an avenue to increase consumptive use of any transferred water rights.

6

5. *Surface and groundwater quality implications of the project.* Salmon recovery and enhancement depend on the protection of water quality in the basin, and any development must be considered in light of potential impacts to water quality. The Yakama Nation would prefer the analysis of water quality impacts from UGA development to be made in conjunction with the analysis of regionalization of the Cle Elum Wastewater Treatment Facility. Such conjoint analysis appears more defensible than awaiting a separate plant expansion environmental review. The contamination of ground water that is continuous with basin surface water presents some threat to fisheries. The extent to which stormwater management techniques effectively attenuate contaminant loading from impermeable surfaces and other sources at the project site must be clearly understood and appropriate mitigation measures analyzed to minimize this risk.

7

Comment letter to Mayor Gary Berndt  
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6. *Nonproliferation of floodplain construction aggregate mining activity.* The Yakama Nation has long strived to abate the development of alluvial floodplain gravels as a source of construction aggregate. Such alluvial gravel deposits have long been preferred sources because of ease of extraction and proximity to construction sites. In view of the increasing scientific understanding of the relationship of the alluvial deposits to the ecology of the Yakima River, use of these sources must be discouraged. Trendwest has agreed to avoid using such sources for MPR development. We are not aware of any portion of the DEIS wherein the potential for UGA development to encourage alluvial floodplain gravel exploitation has not been assessed as a potential impact.

8

Thank you for your consideration of these comments. We look forward to further discussions regarding the necessary analysis of the elements of the UGA development process. Feel free to call me at (509) 248-4282 with any questions or concerns regarding this matter.

Sincerely,



Patrick D. Spurgin  
Attorney at Law

**Comment 1**

Comment noted. The City recognizes and appreciates the Yakama Nation's willingness to assist the City in its review of the proposal, consistent with the provisions of the Cooperative Agreement among Trendwest, the Yakama Nation, and the Washington Department of Fish and Wildlife dated December 4, 2000. The Draft EIS, in Section 3.7, acknowledges the role of the Yakama Nation in implementation of the Cooperative Agreement.

An updated discussion of cultural resources protection under Alternative 5 is included in Section 3.12 of the Final EIS. Protection of cultural resources within the UGA is included in the Conditions of Approval for the project. Consultation with the Yakama Nation is included in the proposed mitigation.

The total water supply available (TWSA) in the Yakima River basin, which is managed by the U.S. Bureau of Reclamation, is discussed in Appendix D and Section 3.5 of the Draft EIS. The TWSA analysis is updated in Section 3.4, Water Supply, of the Final EIS, and evaluated in detail in Appendix B, the Water Supply Technical Report Supplement. See also the response to Comment 6, below.

**Comment 2**

Comment noted. Refer to the response to Comment 1, above.

**Comment 3**

Comment noted. Impacts on flows in the mainstem Yakima River and tributaries are cumulatively analyzed in Appendix B of the Final EIS. Changes in Yakima River water levels have been reevaluated to reflect the Reduced Density MPR and Alternative 5 development scenarios. This analysis is included as Exhibit K to Appendix B. The water rights transfer would restore more natural conditions to affected tributaries, and no significant impacts on aquatic resources are identified. For selected diversions, predicted effects range from increasing water levels slightly during the early part of the irrigation season to decreasing water levels slightly during September. The proposed water rights transfer is not expected to have any significant negative impact on fish habitat quality in the upper Yakima River basin.

**Comment 4**

Information on the statistical reliability of the water balance model inputs, data sensitivity of model results, and model validation results has been added to Appendix B of the Final EIS. Statistical uncertainty limits are calculated for the estimated streamflow inputs to the model. The sensitivity of model results to uncertainty in estimates of tributary streamflows, irrigation and stockwater efficiencies, and irrigation return flow lag time distributions are assessed.

**Comment 5**

The effect of discontinuing tributary diversions on the timing and magnitude of shallow aquifer discharge and recharge was incorporated into the updated and expanded water supply analysis conducted for the Final EIS (see Section 3.4 and Appendix B). Ecology's consultant team provided lag times of former return flows through shallow aquifers that are associated with Trendwest tributary water rights. The lag times are included in the water balance model. No significant negative impact on fish habitat quality in the upper Yakima River basin is anticipated (see response to Comment 3, above).

**Comment 6**

An updated analysis of total water supply available (TWSA) is provided in Section 3.4 and Appendix B of the Final EIS. Two components of TWSA are natural streamflow and irrigation return flow between April 1 and September 30. To evaluate Trendwest's potential TWSA impact, the combined effects of Trendwest's proposed water transfers and flow timing changes were calculated from the combined model results over the study period of 1991 through 1995 and 2001, the years for which Trendwest had a simulated record incorporating the entire storage release period. In both average and drought years as modeled, there would be a surplus of water resulting from Trendwest's proposed water rights transfers for the combined MPR and UGA during the period from April 1 through September 30. Trendwest's potential to affect reservoir storage is also evaluated during the TWSA storage control period in these same sections of the Final EIS.

The City of Cle Elum does not currently propose water reuse as part of its wastewater planning efforts, and impacts have not been analyzed in the Final EIS. If a proposal for reuse is considered in the future, water balance issues would be revisited at that time.

**Comment 7**

Stormwater treatment prior to infiltration has been increased since the Draft EIS was published. A quantified analysis of stormwater quality is included in Section 3.3, Water Quality, and Appendix A of the Final EIS. A discussion of potential loadings to the Yakima River from the regional wastewater treatment plant has been added to the cumulative impact discussion in Section 3.16, Utilities, of the Final EIS. The City of Cle Elum is the lead agency for construction of the regional treatment plant. Refer to Section 3.16 for an updated discussion on the status of the environmental review process for the treatment plant.

**Comment 8**

Trendwest has agreed to avoid using aggregate from the floodplain for both MPR and UGA development.





**Washington State  
Department of Transportation**

**Sid Morrison**  
Secretary of Transportation

May 7, 2001

City of Cle Elum  
119 West First Street  
Cle Elum, WA 98922-1105

Attention: Gary Berndt, Mayor City of Cle E

Subject: Trendwest Properties - Cle Elum Urban Growth Area Draft EIS  
I-90, Bullfrog Interchange - approximately MP 79.91-83.12  
SR 903, approximately MP 2.79-4.25

**received**  
5/7/2001

South Central Region City of Cle Elum  
2809 Rudkin Road, Union Gap  
P.O. Box 12560  
Yakima, WA 98909-2560  
509-577-1800

Post-It™ brand fax transmittal memo 7671		# of pages = 2
To: Brian Carriso	From: John Gruber	
Co. City of Cle Elum	Co. WSDOT-SCR	
Dept. Planning	Phone # (509) 577-1636	
Fax # (509) 694-4097	Fax # (509) 577-1603	

We have reviewed the proposed subarea planning, zoning, and master planned development review of the City of Cle Elum Bullfrog Urban Growth Area (UGA) and have the following comments.

1. The proposed project is adjacent to Interstate 90. I-90 is a fully-controlled limited access facility. No direct access to I-90, including the interchanges, will be allowed.

SR 903 is a Class 4 Access Managed highway adjacent to the proposed UGA boundary. In the unincorporated area, road approach access to the highway requires approval by WSDOT.

2. In their traffic analysis, the applicant indicates the SR 903 (1<sup>st</sup> Street)/Oakes Avenue intersection falls to a Level of Service (LOS) F in project year 5. While we agree with this analysis, WSDOT does not have a specific project to signalize this intersection. We believe this development, the MountainStar Master Planned Resort, and other developments should be responsible for signalizing this intersection on a pro-rata share basis. Also, we believe this intersection should be signalized prior to approval of any development, and should not wait for signalization as part of a monitoring program.

3. In their traffic analysis, the applicant indicates the SR 903/Bullfrog Road intersection in the northbound direction falls to a Level of Service (LOS) E in project year 5. We agree with this analysis. WSDOT has no current plans to make any improvements to this intersection. Therefore, the developer, together with the MountainStar MPR, should bear the entire cost of improving this intersection. Also, we believe the intersection improvements should be constructed in conjunction with Stage I, and not wait to be constructed as part of a monitoring program.

4. All alternatives provide access from Ranger Station Road. Table F-4i identifies significant traffic volumes and turning traffic at the intersection of SR 903 yet no analysis was performed. The proponent needs to include this intersection with the appropriate analysis.

Mr. Gary Berndt, Mayor of the City of Cle Elum –Trendwest UGA Draft EIS  
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Page 2

- 5. On page 3.15-29, the proponent acknowledges they are responsible for the construction of new intersections on state highways. Although we agree, the proponent and the City are encouraged to coordinate the access on SR 903 with WSDOT. Specifically, an unrelated development was conditioned with a traffic signal at milepost 2.90. The distance from the UGA access point to this new signal appears to be about 0.30 mile to the north. 6
- 6. WSDOT has existing plans to widen I-90 to 6 lanes in the Lake Keechelus area. We believe this project will not only benefit the proposed development, but the City of Cle Elum as well. In the EIS, the developer shows an impact to the I-90 mainline. It is our position that this development and the MountainStar MPR should participate in this project on a pro-rata share basis. 7
- 7. Of primary concern is the effect this proposal will have to the interstate and interchanges. The traffic summary Tables F-6 through F-12 identify the Bullfrog Road interchange as operating at an LOS of "E" by project year 10 depending on the selected alternative. This development is responsible (as acknowledged on page 3.15-30) for improvements to the interchange, as required. 8

In summary, we believe the proponent is responsible for the total costs of improving the Bullfrog Road/SR 903 intersection, and the new access road near the proposed multi-family area and SR 903 intersection. Improvements include channelization widening, traffic signals or both. We believe the proponent is also responsible for their pro-rata mitigation for the impacts to mainline I-90, the I-90/Bullfrog interchange, SR 903/Ranger Station Road, and improvements to the First Street/Oakes Avenue intersection. 9

Due to the magnitude of this proposed development and its impacts to the transportation system, we would be interested in meeting with the proponent and the City of Cle Elum to discuss these (or other) mitigation measures. The WSDOT is willing to discuss the developer's proposal for monitoring the traffic impacts throughout the UGA's construction timelines. Thank you for the opportunity to review and comment on this proposed project. If you have any questions, please contact me at (509) 577-1630. 10

Sincerely,



Toby A. Suing, P.E.  
Regional Planning Engineer

TAS: rh/jjg  
cc: File #4, SR 90  
Terry Kukes, Area 1 Maintenance Superintendent

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**Comment 1**

Comment noted. No direct access to I-90 is proposed.

**Comment 2**

Comment noted.

**Comment 3**

Improvement of this intersection has been included as a condition of approval for the MPR in Kittitas County and UGA in Cle Elum. According to state standards, traffic signals should be installed when signal warrants are met. Thus, while the need for the signal improvement has been identified for a particular year based on projections in the Draft EIS and Final EIS, a proposed monitoring program would more precisely track MPR and UGA development and the traffic signal improvement would be timed appropriately to when signal warrants are met. Refer to additional discussion of these requirements in Section 3.14 of the Final EIS.

**Comment 4**

Realignment of this intersection has been included as a condition of approval for the MPR in Kittitas County and UGA in Cle Elum. The MPR condition of approval obligates the developer to pay the full cost to realign this intersection at the time any MPR accommodation units are developed. The need and timing for a signal or other traffic control measures at this intersection would be subject to the requirements for meeting signal warrants, as described above in the response to Comment 3. Refer to additional discussion of this intersection in Section 3.14 of the Final EIS.

**Comment 5**

Level-of-service impacts for the SR 903/Ranger Station Road intersection were analyzed in the Draft EIS. Because the LOS standard did not fall below LOS D, results were shown in the Appendix only. An updated analysis of LOS impacts pertinent to Alternative 5 is presented in Section 3.14 and Appendix F of the Final EIS. This intersection is predicted to maintain a LOS A through project buildout of both the MPR and UGA.

**Comment 6**

Comment noted. Access to SR 903 from the UGA will be coordinated with WSDOT.

**Comment 7**

Comment noted. WSDOT, not the City, is responsible for all planning and funding for I-90 widening. The City is not aware of any existing WSDOT program in place for equitably obtaining pro-rata shares from all affected development and property owners for I-90 widening.

**Comment 8**

The Draft EIS does show the I-90 eastbound ramp intersection with Bullfrog Road operating at LOS E on weekends in Year 10 with the MPR. In the updated analysis contained in Section 3.14 and Appendix F of the Final EIS, this intersection is shown to operate at LOS D on weekdays and LOS F on weekends by Year 10 with the MPR.

The Final EIS discusses a possible mitigation measure of changing the stop-controlled movement to northbound-southbound from eastbound, which would improve the LOS to C. This would be a low-cost modification that would be funded by Trendwest.

**Comment 9**

Refer to the responses to Comments 2 through 8, above.

**Comment 10**

Comment noted. One meeting with WSDOT has taken place since the comment letter was submitted, and additional meetings will likely occur.

received  
5/7/01

*City of Cle Elum*

RIDGE  
PO Box 927  
Roslyn, WA 98941  
15 February, 1997

Kittitas County Planning Commission  
205 W. 5th  
Ellensburg, WA 98926

*Larry Dewick*



Re: Trendwest Development Agreement

Dear Commission Members:

Following are RIDGE's comments on Trendwest's draft Development Agreement.

This document applies only to the application process and does not contain most of the information required in a true development agreement, such as site plans, development standards, design standards, open space preservation, etc. Yet Trendwest is taking advantage of 2 very important aspects of a development agreement; a vesting period and protection from new standards, regulations and zoning ordinances. This sketchy application should not be viewed as a development agreement and the developer should not be granted the protections afforded by a development agreement. Even this document states that "this Agreement contemplates a future development agreement" (page 9). By agreeing to the terms of this agreement, the County ties its hands on any future relevant ordinances, standards or regulations, and agrees to accept the developer's terms even though the build-out period may be 15 years or more. As RCW 36.70B.180 states.

"Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period specified in the agreement, and may not be subject to an amendment to a zoning ordinance or development standard or regulation or a new zoning ordinance or development standard or regulation adopted after the effective date of the agreement. A permit or approval issued by the county or city after the execution of the development agreement must be consistent with the development agreement."

On page 3, in Item 5 Trendwest wants the County to accept "such other applications as Trendwest desires to submit". This is unnecessarily vague and leaves the door wide open to any unspecified development, as does the comment on Page 2 that "mixed uses, such as resort focused retail and commercial services might be included". This lack of specificity may in future be interpreted to allow for a mega-mall to provide commercial services to resort guests. The law

does not require the County to accept such vague, non-specific terms from the developer. As RCW36.70B.170 reads "a development agreement shall be consistent with applicable development regulations adopted by a local government..." Kittitas County has land-use laws in place which are applicable to all development in the County. Those laws must be considered in terms of this development also. It is also worth noting that if the developer seeks to add to their application later, the development agreement should outline the process for amendment. This document does not.

We see this vagueness again on Page 4: "at Trendwest's option, the application review process may consider uses for the property other than, or in addition to, an MPR." Again, this is wide-open and allows the developer the potential to put in any sort of development. If that is so, the county may not be getting the touted benefits of a MPR; perhaps the county should rethink whether this entire process makes sense.

Page 4, paragraph 2: "such permits will not be approved." Such permits should not even be submitted by the developer nor accepted by the County until the MPR application is approved.

Page 4's request that "the application components will be vested as of the date of filing with the County" is not at all a requirement of the law. By granting the applicant vesting at this stage of the process, the county is making a substantial give-away. In fact, the County is tying their own hands when they're not required to do so. As stated earlier, Trendwest is asking for protection with an inadequate document

1 (cont.)

Page 5, paragraph 2: "Consistent with KCC 15.04, Trendwest shall propose the use of an independent consultant (the "EIS Consultant") from the County's list of approved, qualified consultants". In order to present an appearance of fairness, the county should remain wholly responsible for the EIS process. The developer should not have any control over the selection of the EIS consultant to ensure the consultant's independence. Once the consultant is approved, the developer should have no involvement in the retention or dismissal of that consultant. The same appearance of fairness is in question on page 9 where Trendwest proposes to pay the County for their services. It's worth noting that some counties prohibit the developer paying the costs of the planning process in order to prevent a conflict of interest. If the county is to have the process paid by the developer, how can they assure the public that the process is in the best interest of the public?

Trendwest's proposed work schedule makes it obvious that the public is to receive short shrift. The developer is planning a mammoth project, yet the provisions allowing for public review and participation are inadequate. The 30 day comment period on the EIS is the minimum amount required and can be expanded to 45 days.

and even beyond that with the consent of the developer. The process is being crunched and provides for only a 10 day comment period between the issuance of the final EIS and related Planning Commission hearing, a 10 day period between that Planning Commission Hearing and the Commission's recommendations to the BOCC, while the BOCC is allowed 10 days for action on their part. Even the Planning Commission and the BOCC are being given short-shrift in the process as they are being pressured to act quickly. This project is one of the most massive ever proposed within Kittitas County, and the public and County officials should be provided with the maximum time allowable rather than the minimum as suggested by Trendwest. Even Trendwest refers to "the scope of the proposed MPR and the large area in which it will be developed" and requests that the area be adopted as a separate Subarea.

Page 6, paragraph 2: RIDGE requests that one alternative analyzed in the EIS be that of maintaining the lands as forest lands of long term commercial significance.

Page 7, paragraph 2: The developer's request that the county consolidate review and action to a 2-step process is an attempt to modify existing County procedure. As mentioned above, with a project of this size Trendwest should not be allowed to limit public comment or review, nor to bypass the existing process for review. The existing 3-step process of Planning Commission, BOCC, and Board of Adjustment review serves for much smaller projects and must be in all fairness apply to this developer also. After all, the County must have had good reason to establish such a process in the first place.

1 (cont.)

RIDGE would like clarification regarding the planning report referred to on page 8. We are concerned that a non-planning document may be termed a "planning report" and serve to dilute the EIS.

RIDGE requests that some of the hearings in this process be held on weekends to allow for more public participation. All of the hearings should be held in Upper County since this is an Upper County issue. We would also like to see any development agreements include provisions for gathering public input through public forum such as town meetings.

Despite the development agreement, the county and the developer cannot ignore GMA legislation pertaining to these lands. As we all know these lands are presently under appeal to the EWGMHB for the County's failure to designate as commercial forest lands. Both the County and Trendwest are accountable to GMA legislation and cannot avoid its requirements regarding forest lands, urban growth areas, etc.

*Gayle Fox*  
for RIDGE

**Comment 1**

This is a copy of a letter from RIDGE to the Kittitas County Planning Commission dated February 15, 1997, containing comments on a draft development agreement for the MPR. As such, it is not related to the UGA development and associated decisions being considered by the City in this EIS. A development agreement, subarea plan, and zoning regulation will govern the review or proposed development in the UGA. Receipt of this letter is noted.

received

3/7/2001

CITY OF Cle Elum

To: the City of Cle Elum  
Thank you for the opportunity to respond to the proposed U.G.A. west of Cle Elum. I am of the opinion that the D.E.I.S. does not adequately address many Issues and should go under a further review.

Section 3-13, cultural resources, is one area that I feel needs to have a more complete set of mitigations to address the impacts that will occur if such a development should be passed by the city. Although American Indian Cultural sites have been listed as a studied area I feel that stronger language should be included to ensure compliance with Washington state law(see attachment "Washington"). Also, archeological finds pre-dating human habitation seem to be completely unaddressed, this may seem to be of small concern at the present time, court records show that ownership of prehistoric finds can lead to costly court cases, especially when more then one controlling entity is involved ( see attachment "Sue"...) I would ask the city and Trendwest to work in a pro-active wording to allow for any possible scenarios that these documents bring to attention.

1

Furthermore, Trend-west's D.E.I.S., ignores any of the cultural assets that the land has for the modern people of the valley. How does T.W. propose to mitigate for the loss of open-space, the destruction of small town America, and the destruction of critical wildlife habitat. I feel that the City of Cle Elum should encourage Trend-west to mitigate these losses through the purchase of wild lands in the upper county to be placed into permanent conservation easement ( see Attachment "the conservation easement") this would be a small mitigation for the destruction of the rural character and the urban sprawl that T.W. will bring if there project is allowed to go in as proposed.(see attachment "Indications of Urban sprawl).

2

Furthermore many studies indicate that developments such as these become finical burdens to the communities that they are attached to, not the economic windfall that trend-west has purported (see attachment "of government"). I believe that a pro-active mitigation for the services that T.W. will impact are required, I.E. money for the schools, police and fire departments and roads.

3

I believe that before any approval of this project is put forth a new comprehensive D.E.I.S. should be drafted. This document should study modern culture, wildlife connectivity, secondary growth, water quality, water distribution, cost of maintaining infrastructure if Trendwest should abandon the area, impacts of the U.G.A. on the county roads of bullfrog and 903 and environmental concerns.

4

I would also like the city to request documentation that Trendwest is financially capable of addressing any mitigation that they have already offered, and any that the communities surrounding their proposed development may impose now or in the future.

5

I would also like to point out that "phased Environmental review" makes public comment nearly impossible. How can the U.G.A. be commented on if large portions such as the horse park are left out of the D.E.I.S.?

6

If the City and County are committed to turning the upper county into another strip-mall, suburbia, the people should at least be afforded the opportunity to see what kind of environmental havoc the process will reap.

7

Thank you  
Larry Susich

## WASHINGTON

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### Washington Revised Codes 27.53.010 (1991)

#### Declaration.

The legislature hereby declares that the public has an interest in the conservation, preservation, and protection of the state's archaeological resources, and the knowledge to be derived and gained from the scientific study of these resources.

### Washington Revised Codes 27.53.020 (1991)

#### Archaeological Resource Preservation, Etc., Declared Public Functions—Archaeological Research Center Designated State Agency—Cooperation Enjoined.

The discovery, identification, excavation, and study of the state's archaeological resources, the providing of information on archaeological sites for their nomination to the state and national registers of historic places, the maintaining of a complete inventory of archaeological sites and collections, and the providing of information to state, federal, and private construction agencies regarding the possible impact of construction activities on the state's archaeological resources, are proper public functions...

### Washington Revised Codes 27.53.040 (1991)

#### Archaeological Resources—Declaration.

All sites, objects, structures, artifacts, implements, and locations of prehistorical or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material that are located in, on, or under the surface of any lands or waters owned by or under the possession, custody, or control of the state of Washington or any county, city, or political subdivision of the state are hereby declared to be archaeological resources.

### Washington Revised Codes 27.53.045 (1991)

#### Abandoned Archaeological Resources—Declaration.

All historic archaeological resources abandoned for thirty years or more in, on, or under the surface of any public lands or waters owned by or under the possession, custody, or control of the state of Washington, including, but not limited to all ships, or aircraft, and any part or the contents thereof, and all treasure trove is hereby declared to be the property of the state of Washington.

### Washington Revised Codes 27.53.060 (1991)

#### Disturbing, etc., Archaeological Resource or Site without Written Permit or Permission Unlawful—Conditions Allowed— Exceptions.

On the private and public lands of this state it shall be unlawful for any person, firm, corporation, or any agency or institution of the state or a political subdivision thereof to knowingly remove, alter, dig into, or excavate by use of any mechanical, hydraulic, or other means, or to damage, deface, or destroy any historic or prehistoric archaeological resource or site, or remove any archaeological object from such site, except for Indian graves or cairns, or any glyptic or painted record of any tribe or peoples, or historic graves as defined in chapter 68.05 RCW, disturbances of which shall be a class C felony punishable under chapter 9A.20 RCW, without having obtained a written permit from the director for such activities.

### Washington Revised Codes 27.53.070 (1991)

#### Field Investigations—Communication of Site or Resource Location to Research Center.



**Washington Revised Codes 27.44.020 (1991)****Examination Permitted—Removal to Archaeological Repository.**

Any archaeologist or interested person may copy and examine such glyptic or painted records or examine the surface of any such cairn or grave, but no such record or archaeological material from any such cairn or grave may be removed unless the same shall be destined for reburial or perpetual preservation in a duly recognized archaeological repository and permission for scientific research and removal of specimens of such records and material has been granted by the state historic preservation officer...

**Washington Revised Codes 27.44.030 (1991)****Intent.**

The legislature hereby declares that...(1) Native Indian burial grounds and historic graves are acknowledged to be a finite, irreplaceable, and nonrenewable cultural resource, and are an intrinsic part of the cultural heritage of the people of Washington. The legislature recognizes the value and importance of respecting all graves, and the spiritual significance of such sites to the people of this state; (2) There have been reports and incidents of deliberate interference with native Indian and historic graves for profit-making motives; (3) There has been careless indifference in cases of accidental disturbance of sites, graves, and burial grounds; (4) Indian burial sites, cairns, glyptic markings, and historic graves located on public and private land are to be protected and it is therefore the legislature's intent to encourage voluntary reporting and respectful handling in cases of accidental disturbance and provide enhanced penalties for deliberate desecration.

**Washington Revised Codes 27.44.040 (1991)****Protection of Indian Graves—Penalty.**

(1) Any person who knowingly removes, mutilates, defaces, injures, or destroys any cairn or grave of any native Indian, or any glyptic or painted record of any tribe or peoples is guilty of a class C felony punishable under chapter 9A.20 RCW. Persons disturbing native Indian graves through inadvertence, including disturbance through construction, mining, logging, agricultural activity, or any other activity, shall reinter the human remains under the supervision of the appropriate Indian tribe. The expenses of reinterment are to be paid by the office of archaeology and historic preservation pursuant to RCW 27.34.220. (2) Any person who sells any native Indian artifacts or any human remains that are known to have been taken from an Indian cairn or grave, is guilty of a class C felony punishable under chapter 9A.20 RCW. (3) This section does not apply to...

**Washington Revised Codes 27.44.050 (1991)****Civil Action by Indian Tribe or Member—Time for Commencing Action—Venue—Damages—Attorneys' Fees.**

Apart from any criminal prosecution, an Indian tribe or enrolled member thereof, shall have a civil action to secure an injunction, damages, or other appropriate relief against any person who is alleged to have violated RCW 27.44.040...

**Washington Revised Codes 27.53.060 (1991)****Disturbing, etc., Archaeological Resource or Site Without Written Permit or Permission Unlawful—Conditions Allowed—Exceptions.**

On the private and public lands of this state it shall be unlawful for any person, firm, corporation, or any agency or institution of the state or a political subdivision thereof to knowingly remove, alter, dig into, or excavate by use of any mechanical, hydraulic, or other means, or to damage, deface, or destroy any historic or prehistoric archaeological resource or site, or remove any archaeological object from such site, except for Indian graves or cairns, or any glyptic or painted record of any tribe or peoples, or historic graves as defined in chapter 68.05 RCW, disturbances of which shall be a class C felony punishable under chapter 9A.20 RCW, without having obtained a written permit from the director for such activities....

**Washington Revised Codes 68.60.010 (1991)****Definitions.****Washington Revised Codes 68.60.020 (1991)**

**Dedication.**

Any cemetery, historical cemetery, or historic grave that has not been dedicated pursuant to RCW 68.24.030 and 68.24.040 shall be considered permanently dedicated and subject to RCW 68.24.070. Removal of dedication may only be made pursuant to RCW 68.24.090 and 68.24.100.

**Washington Revised Codes 68.60.030 (1991)**

**Preservation and Maintenance Corporations.**

The archaeological and historical division of the department of community development may grant by nontransferable certificate authority to maintain and protect an abandoned cemetery upon application made by a preservation organization which has been incorporated for the purpose of restoring, maintaining, and protecting an abandoned cemetery.

**Washington Revised Codes 68.60.040 (1991)**

**Protection of Cemeteries--Penalties.**

(1) Every person who in a cemetery unlawfully or without right willfully destroys, cuts, mutilates, effaces, or otherwise injures, tears down or removes, any tomb, plot, monument, memorial, or marker in a cemetery, or any gate, door, fence, wall, post, or railing, or any enclosure for the protection of a cemetery or any property in a cemetery is guilty of a class C felony punishable under chapter 9A.20 RCW. (2) Every person who in a cemetery unlawfully or without right willfully destroys, cuts, breaks, removes, or injures any building, statuary, ornamentation, tree, shrub, flower, or plant within the limits of a cemetery is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW...

**Washington Revised Codes 68.60.050 (1991)**

**Protection of Historic Graves--Penalty.**

Any person who knowingly removes, mutilates, defaces, injures, or destroys any historic grave shall be guilty of a class C felony punishable under chapter 9A.20 RCW. Persons disturbing historic graves through inadvertence, including disturbance through construction, shall reinter the human remains under the supervision of the cemetery board. Expenses to reinter such human remains are to be provided by the office of archaeology and historic preservation.

**Washington Revised Codes 68.60.060 (1991)**

**Violations--Civil Liability.**

Any person who violates any provision of this chapter is liable in a civil action by and in the name of the state cemetery board to pay all damages occasioned by their unlawful acts. The sum recovered shall be applied in payment for the repair and restoration of the property injured or destroyed and to the care fund if one is established.

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## of Government

One of the more controversial aspects of suburbanization is whether development "pays its way." Many people would have fewer concerns about land development if they believed tax revenues from new development covered the costs of providing services, particularly roads, sewers, water services, solid waste disposal, and schools. Yet several studies have found that residential development, particularly low- and middle-income housing, is a "losing proposition" financially. Policymakers, however, must take care in how they interpret the implications for land use and growth policy.

### A. Does New Development "Pay Its Way"?

The fear that new development may not pay its way is partly a function of how these services are provided. Many public services—including schools—are "priced" at their average cost. For example, when a local government considers extending a water line to a new home, it often bases its fee on a citywide average, not on the actual costs of extending the hook-up to that particular site or development. In addition, the first developers must cover the full cost of extending the main trunk line to the new development based on established density guidelines or the zoning code, regardless of the number of units the developer plans to build. The initial capital costs may thus be imposed on the first property owner who wants to develop his or her property. This approach to infrastructure pricing tends to discourage infill and encourage large subdivisions so that developers do not subsidize later arrivals.

Since publicly provided infrastructure services tend to use average-cost pricing for new extensions, the potential for subsidizing new development exists. For example, a city might determine that the initial capital cost of tapping into the city's sewer system averages \$4,000 and assess that fee for every building unit, regardless of the individual building type. In some cases, the actual cost to the city might exceed \$4,000, but the builder or developer will not be charged for the full on-site costs, subsidizing the development through general revenues or user fees from existing users.

Public-service costs, on the other hand, may also be overstated. A single-family home in Portland, Oregon will tap into about \$24,013 worth of public services when it is built, including utilities, water, sewer, roads, schools, and general government. Concentrating solely on costs, however, mischaracterizes the public policy issue surrounding financing economic growth. Richard H. Carson, former planning director for Portland Metro (the regional planning agency), notes that most of these improvements are already paid by the developer as either on-site expenses or off-site charges levied by the local government. Overall, Carson estimates that 59 percent of the total cost of extending public services to a new house in the Portland area is already paid for by the developer and, ultimately, the home owner. Another 20 percent of the cost is funded by the local government, 13 percent is unfunded by the state (including schools), and about 8 percent is easily fundable through existing local government channels. In many cases, Carson notes, local governments choose to pay for these costs from general-tax revenues. Half of the 21 cities Carson analyzed did not use "all the legally allowed development charges" to generate revenues to offset the costs of growth.

Studies have found that residential development, particularly low- and middle-income housing, is a "losing proposition" financially.

Marginal-cost pricing is typically used among privately provided services and independent public utilities to ensure costs are fully allocated to consumers using the service. Prices for new water extensions are set based on the cost of each new project, not a citywide average. In the case of a new subdivision, owners of new homes would pay the cost of providing a new elementary school. This means the marginal cost of extending the service is assessed against the user, not all citizens irrespective of whether they will use the new service. Capital costs and other costs such as debt are incorporated into the price of the service.

The fear that development will not pay its way has prompted many citizen groups and public officials to impose growth controls, moratoria on new building permits, or otherwise limit new development. Indeed, policy recommendations advocating "compact development"—putting new homes and businesses on smaller lots and land areas—is driven by the belief that reducing overall government costs should be a primary driver of land-use policy.

**Should Residential Development Pay Its Way?**

"Low- and mid-price single-family housing generally has a negative fiscal impact," reports a recent study from Purdue University's Department of Agricultural Economics. The study examined four residential developments in an unincorporated section of Tippecanoe County in Indiana. One development consisted of expensive homes (\$327,678 per home), two developments were mid-priced (\$141,896 and \$90,358 per home), and the fourth was a mobile-home park (\$17,554 per home). With the exception of the mobile-home park, the subdivisions were relatively small: 46 housing units in the high-income development, 52 and 66 units in the mid-priced development, and 377 in the mobile-home park. Each of the subdivisions created a net fiscal deficit for at least one level of local government (see table below).

Annual Fiscal Impact for Home in Indiana				
	High-priced	Mid-priced#1	Mid-priced #2	Mobile home
County government	-\$20,000 to +\$90,000	-\$19,000 to +\$8,000	-\$9,000 to -\$20,000	-\$45,000 to -\$120,000
Local schools	+\$40,000 to +\$50,000	+\$3,800 to -\$8,200	-\$5,100 to -\$17,000	-\$21,000 to \$49,000
Township government	-\$130 to -\$500	\$230 to -\$470	-\$340 to -\$570	-\$1,500 to -\$2,500

At first glance, these results make a strong case for restricting new residential development. This conclusion, however, is misleading. Local governments have to balance their budgets. If new residential development does not directly pay its way, city costs, some portion of which are fixed costs that do not vary with population size, have to be covered from other sources. One obvious source is business. Commercial and industrial properties generate revenues that can offset shortfalls in other areas, particularly schools. State governments also provide revenues to local governments, particularly for infrastructure and school-related expenditures. A third source of revenues is current or previous residents.

Requiring residential development to "pay-its-way" involves important trade-offs concerning who should pay for local public services and in what amounts. Local communities determine tax rates and "pricing" policies for services. A city or county, for example, could charge the full cost of providing services that are site specific. New subdivisions might include the cost of building a new school, incorporating parks and open space, tap-in fees for sewer and water rather than relying on subsidies from the business sector or current residents, avoiding infrastructure spending deficits.

Requiring all development to pay its own way also has equity implications for the community. If land-use plans were redesigned only to allow housing that fully pays its way using marginal-cost pricing, only high-end residential developments would be accommodated in local plans and zoning codes. In the Indiana case, housing in rural areas would be reserved for families with incomes who can afford homes (and lots) worth \$300,000 or more. Middle- and low-income housing would be discouraged, creating a significant income wedge between those that could afford the new homes and those (principally low- and middle-income families) that could not.

**B. Cost of Community Service Studies**

Cost of Community Service (COCS) studies attempt to determine whether land development pays for itself. The American Farmland Trust promotes COCS studies as "an inexpensive, easy-to-understand way to determine the net fiscal contribution of different land uses to local budgets." Not surprisingly, these studies are becoming more frequent because they are easy to use and apply, and the results are easy to interpret.

COCS studies try to match the costs of services provided by local government to the revenues generated by land development and use. Most often, these revenues are generated from property taxes. For example, an office building uses public services such as water, sewers, roads, and fire and police protection. These services would be funded from the tax revenues and fees paid by the business.

Matching land uses to tax revenues is accomplished by first determining the pattern of land use in the local community. Often, this means determining how much land is devoted to residential use, commercial use, and agricultural use. Then, the costs of providing public services such as police, fire, water, and roads are determined. These costs are allocated to land uses based on their prevalence in the community.

Most COCS studies find that residential development fails to generate sufficient tax revenues to cover the costs of providing services to those areas. By implication, this means that other kinds of development—commercial, industrial, and agricultural—subsidize housing.

These costs are compared to revenues generated through taxes that directly result from land development. For example, property taxes are included since they reflect changing land values due to development. Other revenues, such as sales taxes, would be allocated to different land uses based on where people live and estimates of how much of the tax revenue is generated locally. A federal grant for a road improvement would not be included because the origin of the money is not tied to property development. Similarly, user fees are not included because they are assumed to cover the marginal costs of the services and do not draw from general revenues. User fees, when set correctly, require users to pay their way.

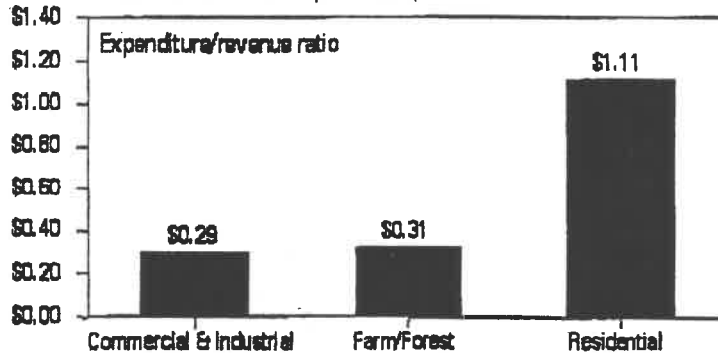
Despite flaws and limitations (see box), dozens of COCS studies have been used across the nation to determine whether various land uses are cost effective. The results have often been used to justify growth controls, particularly on residential development. Most COCS studies find that residential development fails to generate sufficient tax revenues to cover the costs of providing services to those areas. By implication, this means that other kinds of development—commercial, industrial, and agricultural—subsidize housing.

Recently, the American Farmland Trust reviewed the results of 40 COCS in 11 states. Twelve of these studies (30 percent) were performed by the American Farmland Trust, and 11 (27.5 percent) were performed by the Southern New England Forest Consortium.

For every dollar raised in revenue, according to these studies, farmland required expenditures of 31 cents (Figure 6). Commercial and industrial property were even more cost effective: just 29 cents were spent on public services for every dollar raised in revenues. Residential property was a net drain on local governments, requiring spending \$1.11 for every dollar in revenues raised.

**Figure 6: Cost of Community Services Based on Land Use**

(Median Revenues Raised per Dollar Spent)



Source: *Cost of Community Services Studies Fact Sheet*, American Farmland Trust, Farmland Information Center, no date).

Thus, while farm, forest, and open lands generate more revenues than expenditures, COCS studies find that "residential land uses . . . are a net drain on municipal coffers: it costs local governments more to provide services to homeowners than residential landowners pay in property taxes." More importantly, from the American Farmland Trust's perspective, "in every community studied, farmland has generated a fiscal surplus to help offset the shortfall created by residential demand for public services."

#### Limitations of Cost of Community Service Studies

Several problems emerge if COCS studies are used to evaluate the cost effectiveness of different types of land development. These problems limit their applicability to developing and using realistic policy recommendations. Among the more important limitations are:

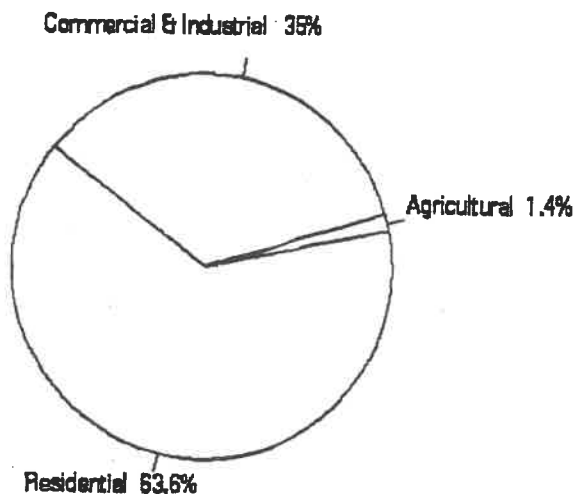
- *COCS studies are static and do not incorporate the dynamics of the land market.* They are "snapshots of a community and cannot be used to infer fiscal capacity from one year to the next or over a longer period of time.
- *COCS studies ignore nonland-use based revenue sources.* Since a COCS study attempts to determine how much revenue is generated by a specific land use, revenue sources external to land use, such as state or federal funds, are excluded. This becomes problematic when the size of a community may impact future revenue from public and nonpublic sources for specific projects such as parks and recreational activities.
- *COCS studies are not grounded in a concept of development.* Since they are intended to provide a simple way to account for the flow of funds to and from specific land uses, these studies ignore synergistic elements that are natural parts of the development process. As communities grow, certain industries and businesses may be attracted to the community that may increase future revenue flows. A growing residential community provides a market for future businesses. As infill occurs, revenues are generated that compensate for deficiencies in other land-use categories.
- *COCS studies ignore alternative service delivery possibilities.* A COCS study presumes that the current system of government and mix of services provided now will also be provided by the local government in the future. Alternative ways to deliver services (i.e., through private providers) or potential cost-saving management techniques (i.e., competitive bidding) could bring costs in line with revenues and alter the fiscal position of land uses.

*COCS studies treat land uses as independent.* The studies separate land into broad categories—agricultural, residential, commercial, industrial—and ignore the interdependencies of uses. Interdependencies of land uses are not factored in even though a mix of uses is necessary for sustainable economic growth and development. In addition, these studies often presume that land uses must be separate; mixed uses such as those found in older and smaller downtown areas do not fit well into the methodology.

**C. Agriculture and the Cost of Community Services**

The ratio of revenues to expenses is just one element of the broader issue of whether development pays its way. For example, a COCS study in Michigan focused on Scio Township, a largely rural area of Washtenaw County. Washtenaw County is a rapidly urbanizing area that contains Ann Arbor and the University of Michigan. Readers and policymakers are left with the impression from this COCS study, as in other studies, that agriculture pays for itself and should be encouraged over other land uses, particularly residential land uses. Yet, agriculture represents only 1.4 percent of the township's total revenues from general taxes on land uses (Figure 7). Agriculture generated \$203,532 while commercial and industrial property generated \$5 million, and residential property generated \$9 million.

**Figure 7: Total Revenues Generated by Land Use:  
Scio Township, Washtenaw County, Michigan**



Source: Christopher A. Arend, Laura Friedeman Crane et al. *Southeast Michigan Agricultural Land Preservation Project*. University of Michigan, School of Natural Resources and Environment, April 1996, Table 11-9, p. 119.

Agriculture's ratio of public revenues to expenses is due to the particular nature of the industry: farms use a lot of land and require limited publicly provided services such as roads. Similarly, an acre of privately owned vacant land would

generate tax revenues and require virtually nothing in local public services. The fiscal ratios are an artifact of how they are calculated. If the fiscal impact of the farm house were the unit of analysis, rather than the acre of land used for a particular purpose, farm houses would likely generate similar net drains on local government budgets as other residential uses if they were required to tap into public sewer and water systems and the costs of educating children were included.

Similarly, residential development using the COCS analysis generated net fiscal benefits when schools were excluded and the analysis focused solely on noneducation public services. In most states, school districts are independent governmental units and have independent taxing authority. District boundaries do not necessarily conform to township or municipal boundaries. Thus, using schools to evaluate the revenue impacts on township government is inappropriate. In some states, where schools are financed from state sources, new schools may be a budget liability of the *state government*, not the local government.

If local policymakers were attempting to determine local land-use policy based on the tax and spending impacts estimated using COCS studies, they would discourage residential development and encourage agricultural, commercial, and industrial uses. An argument even could be made that housing should not be allowed on farms since it would cost more to service them with infrastructure than they would generate in revenues. In addition, if land-use decisions were made purely on net fiscal benefits, Scio Township should reserve all its land for commercial and industrial uses. This, of course, would require commuting by workers who would travel into Scio Township from other parts of the county or neighboring counties. This approach to land use would encourage sprawl-like development patterns in other townships and nearby counties.

An argument even could be made that housing should not be allowed on farms since it would cost more to service them with infrastructure than they would generate in revenues.

The push to preserve farmland and limit residential development is driven in part by the belief that *low-density* residential development is inefficient compared to *high-density* residential development. To evaluate this claim, community service studies must decompose residential land further than the broad classifications typically reported. The Scio Township COCS study provides little useful insight into the cost of public services in more- versus less-dense land developments.

## D. Compact Development

One of the most-compelling arguments for limiting growth is provided by proponents of compact development. Using an approach pioneered by researchers at Rutgers University, compact-development proponents asked a simple but very important question: how would infrastructure and land costs be affected by redirecting urban development into smaller lots, clustered closer together? Houses closer together, they suggest, should reduce infrastructure costs since shorter roads, sewer lines, and water lines would be built. In addition, less land would be used for homes, leaving a larger share for forest and open space. More controversially, the authors argued that housing costs would *fall* under compact development because smaller lots would reduce land and infrastructure costs.

Despite its potential, compact development is unlikely to achieve many of the results its proponents claim. Infrastructure that provides benefits to consumers is not necessarily a net drain on local government. The potential benefits of compact development also depend on consistent, coordinated statewide implementation. The statewide application of compact development is necessary, proponents argue, because the solution is considered "regional" and must supercede parochial local government interests that favor low-density residential development to conserve land.

Several factors, grounded in the experience of states struggling with attempts to implement compact development schemes suggest this approach will have limited impact on land conservation or meet compact development goals.

### 1. Land Saving Benefits are Modest



Compact development will likely achieve modest reductions in overall land consumption. Compact development slows the rate of increase; it does not stop land development. The effects of slowing land development, if they appear, can vary widely from state to state and even location to location.

In Michigan, for example, one of the three states where this methodological approach has been applied, land consumption is projected to be 12.7 percent lower under the more "efficient" compact development scenario. This reduction occurs over a 25-year period. Annualized, compact development reduces the projected rate of land consumption by about 0.5 percent per year, or 5 percent per decade. If these savings were achieved statewide, compact development would slow the pace of urbanization from 12.4 percent to 11.8 percent per decade (making the tenuous assumption that past trends will continue) (Figure 8). In New Jersey, the results were expected to be more significant: urbanization was occurring at a rate of 7.3 percent per decade. This rate would have slowed to 4.1 percent. Agricultural land loss would have been reduced from 2.8 percent per decade to 2.6 percent per decade in Michigan and from 6.2 percent to 4.4 percent in New Jersey (Figure 9).

While the experiences of New Jersey appear more favorable, the case of Michigan cautions against forecasts of dramatic land-consumption benefits through compact development. Moreover, the forecast for New Jersey might have been achievable if all cities participated in the state plan. In fact, few cities are participating (see below). Thus, any slowdown in urbanization now experienced in New Jersey is likely the result of natural market forces than the implementation of the state plan.

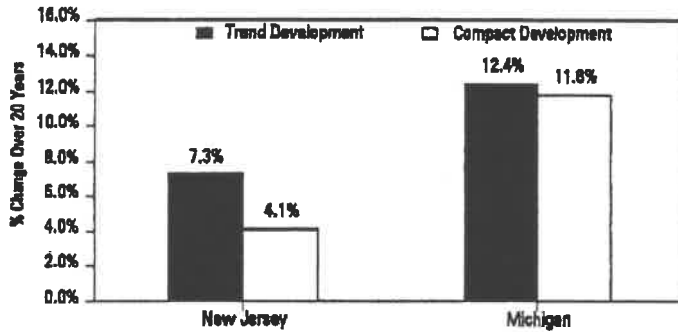
## ***2. Infrastructure Benefits May Not Materialize***

Second, infrastructure cost savings may not materialize. Compact development proponents use a static view of spending and potential savings. They presume costs for infrastructure such as road extensions will remain the same over the 25-year period and other factors (e.g., local capacity limitations or changes in technology) will not impact costs. In some cases, large-lot development could reduce infrastructure costs by using septic systems rather than expensive extensions of municipal sewer lines. Privatization of key infrastructure (e.g., water, sewer) could dramatically reduce fiscal liabilities for local governments while ensuring full costs are charged for new development.

Compact development studies tend to reduce community development to an exercise in reducing infrastructure costs.

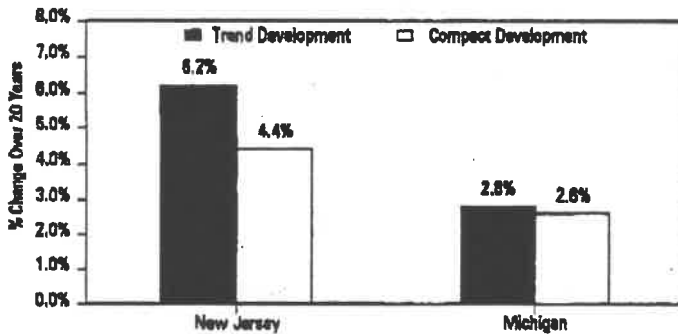
Compact development studies tend to reduce community development to an exercise in reducing infrastructure costs. Infrastructure costs are one component of housing and the quality of a community, but not the only or even primary component. If families are willing to pay the full costs of their home—including higher infrastructure costs—the market accommodates this diversity. Compact development reduces housing choice by limiting larger-lot homes from the real-estate market. "Many households," note urban planners Alan Altshuler and Jose A. Gomez-Ibanez, "would be willing to pay the modest increases in road and utility costs to gain the larger private backyards and more open space of the low-density neighborhood."

Figure 8: Projected Urbanization for Trend and Compact Development



Source: See text and footnotes.

Figure 9: Projected Farmland Conversion Under Trend and Compact Development Patterns



Source: See text and footnotes.

**3. Real Housing Prices will Likely Rise**

Real housing cost savings are unlikely to materialize either. The authors of the New Jersey and Michigan studies acknowledge that most of the work by independent scholars shows that growth controls increase housing prices. Growth controls often limit the number of houses while demand for housing continues to increase. This demand/supply mismatch increases the price of housing. On the other hand, the Rutgers University researchers argue, if the number of housing units increases, or at least stays the same, housing price inflation will not occur. Housing prices may even fall, they predict, because infrastructure and land costs will be lower.

This reasoning is flawed for at least two reasons. First, housing costs will be determined in the real-estate market by consumers and developers. Construction costs are not the only factors that determine housing prices. While

infrastructure costs may fall, these savings will not necessarily be passed on to consumers if the demand for housing increases, particularly in high-growth areas or "good" neighborhoods. This is becoming increasingly evident when the effects of development fees are examined. Where demand is high, developers might experience higher profit margins (therefore encouraging more development in those areas).

More importantly, the authors assume that the amount of land is not important to a consumer's decision to buy a house. The authors view larger lots as a pure cost without benefits. In essence, families will not care whether they live in a house on one-eighth acre or a house on one-half acre. While the authors kept the *number* of homes in their cost analysis the same, the *quality* of the housing changed significantly when they reduced the lot size. Based on current development trends, most families prefer detached, single-family homes on separate lots with a yard. Compact development could reduce the quality of life and standard of living for families by resulting in equal or higher housing costs for lower-quality units. For example, suppose the state- or local growth-management program limits development to quarter-acre lots (four units per acre) while current trends subdivide land into half-acre lots. A 2,000 square-foot house on a quarter-acre lot is of lower quality than a 2,000 square-foot house on a half-acre lot for most people. Most families would pay less money for the home on the quarter-acre lot than the half-acre lot if the neighborhoods are exactly the same in every other aspect (e.g., proximity to schools and parks, road access, availability of retail stores, etc.). The negative effects of housing quality are heightened if new subdivisions do not dedicate additional land for open space.

For example, Maryland implemented "Smart Growth" legislation in 1997. The legislation requires the state to identify Priority Funding Areas, or PFAs, to guide state infrastructure spending. All existing communities qualify as a PFA, but the state uses housing density to determine whether funding of sewer, water, roads, and other infrastructure should be extended to new residential development. The density criteria, and hence qualifications for state funding, are calculated solely on the amount of land developed for residential purposes. For undeveloped areas, Maryland requires a housing density of at least 3.5 units per acre to qualify for state funding as a PFA.

Mandated compact development also limits housing choices and thus opportunities. Choices about house and lot sizes are not independent of each other. Some families might prefer a bigger house on a smaller lot. Others might prefer a bigger lot for a smaller house. Reducing housing choices to building characteristics such as floor area, number of bedrooms, number of bathrooms, or kitchen size ignores the value many families place on private open space (yards).

#### 4. Complete Implementation is Unlikely

Compact development as a statewide planning tool also promises more than it can deliver. First, state plans are not easily implemented. New Jersey implemented a comprehensive state land-use plan in 1992. The plan used compact development to steer new development into existing urban centers and suburbs using a growth-corridor or growth-node approach. In New Jersey, 36 cities and towns have applied for designation as a "center," a status that would permit them to tap into infrastructure funds after their compliance with the state plan is verified. Five years after the first plan was adopted and 12 years after the New Jersey State Planning Act was signed into law, 11.1 percent of the state's cities, towns, and villages are participating. These cities and towns make up 16.5 percent of New Jersey's population. Almost two-thirds of the state's population lives in the largest cities: Newark (270,607), Jersey City (229,108), Paterson (148,769), Elizabeth (110,198), and Camden (85,339), not the suburban areas that are targeted for compact development. Thus, the state plan is reaching a very small segment of the state's suburban and newly urbanizing populations.

Examining the types of suburban and rural communities participating in the state plan is also instructive. Several are communities with unique characteristics and attributes. Four island communities banded together to form "The Wildwoods." Known as a summer beach destination for more than 100 years, the communities petitioned to become a state-designated center so they could address revitalization on an island-wide basis. The Township of Washington in Mercer County, New Jersey, is completing a 13-year process of developing a regional Town Center. The Town Center is the first New Jersey attempt to implement neotraditional design concepts on an integrated scale. Given the voluntary nature of the New Jersey state-planning system, the plan is unlikely to have a wide impact on growth patterns in the near future.

It turns out that density may not be the most important land-use variable after all. Density largely pays for itself, in the sense that developers pay for on-site

infrastructure and successive property owners pay for public services through their property taxes."

### E. Conclusion

The question of public-service cost and efficiency is an important one for debates over suburbanization. If low-density residential development were inefficient, an argument could be made for restricting it when the costs are borne by taxpayers. The empirical evidence on infrastructure costs is mixed. Even the Rutgers studies, which represent some of the most-ambitious attempts to contain development through compact development, claim modest improvements over existing development trends. Moreover, these studies are fundamentally flawed because they ignore the benefits to families of living on larger lots.

While some infrastructure costs fall as density increases (e.g., street maintenance), other costs may increase. Cities provide more than just one public service. As densities increase, cities tend to get larger, and the level of general spending tends to rise (as well as tax rates). Thus, while infrastructure costs may go down, administrative inefficiencies increase as cities get bigger and provide a broader array of noninfrastructure-related programs such as housing and welfare. The net impact is an increase in general government costs.

A more important issue involves whether increases in infrastructure costs in and of themselves merit planning mandates for more compact development. Roads, sewers, storm water drainage, and water systems represent services to consumers. If consumers pay the full costs of providing the service (marginal-cost pricing), the service enhances community welfare. Residents are showing their preference for that type of housing and its incumbent services even when the full costs are fully disclosed and may be higher than services for other kinds of housing. In a nutshell, people (households) may rationally choose a more expensive item (houses on larger lots) if the product provides a service (neighborhood) they value. Families, for example, often choose to purchase more expensive mid-size cars such as the Ford Taurus over compact and subcompact cars such as the Ford Escort as their families mature and their driving preferences change.

The comments of Reid Ewing, a proponent of higher-density, compact development, are worth repeating: "Having said all this, it turns out that density may not be the most important land-use variable after all. Density largely pays for itself, in the sense that developers pay for on-site infrastructure and successive property owners pay for public services through their property taxes." In addition, as communities develop commercial and industrial properties which typically follow residential development, sufficient cross-subsidization occurs to minimize negative fiscal impacts on local communities.

### Part 6

## Flight from the Big Cities

Concerns about the costs of suburbanization are, of course, broader than farmland loss and rising infrastructure costs. The decentralization of people and jobs also impacts existing communities and the quality of life for residents in old and new places. Low-density suburban development increases automobile "dependence," which increases demand for roads and may increase pollution. Sprawl is also blamed for the decline of "big cities" and older, inner-ring suburbs. By making outmigration easier and cheaper, people have "abandoned" older urban centers in favor of newer suburban communities. Jobs followed the people, eroding the tax base and robbing neighborhoods of an energetic, engaged populace. "Freeways have subtracted homes and businesses from the city and dispersed millions of U.S. citizens and businesses to the suburbs," notes Milwaukee Mayor John Norquist. "These new roads have left in their wake vast wastelands" in New York City, Cleveland, St. Paul, and numerous other cities. Vice President Al Gore echoed this interpretation before an audience at the Brookings Institution:

*In the last fifty years, we've built flat, not tall: because land is cheaper the further out it lies, new office*

*buildings, roads, and malls go up farther and farther out, lengthening commutes and adding to pollution. This outward stretch leaves a vacuum in the cities and suburbs which sucks away jobs, businesses, homes, and hope; as people stop walking in downtown areas, the vacuum is filled up fast with crime, drugs, and danger.*

These arguments tend to trivialize several important complicating elements of urban revitalization. Redeveloping older, inner-city cores will take much more than using public policy to deter people from leaving.

### A. Understanding Residential Migration

Urban development and redevelopment are influenced by a number of "push" and "pull" factors. Pull factors are the characteristics of a community that attract people to a city or community. The possibility of a larger house on a plot of land might attract, or "pull," someone to a suburb or rural town. The proximity to cultural and entertainment events such as professional sports or the opera might pull others into downtown areas. Providing the kinds of neighborhoods and housing opportunities people want is critical for developing, redeveloping, and rejuvenating cities of all sizes. Importantly, large cities have a number of features that attract businesses and people: roads, cultural activities, diverse and sometimes inexpensive housing opportunities, and easy access to mass transit.

Equally important, however, are the push factors. Many cities suffer from poorly functioning school systems, high tax rates, anticompetitive regulations, and a deteriorating housing stock. Upper- and middle-income households tend to be the most sensitive to these push factors because they have the wealth and income to re-locate. Rather than fight city hall, they simply move to a friendlier one and help build a new community. Middle-class migration out from the central cities is substantial. In a detailed analysis of 12 big cities, researchers at the University of North Carolina and Carnegie Mellon University found higher-income households moved out of the city at about twice the rate of similar households moving in. In cities such as Detroit and Cleveland, five households moved out for every one that moved in, prompting the authors to conclude that "a widespread back-to-the-city movement is not likely in the foreseeable future." Urban planners David Varady and Jeffrey Raffel found that suburban homebuyers were influenced mainly by things that affected their family: larger houses, more open space, efficient government, and quality schools.

Redeveloping older, inner-city cores will take much more than using public policy to deter people from leaving.

Varady and Raffel found that, for many, the poor quality of central city schools was the driving factor in moving out of the city. Education issues were particularly important for working-class families. Living in the city was actually preferred by neighborhood-oriented, middle-income families. Families that believed the quality of education in the city was on par with the quality of education in the suburbs were more likely to stay in the city. Those that did not, moved out. Families that stayed in the city escape poorly performing public schools by sending their children to private schools. Not surprisingly, Varady and Raffel found that families with a child in parochial schools tended to stay in the city.

Housing is another area where many cities are not competitive. "City homes need the amenities people want," notes Mayor Norquist. In a recent tour of suburban homes, the mayor was impressed with how suburban homes were designed. Suburban "homes were the first in the Milwaukee area with work space in the middle of kitchens, wood floors in kitchens, solariums opening off kitchens, exercise rooms with floor-to-ceiling windows, and large, walk-in closets. Thirty years ago developers featured master bedrooms. Now they feature master bathrooms."

Concerns about crime and public safety also drive many people from cities. The number of serious crimes increases as people move closer to central cities. On average, metropolitan areas have crime rates more than double rural areas. In 1994, the crime rate for the nation averaged 5,374 violent and property crimes per 100,000 person. A comparison of crime rates in 72 cities with populations over 150,000 by the U.S. Federal Bureau of Investigation revealed that all except San Jose and Virginia Beach had crime rates exceeding the national average. In 18 cases, crime rates in cities were more than double the national average (Table 9). Some of these cities are commonly cited as examples of high-crime locations (e.g., Miami, Washington, D.C., Detroit, Newark, and Baltimore). Other cities—Seattle, Portland, Tampa, Oklahoma City—are not. In Michigan, crime rates were broken down by county to provide a better illustration of the relationship between crime and urbanization. The number of serious crimes per person is almost double in central-city counties compared to rural counties and almost 70 percent higher than in collar counties (Figure 10).

## Indicators of Urban Sprawl

Prepared by Oregon's Department of Land Conservation and Development  
May 1992

\* From 1970 to 1990, the density of urban population in the United States decreased by 23 percent.

Source: Associated Press article "Census: Cities Takeover U.S.," *Statesman Journal*, December 18, 1991.

\* From 1970 to 1990, more than 30,000 square miles (19 million acres) of once-rural lands in the United States became urban, as classified by the U.S. Census Bureau. That amount of land equals about one third of Oregon's total land area.

Source: Associated Press article referred to above.

\* From 1969 to 1989, the population of the United States increased by 22.5 percent -- and the number of miles driven by that population ("vehicles miles traveled" or "VMT") increased by 98.4 percent.

Source: Federal Highway Administration, "Selected Highway Statistics and Charts--1989," quoted in March 1991 *Special Trends*, by the Urban Land Institute.

\* From 1983 to 1987, the population of the United States increased by 9.2 million-people -- and the number of cars and trucks increased by 20.1 million.

Source: *Statistical Abstract of United States, 1989*, quoted in Anthony Downs' "The Need for a New Vision for the Development of Large U.S. Metropolitan Areas."

\* "In the 1980s in Oregon, the number of vehicle miles traveled increased eight times faster than the population."

Source: TRI-MET Strategic Plan (Discussion Draft), April 1992, p. 3.

\* From 1940 to 1970, the population of the Portland urban region doubled and the amount of land occupied by that population quadrupled.

Source: The University of Oregon's Atlas of Oregon, 1976.

## Quotations About Sprawl

"Taken together, the studies [on costs of sprawl] reach similar conclusions: development spread out at low densities increases the costs of public facilities."

Douglas R. Porter, in the foreword to  
*The Costs of Alternative Development Patterns*,  
by James E. Frank, 1989

"Studies conducted over the last 30 years have concluded that when development is spread out at low densities, the per-unit cost of constructing and maintaining public facilities increases. The reason for this is that low-density development requires more miles of roads, curbs, sewers, and water lines; and municipal services must be delivered over a greater geographic area."

The Urban Land Institute  
*The Case for Multifamily Housing*, 1991

"For the last three decades, urban economists and city planners have recognized that unplanned sprawling residential development is very costly. As this development extends outward from the core, city infrastructure, service and maintenance costs increase exponentially . . . ."

Katherine E. Stone and Dennis Martinek  
"The Economic Consequences of Unmanaged Growth"  
*Western City*, November 1991

"By updating and standardizing the studies Frank [cited above] found that streets, utilities, and schools for a suburban single family development with 3 dwelling units per acre built 5 miles from sewage and water treatment plants in a leapfrog pattern would cost \$43,381 per dwelling in 1987 dollars. Building the same development adjacent to existing development and near central facilities would reduce costs by \$11,597 per dwelling unit, a 27 percent reduction."

Center for Urban Studies (PSU) and Regional Financial Advisors, Inc.  
*DLCD's Local Government Infrastructure Funding in Oregon*, 1990

"For Loudon County, the average annual revenue shortfall or net public be approximately three times as large (\$2200 per dwelling) from the lowest-density residential community projected in the study as from the highest-density community (\$700 per dwelling)."

The American Farmland Trust  
*Density-Related Public Costs*, 1986

"The results of the study . . . show a surprising consistency: 'planning' to some extent, but higher densities to a much greater extent, result in lower economic costs, environmental costs, natural resource consumption, and some personal costs for a given number of dwelling units."

Real Estate Research Corporation  
*The Costs of Sprawl*, 1974

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## The Conservation Easement

Personal Finance Advisor by *Deloitte & Touche OnLine*

Sept. 28, 1998

***A tax break is available for donating property for conservation.***

A contribution of real property to a charitable organization for a conservation purpose ("qualified conservation easement") is eligible for a charitable deduction for federal estate, gift, or income tax purposes. The Taxpayer Relief Act of 1997 provided an additional exclusion from estate assets for real property subject to a conservation easement, if the date of the donor's death is after Dec. 31, 1997.

A qualified conservation easement is a contribution of a "qualified real property interest" to a "qualified organization" solely for conservation purposes. The easement can be created during the donor's lifetime, or upon the death of the donor. A qualified real property interest can be:

1. The donor's entire interest in real property (other than a qualified mineral interest),
2. A remainder interest in real property, or
3. A perpetual conservation restriction on the use of real property.

A qualified organization is a charity that (1) is committed to, and has the ability to, protect the conservation purpose of the donation, and/or (2) is organized primarily for a conservation purpose. Examples of a conservation purpose include:

- Preservation of farmland, forests, or open spaces for the public's scenic enjoyment, or for educational or recreational uses.
- Protection of natural habitats (for example, plants, wildlife, fish).

**Charitable Contribution Deduction:** The charitable deduction is based on the difference between the fair market value (FMV) of the real property before the conservation easement, and the FMV after the easement is attached. The value of the property before the conservation easement should consider the property's "highest and best use" (for example, subdivision of the land). In determining the amount of the charitable deduction (as well as the estate exclusion; see below), the FMV of the property is reduced by any debt that is secured by the property.

**Estate Exclusion:** Beginning in 1998, there is a \$100,000 maximum exclusion for estate tax purposes for a qualified conservation easement, provided at least 30% of the FMV of the property is contributed. If the value of the easement is less than 30% of the FMV, the maximum exclusion is phased out. If the value of the easement is 10% (or less) of the FMV of the property, the estate exclusion equals zero. The maximum exclusion increases \$100,000 per year between 1999 and 2002 (that is, maximum exclusion will be \$500,000 in 2002).

Upon the death of the donor, the FMV of the property with the conservation easement is multiplied by 40% to determine the estate exclusion amount. After Dec. 31, 1997, an executor of a decedent's estate has until the due date of the estate tax return (including extensions) to elect to use the conservation easement exclusion.

The following table illustrates the maximum estate exclusion, and the potential



The following table illustrates the maximum estate exclusion, and the potential federal estate tax savings.

Year of Contribution	FMV of Property With a Conservation Easement	Maximum Exclusion (40% of FMV)	Estate Tax Savings (55% tax rate)
1998	\$250,000	\$100,000	\$55,000
1999	\$500,000	\$200,000	\$110,000
2000	\$750,000	\$300,000	\$165,000
2001	\$1,000,000	\$400,000	\$220,000
2002 and thereafter	\$1,250,000	\$500,000	\$275,000

To qualify for the estate exclusion, the property must be located (1) within 25 miles of a metropolitan area (as defined by the Office of Management and Budget), national park, or wilderness area, or (2) within 10 miles of an urban national forest (as defined by the U.S. Forest Service). Additionally, the donor (or a member of his/her family) must have owned the property for at least three years prior to the date of the donor's death.

**Example:** A taxpayer owns a home and land with a FMV of \$1 million as of Sept. 30, 1998. On this date, the taxpayer places an irrevocable perpetual conservation easement on a portion of the land. Immediately after the conservation easement is in place, the FMV of the property (home and land) is \$500,000. Upon the taxpayer's death in 2003, the FMV of the land with the conservation easement is \$1.25 million, and the FMV of the property (home and land) without the easement is \$2 million. For income tax purposes, the taxpayer is entitled to a \$500,000 charitable contribution deduction in calendar year 1998 (subject to AGI limitations, carryover allowed)-pre-contribution FMV of \$1 million less \$500,000 post-contribution FMV. The income tax savings will total \$198,000, assuming a 39.6% federal tax rate.

For estate tax purposes, the taxpayer's estate will be entitled to a \$500,000 exclusion (estate tax savings of \$275,000, assuming a 55% estate tax rate).

Value of land with easement at date of donor's death	\$1,250,000
Exclusion percentage	40%
Estate tax exclusion	\$ 500,000
Assumed estate tax rate	55%
<b>Estate tax savings</b>	<b>\$ 275,000</b>

To provide reliable support for the charitable contribution deduction and the estate

To provide reliable support for the charitable contribution deduction and the estate exclusion, written appraisals should be obtained from an experienced, qualified appraiser. The appraisal should indicate the FMV of the property both before and after the conservation easement is attached to the property. Also, an appraisal should be conducted as of the date of the donor's death.

These are some thoughts to consider about conservation easements. Before any action is taken, consult your tax and financial advisors.

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## "Sue" ownership court opinion

Black Hills Institute of Geological Research; Black Hills Museum of Natural History Foundation, Inc., a non-profit corporation, Plaintiffs, Joseph M. Butler, Appellant, v. South Dakota School of Mines and Technology, Appellee, United States Department of Justice, Defendant. Black Hills Institute of Geological Research; Black Hills Museum of Natural History Foundation, Inc., a non-profit corporation, Appellants, v. United States Department of Justice, Appellee.

United States Court Of Appeals For The Eighth Circuit

12 F.3d 737; 1993

October 11, 1993, Submitted  
December 15, 1993, Filed

**SUBSEQUENT HISTORY:** Rehearing and Rehearing En Banc Denied February 2, 1994 (93-1602).

**PRIOR HISTORY:** Appeals from the United States District Court for the District of South Dakota. District No. CIV 92-5070. Honorable Richard Battey, District Judge.

**COUNSEL:** Counsel who presented argument on behalf of the appellant Butler in case No. 93-1600 was Joseph Butler of Rapid City, South Dakota. Appearing on the brief was Mark F. Marshall of Rapid City, South Dakota.

Counsel who presented argument on behalf of the appellant Black Hills Institute in case No. 93-1602 were Patrick Duffy of Rapid City, South Dakota and Mark F. Marshall of Rapid City, South Dakota.

Counsel who presented argument on behalf of the appellee School of Mines in case No. 93-1600 was Gene N. LeBrun of Rapid City, South Dakota. Appearing on the brief were Edward J. Shawaker and David C. Shilton of Washington, D.C.

Counsel who presented argument on behalf of the appellee United States in case No. 93-1602 was Edward Shawaker of Washington, D.C. Appearing on the brief were Ted L. McBride, Robert A. Mandel, Myles E. Flint, and David C. Shilton.

**JUDGES:** Before JOHN R. GIBSON, MAGILL, and BEAM, Circuit Judges.

**OPINION:**

MAGILL, Circuit Judge.

Black Hills Institute of Geological Research and Black Hills Museum of Natural History Foundation (collectively, "Black Hills") appeal the district court's judgment in favor of the United States. The district court found that the United States holds title to a valuable *Tyrannosaurus rex* skeleton ("the fossil" or "Sue") in trust for Maurice Williams ("Williams"), an individual Indian who is the beneficial owner of trust land on which Black Hills discovered the fossil. Joseph M. Butler appeals separately from the district court's order imposing Rule 11 sanctions on Butler for naming an improper party as a defendant. We affirm the district court's judgment that the United States holds trust title to the fossil and reverse its Rule 11 order.

I. BACKGROUND

This case is before us for the third time. The factual background is uncomplicated. Black Hills collects and restores fossils for display in museums. In August 1990, Black Hills was excavating fossils in western South Dakota. Sue Hendrickson, a researcher working on the project, discovered Sue on Williams' ranch while on break. Since 1969, the United States has held this ranch land in trust for the sole use and benefit of Williams, an Indian. Two days after the discovery, Black Hills scientists began excavating Sue, the most complete and valuable *Tyrannosaurus rex* skeleton known to man, from Williams' land. At some point during the excavation, Black Hills purported to purchase from Williams the right to excavate Sue for \$5000. After excavation, Black Hills moved the ten tons of bones to Hill City, South Dakota, where scientists began the laborious process of restoring the fossil.

In May 1992, however, federal officers seized Sue and moved her to the South Dakota School of Mines and Technology ("School of Mines"). The United States attorney for South Dakota ordered the seizure on the ground that Black Hills' removal of Sue from Williams' land violated federal criminal statutes relating to federal lands. Black Hills then brought suit in district court to quiet title to Sue. In conjunction with this action, it sought a preliminary injunction for possession of the fossil pending the outcome of the suit. After the district court denied Black Hills a preliminary injunction, Black Hills moved under Eighth Circuit Rule 8A to this court for an order granting it custody of Sue pending appeal of the injunction denial.

In *Black Hills Institute of Geological Research v. United States Department of Justice*, 967 F.2d 1237, 1241 (8th Cir. 1992) (Black Hills I), we found that the district court had anomalous jurisdiction over the temporary custody issue and remanded for a determination of the proper temporary custodian. The district court concluded that Sue should remain at the School of Mines pending disposition of the case on the merits. In *Black Hills Institute of Geological Research v. United States Department of Justice*, 978 F.2d 1043, 1045 (8th Cir. 1992) (Black Hills II), we affirmed the district court's custody order, dismissed with prejudice Black Hills' appeal of the preliminary injunction denial, and remanded the case for proceedings on the merits. Meanwhile, Black Hills amended its complaint by abandoning the quiet title theory of its case and instead seeking only an order requiring the United States to return Sue to it.

On remand, the district court found that it still had to determine ownership of Sue despite Black Hills' amended complaint because "[a] permanent possessory right to the fossil is subsumed within the context of ownership." D. Ct. Mem. Op. at 6 (Feb. 3, 1993). It then concluded that it had federal question jurisdiction under 28 U.S.C. § 1331 because the case involved the application of federal statutes relating to Indian trust lands. Reaching the merits, the district court found that Sue was an interest in land under the trust land statutes. Because Williams failed to receive the Secretary of the Interior's ("the Secretary") approval for his attempted sale of Sue to Black Hills, the court reasoned, the transaction was void and the United States retained title to Sue in trust for Williams. Black Hills now appeals.

## II. DISCUSSION

### A. Subject Matter Jurisdiction

The first issue we must address is the district court's basis for subject matter jurisdiction over this case. We find that the district court had general federal question jurisdiction under 28 U.S.C. § 1331. Black Hills' complaint alleged facts sufficient to bring the case within 5 U.S.C. § 702's broad waiver of sovereign immunity. Section 702 waives the federal government's sovereign immunity in cases challenging agency action--here, the Department of Justice's seizure of Sue--and seeking relief other than money damages.<sup>2</sup> See 5 U.S.C. § 702; *Specter v. Garrett*, 995 F.2d 404, 410 (3d Cir.) (holding that § 702's waiver of sovereign immunity is not limited to cases brought under the Administrative Procedure Act), cert. granted, 114 S. Ct. 342 (1993); *Presbyterian Church v. United States*, 870 F.2d 518, 525 (9th Cir. 1989) (holding that the term "agency action" "was clearly intended to cover the full spectrum of agency conduct"). District

for support.

In *Mitchell I*, individual Indians sued the United States for mismanaging timber resources on trust land of which they were the beneficial owners. The Supreme Court found that the GAA, the statute under which the Indians had received their beneficial interests in the land, did not "impose any duty upon the Government to manage timber resources." 445 U.S. at 542. Rather, the GAA created only a "limited trust relationship" that sought "to prevent alienation of the land and to ensure that allottees would be immune from state taxation." *Id.* at 542, 544. In *Mitchell II*, however, the Court found that, even though the GAA was not a basis for liability, the United States could be liable for damages for mismanaging the timber because an elaborate statutory and regulatory scheme imposed fiduciary duties on the government relating to the management of timber resources on Indian trust land. 463 U.S. at 226. *Mitchell I* and *Mitchell II*, *Black Hills* claims, together compel the conclusion that the trust relationship between the government and Williams does not encompass the attempted sale of Sue because the absence of a statutory scheme governing fossils means that the government has only limited trust duties where fossils are involved. The limited duty of preventing alienation of the land, it argues, does not include preventing sales of fossils.

We reject the *Black Hills*' argument that the *Mitchell* cases suggest that the government exceeded the scope of its trust relationship with Williams. First, the fiduciary duties of the government to beneficial owners of trust land, the issue that the *Mitchell* cases addressed, and the ability of beneficial owners to alienate trust land, the issue here, are different questions. Thus, that there are no statutes or regulations specifically governing the sale of fossils is not important. The absence of such regulation only suggests that the government could not be liable in damages to Williams for breaching alleged fiduciary duties relating to the management of fossils on his land. It does not, however, affect the validity of Williams' attempted sale of the fossil to a third party because there are statutes and regulations governing the alienation of interests in Indian trust land, such as fossils. Moreover, the Court's holding in *Mitchell I* that the GAA imposed only limited trust duties on the government does not help *Black Hills*. Indeed, Congress enacted the GAA to prevent alienation of Indian trust land. 445 U.S. at 542. Because the fossil was part of Williams' trust land and he failed to secure approval for his attempted sale of the right to excavate it, we hold that the United States' seizure of the fossil was a proper exercise of its trust status under the GAA.<sup>6</sup> Finally, nothing in either *Mitchell* case suggests that Congress intended that the goal of preventing alienation of the land not apply to interests in such land, like fossils, that become personal property when severed from the land.

*Black Hills* next argues in effect that holding Williams' sale invalid is bad policy. It asserts that Williams was competent to sell the fossil even if it was an interest in land and that finding the sale invalid would undermine the current legislative trend favoring tribal self-determination. These points are matters of policy for Congress to consider, not federal courts. The current statutory scheme reflects Congress's desire to protect beneficial owners of Indian trust land like Williams regarding disposition of interests in such land. See 25 U.S.C. §§ 348, 464, 483; see also *Tooahnippah v. Hickel*, 397 U.S. 598, 609, 25 L. Ed. 2d 600, 90 S. Ct. 1316 (1970) (explaining that the GAA's legislative history "reflects the concern of the Government to protect Indians from improvident acts or exploitation by others"). Congress may very well determine that the historic practice of shielding beneficial owners from their own improvident decisions, unscrupulous offerors, and whatever other evils the enacting Congresses contemplated decades ago is no longer wise.<sup>7</sup> Until it does, however, we are bound to apply the statutes and regulations forbidding such owners from alienating trust land without the Secretary's approval.

*Black Hills* and amici curiae the Libertarian Party of South Dakota and the National Libertarian Party make several other brief arguments. First, we reject amici's suggestion that we remand the case to the Secretary to consider nunc pro tunc approval of the sale. The statute provides that "application of the Indian owners" is a prerequisite to the Secretary's approval of conveyances of trust land. 25 U.S.C. § 483. The Secretary may not consider the transaction at issue here because Williams has never submitted an application. Moreover, we reject *Black Hills*' argument that the

United States lacks standing to claim trust ownership of Sue because neither the Secretary nor Williams are parties. Williams is not a necessary party, see *Heckman v. United States*, 224 U.S. 413, 444, 56 L. Ed. 820, 32 S. Ct. 424 (1912), and the United States may claim trust title without the Secretary because the trust patent names it as trustee.

We also reject Black Hills' claim that the district court's decision violated its due process rights because the government seized the fossil without a pre-deprivation hearing and because Black Hills added value to Sue that it will be unable to recoup. Because we find that Black Hills has no interest in Sue, we reject its claim that the lack of a pre-deprivation hearing violated its rights. Moreover, although it is unfortunate that Black Hills spent a great deal of time and resources adding value to a fossil it does not own, concluding that Black Hills' transaction with Williams is void does not deprive Black Hills of due process where it had no interest in the fossil and it could have taken any number of steps to protect itself in the first place. At the very least, for instance, that the fossil was embedded in land located within the boundaries of the Cheyenne River Sioux Indian Reservation should have alerted Black Hills to the possibility that the federal government had some interest in Sue. Because it did not, however, we hold that the United States holds Sue in trust for Williams pursuant to the trust patent.

### C. Rule 11 Sanctions

Counsel for Black Hills, Joseph Butler, challenges the district court's order imposing sanctions under Fed. R. Civ. P. 11<sup>4</sup> on him for naming the School of Mines as a defendant in the first amended complaint. The court awarded the School of Mines attorney's fees because it found that the school was not a proper defendant to Black Hills' quiet title action,<sup>2</sup> reasoning that the school had "no conceivable basis to assert any rights to the fossil" and "was nothing more than a mere depository of the fossil." D. Ct. Mem. Op. and Order at 3-4 (Sept. 8, 1992).

We review the district court's imposition of sanctions under Rule 11 for an abuse of discretion. *Miller v. Bittner*, 985 F.2d 935, 938 (8th Cir. 1993). The district court's task is to ascertain whether the attorney met the objective reasonableness standard. *Id.* (citations omitted). Improperly naming a party in a suit justifies Rule 11 sanctions when "joining the party [is] baseless or lacking in plausibility." *Community Elec. Serv. of Los Angeles v. National Elec. Contractors Assoc.*, 869 F.2d 1235, 1245 (9th Cir.) (citing *Rachel v. Banana Republic, Inc.*, 831 F.2d 1503, 1508 (9th Cir. 1987)), cert. denied, 493 U.S. 891 (1989).

We find that Butler's decision to name the School of Mines as a defendant here was not baseless or lacking in plausibility. Initially, Black Hills framed its case as a quiet title action. At the time Black Hills named it a defendant in the first amended complaint, the School of Mines was in possession of Sue. The district court, citing 75 C.J.S. Quieting Title § 54, found that the School of Mines had no "material subsisting interest" in Sue because it possessed her merely as an agent for the government and thus was not a proper party. D. Ct. Mem. Op. and Order at 3. The court's analysis of the merits of the School of Mines' status as a proper party would have been the correct inquiry on a motion to dismiss. It was not, however, the correct inquiry on a motion for Rule 11 sanctions.

Rather, as Community Electric Service suggests, the focus in the Rule 11 context should be on the plausibility of including the School of Mines as a party at the complaint stage. We think that the School of Mines' possession of Sue, albeit as a "depository" for the government, gave Black Hills a plausible argument that the School of Mines had a sufficient interest in the property to be named as a defendant in a quiet title action. Indeed, the district court itself noted that "in some circumstances possession of the object in dispute may be enough to justify suing the possessor in a quiet title action." *Id.* Case law on this issue is sparse and we will not force Butler to bear the burden of Rule 11 sanctions where it is unclear precisely in what "circumstances" possession is enough to sue the possessor. Cf. *Mareno v. Rowe*, 910 F.2d 1043, 1047 (2d Cir. 1990) (reversing award of Rule 11 sanctions where plaintiff's claim, although ultimately unsuccessful, involved "the complexities of New York long arm jurisprudence"), cert. denied, 498 U.S. 1028, 112 L. Ed.

2d 673, 111 S. Ct. 681 (1991). Butler had a plausible claim that the School of Mines' possession gave it the "material subsisting interest" in Sue needed to render it a proper party in the case.

Moreover, regardless of whether the School of Mines asserted an ownership interest in Sue, the fact remains that it retained possession of her. There is ample authority for the proposition that the court in a quiet title action, in order to afford complete relief, may order that a defendant relinquish possession of the subject property to the plaintiff. See 74 C.J.S. Quieting Title §§ 96, 108 (1951). Thus, naming the School of Mines as a defendant here was not baseless because the school clearly had an interest in Sue--possession--that a quiet title action could affect; failure to include the School of Mines might have required Black Hills to bring an entirely different action to enforce its right to possession if the court found that it had such a right. Once the School of Mines represented in open court that it would abide by any order the district court made and would not assert any separate interest in Sue, counsel for Black Hills immediately assented to dismissal of the school from the case. See Status Conference Tr. at 16. Thus, we hold that the district court abused its discretion in imposing Rule 11 sanctions on Butler. Although naming the School of Mines as a defendant in the first amended complaint ultimately proved to be unnecessary, Butler acted reasonably under the existing facts and law.

### III. CONCLUSION

For the foregoing reasons, we affirm the judgment of the district court that the United States holds Sue in trust for Williams pursuant to the trust patent, and we reverse the district court's order imposing Rule 11 sanctions on Joseph Butler.

Order Denying Petition For Rehearing And Suggestion For Rehearing En Banc

Feb. 2, 1994.

(No. 93-1602)

The suggestion for rehearing en banc is denied.

The petition for rehearing by the panel is also denied with the following explanation. In its petition for rehearing, Black Hills Institute of geological research (Black Hills) relies on *United States v. Good*, U.S. , 114 S. Ct. 492, 126 L. Ed. 2d 490 (1993), for the claim that it was entitled to an adversary hearing before the Department of Justice seized the fossil "Sue" from it. In *Good*, it was undisputed that Good owned the real property that the government had seized without first providing Good with an adversary hearing. See *id.* at , 114 S. Ct. at 496. This fact distinguishes *Good* from the instant case, where the panel determined that Black Hills did not own the property in question. See *Black Hills Inst. of geological research v. United States dep't of Justice*, 12 F.3d 737, 742-43, (8th Cir. 1993).

### FOOTNOTES:

1. The Honorable Richard H. Battey, United States District Judge for the District of South Dakota.
2. Section 702 provides that its waiver of sovereign immunity does not apply "if any other statute that grants consent to suit expressly or impliedly forbids the relief which is sought." 5 U.S.C. § 702. Under 28 U.S.C. § 2409a(a), Congress waived the government's sovereign immunity in suits seeking to quiet title to real property. Section 2409a(a), however, "does not apply to trust or restricted Indian lands." *Id.* Thus, § 2409a retains sovereign immunity for suits seeking to quiet title to Indian trust lands. Section 2409a(a) does not "expressly or impliedly forbid[] the relief which is sought" here because Black Hills seeks the return of what is now personal property, not a determination of title to Indian trust land.
3. The IRA ended the federal government's policy of allotting tribal land in severalty to individual Indians. See 25 U.S.C. § 461. Under 25 U.S.C. § 335, however, provisions of the GAA continue to apply "to all lands heretofore purchased or which may be purchased by

authority of Congress for the use or benefit of any individual Indian or band or tribe of Indians," "unless otherwise specifically provided." The relevant GAA provision that applies here is 25 U.S.C. § 348, which governs the trust relationship between the government and the individual Indian.

4. The Supreme Court has held that a beneficial owner of Indian trust land could sell timber from his land without violating the restraint on alienation because "the cutting was incidental to the preparation of [the] land for agricultural uses." Felix S. Cohen, *Handbook of Federal Indian Law*, at 539 n.94 (1982 ed.) (citing *United States v. Paine Lumber*, 206 U.S. 467, 473-74, 51 L. Ed. 1139, 27 S. Ct. 697 (1907)). The Court distinguished *Paine*, however, in *Starr*. In *Starr*, the Court found the timber subject to the restraint on alienation because the timber constituted 15/16 of the value of the land and the land was "timber land" unsuitable for farming. 208 U.S. at 534. Holding otherwise, the Court reasoned, would reduce the restraint on alienation to "small consequence." *Id.* Thus, *Paine* does not apply here because Sue was a valuable part of the land and nothing in the record suggests that she was excavated to clear the land for farming or other similar purposes.
5. There is an ongoing dispute between Williams and Black Hills regarding this transaction. We intimate no opinion as to the remedies Black Hills may have under state law as to its \$5000 payment to Williams. Moreover, because Black Hills does not argue that it acquired anything less than title to Sue, we need not decide whether Williams could have leased Sue or transferred other rights to Black Hills.
6. The government seized the fossil pursuant to a search warrant as part of a criminal investigation. Black Hills argues that the government cited violations of the Antiquities Act as one basis for the seizure knowing that the Act did not apply. We need not evaluate the government's articulated rationale for the seizure, however, because we conclude that the seizure was within the scope of the trust relationship with Williams.
7. Congress has already eliminated many of the protections earlier statutes provided for Indians. Section 483 itself, for instance, allows Indians to apply to the Secretary for removal of alienation restrictions. Thus, the statutes reflect the trend toward Indian self-determination. Although it has diminished the practice of protecting Indians, however, Congress has not completely eliminated it. Williams was free to request that the government end the trust or that he be allowed to alienate his land, but he did not. Because he did not, the vestiges of protection that remain still apply.
8. The amendments to Rule 11 that went into effect on December 1, 1993, do not affect our analysis.
9. As we noted above, Black Hills' second amended complaint sought the return of Sue and abandoned the quiet title claim. At issue here is the district court's decision to sanction Butler for naming the School of Mines a defendant in the case when Black Hills was asking the court to quiet title.



Revised December 30, 1996



**Comment 1**

Comment noted. Refer to Section 3.12 of the Final EIS for an updated discussion of cultural resources protection.

**Comment 2**

Mitigation measures inherent to the project include those provisions in the Cooperative Agreement among Trendwest, WDFW, and the Yakama Nation and in the RIDGE Settlement Agreement that apply to potential cumulative impacts from the MPR and Cle Elum UGA developments. Elements of these agreements include collaborative management of onsite and offsite conservation easements, development and implementation of a Land Stewardship Plan, and financial contribution to a conservation trust established by RIDGE. Refer to Section 3.13, Parks and Recreation, in the Final EIS for additional detail.

**Comment 3**

Comment noted. The City has developed a Municipal Facilities and Expansion Plan that analyzes potential fiscal impacts to the City in detail. Mitigation to prevent fiscal impacts is included in the draft Conditions of Approval for the project. Refer also to Section 3.18 and Appendix D of the Final EIS for an analysis of Alternative 5 and an updated discussion of mitigation agreements and proposed mitigation measures for public service providers.

**Comment 4**

A second Draft EIS will not be published. However, a comparative analysis of potential impacts under Alternative 5 that also responds to comments received on the Draft EIS is included for each element of the environment as Section 3 of the Final EIS.

**Comment 5**

Comment noted. Any City decision, Conditions of Approval, and/or Development Agreement associated with the UGA would contain sufficient bonding or other financial assurances to support required mitigation.

**Comment 6**

Refer to the response to Letter 4, Comment 2.

**Comment 7**

Comment noted.





received  
5/7/2001

City of Cle Elum

Brian Carrico, Planner  
City of Cle Elum  
119 West First Street  
Cle Elum, WA 98922

Tuesday, May 01, 2001

Brian,

PSE is in full support of the expanded residential alternative 3 as outlined in the DEIS completed by Trendwest. As I stated in my comments to you and Mr. Berndt at the public hearing, I believe that this type of planning and development is far superior to the piece meal development that occurs when the property is broken up by parcel and sold and developed by individuals. As for distributing natural gas and electricity this type of planning is the most efficient use of resources. We have been working with the developer for over 4 years and they have provided excellent communication and planning activity as we have been developing our long range plans to serve the area.

PSE is also supportive of the additional units and expanded business park areas outlined in the 3<sup>rd</sup> alternative. Since bringing infrastructure to this community as a whole is based upon numbers to justify the economic cost of expansion PSE is very supportive of the plan as it helps to provide that opportunity to expand the natural gas infrastructure to the entire Cle Elum community.

PSE is also aware that this development will be adjacent to our transmission and distribution facilities and we believe that the development plan as outlined with the joint use of corridors and rights of way is consistent with good planning process.

Thank You  
Brian Lenz, PE  
Community Relations Manager  
Puget Sound Energy

**Letter 17**

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**Comment 1**

Your support of the project is noted.

Brian Carrico, Planner  
City of Cle Elum  
119 West First Street  
Cle Elum, WA 98922

Tuesday, May 07, 2001

received  
5/7/2001  
City of Cle Elum

Brian,

I am in full support of the expanded residential alternative 3 as outlined in the DEIS completed by Trendwest. As I stated in my comments to you and Mr. Berndt at the public hearing as a representative of Puget Sound Energy, I believe that this type of planning and development is far superior to the piece meal development that occurs when the property is broken up by parcel and sold and developed by individuals. As a county resident who has been working with community members for the last 10 years to bring new business ventures to the county, I believe that this project as planned supports the goal of increased employment and clean planned development. My interactions with Trendwest have been positive and they have demonstrated professional planning and have followed up their commitments in the community.

1

Thank You  
Brian Lenz  
1441 Emerson Road  
Ellensburg, WA 98926

**Letter 18**

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**Comment 1**

Your support of the project is noted.



UNIVERSITY OF WASHINGTON

Department of Astronomy

May 1, 2001



City of Cle Elum  
 UGA/Trendwest Properties Draft E.I.S.  
 119 W. 1st Street  
 Cle Elem, WA 98922

received  
 5/07/2001

City of Cle Elum

Dear Sirs.

It has been brought to my attention that Trendwest Properties is planning a very large development in your area and that you are currently considering the environmental impacts of this development on your community. I would like to remind you that the University of Washington is still actively running an astronomical observatory on Manastash Ridge which is not too far from this development. Dark skies are important to our operations there. We would like you to seriously consider making restrictions on the lighting from such developments in order to preserve this resource. Now is the time to think about this. It is much easier to lose a dark sky than it is to regain one that is lost.

Appropriate steps to insure a minimal impact on sky lighting can be found on the web pages of the International Dark-Sky Association ([www.scn.ord/darksky](http://www.scn.ord/darksky)). We would very much like to encourage you to adopt lighting standards for your area. Generations of amateur and professional astronomers will be grateful for your foresight in this area, but that is not the most important issue here. Do this for yourself. A dark sky is one of the natural beauties of your community. Don't throw it away.

Sincerely,

Dr. Jeff Morgan  
 Research Engineer

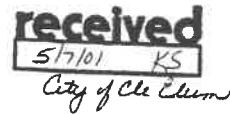
Dr. Paula Szkody  
 Observatory Director

Box 351580 Seattle, Washington 98195-1580 (206) 543-2888 FAX: (206) 685-0403 [www.astro.washington.edu](http://www.astro.washington.edu)  
 Shipping Address: C319 Physics/Astronomy Building, Stevens Way

**Comment 1**

Comment noted. All lighting for development within the MPR and UGA would meet the International Dark Sky Association's Zone E1 standards. These standards are recommended for use in "areas with intrinsically dark landscapes." Roadway lighting would be consistent with the Illuminating Engineering Society and WSDOT lighting criteria.





May 5, 2001

Comments by Molly Palmer on The City of Cle Elum  
Urban Growth Area Draft Environmental Impact  
Statement.

I appreciate the opportunity to comment on this  
D.E.I.S. This proposal will change Upper Kittitas  
County ~~forever~~ and should be planned as carefully  
as possible. Separating the Seqa Analysis of  
the U.G.A. from the SEPA and NEPA analysis of the  
proposed water and waste water treatment plants  
is inappropriate. There is no doubt that converting  
such huge amounts of forest land to urban use  
will require water and waste water treatment  
plants. The required environmental impact

- 2 -

analyses should be included in this E.I.S.

Development of this U.G.A. along with the M.P.R.

Will increase impacts substantially. It has a

lack of REAL plans for water supply and

treatment and waste water treatment. The

area does not meet any of the criteria to be a

U.G.A. under the G.M.A. Statute. In fact the

proposal seems to encourage sprawl into this area.

A tax and land grab by Cle Elum. This proposal

and the M.P.R. should be considered as one

development

Public Services will be greatly affected by this

U.G.A. There will be increased demand for police

protection, fire protection, and emergency medical

help. With the Concurrent development of the

2 (cont.)

3

4

5

- 3 -

MPR whose needs further increase simultaneously and this is not addressed in the DEIS.

5 (cont.)

The schools will also be impacted. New students will increase the need for water and sewer at the school. The schools are now running at near capacity. Increased class sizes will reduce the quality of education. There are many fiscal impacts to the schools not clearly addressed in the DEIS. There will be a lag in any land tax benefits the school might incur, possibly 3 to 5 years. Increased assessed valuation does not guarantee increased revenue.

6

7

8

The schools needs should be factually anticipated and a signed mitigation agreement should follow.

9

- 4 -

Plants, Animals, Birds, and Fish will all be impacted by turning this forest land into a UGA. The whole area of the MPC and UGA is Elk wintering ground. The very things that people love about the Upper County will be threatened or gone. (drawn out.)

I think the UGA is too large. The DEIS does not adequately address impacts to animal movement and habitat. Removal of the forest will reduce habitat for birds. There are also 38 sensitive species of plants in the area. All ~~of~~ this wild life and habitat should be protected, especially along the Cle Elum River corridor. Storm water runoff from the UGA should be further addressed by the DEIS. Storm water runoff pollution

10

11

- 5 -

will adversely effect the environment, the Cle Elum River and wetlands in the area. Wetlands #4 and #5 should have larger buffer zones to protect migratory birds from the adverse effects of human use and pets. More natural open space should be dedicated to non-motorized use, not including golf courses.

Traffic impacts will be awful. There are no funds in the Community to deal with increased Traffic demands and no funds for roads, turn lanes, signaled intersections and many other things.

These impacts should be mitigated. These impacts will be year round.

Increased traffic will increase noise levels.

Construction will increase noise, There will

11 (cont.)

12

13

14

15

16

-6-

MORE air pollution from dust, car and diesel

16 (cont.)

EMISSIONS. THERE will be more sky glow at

night. THESE ~~is~~ ARE adverse impacts.

17

It is my belief that all of these impacts listed

should be mitigated before any issuance of

permits or approvals. The proponent of this

18

new growth should pay for mitigation before

development

Sincerely,

Molly Palmer

PO Box 1

Roslyn, wa. 98941

**Comment 1**

Comment noted.

**Comment 2**

Refer to the response to Letter 4, Comment 2.

**Comment 3**

The Cle Elum UGA meets Growth Management Act criteria because it is designed to accommodate projected population growth in Kittitas County and the City of Cle Elum. The Kittitas County Board of County Commissioners approved updated population projections for Kittitas County in 1999. These population projections included a specific allocation of that future growth to Cle Elum. Kittitas County population allocations and projected housing needs are discussed in Section 3.11 of the Draft EIS. See Section 3.10 of the Final EIS for an updated discussion pertinent to Alternative 5.

**Comment 4**

Refer to the response to Letter 4, Comment 2.

**Comment 5**

Cumulative impacts on public service providers are described in Section 3.16 of the Draft EIS and with more detail in Section 3.19, Fiscal Conditions, and Appendix H of that document. Since the Draft EIS was published, mitigation agreements have been negotiated between Trendwest and local public service providers. An updated discussion of cumulative public service impacts under the Reduced Density MPR and Alternative 5 is included in Section 3.15 and Section 3.18 of the Final EIS.

**Comment 6**

Refer to the response to Letter 1 from the Cle Elum-Roslyn School District.

**Comment 7**

Refer to the response to Letter 1 from the Cle Elum-Roslyn School District.

**Comment 8**

An updated fiscal impact analysis for the Cle Elum-Roslyn School District under Alternative 5 that also responds to comments received on the Draft EIS is found in Section 3.18 and Appendix D of the Final EIS. Refer also to the response to Letter 1 from the Cle Elum-Roslyn School District.

**Comment 9**

Refer to the response to Letter 1 from the Cle Elum-Roslyn School District. Trendwest and the School District have negotiated a mitigation agreement.

**Comment 10**

Comment noted. Elk use and animal movement and habitat within the UGA are discussed in Section 3.6, Plants and Animals, of the Draft EIS. Raedeke Associates, Inc. (1999) identified the winter range of elk within the UGA as primarily the riparian corridor, including associated wetlands and adjoining forestland. Mitigation measures for potential human/elk conflicts are identified, and sensitive plant species are discussed in Section 3.6 and Appendix E of the Draft EIS.

Since the Draft EIS was published, the site plan has been redesigned to condense development within a smaller area and increase undeveloped open space along the Cle Elum River and for perimeter buffers. This riparian corridor connects the UGA with offsite habitat in the MPR and surrounding lands and would allow for the continued movement of wildlife to offsite properties. Refer to Section 3.5 of the Final EIS for an updated discussion of potential impacts on plants and animals under Alternative 5.

**Comment 11**

Stormwater treatment prior to infiltration has been increased since the Draft EIS was published. A quantified analysis of stormwater quality is included in Section 3.3, Water Quality, and Appendix A of the Final EIS.



**Comment 12**

As described in the Draft EIS, Wetlands 4 and 5 would likely be designated as Category III with a buffer of 50 feet under the Cle Elum Critical Areas Ordinance. The hydrological isolation and small size of Wetlands 4 (0.1 acre) and 5 (0.3 acre) limit their potential habitat value to waterfowl.

**Comment 13**

Since the Draft EIS was published, the site plan has been redesigned to condense development within a smaller area and increase undeveloped open space along the Cle Elum River and for perimeter buffers. The golf course was eliminated. Please see the description of Alternative 5 in Chapter 2 of the Final EIS.

**Comment 14**

Refer to the response to Letter 7.

**Comment 15**

Traffic and construction-related noise impacts are evaluated in Section 3.9, Noise, of the Draft EIS. Traffic noise levels were modeled with FHWA-approved computer models; increased traffic noise levels were predicted to be below FHWA noise impact guidelines for highway noise. Mitigation measures for construction-related noise impacts also were identified. The identified impacts and mitigation measures in the Draft EIS also apply to Alternative 5.

**Comment 16**

Section 3.2, Air Quality, of the Draft EIS models potential carbon monoxide (CO) concentrations with EPA-approved computer programs. CO concentrations are predicted to be well below state and federal standards. Construction-related impacts and mitigation measures also are identified. Section 3.2 of the Final EIS comparatively analyzes air quality impacts under Alternative 5.

**Comment 17**

Refer to the response to Letter 10, Comment 1.

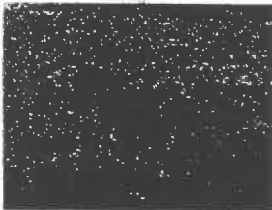
**Comment 18**

Measures to mitigate project impacts are included under each element of the environment analyzed in the Draft and Final EISs. Mitigation will be incorporated into the Development Agreement and Conditions of Approval for the project.

Morningstar  
Master Planned  
Resort



*Impact of Growth  
on the Cle Elum Pet Population  
And Necessary Steps  
In Animal Control*



Lisa Messmer  
P.O. Box 770  
Roslyn WA  
98941

674-5625  
**received**  
5/7/01 KS



## Unavoidable Effects

*This small building is Cle Elum's only resource to deal with stray animals-- an unstaffed "holding cell" for strays that happen to get caught. The nearest animal shelter is 30 miles away in Ellensburg.*

### **Increased Population Brings Increase In Number Of Pets**

The Mountainstar Resort EIS Summary reads in part:

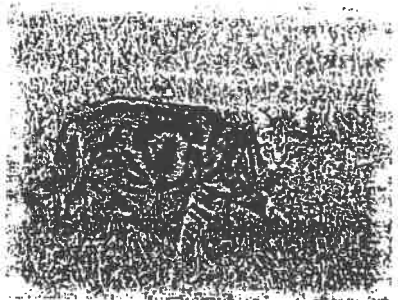
#### *1.9.15: Population*

*Significant unavoidable increases in population would occur in the County and surrounding communities as a result of the direct, indirect and induced effects of the MPR on the local economy. Evaluation of these increases as positive or adverse would depend upon individual perspectives and beliefs.*

Related to section 1.9.15 is section 1.9.13 (Public Services), which reads:

*Development of the MPR would cause significant unavoidable increases in the demand for law enforcement, fire protection, emergency medical, education, road maintenance and general government services. The service plans for the proposed resort and the mitigation measures identified, primarily the additional tax revenues that would provide long-term fiscal surpluses to the affected service jurisdictions, would be sufficient to minimize the net effects on these public services.*

According to the 1996 Census, the percentage of households in the U.S. that have companion pets is 31.6%. Of those homes, the average number of pets per household is 1.7. The addition of companion pets into the residential areas of the MPR is a detail that must not be overlooked; as the population increases, so will the need for shelter services, veterinary care, spay and neuter facilities, and animal control staff.



## More Pets, Less Wildlife

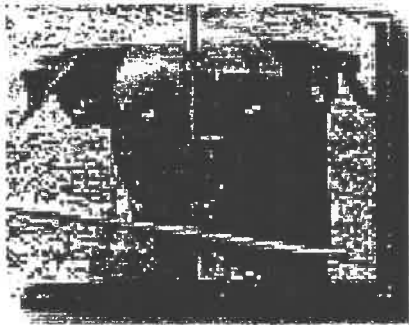
*Feral cats and other animals breed often and can have a detrimental affect on native wildlife - A single pair of breeding cats, which might have two or more litters per year, can exponentially produce 420,000 offspring in a seven year period.*

Based on 1990 census figures for Kittitas County, the entire county's population is just over 32,000 people. 3,200 of those people, per Washington State population records, live in Cle Elum, South Cle Elum, Ronald, and Roslyn. And according to demographic figures per household dated 4/1/2001, there are 1900 'households' in the Cle Elum area.

Considering the previously stated census statistic that cites 31.6% of households have pets and of those households the average is 1.7 pets each, a conservative estimate of companion animal pets (dogs/cats) in the Cle Elum area currently is over 1,000. This would not take into consideration stray and feral animals that get dumped in the countryside and have no owners.

With the development of this Master Planned Resort, the population could easily double and, over the years, will probably more than double. With a conservative estimate of a doubled population, which would be 6,400 people (or around 4,000 households) it is easy to see that the number of pets (dogs/cats) in the area would increase to around 2,150 -- and this still would not count stray and feral animals.

The introduction of pets can have different effects on wildlife -- especially animals that are "dumped" as strays in the country without being handled safely by a true animal shelter. Animals that are not spayed or neutered that are left to roam, breed and create packs or colonies of feral animals, which keep breeding and multiplying. Feral cats, especially, can have disastrous effects on wild populations of songbirds and rodents. Feral dogs run in packs and have been known to attack people, destroy property, or even breed with pets who have not been spayed or neutered. And feral populations of animals that are not appropriately managed can also spread disease, both amongst their own populations and to wildlife and domestic or companion animals.



*The Ellensburg animal shelter receives 1400 animals a year. 950 of those animals are euthanized because they are not adopted.*

## A Growing Population

The Ellensburg animal shelter handles all of the county's stray or unwanted animals -- that is, the animals that actually get turned in to the shelter. The shelter in Ellensburg, with its 16 kennels, receives in excess of 1400 animals a year. Last year, 950 of the 1400 animals were euthanized -- 68%. Of the animals that are received at the shelter, 40% are from the Ellensburg city area, and 60% are from other parts of the county including Cle Elum and the surrounding area. There are no arrangements with government agencies, sheriff departments, etc., to bring in unwanted animals -- only when a citizen takes the time to turn an animal in to the shelter will it have its 32% chance for adoption. The average citizen will not take the time to capture a stray and drive it 30+ miles to Ellensburg.

Statistics for the animals received at the shelter are striking, and telling.

1400 animals received per year -- an average of 4 animals per day.

950 animals put down when they are not adopted.

60% of animals received at the shelter are from around the county.

60% of animals received (840) are cats.

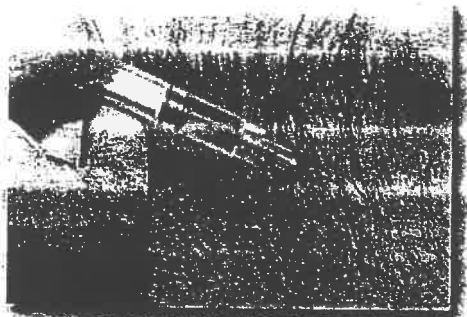
1/2 of the cats received are feral cats, too wild to be adopted.

40% of animals received (560) are dogs.

50% of animals received are non-neutered males.

28% of animals received are non-spayed females.

*A single pair of breeding cats, which might have two or more litters per year, can exponentially produce 420,000 cats in a seven year period.*



## Veterinarians - The Story

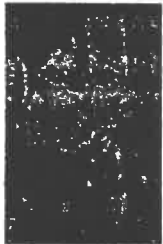
*An animal shelter with a veterinary clinic could serve the community with vaccinations, spay and neuter, and other veterinary care.*

**The story is... there aren't many.**

There are currently no full time vets in Cle Elum. The area has two veterinarian offices, one of which has a vet present part-time in the mornings until noon weekdays. The other office has a vet roughly 2 days per week.

If an animal shelter were put into place for the Cle Elum area as a result of the population growth (and subsequent pet - and stray - population increase, the domestic animals in the area would have a better chance of being spayed, neutered, and vaccinated, and citizens would have another avenue to maintain the health of their pets. Vaccinations alone through a veterinary clinic would cut down on the spread of diseases -- for example, in Roslyn where they have a large feral cat population, they have had outbreaks of calicivirus which spreads rapidly to people's domestic cats and many people's pets have fallen ill or died as a result.

Animals that are adoptable at the animal shelter could get vaccinations and veterinary care, as well as spay/neuter. If adopted, these animals would be unable to reproduce should they escape or become lost, plus they would not be susceptible to health-threatening diseases.



## Summary

The population of the area will increase dramatically upon completion of this Master Planned Resort. As more and more families come to the area, whether on a seasonal basis or on a permanent one, they will inevitably bring their companion pets with them as well.

Things happen. Animals get out of the house or yard, they get lost, they run scared in a storm -- these are occurrences that can happen in a household with pets. And when they get out, they can breed - they can spread disease - they can destroy property - they can become a danger to our children. If, of course, they are not handled in an appropriate manner when they are strays.

Adding an animal shelter will serve many functions - it will give families a place to look for their lost dogs; it will give people a place to visit when they want to adopt a pet; it can house a veterinary clinic that makes vet care available to families with pets including vaccinations and spay/neuter; it will help control stray and feral animal populations that will inevitably endanger local wildlife and spread disease; and it can help educate the public about the responsibilities of pet ownership and the consequences that can result when pets are dumped in the countryside.

Companion animals and families are a valuable combination. A shelter is the right thing for the area, to help avoid problems and to ensure appropriate facilities and care for the pets that will be moving in with their families.

**Comment 1**

This is a copy of a report on the effects of the MPR on the Cle Elum pet population. Receipt of this letter is noted.



**Officers**  
**President**  
 James R. Ellis, Chairman  
 Washington State Commission & Trade Center  
**Vice-Presidents**  
 Rick Anderson, Executive Vice President  
 Washington State Commission  
**Treasurer**  
 Sarah M. R. Jewell, Executive Vice President  
 Washington Mutual Bank  
**Secretary**  
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 Innkeepers Association  
**Executive Director**  
 Nancy Hoff  
**Director of Special Projects**  
 Kristin Bergquist

**Directors**  
 Patricia G. Compton, Chair  
 Council of Washington  
 Doreen R. ...  
 ...

**Advisory Council**  
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**Advisory Council**  
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**Advisory Council**  
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**Advisory Council**  
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 ...



May 7, 2001  
 Mayor Gary Berndt  
 City of Cle Elum  
 119 West 1st Street  
 Cle Elum, WA 98922



Dear Mayor Berndt:

As you know, the Mountains to Sound Greenway Trust is a private, non-profit corporation acting on behalf of public and private organizations and citizens working to protect scenic, recreation, and tourism values along the I-90 corridor from Seattle to Thorp. Planning and accomplishments by the Trust were key factors in gaining National Scenic Byway designation in 1998 for this portion of the I-90 corridor. This is the only interstate highway in the nation to receive this important national designation. In this capacity, the Greenway Trust wishes to comment on the Draft EIS for the proposed Trendwest Properties: Cle Elum Urban Growth Area.

The Greenway Trust understands the potential economic and infrastructure benefits to the City of Cle Elum from the UGA and is supportive of the UGA proposal. If done with careful design and environmental protections, the UGA can become a significant enhancement to the City while minimizing impacts to the Greenway and the National Scenic Byway.

The key Greenway goals for this development include:

1. A design/layout that protects the visual forested character of the National Scenic Byway corridor
2. Avoiding the intrusion of commercial or other intensive development in the Bullfrog interchange and immediately adjacent to I-90. (We're aware that an informational kiosk may be located in this vicinity and believe this can be of benefit to visitors).
3. Protecting the riparian corridor along the Cle Elum river so that water quality is sustained and an adequate wildlife migratory corridor is accommodated.

To accomplish these goals, we believe that the final EIS should strengthen and include language addressing the following comments from the DFIS:

Para 1.5, page 1-5: ("Issues identified during scoping"). In earlier correspondence and in discussions with Trendwest the potential view impacts to the National Scenic Byway and Greenway corridor that abuts the entire southern length of this project had

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 SUITE 606  
 SEATTLE, WA 98104  
 PHONE (206) 382-5565  
 VOLUNTEER LINE (206) 382-0922  
 FAX (206) 382-3414  
 WWW.MTSGREENWAY.ORG  
 EMAIL.MTSGREENWAY@TPO.ORG

been identified as an issue but was not included in the DEIS list of issues. We ask that this be documented as an issue when publishing the FEIS.

2 (cont.)

Table 1-1, page 1-20, under "Aesthetics". When describing "mitigation measures," the table states that "Natural open space buffers along I-90 and Bullfrog Road would screen or diffuse views to the interior of the UGA." However, no dimensions for these buffers are documented anywhere in the DEIS. We believe it is important to document in precise terms exactly what the dimensions of these buffers will be in the FEIS so that no future misunderstanding occurs. In order to protect the scenic character between Cle Elum and Roslyn, we suggest that a forest buffer be considered adjacent to Hwy 903 as well. A minimum buffer width adjacent to I-90 should be no less than 150' based on previous commitments from Trendwest representatives.

3

Para 3.10.4, p. 3.10-19 ("Mountains to Sound Greenway Plan"): We appreciate the inclusion of the Greenway Plan in consideration for the UGA. This para mentions Elk Heights as the eastern terminus of the Greenway corridor, but this has been officially extended east to Thorp. We ask that this be corrected in the FEIS. Also, we believe that this paragraph should document that Greenway efforts led to the 1998 designation of the portion of I-90 between Thorp and Seattle as a National Scenic Byway. Here, too, when describing setbacks from I-90, this paragraph includes no specific dimensions for such a buffer. As stated above, we believe the FEIS should document the buffer dimension in this paragraph as well.

4

Para 3.12, page 3.12-1: Under "Aesthetics, Light, and Glare" there are several key issues important to the Greenway that are not addressed:

- There is no mention in the "Aesthetics" section of the Mountains to Sound Greenway corridor nor that this segment of I-90 is a "National Scenic Byway." These facts should be included in describing the "affected environment" along with a short description of the Greenway corridor and a definition of the term "National Scenic Byway."

5

p. 3.12-6 ("Views of the UGA"): The only mention of I-90 states: "Travelers along I-90 have limited views of the UGA because of the high travel speeds and moderately dense vegetation present along this stretch of highway." We suggest that this statement be expanded to acknowledge existence of both the Greenway corridor and the National Scenic Byway. It should further describe the potentially dramatic view impacts that could occur from building a large commercial business park adjacent to I-90 on what is now natural forestland. Even with a retained buffer, the width of which should again be documented in this section, it's quite likely that office buildings would still be visible through the spaced trees, even at night if buildings are lighted.

6

Further, signage facing I-90 from these buildings could negatively impact the I-90 view. We suggest expanding the discussion of view impacts so that these issues are identified, considered, and documented.

7

Para 3.12.4, page 3.12-10: "Mitigation Measures" (for Aesthetics, light, and glare)  
 This paragraph should document the specific dimensions and plans for the permanent buffer along I-90 and Bullfrog Road. We suggest consideration of a buffer along Hwy 903 as well. This paragraph also discusses "provisions that set architectural design and material guidelines for residential and other structures." In addition to "residential structures" we suggest that building style and materials for the business park buildings be clearly defined within the Development Agreement process to ensure a unified, cohesive, and consistent appearance in the business park. It should be a goal of Trendwest and the City of Cle Elum to avoid mixed styles, colors, and materials in the office park. We'd suggest consideration for documenting precise Codes, Covenants, and Restrictions for the Office Park that define the types and styles of buildings allowed, potentially the types of uses (i.e. no large water consumers for example), the types of finish materials allowed, etc.

8

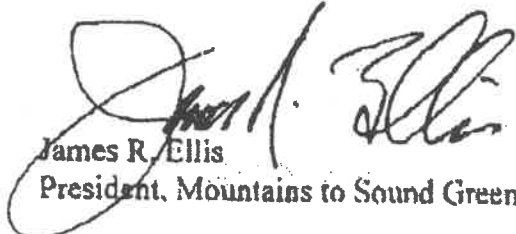
We found no mention of signage design standards or limitations in the DEIS. We'd suggest that clearly defined sign codes be established up-front for the office park that will control what signage is allowed to be placed on buildings. Consideration should be given to size limits on signs, lighting of signs, definition of whether neon or other type signs are allowed, and whether they are allowed to face I-90. We'd urge that no signage be allowed to face I-90, particularly signage intended to advertise to highway travelers.

9

The Greenway Trust asks that consideration be given to switching the locations of the Washington State Horse Park and the Business Park Campus within the overall design of the UGA, thereby placing the Horse Park adjacent to I-90 instead of the Business Park. The Greenway Trust encourages this plan alteration, believing that the view impacts from the Horse Park would be less than those of a Business Park and that the Horse Park may be more compatible with the existing forest setting.

10

The Trust thanks you for the opportunity to comment on the DEIS.

  
 James R. Ellis  
 President, Mountains to Sound Greenway Trust

cc: Mr. Brian Carrico

**Comment 1**

Comment noted. Undeveloped open space in the UGA would include a 150-foot undisturbed buffer along the I-90 right-of-way. Undeveloped open space in the Cle Elum River corridor has been expanded under Alternative 5 (Preferred Alternative) from approximately 150 acres to 246 acres. The open space corridor includes the northeast quadrant of the Bullfrog/I-90 interchange (to the extent of Trendwest ownership in that area) and potential development is limited to a small interpretive center.

**Comment 2**

Comment noted. This issue has been added to the scoping discussion in Chapter 1, Summary, of the Final EIS and has been addressed in Section 3.11 of the Final EIS.

**Comment 3**

Trendwest has committed to a 150-foot buffer along I-90, a 100-foot buffer along Bullfrog Road, and a 50-foot buffer along SR 903 as part of Alternative 5, the Master Site Plan Application. The buffer along I-90 would contain sufficient vegetation to accomplish an approximately 75% visual screen from users of I-90.

**Comment 4**

The discussion of the Mountains-to-Sound Greenway Plan in Section 3.10, Land Use, in the Draft EIS has been moved to Section 3.11, Aesthetics/Light and Glare, of the Final EIS. The description of the corridor has been revised to reflect Thorp as the eastern terminus. A definition of the National Scenic Byway designation has been added, and perimeter buffer widths along I-90, Bullfrog Road, and SR 903 have been specified.

**Comment 5**

Refer to the response to Comment 4, above.

**Comment 6**

Comment noted. An updated discussion of aesthetics, light, and glare pertinent to Alternative 5 is included in the Final EIS (see response to Comment 4, above). As part of the Alternative 5 site plan, the Business Park location has been moved from alongside I-90 to alongside SR 903 (see Figure 2-5 in the Final EIS). Business Park building design (e.g., styles, colors, and materials) will be identified in the development standards for the UGA.

**Comment 7**

Refer to the response to Comment 6, above.

**Comment 8**

Comment noted. Refer to the responses to Letter 11, Comment 3 and Comments 3 and 6, above.

**Comment 9**

Comment noted. Sign code standards are found in Chapter 15.20 of the Cle Elum Municipal Code. Those provisions address size, lighting, etc. No signage directed toward I-90 highway travelers is proposed. Alternative 5 relocates the Business Park area away from I-90 (see Figure 2-5).

**Comment 10**

The Business Park has been relocated from alongside I-90 to alongside SR 903. Alternative 5 does not include the Horse Park as a part of the project; however, it does include area designated as a Reserve tract adjacent to I-90 that could accommodate a Horse Park (see response to Letter 4, Comment 2). Washington State Horse Park Authority would develop a Horse Park as a separate project.

City Planner

received  
5/7/01

May 7, 2001

Milly Radonovich  
Box 461  
Roslyn, Wash  
98941Subject UGA  
1. (Water)

Do you believe that we know how much water is in the ground and that availability of water is endless?

The UGA MPR combined wants during 8 million gals of water a day during irrigation season.

Roslyn's reservoir holds 1 million gals. If we had a fire that surrounded Roslyn, it would deplete our reservoir.

The money (\$) people believe we have an abundance of water and the well will never go dry. Do you believe that?

(2) (Traffic) is the bullfrogged going to be a six lane, 8 lane

(2)

Do you like the congestion we have on Memorial Day, 4<sup>th</sup> of July and Labor day?

2 (cont.)

That's comparable to 20,000 more people and units.

I have witnessed Peak Pt., Nelson siding and Lake Cle Elum developed and populated ~~at~~ like never before. Yet the local businesses do not gain these people drive to the West side every day and spend (\$) on the west side

3

More people and more development is not the answer. Preservation is the magnet not development. What have we worked to preserve? List what we have preserved.

4

we need another  
urban growth like we need  
a cancer growth.

4 (cont.)

thank you  
Melby A. Radomich

lifetens  
resident  
of Roslyn.

Please  
respond that  
you read and received my  
comments and input.

thank you



**Comment 1**

Comment noted. Refer to Section 3.4, Water Supply, and Appendix B of the Final EIS for an updated and expanded analysis of potential water supply impacts.

**Comment 2**

Bullfrog Road would remain two lanes. Assuming buildout occurs as predicted, a traffic signal would be required in Project Year 5 at the intersection of Bullfrog Road and SR 903. Traffic volume growth would be monitored to determine the actual impact timing and the types of mitigation improvements.

**Comment 3**

Comment noted. Refer to Section 3.18 and Appendix D of the Final EIS for an analysis of potential fiscal impacts under Alternative 5.

**Comment 4**

Comment noted.

Edmund A Januszkiewicz  
PO Box 370  
Roslyn, WA 98941

**received**  
5/7/01  
by Cle Elum  
City Hall - HS.

Dear Sir or Madam:

I have grave concerns as to the fiscal impacts that the UGA will have on community and governmental services. The UGA will further the burden upon community services that the MPR has stretched to dangerous levels. The UGA DEIS does not adequately address the costs of the government services that the UGA would require. Social services, public works, public safety, city debt service, and general government service requirements are not evaluated to determine whether or not the UGA will be an additional burden upon the revenue stream. There seems to be an assumption that the development will realize the revenue stream required to support these services. There is not, however, any analysis or study that supports this contention.

1

At a minimum, Cost of Community Services (COCS) studies need to be undertaken to evaluate and understand the impact that this large housing development will have on the communities tax base. These studies compare the contributions (revenues) from each land use (residential, commercial, industrial, agricultural, forest, open space) to the service demands (expenditures) of each land use. COCS studies are a very general type of fiscal impact analysis that quantifies the difference between annual income and the expense of public services. COCS studies are a snapshot in time of costs versus revenues for each type of land use. They provide a baseline of current information on which informed land use and policy decisions can be made. I am enclosing a fact sheet and a COCS studies implementation guide for reference.

2n

Thank you,

  
Edmund Januszkiewicz

IS FARMLAND PROTECTION A  
COMMUNITY INVESTMENT?

*HOW TO DO A COST OF  
COMMUNITY SERVICES STUDY*



*American Farmland Trust*

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## Acknowledgments

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I am grateful for the assistance of other members of American Farmland Trust's staff for their comments, suggestions and review of this handbook, including: Valerie Berton, Carol Fesco, Gary Kozel, Donna McAdam and Bob Wagner.

I especially would like to thank Dr. J. Dixon Esseks of Northern Illinois University and AFT's Center for Agriculture in the Environment who took time out of his busy schedule to make many very helpful comments on the draft.

Special thanks to Jennifer Blumenthal, Harrison Glavan and Juli Kois for their assistance in pulling together text and materials in the first stages of this project and their assistance in the Massachusetts studies upon which this handbook is based.

Finally, I would like to express my deep appreciation to Jim Riggle, who helped smooth out the rough spots and give context to the cost of community services technique.

Respectfully submitted,  
Julia Freedgood  
Spring 1993

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## Introduction

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American Farmland Trust is a private conservation organization that works to stop the loss of productive farmland and to promote farming practices that lead to a healthy environment. We act on our mission through policy development, demonstration land projects and public education to protect the best farmland for future generations and to encourage good stewardship of our vital farmland resources. However, AFT is neither a pro-growth nor an anti-growth organization.

Our regional office in Northampton, Mass. covers the Mid-Atlantic States and New England from Delaware to Maine. Although this is a highly urbanized region and much of our agriculture is on the urban-edge, there are also some extremely rural areas. Three of the most common claims we hear when we work at the local level are:

1. Residential development will lower property taxes by increasing the tax base;
2. Farmland gets an unfair tax break when it is assessed at its actual use for agriculture instead of its potential use for development; and
3. Open lands, including productive farms and forests, are interim uses awaiting conversion to their "highest and best use."

Although a rural acre with a new house will undoubtedly generate more total revenue than an acre of cows or corn, such simplistic arguments do not provide communities with a realistic bottom line. Especially where farming and forestry are still important industries, the claims do not consider the real property tax contribution of privately owned natural resources. While they may be lower revenue generators, farm and forest lands require minimal public infrastructure and services.

Of these claims, AFT is most concerned about those used to oppose laws and statutes that benefit farmland, most notably use-value or current-use assessment, agricultural districts and zoning, and purchase of conservation easement programs. What particularly concerns us is that despite these claims, no basis in fact exists for opposing farmland retention programs to solve fiscal problems. Use-value assessment programs were designed to encourage landowners to keep the working landscape in production. Typically, these programs assess farmland and forestland at the value of their current use instead of at the value of their potential use for development.

## Introduction

COCS studies suggest it is time to start appreciating farm and forest lands for their contribution to the local tax base. Their revenues may be modest, but so are their demands for services. Across America, evidence mounts that communities have paid a high price for unplanned growth -- from traffic congestion and increased infrastructure needs to budgetary shortfalls and rising property taxes. Yet, while adding to the tax base, farm and forest lands also provide wildlife habitat and protect our wetlands and floodplains. They provide tourist and recreational opportunities and contribute to the quality of life of local residents. Primary farm and forest industries are important economically, creating jobs and supplying lucrative secondary markets such as food processing and lumber milling. Common estimates place the multiplier effect of local agriculture at \$3 to \$5. (e.g., for every dollar received from farmers for selling agricultural goods and services, \$3 - \$5 are earned by local businesses and processors serving farmers and their customers.)

Over the years, AFT's COCS studies have received tremendous attention. Many Northeastern communities have asked AFT for help conducting

their own COCS studies. Recently, we have received increasing numbers of requests from outside the region.

Because of this interest and our curiosity to see if the same pattern exists in other parts of the country, we have put together this handbook to help people conduct COCS studies themselves. Since the process is based on our work in Massachusetts where town government is very strong, it may have to be modified in other states. (Massachusetts is typical of New England where local budget and tax decisions are made by citizens at town meetings. County governments do not play large roles in town budgets, and there are no townships.) We also recommend you use this handbook in conjunction with the Massachusetts report, *Does Farmland Protection Pay?* where detailed tables and text serve as a case-study example of the process detailed here.

Feel free to call AFT for assistance using the information on the inside cover. We would like to know if you do a study and would be very interested in your results.

Thank you for your interest in this subject. We hope the handbook is user-friendly. Good luck!

\_\_\_\_\_

Getting Started

Why Do a COCS?

Before you begin, think about what you want to find out and why. Consider your reasons carefully to make sure a COCS study will help accomplish your goals. Investigate other available techniques. Be sure that what you want is a snapshot of the current demand for services by land use, not a prediction of future demand. The following box suggests some questions to ask:

**Why do a COCS?**

- + Who and what is the study for?
- + Do critics pose a threat to ag districts, ag zoning, purchase of ag easement (PDR) programs or other kinds of farmland protection programs?
- + Is there local interest in natural resource conservation or farmland protection?
- + Is your state's use-assessment program under attack?
- + Do you need, and can you afford, a more sophisticated study?

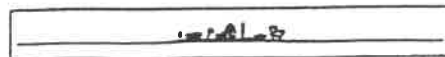
enduring development pressure. COCS may not be the best type of study for very rural or entirely urban areas. So think about what municipality to study. Consider how your local government is structured. Is town or county government stronger? Which public bodies are responsible for what types of services? Since every state is different, you may need to examine villages, towns, townships, parishes or counties to get the full picture. In a very small state with limited local government, you may even want to study the whole state! This is why you must be clear on your reasons for doing a COCS. Try to narrow the scope of your study to an area you can tackle thoroughly. Include all relevant revenues and expenditures, even if that means assembling various types of financial data.

For the purposes of this handbook, we have adapted AFT's Massachusetts studies for the model. Therefore, the local unit used for discussion purposes is town government.

Once you have decided where to focus your study, find out as much as you can about the community. The better you understand it, the easier your study will be. The following box outlines some possible questions to ask:

Where Will You Conduct the Study?

AFT has found COCS studies most useful in places undergoing transition, especially those



## Getting Started

## How Much Time -- and Money?

How much time does it take to do a COCS study? That really depends upon the complexity of your community, who does the research, what financial records exist and the type of personnel available to provide data. As a benchmark, AFT found the leg work in three Massachusetts studies required about 150 hours per town. Additional time was required for project coordination, report preparation and design and printing for all three studies.

A COCS budget varies according to the requirements of the study, but it should not be expensive. Depending on the resources you have at hand, costs can be greatly reduced. Most are associated with travel and personnel. AFT's three Massachusetts studies cost an average of \$5,000 each, including limited printings of in-house reports. However, a potentially significant cost is publishing a report for wide distribution.

Here, expenses are determined by the number of pages, design features, number of copies printed and method of distribution. Decide these things in advance and get printing estimates so you can budget accordingly.

If you use volunteers, costs will be minimal but the volunteers will have to be carefully supervised. Most universities have a set rate for graduate assistants, although you may find students who want to take on the study as part of their academic program. Professors and consultants charge more but add to the credibility of your findings. You will probably have to pay travel expenses -- you can use the federal reimbursement rate as a guide -- and some administrative costs.

Before you begin the study, evaluate available resources and your target audience. More than anything, answering budget questions specific to your locale will determine the eventual price tag.

\_\_\_\_\_



How to Do a COCS Study

which land uses provide what sources of income: property tax revenue, state and federal aid, funds from special districts and so on.

This step is very important because many local officials have never calculated the revenues from farmland and forestland. However, even more important is the next step: grouping and allocating expenditures. You must make sense out of budgets and reports and reorganize them by land use.

Taken together, these steps help establish the

town's current bottom line.

Be prepared to interview extensively to be sure you allocate expenses fairly. Make a special effort to stay objective -- the people you interview may be too close to the material to be impartial. Once you are confident you have allocated revenues and expenditures correctly, enter them into your spreadsheet. Then, you are ready for the final and easiest step -- calculating the ratios.

The following box outlines the five steps:

***Five Basic Steps for a Cost of Community Services Study***

1. Meet with local sponsors and define land use categories
  - \* Residential
  - \* Commercial
  - \* Industrial
  - \* Farm, forest and open land
2. Collect data: Obtain relevant reports, contact officials, boards and departments
  - \* Annual town budget
  - \* Annual department reports
  - \* Property tax list
  - \* Expenditure ledger
  - \* Land use breakdown
  - \* Special grants
  - \* Select board
  - \* Assessor
  - \* Treasurer
  - \* Planning board
  - \* City council
  - \* Public works
  - \* Police chief
  - \* Fire chief
  - \* Human services
  - \* Water & sewer
3. Allocate revenues by land use
  - \* Property tax
  - \* Local receipts
  - \* State aid
  - \* Miscellaneous
  - \* Other: Special tax districts or self-sustaining departments
4. Allocate expenditures by land use
  - \* Public works
  - \* Public safety
  - \* Education
  - \* Human services
  - \* Government
5. Analyze data and calculate ratios

## How to Do a COCS Study

**Residential:** Property used for dwellings, including farm houses, employee housing and rental units. Remember, houses are for people who need residential services, regardless of who owns them or their occupations.

**Commercial:** Property actively used for business purposes other than industrial, agricultural or forestry.

**Industrial:** Property actively used for wholesale production and utilities, usually goods-producing.

**Farm, forest and open land:** Property used or designated as open space, forest, farmland or recreational land. Often this category can be defined according to the state's use-assessment program.

With your sponsors' help, adapt these categories to the land use mix in your community. For example, if the area is still quite rural, you may not need to separate commercial from industrial. Think carefully about what to include in the farm, forest and open land category, which is

generally buried in records of other land uses.

AFT recommends referring to your state's use-assessment program to help you define your open lands category. If necessary and relevant, add other open space categories from the tax codes. In use-assessment programs, working lands are taxed on the value of their actual use, rather than on their potential value for development. Applying this definition is easier than a more complicated delineation, and AFT has found the pattern of results remains the same.

To stay on track, go back to your original goals, keeping in mind personnel and time constraints as well as the level of development in your community. Remember, all you want to determine is how much each land use demands in services for every dollar it generates in revenues. The broader your categories, the easier it will be to present meaningful data. But be careful not to dilute information for expediency's sake. Above all, avoid muddled definitions!

## 2. Collect data

Now you are ready to work!

Start by choosing a typical year with closed books. This way, real numbers will be used, not financial estimates. Normally, the last completed fiscal period is best because it is freshest in people's memories and records are easiest to locate.

However, if something unusual happened that might affect your findings, such as a major fire or unusual windfall, choose another year. Your sponsors can tell you what is -- or is not -- typical.

In collecting data, pay attention to how departments keep their records. Some use a fiscal

### How to Do a COCS Study

special districts (fire, water, sanitation and school) and miscellaneous revenues.

When you distribute revenues, think of how they apply to your land use categories. Property taxes may be the most straightforward. Building permit fees would be distributed according to the type of land use indicated by permit files or in a summary report. The same approach should work for other types of permits and licenses.

Special taxes and tax districts can be tricky, so weigh available information carefully before you decide how to handle them. For instance, if your community has a special fire district that only serves some neighborhoods and charges on a fee basis, you may want to treat it as a footnote and omit it from your regular analysis. Just be sure to mention this in your final report and explain the rationale for your decision. On the other hand, if fire districts represent all properties and are paid for out of regular tax revenues, include them as part of your regular analysis. Special districts illustrate why you must understand the community you are studying.

Three rules of thumb to follow when grouping revenues:

1. Gather as much information as possible, discuss any special cases with your sponsors and base your final decisions on the original goals of the study and the quality and quantity of available data.

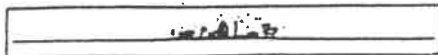
2. Spell out your assumptions clearly.
3. Be sure that decisions you make on the revenue side match those you make on the expenditure side.

### *Transfer Land Values*

Match local records with COCS land uses by transferring property values from the state tax classes to yours. This is a fairly simple, but time-consuming process. Subtract items that do not belong in existing categories, then add them to the appropriate categories for your study. For example, in Massachusetts, farm, forest and recreational lands enrolled in the use-assessment program are reported as commercial properties in the tax code. But they are considered farm, forest and open land in a COCS study. So AFT subtracted them from commercial and added them to farm, forest and open land.

Mixed-use parcels can be difficult to allocate.

If you can determine the value of different land uses, break them out accordingly. Otherwise, attribute them to the category of primary use. Large towns often have computerized records that provide a high level of detail on lot size, number and type of buildings and so on. These can help you distribute revenues in mixed-use parcels in the same way they helped you in other categories. In small towns without computers, breakdowns may have to be determined by the assessors, if at all.



#### 4. Group Expenditures and Allocate Them

##### *Group Expenditures*

Once you have gotten revenues in order, you can broadly group expenditures. Base your decisions on budget allocations and actual departmental expenses that should be readily available. AFT usually divides expenditures into five classes:

1. General government,
2. Public safety,
3. Education,
4. Health and human services, and
5. Public works.

However, if other categories are better suited to your community, use them. Just be consistent.

##### *Allocate Expenditures*

The heart of a COCS study is allocating expenditures based on land use demand. Since most town records are not kept by land use, this process requires significant effort. Try to stay intrigued and do not get frustrated if this step is difficult; it is a critical part of your study.

Even though expenditure reports are generally available from department heads, you may still have trouble allocating expenses. Start with ones you can apportion with little or no assistance. For example, education and most health and human services are residential. Remember, farm houses

are considered residential. So are government expenses such as elections and voter registration. Even though society as a whole benefits from a healthy and educated voting public, citizens directly demand these services. COCS studies measure this demand, not the public good to be derived from it. While they provide practical data on land use requirements for services, these studies do not answer broad, philosophical questions about who in society should pay for what.

Allocating most services will rely on a fair amount of investigation. So put on your Sherlock Holmes hat and study the clues concealed in the basic financial data you have collected.

Meanwhile, prepare specific questions to ask when you interview officials and key department heads for details.

Find out about expenses that may not be as straightforward as they seem. A forestry expense might be for pruning dead branches in a residential neighborhood or maintaining the woods in a recreational area. Pruning the neighborhood trees is a residential expense, whereas forest management serves open land. Does the animal officer handle working dogs or pets? Treat a guard-dog infraction at a factory as an industrial expense and a barking

How to Do a COCS Study

allocations, or you may be forced to use your fall-back percentages. When you talk to the highway superintendent, try to tease out quantifiable data. The number of curb miles may provide some useful information, but beware! Simply counting the number of miles and estimating how many went through each land use sector will not give you an accurate picture of road use. Probe a little deeper.

Rural roads are often used by commuters and tourists, not just farmers. Farms need roads for tractors, milk trucks or hauling beans to the

elevator. But a farmer driving to church or to shop is a residential expense.

Finally, try to avoid bias in your allocations and to base them on land use demand and sound financial data. If you hope that farm, forest and open lands will show a positive contribution, make sure you are conservative when you allocate revenues to them and liberal when you allocate their expenditures. This will help keep your study impartial and credible. When objective data is unavailable, use fall-back percentages.

---

### 5. Calculate ratios

---

Now you can analyze the data. Enter revenues and expenditures on a spread-sheet to come up with land use totals. Furnish as much detail as you want to use in your analysis. Then establish a ratio that shows how much was spent on services for every dollar raised in revenues.

For example, in one Massachusetts town, residential expenses were \$4,025,367, and revenues were \$3,458,764. Viewed as a ratio, for every dollar raised, it cost \$1.16 to provide residential services. Farm and open land expenditures were \$61,021 and revenues were \$207,615 so the ratio between them was \$1 to 29 cents.

When you review your findings, remember they are a snapshot of a single year and give a focused

picture of demand on services in your community. They neither project growth nor describe all the financial implications of any land use. For example, in AFT's studies, commercial and industrial development were net contributors. But sometimes it appeared that this type of development attracted new residents to fill newly created jobs. Some officials complained that this further strained education and other public service budgets, which the community did not have sufficient resources to provide. COCS studies do not evaluate the extent to which secondary effects occur. These should be considered as part of the planning process.

After you have completed the calculations and determined the ratios, submit them as a draft to

\_\_\_\_\_

## Final Words

Whatever your findings, remember that one type of land use is not intrinsically better than another. Communities should not blindly pursue either a conservation or a growth management agenda. Planning decisions must be community-based and reflect local goals and opportunities. However, in the past, slighting the economic importance of farm and forestlands has meant these precious natural resources have consistently been sacrificed to their "highest and best" use, forever altering the local landscape and weakening the local potential of resource-based economic development. And while commercial/industrial growth offers a potential balance, it is not a miracle cure, either. What happens when local skills are not available to fill the jobs created by new businesses? Will new houses be needed for the people who move to town to take the new jobs? Will the cycle continue?

This is why it is so important for communities to see the full picture of their land uses. Disclosing the *net* contribution of farm, forest and open lands can help local leaders overcome the notion that natural resources *must* be converted to other uses to ensure economic stability. At the least, they should help dispel the myths that residential development lowers taxes, or that use-assessment programs give landowners an unfair tax break.

Even with due consideration of their multiple economic and environmental benefits, farm and forestlands will continue to be threatened by conversion to higher tax-generating uses. That is why local decision-makers must weigh all the advantages that farm and forestlands have to offer in the planning, zoning and public policy process. Supporting farmland protection and conservation can prove to be a sound community investment.

## Sample Tables

Town Revenues									
Source	Residential		Commercial		Industrial		Farm/Open		Total
<b>TAX RECEIPTS</b>									
Real property	\$1,796,993	70.3%	\$283,736	11.1%	\$324,528	13.4	\$132,921	5.2%	\$2,556,178
Pers. property			26,369	43.0	27,001	57.0			47,370
<b>TOTAL</b>	<b>1,796,993</b>	<b>69.0</b>	<b>304,105</b>	<b>11.7</b>	<b>369,529</b>	<b>14.2</b>	<b>132,921</b>	<b>5.1</b>	<b>2,603,546</b>
<b>STATE AID RECEIPTS</b>									
Education	524,673	100							524,673
Public libraries	5,790	100							5,790
Highway fund	64,586	69.0	10,952	11.7	13,292	14.2	4,774	5.1	93,604
Lottery/Beano	129,296	69.0	21,924	11.7	26,609	14.2	9,557	5.1	187,386
Vets abatement	2,373	100							2,373
Elderly abatement	12,976	100							12,976
Overestimates	2,567	69.0	435	11.7	528	14.2	190	5.1	3,726
<b>TOTAL</b>	<b>742,261</b>	<b>89.4</b>	<b>33,311</b>	<b>4.0</b>	<b>40,429</b>	<b>4.9</b>	<b>14,521</b>	<b>1.7</b>	<b>830,521</b>
<b>LOCAL RECEIPTS</b>									
Excise Tax	154,000	77.0	34,000	17.0	12,000	6.0			200,000
Other excise							5,500	100	5,500
Interest income	102,120	69.0	17,316	11.7	21,016	14.2	7,548	5.1	148,000
Payments-in-lieu	41,400	69.0	7,020	11.7	8,520	14.2	3,060	5.1	60,000
Penalties/Inter.	6,900	69.0	1,170	11.7	1,420	14.2	510	5.1	10,000
Trash Disposal	62,900	34.0	57,350	31.0	61,050	33.0	3,700	2.0	185,000
Other Dept.	27,600	69.0	4,680	11.7	5,680	14.2	2,040	5.1	40,000
Licenses/Permits	12,420	69.0	2,106	11.7	2,556	14.2	918	5.1	18,000
Fines/Forfeits	72,450	69.0	12,285	11.7	14,910	14.2	5,355	5.1	105,000
<b>TOTAL</b>	<b>479,790</b>	<b>62.2</b>	<b>135,927</b>	<b>17.6</b>	<b>127,152</b>	<b>16.5</b>	<b>28,631</b>	<b>3.7</b>	<b>771,500</b>
<b>OTHER RECEIPTS</b>									
Free Cash/Total	258,822	69.0	43,887	11.7	53,265	14.2	19,130	5.1	375,104

Town Expenditures									
Source	Residential		Commercial		Industrial		Farm/Open		Total
<b>GENERAL GOVERNMENT</b>									
Election/registr	4,100	100							4,100
Town Office	11,237	89.0	631	5.0	593	4.7	164	1.3	12,625
Town computers	62,300	89.0	3,500	5.0	3,290	4.7	910	1.3	70,000
Town reports	2,670	89.0	150	5.0	141	4.7	39	1.3	3,000
Telecommunication	890	89.0	50	5.0	47	4.7	13	1.3	1,000
Gen insurance	27,145	89.0	1,525	5.0	1,433	4.7	397	1.3	30,500
Empl insurance	96,964	89.0	5,448	5.0	5,120	4.7	1,417	1.3	108,949
Emergency reser	28,560	71.4	4,520	11.3	5,200	13.0	1,720	4.3	40,000
Stabilization	28,560	71.4	4,520	11.3	5,200	13.0	1,720	4.3	40,000
Debt service	7,140	71.4	1,130	11.3	1,300	13.0	430	4.3	10,000
<b>TOTAL</b>	<b>431,065</b>	<b>77.8</b>	<b>49,819</b>	<b>9.0</b>	<b>47,982</b>	<b>8.7</b>	<b>24,889</b>	<b>4.5</b>	<b>553,755</b>
<b>PUBLIC SAFETY AND SERVICES</b>									
Police Dept.	146,778	65.0	45,162	20.0	31,614	14.0	2,258	1.0	225,812
S. Deerfield Fire	121,569	59.0	41,210	20.0	32,968	16.0	10,302	5.0	206,049
Deerfield Area Fire	32,662	80.0	3,675	9.0	2,450	6.0	2,041	5.0	40,828
Board of Health	1,170	78.0	150	10.0	180	12.0			1,550
Dog Officer	2,000	100							2,000
Pest control	2,640	88.0	360	12.0					3,000
Dutch Elm disease	1,760	88.0	240	12.0					3,000
Tree Warden	17,953	88.0	2,448	12.0					20,401
Taking of prop	21,848	71.4	3,458	11.3	3,978	13.0	1,316	4.3	30,600
<b>TOTAL</b>	<b>348,380</b>	<b>65.5</b>	<b>96,703</b>	<b>18.2</b>	<b>71,190</b>	<b>13.4</b>	<b>15,917</b>	<b>2.9</b>	<b>532,190</b>
<b>PUBLIC WORKS</b>									
Utility inspect	8,820	73.5	1,488	12.4	1,692	14.1			12,000
Highway	253,624	71.4	40,139	11.3	46,178	13.0	15,274	4.3	355,215
Street lights	22,050	73.5	3,720	12.4	4,230	14.1			30,000
Pickup truck	12,138	71.4	1,921	11.3	2,210	13.0	731	4.3	17,000
Waste disposal	40,954	34.0	37,340	31.0	39,749	33.0	2,410	2.0	120,453



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**COST OF  
COMMUNITY  
SERVICES  
STUDIES**

**DESCRIPTION**

Cost of Community Services studies are an inexpensive, easy-to-understand way to determine the net fiscal contribution of different land uses to local budgets. Municipal records are reorganized to assign the cost of local public services to privately owned farm, forest and open lands, as well as residential, commercial and industrial lands. The result is a set of ratios that compare the annual income to the annual expenditures for different land uses.



COCS studies are a snapshot in time of costs versus revenues for each type of land use. They do not predict future costs or revenues or the impact of future growth. They do provide a baseline of current information to help local officials and citizens make informed land use and policy decisions.

**Fact Sheet METHODOLOGY**

rev. January 2000

COCS studies involve five basic steps:

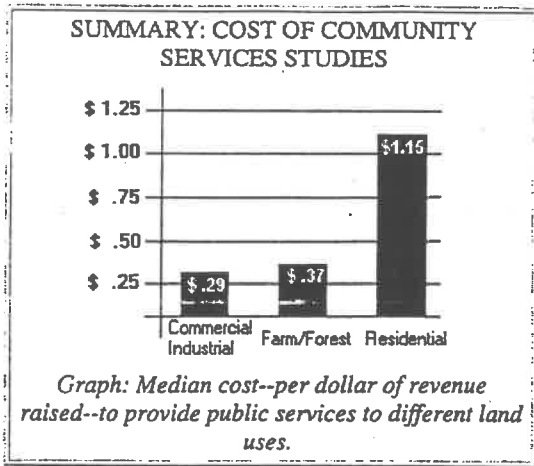
1. Define the scope of the project and identify land use categories to study (e.g., residential, commercial, industrial, farm and forest land).
2. Collect data on local revenues and expenditures.
3. Group revenues and allocate them to the land use categories identified in step 1.
4. Group expenditures and allocate them to the land use categories identified in step 1.
5. Analyze the data and calculate revenue-to-expenditure ratios for each land use category.

The process is straightforward, although ensuring reliable figures requires the assistance of local officials and service providers. The most complicated task is interpreting existing records to reflect COCS land use categories. Allocating revenues and expenses requires a significant amount of research, including extensive personal interviews.

**HISTORY**

Communities often evaluate the impact of growth on local budgets by conducting or commissioning fiscal impact analyses. Fiscal impact studies project public costs and revenues from different land development patterns. They generally show that residential development is a net fiscal loss for communities and recommend commercial and industrial development as a strategy to balance local budgets.

Rural towns and counties that are likely to benefit most from the information provided by fiscal impact analyses rarely have the expertise or resources to conduct a study, which tends to be expensive. Also, these studies rarely consider the fiscal contribution of farm, forest and recreational lands, which are very important to rural economies.



The findings of COCS studies are consistent with those of conventional fiscal impact analyses, which document the high cost of residential development and recommend commercial and industrial development to help balance local budgets. What is unique about COCS studies is that they show that agricultural land is similar to other commercial and industrial uses. In every community studied, farmland has generated a fiscal surplus to help offset the shortfall created by residential demand for public services. This is true even when the land is assessed at its current agricultural use.

Communities need reliable information to help them see the full picture of their land uses. COCS studies are an inexpensive way to evaluate the net contribution of farm and open lands. They can help local leaders discard the notion that natural resources must be converted to other uses to ensure fiscal stability. They also dispel the myths that residential development leads to lower taxes, that differential assessment programs give landowners an unfair tax break and that farmland is just waiting around for development.

One type of land use is not intrinsically better than another, and COCS studies do not judge the overall public good or long-term merits of any land use or taxing structure. Communities must balance goals such as maintaining affordable housing, creating jobs and conserving land and resources. With good planning, these goals can complement rather than compete with each other. COCS studies give communities another tool to make decisions about their futures.

**SUMMARY OF COSTS OF COMMUNITY SERVICES STUDIES,  
REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS**

State/Town	Residential Including farm houses	Combined Commercial & Industrial	Farm/Forest Open Land	Source
<b>Connecticut</b>				
Bolton	1 : 1.05	1 : 0.23	1 : 0.50	Geisler, 1998
Durham	1 : 1.07	1 : 0.27	1 : 0.23	Southern New England Forest

## **American Farmland Trust Publications: Cost of Community Services**

AFT developed cost of community services studies in response to three common claims: that residential development lowers property taxes for existing residents by increasing the tax base; that farmland gets an unfair tax break when it is assessed at its agricultural value instead of its potential development value; and that open lands—including productive farm and forest lands—are interim uses awaiting development. Widespread interest in these studies has made AFT a leader in evaluating the financial contribution of farmland to local budgets and the fiscal relationship between farmland and other community land uses. Results to date indicate farmland is a net positive contributor to local coffers.

*The Cost of Community Services in Frederick County, Maryland* – This study, produced by AFT for the Frederick County AgriFuture Roundtable, analyzes the cost of community services in Frederick County and three of its towns. 1997; 36 pages; \$12.95 (PFREDCOCS)

*The Cost of Community Services in Madison Village and Township, Lake County, Ohio* – In the first-of-its kind study in the Midwest, this report compares service costs in two Cleveland-area municipalities. 1993; 32 pages; \$5. (POHCOCS)

*Does Farmland Protection Pay? The Cost of Community Services in Three Massachusetts Towns* – Working under contract to the Massachusetts Department of Food and Agriculture, AFT studied the cost of community services in three Connecticut River Valley towns. 1992; 38 pages; \$10. (PPROTPAY)

*Dutchess County Cost of Community Services Study* – As development continues to pressure farms and farmland in Dutchess County, N.Y., this study evaluates the cost of community services in two Dutchess County towns. 1989; 11 pages; \$5. (PDTHCOCS)

*Farmland and the Tax Bill: The Cost of Community Services in Three Minnesota Cities* – AFT worked with the Land Stewardship Project to analyze the cost of services in three Twin Cities metro- area cities. 1994; 20 pages; \$10. (PFARMTAX)

*Is Farmland Protection a Community Investment? How to Do a Cost of Community Services Study* – To respond to the considerable interest in COCS studies, AFT developed this definitive, step-by-step handbook to help communities undertake such analyses. AFT recommends the handbook be used with a COCS case study. 1993; 26 pages; \$10.

With *Does Farmland Protection Pay? The Cost of Community Services in Three Massachusetts Towns*; \$15. (PHOWTO)

These publications may be ordered by calling 800-370-4879 or by faxing the order form to us at 413-586-9332

<http://www.farmland.org/merch/publist.htm>

**New Hampshire**

Deerfield	1 : 1.15	1 : 0.22	1 : 0.35	Auger, 1994
Dover	1 : 1.15	1 : 0.63	1 : 0.94	Kingsley et al., 1993
Exeter	1 : 1.07	1 : 0.40	1 : 0.82	Niebling, 1997
Fremont	1 : 1.04	1 : 0.94	1 : 0.36	Auger, 1994
Stratham	1 : 1.15	1 : 0.19	1 : 0.40	Auger, 1994

**New Jersey**

Freehold Township	1 : 1.51	1 : 0.17	1 : 0.33	American Farmland Trust, 1998
Holmdel Township	1 : 1.38	1 : 0.21	1 : 0.66	American Farmland Trust, 1998
Middletown Township	1 : 1.14	1 : 0.34	1 : 0.36	American Farmland Trust, 1998
Upper Freehold Township	1 : 1.18	1 : 0.20	1 : 0.35	American Farmland Trust, 1998
Wall Township	1 : 1.28	1 : 0.30	1 : 0.54	American Farmland Trust, 1998

**New York**

Amenia	1 : 1.23	1 : 0.25	1 : 0.17	Bucknall, 1989
Beekman	1 : 1.12	1 : 0.18	1 : 0.48	American Farmland Trust, 1989
Dix	1 : 1.51	1 : 0.27	1 : 0.31	Schuyler County League of Women Voters, 1993
Farmington	1 : 1.22	1 : 0.27	1 : 0.72	Kinsman et al., 1991
Fishkill	1 : 1.23	1 : 0.31	1 : 0.74	Bucknall, 1989
Hector	1 : 1.30	1 : 0.15	1 : 0.28	Schuyler County League of Women Voters, 1993
Kinderhook	1 : 1.05	1 : 0.21	1 : 0.17	Concerned Citizens of Kinderhook, 1996
Montour	1 : 1.50	1 : 0.28	1 : 0.29	Schuyler County League of Women Voters, 1992
Northeast	1 : 1.36	1 : 0.29	1 : 0.21	American Farmland Trust, 1989
Reading	1 : 1.88	1 : 0.26	1 : 0.32	Schuyler County League of Women Voters, 1992
Red Hook	1 : 1.11	1 : 0.20	1 : 0.22	Bucknall, 1989

**Ohio**

Madison Village	1 : 1.67	1 : 0.20	1 : 0.38	AFT and Lake County Ohio SWCD, 1993
Madison Township	1 : 1.40	1 : 0.25	1 : 0.30	AFT and Lake County Ohio SWCD, 1993

**Pennsylvania**

Allegheny Township	1 : 1.06	1 : 0.14	1 : 0.13	Kelsey, 1997
Bedminster Township	1 : 1.12	1 : 0.05	1 : 0.04	Kelsey, 1997
Bethel Township	1 : 1.08	1 : 0.17	1 : 0.06	Kelsey, 1992
Bingham Township	1 : 1.56	1 : 0.16	1 : 0.15	Kelsey, 1994
Buckingham Township	1 : 1.04	1 : 0.15	1 : 0.08	Kelsey, 1996
Carroll Township	1 : 1.03	1 : 0.06	1 : 0.02	Kelsey, 1992

**Comment 1**

Comment noted. A comprehensive fiscal impact analysis of revenues, public service costs, net fiscal impacts, and cumulative fiscal impacts of the UGA and MountainStar MPR on all affected jurisdictions is found in Section 3.19 and Appendix H of the Draft EIS for Alternatives 2, 3, and 4, and Section 3.18 and Appendix D of the Final EIS for Alternative 5. The City also has prepared a Municipal Facilities and Services Expansion Plan independent of the EIS that addresses costs of government and social services. Mitigation measures are incorporated into the draft Conditions of Approval for the project.

**Comment 2**

The fiscal impact analyses found in Appendix H of the Draft EIS and Appendix D of the Final EIS use a thorough, comparable approach to the COCS study mentioned. Refer to Appendix H of the Draft EIS for a detailed description of the impact analysis methodology. Receipt of the COCS implementation guide is noted.



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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processed  
5/7/2001  
City of Cle Elum

May 7, 2001

Gary Berndt  
City of Cle Elum  
119 West First Street  
Cle Elum WA 98922

Dear Mr. Berndt:

Thank you for the opportunity to provide comments on the draft environmental impact statement (EIS) for the Trendwest Properties: Cle Elum Urban Growth Area (UGA) [#200101896].

The Washington State Department of Ecology, with the assistance of Pacific Groundwater Group, is currently preparing a supplemental EIS for Trendwest's water right change applications to serve the MountainStar Master Planned Resort (MPR). The water supply plan to serve the MountainStar MPR is very similar to the water supply plan to serve the Trendwest Properties Cle Elum UGA development. Due to the closely related nature of the water supply plans, Pacific Groundwater Group has conducted a review of the Cle Elum UGA draft EIS and provided an issue paper. Please include the enclosed issue paper and this letter as part of the official record for consideration of Trendwest Properties: Cle Elum UGA Master Plan.

1

In addition to the enclosed issue paper, we have the following comments:

Additional clarification is needed to describe development within the geomorphic floodplain. On page 1-15, under mitigation measures for alternatives 2, 3, and 4, the document states that, "construction in the floodplain would be limited to an interpretive center and supporting road." However, on the soil type map (figure 3.1-5), the area of Bullfrog Flats (proposed for single family residential development in Alternatives 2, 3, and 4) is shown as having Racker Gravelly Sandy Loam soil, which is described as geomorphic floodplain soils. A clear understanding is needed of the Cle Elum River floodway, 100-year floodplain, 500-year floodplain and the "geomorphic" floodplain with respect to the proposed interpretive center and single-family residential development.

2

Additional capacity at the City of Cle Elum Wastewater Treatment Plant due to interim improvements cannot be assumed. Any additional capacity at the treatment plant due to interim improvements will need to be evaluated for actual capacity after interim improvements are operational.

3



Mr. Gary Berndt  
Page 2  
May 7, 2001

The temporary on-site sewage disposal systems combined with the potential groundwater impacts from the development proposal, the geology of the area, and the presence of sensitive receptors (Cle Elum River, Yakima River and Cle Elum Fish Hatchery wells) are justification for the need to perform additional contaminant loading calculations and mitigation as appropriate.

4

Section 3.17.4 Mitigation for Wastewater proposes a stand alone wastewater treatment option should the regional treatment plant not be constructed. It is important to note that WAC 173-220-150 National Pollutant Discharge Elimination System Permit Program (4) and WAC 173-216-110 State Waste Discharge Permit Program (8), require that permits for domestic wastewater facilities only be issued to public entities. These requirements would prevent Trendwest from developing a wholly owned and operated stand alone wastewater treatment plant facility.

5

If you have any questions about these comments please contact me at (509) 457-7125.

Sincerely,



Randall Doneen  
Permit Assistance Center

RD:gh  
010504

Enclosure: (1)

EIS #011896

cc: Rebecca Inman, HQ SEA  
Debbie Smith, CRO  
Christine Hall, CRO  
Catherine Reed, CRO  
Anna Hoselton, CRO  
Joe Mentor, Mentor Law Group  
Peter Schwartzman, Pacific Groudwater Group

**Comment 1**

Comment noted. Your letter, including comments from Pacific Groundwater Group, is included in the official record of comments on the Draft EIS.

**Comment 2**

Please note that the Draft EIS does not describe the Racker soil series as being synonymous with the geomorphic floodplain. On page 3.1-11, it states that the soils are “noted for their susceptibility to flooding because of their location in the floodplain.” Figure 3.3-2 shows that a large part of the Racker series is outside both the 100-year floodplain and the geomorphic floodplain.

With regard to placement of an interpretive center, an exact location has not been determined, but would be in coordination with the Washington Department of Fish and Wildlife and Yakama Tribe under the terms of their agreement with Trendwest (Cooperative Agreement, December 2000). Because there is no agreement on design and location of the center, it is not included in this Final EIS for analysis in Alternative 5.

**Comment 3**

Comment noted.

**Comment 4**

Comment noted. Refer to Section 3.3, Water Quality, and Section 3.16, Utilities, for discussions of contaminant loadings to the Cle Elum and Yakima rivers.

**Comment 5**

Comment noted. The standalone wastewater treatment option is no longer proposed.







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JM0101.01

May 4, 2001

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Central Regional Office  
15 W. Yakima Ave. Suite 200  
Yakima, WA 98902



Attn: Randall Doneen

Re: Issues Identified During Review of the Draft EIS for  
Trendwest Properties Cle Elum Urban Growth Area

Dear Randall,

This letter report presents discussion of key issues related to State Environmental Policy Act (SEPA) evaluations presented in the Draft Environmental Impact Statement (DEIS) for the Cle Elum Urban Growth Area (UGA) owned by Trendwest. The issues presented below were identified and described by us (Ecology's consultant team hired under the cost reimbursement program) to assist Ecology in SEPA review for Trendwest's *Master Planned Resort* (MPR). MPR determinations require consideration of UGA impacts because cumulative impacts must be evaluated for the two developments *combined*.

The consultant team includes Pacific Groundwater Group (groundwater issues and project management), Montgomery Water Group (surface-water quantity and water rights issues), and Parametrix (fisheries and surface-water quality issues). The consultant team reviewed the UGA DEIS after prior review of the MPR DEIS, the MPR FEIS, and other relevant supporting documents.

This issues paper is organized into two parts. Part 1 describes key issues identified during our review of the DEIS. Issues are first grouped based on five major mechanisms for impact (transfer of tributary water rights, transfer of main-stem water rights, direct impacts of the UGA, indirect impacts from the UGA, cumulative impacts from the UGA and MPR) and then grouped by area of technical analysis. The technical areas include fisheries (F), surface-water quantity (S), surface-water quality (SQ), groundwater quantity (G), groundwater quality (GQ), and water rights/water use (W). Part 2 provides more specific comments, questions and corrections. The purpose of Part 2 is to provide supporting details for issues identified in Part 1, and to provide feedback to contribute to finalization off the EIS for the UGA (to be completed by issuing a Final EIS in several months time).

**PART 1 – KEY ISSUES**

**1 Impacts From Transfer of Tributary Water Rights**

F-1.1. The relationship between streamflow and amount of fish habitat is inadequately quantified (area of habitat gained or lost, length of stream made accessible) in Big, Swauk, and First Creeks, and the Teanaway River. Along with flow, connectivity (e.g. continuous flow between sequential stream reaches, and between the tributary and the Yakima River) can also strongly influence available habitat.

1

S-1.1. The analysis of the benefits of leaving tributary diversions instream relies on hydrologic and hydraulic modeling to derive conclusions regarding the number of days the streams are currently dry, the number of days that the streams will have water in them after transfer to the Trust Water Rights Program, and increases in streamflows resulting from discontinued diversions. The analyses are presented in Appendix D – Water Supply. The hydrologic modeling performed relies on statistical analyses and broad assumptions regarding the fate of surface and ground water left instream or not applied to the area pertinent to the water rights being transferred. The statistical analyses are based upon streamflows measured in other, nearby basins. The statistical uncertainty and potential error in the hydrologic modeling is great and not adequately addressed in the EIS.

2

S-1.2. The hydraulic modeling analyses appear to be based upon one point in the stream and no discussion is provided as to its location and representation of conditions throughout the affected reach of tributaries. The modeling appears to assume that the relationship between increased streamflow at the point of diversion and at the mouth of a stream follows the relationship observed on First Creek (p. 3.5-18). This assumption cannot be justified and has a potentially major effect on the estimated increases in streamflow at the mouths of Big Creek, the Teanaway River, and Swauk Creek. Streamflow increases at the mouths will depend on the transmitting capacity of the alluvial sediments along each stream, and will vary from stream to stream and reach to reach. It is our opinion a more detailed monitoring program on the tributaries is warranted to provide the type of detailed information that the EIS purports to present. That monitoring program is proposed for this summer and is designed to provide adequate information to assess the effects of leaving the Trendwest tributary water rights instream.

3

S-1.3. Short discussions of third-party impacts to tributary water users are provided in the DEIS. In one case (p. 2.5-20), the DEIS discusses potential impacts to Mill Ditch users but does not mention potential impacts to users with ditches on the other tributaries. Further on (p. 3.5-35) the DEIS states that Trendwest is working with users on other shared ditches to protect them from impairment. A more detailed discussion is needed to address the potential impacts to water users on the ditches that will have flow reduced. The monitoring program proposed for this summer should provide additional information regarding seepage losses in the tributary irrigation ditches and can be used as a basis for addressing potential impacts.

4

S-1.4. A short discussion of future, ongoing stream flow monitoring in tributaries is provided on page 3.5-35. The intended purpose of the monitoring is to ensure that the Cle Elum UGA does not use more water than is available from Trendwest's purchased tributary water rights. A more detailed discussion is needed to assess the capability of the

5

monitoring equipment and plan of action to measure flows and potentially reduce diversions from the mainstem.

5 (cont.)

S-1.5. A conclusion is made on page 3.5-19 regarding the reestablishment of natural flood flows on First Creek and the beneficial effect on channel geomorphology. It seems unlikely that all of the naturally occurring flood flow currently gets diverted into the First Creek Water Users Association irrigation ditch. No supporting documentation or analyses is provided to back up that claim. It is also worth noting that restoration of winter flows on First Creek is based on discontinuation of a full diversion that is actually not allowed during the non-irrigation season (except for stock watering). It is therefore questionable whether environmental benefit should be credited to this discontinuation of winter use.

6

G-1.1. The DEIS discusses potential impacts to groundwater levels in wells nearby to the irrigation applications retired by Trendwest. The discussion generally relies on the concept that "if there were no other recharge sources available, well yield could decrease as a result of retiring irrigated acreage" and cites other nearby (or regional) recharge sources as means for maintaining local groundwater levels (p.3.5-24). The idea that other (residual) recharge sources will offset the impacts of reduced irrigation recharge is not necessarily correct. Groundwater levels occurring in wells are affected by the cumulative influence (superposition) of contributing recharge sources. A well located close to a single recharge source will benefit from the groundwater mounding resulting from that source, regardless of the presence of other nearby sources. Therefore, mounding analyses and review of well construction information is needed to assess potential impacts to nearby wells. This observation even applies to alluvial aquifers that are connected to nearby streams. Such analyses should be presented in the DEIS for all tributary water rights, including the FCWUA.

7

G-1.2. Estimates of reduced groundwater recharge in the upper Reecer Creek sub-basin due to discontinuation of Trendwest's water-right applications from First Creek appear to be inaccurate. The DEIS states that recharge to the Reecer Creek basin is estimated on the order of 35 af/yr (p. 3.5-25). However, the volume allocated to Trendwest's FCWUA properties (1,165 af) compares to an irrigation-season consumptive use of 554 af/yr (presented in the MPR FEIS). This means that a good portion of the diversion (611 af/yr) is lost to ditch and field seepage. Given the seepage losses observed during the irrigation season on the upper portion of the FCWUA ditch (Appendix D, Table 3-5), the fact that a portion of the FCWUA ditch is located within the Reecer Creek basin, and likely irrigation efficiencies associated with the volume of field application, return-flow recharge of 35 af/yr appears to be an underestimation. Furthermore, it is not reasonable to compare quantities of local recharge (which could have a local effect on nearby wells) with quantities of regional recharge (which are spread over the entire basin). As discussed above, superposition analysis would be needed to estimate local effects on groundwater levels.

8

G-1.3. The surface-water model assumes that return flows from diversions and field applications return to the diversion reach of the stream on the same day as the diversion. This assumption affects the estimation of impacts associated with discontinuing Trendwest's water right diversions on the tributary streams. If a groundwater pathway causes a lag time between diversions and return flows to the streams, historic conditions

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may have provided higher groundwater inflows to tributaries in the latter irrigation season (and beyond) relative to the future conditions associated with discontinued Trendwest diversions. Groundwater analysis is needed to estimate the timing of associated return flows to the tributary streams.

9 (cont.)

G-1.4. The groundwater study performed for Big Creek employs a flow model to estimate whether return flows from irrigation seepage would discharge to Big Creek or the Yakima River. While the modeling exercise is a reasonable approach to this estimation, the groundwater study does not first discuss/interpret the field data, nor does it fully report model assumptions and results. More information is needed to better understand how the model depicts the groundwater flow system and hydraulic continuity with surface-water features. In addition, uncertainties inherent in the model could affect the model outcome. Sensitivity analyses were not performed to evaluate these uncertainties. A detailed description of recommended additional information is presented in Part 2 of this report. Finally, the Big Creek study should reconcile differences in understanding of groundwater/surface-water interactions on upper Big Creek estimated with the model and formerly published by USBR.

10

G-1.5. Increased summer season flow in tributary streams and higher shallow groundwater levels may lead to increased riparian evapotranspiration, which could partially offset increased flows between the point of diversion and the main stem. Conversely, increased riparian vegetation could also add benefit by reducing temperatures and providing shade and organic input. Where reasonable statements can be made regarding changes in riparian evapotranspiration, this component should be included.

11

G-1.6. Most of the increased water available due to reduced Trendwest tributary diversions will likely be transmitted to the Yakima River, whether transmitted via surface streamflow, sub-surface flow in stream alluvium, or sub-surface flow in the regional aquifer. However, possible time lags associated with groundwater pathways should be taken into account to better understand the timing of flow arrivals to the Yakima River. Although the time lag for sub-surface alluvial flow appeared small in First Creek, it should be addressed for other tributaries.

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**2 Impacts From Transfer of Mainstem Water Rights**

F-2.1. The amount of habitat loss in Reecer Creek is unknown, or the fish species that will be affected in Reecer Creek.

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F-2.2. There is a need to confer with tribal and state fisheries managers to determine if they concur in the assessment that the flip-flop and water budget change will not have significant impacts on mainstem fish production.

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S-2.1. One-third of the volume of Yakima River Water Rights held by Trendwest are proposed to be transferred for the UGA water supply. The EIS and its supporting documentation states that increased diversions during late summer/early fall periods will benefit TWSA as the Bureau of Reclamation desires to maintain streamflow as low as possible during that time period (page 3.5-23 and other pages). Since the Yakima River flow would be reduced, the USBR would not have to release as much water during wintertime to incubate salmon redds because of the lesser flow in the channel during late summer/early

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fall period. That may be true in all but dry years when the USBR is releasing the minimum flow possible while maintaining an adequate instream flow. They may choose to release slightly more flow to compensate for the Cle Elum diversions and maintain a minimum instream flow. Documentation or consultation with the USBR should be provided on the issue of their operations and how the proposed water rights transfers will affect those operations.

15 (cont.)

S-2.2. The EIS states there are no winter instream flow requirements or criteria set by Title XII legislation (page 3.5-23 and elsewhere). While that is true, there are fish related operational target flows for wintertime the Bureau of Reclamation uses in operating the Yakima Project. A presentation and discussion of those wintertime operational flow targets and the potential effect of diversions from the Yakima River during that period should be presented. Documentation of discussions with the Bureau of Reclamation on how the Bureau would operate the Yakima Project during a dry year when streamflow is limited should be provided

16

S-2.3. A short discussion of third-party impacts to other mainstem irrigation diversions is provided on pages 3.5-29. It is our understanding that there are *more than* the six diversions referenced between Cle Elum and Ellensburg that could be impacted by reduced flow in that reach. Those other diversions should be identified and analyzed for their potential impacts.

17

S-2.4. On page 3.5-19, the EIS states that flow increases would occur in the Yakima River at the Parker gauge during the irrigation season. During a dry year any water left instream would likely be diverted by the Roza Irrigation District or others before reaching the Parker gauge.

18

S-2.5. The comparisons of consumptive use for irrigation (at current place of use for water rights) to the future consumptive use for the UGA area list wintertime consumptive use at current places of use to be 2.3 acre-feet per month for the UGA and 6.8 acre-feet per month for the UGA plus MPR area (page 3.5-17 and others). We could not find a discussion of how those quantities were derived. We assume they may reflect existing stock water rights. Provide calculations and discussion regarding the winter time consumptive use quantities.

19

**3 Impacts Directly Resulting From the UGA**

F-3.1. The impacts of overfishing, harassment, and poaching are probably adequately addressed, with the possible exception of inadequate detail in the DEIS regarding the terms of the Cooperative Agreement between WDFW, the Yakama Nation and Trendwest.

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F-3.2. The specific terms of the Kittitas County or Cle Elum Critical Area Ordinances (CAO's) need to be reviewed for their adequacy in meeting the ESA 4(d) rules to protect mid-Columbia summer steelhead, spring chinook, and bull trout.

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F-3.3. Side channels occur along the Cle Elum in the UGA reach that could be critical habitat for bull trout. There is insufficient detail on the existing habitat to evaluate the risk to bull trout spawners from harassment.

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- F-3.4. There is insufficient detail to assess the adequacy of the proposed mitigation for increased human use and population associated with the UGA. While the Cooperative Agreement specifies no structures of impervious surfaces within the active floodplain, details on trail and service road placement relative to existing riparian vegetation and forest are needed to assess the impacts of any proposed river corridor development (or lack thereof). While not providing quantification, it's worth noting that the UGA DEIS concludes that these kinds of impacts are unavoidable. 23
- S-3.1. Water available from Trendwest's water rights does not exceed UGA consumptive use on a monthly basis (Table 4-4a in Appendix D). Deficits are projected for July, September, and November through March. Appendix D states "the UGA water plans rely on changes in points of diversion of the tributary and Yakima water rights. Consequently, they do not assume storage withdrawals from Reclamation reservoirs." (p. 4-22). Do monthly deficits require releases of storage, or are they considered offset by increased TWSA from the month(s) prior? 24
- SQ-3.1. Both the MPR and UGA EISs discuss the potential upgrade of existing wastewater treatment facilities, and the potential for a cost allocation agreement between the City of Cle Elum and Trendwest for a regional wastewater treatment plant. The interim WWT facility upgrade is under construction, and is expected to "facilitate compliance" with NPDES permit requirements. The DEIS does not provide detail on the existing or projected loadings to the Yakima River from an enlarged, regional facility, or the biological effects in the diffusion zone, or downstream from the outfall of an upgraded existing facility. 25
- SQ-3.2. If groundwater quality were impacted below the UGA, associated contaminants could make their way to the Cle Elum and Yakima Rivers. Pollutant impacts in the Cle Elum and Yakima Rivers are claimed to be "undetectable", and would be further reduced by instream mixing (p. 3.3-14). The reference cited to support this (CDM 2000) was not listed in the references section of the EIS. If further analysis is performed (see "GQ" comments below) and groundwater impacts are determined or estimated, then additional analysis may be required to estimate impacts on receiving surface water bodies and instream biota. 26
- GQ-3.1. The DEIS suggests that contaminant loading from roadways and parking lots will have insignificant effects on groundwater quality in the Upper Aquifer (p. 3.4-16). This is assumed due to a combination of the efficiency of treatment facilities and attenuation in the unsaturated zone (75-125 feet thick). However, no quantification of contaminant loading and treatment is presented to support this assertion. Based on discussions with Ecology, the question of whether groundwater contamination may occur via the UGA's runoff infiltration approach should be addressed with a quantitative contaminant loading analysis. In addition, if groundwater contamination is a possibility, discussion should include possible impacts to the lower aquifer, especially in areas where the aquitard is missing between the two aquifers. 27
- GQ-3.2. Contaminant loading discussions for impervious areas, golf course, equestrian village and business park all state that the thickness of the unsaturated zone (75-125 feet) is expected to attenuate contaminant loading from these facilities. While geologist's logs from on-site and nearby wells mention the presence of silt as a secondary soil 28

component (e.g. "gravel with silt"), the degree of attenuation offered will depend on the particular contaminant and the actual silt content. For instance, recharge through variably saturated gravel with silt could occur fairly quickly if the silt content is low and preferential pathways occur within the gravel. Reliance on attenuation in the unsaturated zone should not be considered a "conservative analysis" for glacial outwash materials. Because glacial outwash deposits typically contain minimal amounts of organic material, they may not provide much attenuation to petroleum products, pesticides or other hazardous chemicals potentially associated with the business park (depending on transport times).

28 (cont.)

GQ-3.3. Nitrate is a contaminant associated with the golf course, horse park and equestrian center. The degree to which the unsaturated zone will provide attenuation for nitrate is unknown, and will depend largely on whether anaerobic zones occur interlayered with aerobic zones. The most conservative analysis would not attribute large attenuation efficiencies to the vadose zone. Quantitative estimates of nitrate loading would provide a more realistic assessment of potential impacts to groundwater quality and receiving surface-water bodies.

29

W-3.1. The site water balance relies on wastewater return flows, which are over 80% (page 3.17-17). No references or case studies are cited for the assumptions of the percentage of water returning as wastewater. The issue of ownership of the wastewater flow is not discussed. According to current water law, the City can use or sell the wastewater without a water right permit. Since the site water balance relies on wastewater return flows to the Yakima River an adverse impact to other Yakima River water users would result if the wastewater is consumptively used.

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W-3.2. The irrigation efficiencies provided in the UGA-DEIS (page 3.17-15) are likely low if efficient irrigation systems are required for homeowners and a conservation rate structure is applied. A more detailed discussion of the water conservation measures proposed should be included in the EIS.

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W-3.3. If return flows via groundwater from irrigation on the UGA are delayed in reaching the river(s), the schedule and magnitude of water supply deficits could change from those presented in Table 4-4a.

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W-3.4. Stormwater runoff modeling for the UGA suggests that recharge will increase due to addition of impervious surfaces and infiltration of associated runoff. The conclusion of a general increase in recharge appears accurate, however the modeling performed to estimate increased recharge has not been subjected to rigorous sensitivity analysis, uncertainty analysis, and may omit some relevant factors in its assumptions (see related text in Part 2 of this document). As long as the estimates of increased infiltration are not intended for use in the project water balance, no additional review of the stormwater modeling is needed to support "no adverse impact" with respect to recharge. However, if increased infiltration were sought for credit to the UGA water balance, additional review of the model would likely be required by Ecology.

33



**4 Impacts Indirectly Resulting From the UGA**

F-4.1. There is insufficient detail to assess the adequacy of the proposed mitigation for increased human use and population in areas external to the UGA and MPR. New development along streams in unincorporated areas of Kittitas County could impact fish and stream habitat due to clearing of riparian vegetation, and by harassment of fish by humans or pets. While the UGA DEIS does not provide quantitative estimates of impacts associated with such vegetation clearing and increased human use, the impact is noted as potentially significant (p. 3.7-24) and unavoidable. A detailed review of applicable county or city ordinances, and their track record of success, is needed to assess the probable impacts of either development on fish and fish habitat.

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G-4.1. Increased housing demand in unincorporated areas is predicted for growth associated with the UGA, and is used to estimate associated water demand (p. 3.5-25). An additional 70 houses are estimated to consume 44 af/yr of groundwater from exempt wells. This compares to an estimated 635 houses associated with the MPR for a consumptive use of 401 af/yr (p. 3.5-34). While we haven't reviewed DEIS Section 3.11 ("Population and Housing"), we note a potential disparity between the numbers of residential units projected for the MPR and the UGA. The MPR will have roughly three times the dwelling units as the UGA, but is estimated to create approximately nine times the increased housing demand in unincorporated areas. This may be due to differences in the demographics of the two developments. If assumptions are documented in Section 3.11, some reference should be included in Section 3.5. If this difference is not documented and justified in the EIS, additional analysis and description would be required.

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G-4.2. While Kittitas County estimates suggest that 85% of population growth will occur in the lower Kittitas County, this is unlikely the case for increased housing demand associated with either the MPR and the UGA because settlement will likely occur close to the developments. If indirect water consumption is to be included for determination of environmental benefit, then related consumptive use should be included in the project water balance and (conservatively) all of the estimated growth in unincorporated areas should be assumed to occur near the developments. The estimated consumptive use from unincorporated areas associated with the UGA is 44 af/yr, and may require revision (see G-4.1 above).

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G-4.3. The DEIS states that future consumptive use on lands made fallow by the retirement of irrigated acres associated with Trendwest's tributary water rights are "outside the scope of this Draft EIS as they are not interdependent with UGA development" (p. 3.5-37). However, Ecology considers these additional consumptive uses to be indirect impacts of the UGA and MPR developments. As such, groundwater consumption associated with development on these properties should be incorporated into the UGA water balance when used for assessment of environmental impact to aquatic resources.

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**5 Cumulative Impacts Resulting From the UGA and MPR**

Many of the comments provided for water rights transfers, indirect impacts and direct impacts associated with the UGA are equally applicable to the MPR. In these cases, the same

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assessments would be required for cumulative impacts between the UGA and the MPR. While differences do exist between the degree of coverage presented in the MPR EIS and the UGA DEIS, issues identified in this paper that must be addressed both for the UGA alone and the UGA plus the MPR include:

38 (cont.)

- all of the tributary and mainstem water-right transfer issues (due to splitting of water rights);
- all indirect UGA impact issues;
- all surface-water quality issues (SQ-3.1 and SQ-3.2); and,
- issues F-3.2, F-3.4; W-3.3, W-3.4.

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In addition, the following issues pertain to cumulative impact analysis:

G-5.1. The issues identified for UGA groundwater quality (GQ-3.1 thru GQ-3.3) need to be evaluated together with the groundwater quality issues identified for the MPR. Note that our prior "Issues Paper" for the MPR EIS (dated 2/16/01) suggested that more analysis be performed on groundwater quality beneath the MPR and associated loading on receiving surface-water bodies. Also note that some of the groundwater from the MPR flows beneath the UGA before discharging to surface-water bodies. Improved analysis/documentation of groundwater quality impacts from impervious surfaces and various land uses (including nutrient loading) would likely be required to fully address cumulative impacts.

42

W-5.1. A short discussion of the City of Cle Elum's existing water supply is provided on page 3.5-11 and elsewhere. Additional discussion should be provided regarding the City's water rights situation; their existing water use and the amount of water that the City believes can be conserved. What will the fate of the City's conserved water be? Will they have sufficient water to serve secondary growth resulting from the Trendwest UGA and MPR?

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**PART 2 - SPECIFIC COMMENTS, QUESTIONS AND CORRECTIONS**

**1 Water Supply Analysis**

1. Discussion of flow increases on First Creek (pp. 3.5-18,19) is confusing in that Table 3.5-5 accounts for only the legally diverted water from the Creek (irrigation season) whereas the ensuing discussion states that discontinuation of year-round diversions will help restore the "natural frequency of flood forming flows". If year-round diversions are illegal (i.e. not included in the water right), credit should not be taken for discontinuing such diversions.
2. The Water Supply Appendix (Appendix D) defines a water right "transfer" as a change in the purpose of use, place of use, or point of diversion (p. 1-2). Because the purpose of use can be directly related to the timing of the withdrawal, timing should also be noted in this description.

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- 3. The irrigation efficiencies described in Appendix D are 60% for residential units. However Table 2-1 appears to show efficiencies of 65% for residential irrigation and 75% for golf course irrigation. 46
- 4. The text description of Pautzke water rights states a Qa not to exceed 6,053 af/yr (p. 2-7 of Appendix D) whereas the attached Table 2-3 shows the Qa as 4,783 af/yr. Manual addition of the values presented in Table 2-4 confirms the 6,053 amount. Reported values of total Qa for the Teanaway water rights are 1,016 af/yr (Tables 2-3 and 2-6), whereas manually summed values add up to 1,205 af/yr. 47
- 5. The DEIS states that development under Alternative 1 (no action) would likely result in construction of 106 exempt wells for 106 individual residences (p. 3.5-12). The exempt wells allow 5000 gallons per day use, which may serve six homes if water use is restricted. On page 3.5-13, the EIS estimates the water demand for each residential lot under this alternative to be 2475 gallons per day (gpd). If Trendwest were to oversee the development of the site at existing zoned densities, a pending appeal before the State Supreme Court may ultimately negate construction of multiple exempt wells for a single development. The EIS states that the water supply for Alternative 1 could also be supplied by Class B water systems (page 3.5-12). For a demand of 2475 gpd, only two lots could be supplied by Class B system well. It is doubtful a Class B water system would be formed for only two residential lots. 48

**2 Surface Water Characterization**

- 1. Appendix D states that Big Creek is the only potentially affected sub-basin where there are no daily streamflow gauge data available (p. 3-7). This statement appears to ignore Reecer Creek and First Creek. 49
- 2. Appendix D describes available flow records for Swauk Creek (1909-1911) as collected by the USGS (p. 3-11). Communication with USBR suggest that they operated a gage just upstream of the mouth of Swauk Creek in the early 1990's. If available, that data should also be referenced. Similarly, Appendix D should also mention the new USBR gage on the lower Teanaway River in its description on page 3-16. 50
- 3. The EIS states that the added recharge from the UGA site amounts to approximately 1% of the flow in the Yakima River (page 1-11, 3.3-11). That calculation is not correct because low flows below the confluence of the Yakima and Cle Elum Rivers are typically much higher than the 100 cfs cited in the UGA-DEIS (p. 3.3-11). Year-round average flows at that point on the Yakima River are about 1,800 cfs, which can also be compared to the approximately 1 cfs estimated increase in site recharge. 51
- 4. There is a major inconsistency in the DEIS regarding the volume of water that would increase the TWSA (340 ac-ft, p. 3.5-23, versus 900 ac-ft, p. 3.7-22). 52

**3 Surface-Water Flow Modeling**

- 1. The surface-water model assumes that return flows are returned to tributary reaches on the same day as diversions. If this is not the case, irrigation diversions taken during the mid 53

season could actually return to supplement streamflows in the later season via a groundwater pathway.

53 (cont.)

2. The surface-water model appears to assume that each tributary will behave similar to First Creek in transmitting increased flows at Trendwest's prior points of diversion to the stream mouths. This is not a reasonable assumption. The amount of water present at the mouths will depend on the transmitting capacity of the alluvial aquifer in adjacent to the stream mouths.

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3. The applicability of the surface water model is dependent on the correlation between streamflow measured in other basins to that occurring in the stream of interest. The correlation varies substantially from stream to stream. A discussion of the potential error in the streamflow estimated using the statistical modeling approach is not contained in Appendix D. Confidence limits (+/- flow) should be placed on the results. A statement is made in the report that higher correlation occurs in the June through September time period than the remainder of the year. That is expected, as the flows are much smaller during that time period introducing a higher potential for correlation. However all the statistical analyses do not adequately answer the question of if, and how much streamflow would be present in each stream after transfer of water rights. That can be answered much better with a monitoring program as discussed earlier.

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4. For the surface-water model, irrigation water rights and Trendwest consumptive uses were estimated on a monthly basis. Appendix D states that the diversion requirement and return flow for the Trendwest irrigation water rights were determined by first calculating the monthly net consumptive use, then applying an irrigation efficiency factor derived from the Washington Irrigation Guide (p. 4-2). However, efficiency factors should actually vary from diversion to diversion based on factors such as the length of the conveyance ditches. Text in the second paragraph of page 4-2 states that diversion requirements were estimated from net consumptive use, and should also reference efficiency factors.

56

**4 Modeling of Infiltration Recharge for Stormwater Management**

1. Does the HSPF model incorporate assumptions regarding changes in runoff due to soil compaction? Significant areas (e.g. 450 acres) will be cleared to develop the UGA. Heavy machinery used in clearing will cause compaction. HSPF modeling in the Puget Sound has shown that lawns (compacted) create more runoff than pasture.

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2. Documentation of HSPF modeling in Appendix G is confusing regarding the occurrence of shallow till. While Table 2-2 in the appendix suggest that basin Y-5 is covered by shallow till (in agreement with soils descriptions in Appendix A), Figure 2-2 shows little till occurrence. A section regarding soil-cover-slope-complex summary (p. 2-11) does not include till-covered areas as comprising over 3 percent of the site, however the till in basin Y5 comprises 8 percent of the site area. In addition, the HSPF modeling predicts that runoff in most sub-basins will go to zero due to the infiltration facilities. However soils in Sub-Basin Y5 overly shallow till, which likely perches groundwater and may therefore create runoff. Does the model account for conditions that would create runoff over the shallow till?

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3. The groundwater appendix of the DEIS, and text within the main document state that the model predicts runoff to go to zero under UGA development alternatives 2 through 4 (e.g.

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see UGA Water Balance Impact Summary Table C-2). However, Table 2-7 of Appendix C shows that some runoff remains in basins 1, 12, Y1 and Y2. Some of this runoff appears due to fact that the model did not infiltrate runoff for "converted areas" existing under the current condition. While model predicted runoff is indeed significantly reduced for all basins, it is not reduced by 100 percent for the UGA area (as reported outside of Appendix G). The mechanism for the continued runoff should be documented more clearly, and text outside of Appendix G should be modified to reflect actual modeling predictions.

59 (cont.)

4. Table 2-4 in Appendix G presents model results for total basin area and total flow under the current condition. The ratios between these two values ranges from 1.04 to 1.85 feet, with most basins yielding between 1.04 and 1.25 feet. Higher values are noted for Basin Y5 (till cover) and Basin 1. Basin 1 has no steep slopes, no till, and the same forest vegetation as all other basins. Its flow efficiency of this basin appears oddly high. If this observation reflects mechanisms not explained in Appendix G, explanation should be provided.

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**5 Groundwater Characterization and Impact Analysis**

1. Assumptions used for single residence consumptive use of groundwater vary among different sections of the DEIS. For indirect development (i.e. housing demand in unincorporated areas) the DEIS assumes that an ERU uses 240 gpd plus irrigation for one-half acre, and that 20% of the diversion requirement is actually consumed (p. 3.5-26). Similar assumptions are used to estimate residential groundwater demand under the "no action" alternative (p. 3.5-13). However, a separate discussion of groundwater quantity impacts under the "no action alternative" assumes that each family unit uses 5,000 gpd and that 50% is returned to the upper aquifer as recharge (p. 3.4-11).
2. The groundwater characterization in Appendix C states that boring logs for the cross-sections are presented in Section A.3 of Appendix A – however they are not presented there.

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**6 Big Creek Groundwater Study**

1. The Big Creek Groundwater Study employs a groundwater flow model to estimate where prior infiltration from field seepage on the Gentry property would flow within the uppermost aquifer. The modeling approach is a reasonable one, however the data available for calibration provide very little detail about actual field conditions in the immediate vicinity of Big Creek. Model results appear to show insignificant interaction between Big Creek and adjacent aquifer based on predicted groundwater levels. Do limited field data support such a lack of direct hydraulic continuity (e.g. Lund well groundwater elevation vs. nearest Big Creek water level surface)? Such a comparison should be included along with the (more theoretical) model results.
2. The study does not report how several surface-water features (KRD canal, Big Creek, Little Creek) were represented in the model. Were they represented as stream or river boundary cells? To what extent did they allow model interaction with the underlying aquifer? If leakage was model via a vadose zone connection, were the leakage values on the water balance reasonable and supported by existing gaging data? The way in which these features were modeled could affect model results, and should be documented.

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3. The constant head boundary values along the upstream model boundary were extrapolated based on gradients observed among five groundwater elevation points within the model domain. To what extent does uncertainty associated with these extrapolated (assumed) values influence the potential for model-predicted hydraulic connections between the upper portions of Big Creek and the underlying aquifer? 65
4. Model calibration results appear fairly reasonable, and tend to overestimate heads in the upper reaches of the valley. If the model allows interaction between Big Creek and the underlying aquifer, overestimated heads would be conservative in that they exaggerate the opportunity for a direct hydraulic connection between surface-water and groundwater. Even with such exaggeration, the model appears to predict no significant hydraulic interaction between the aquifer and the stream (judging from groundwater elevation contours alone). 66
5. Contrary to the title of Section 1.5 of the study, there was no sensitivity analysis or validation performed. Parameters included in the model (constant head values, transmissivity and aquifer bottom elevation) are sufficiently unknown to include significant uncertainty. In addition, the degree to which model calibration targets vary from year to year and seasonally is unknown. Finally, the study report implies that recharge was defined using precipitation values; however, recharge should be some portion of precipitation (e.g. minus runoff and evapotranspiration). 67
6. The results of the model (predicted groundwater levels showing no apparent interaction between Big Creek and the underlying aquifer) need to be reconciled with USBR's description of groundwater-surface-water interactions in their water supply analysis report to BPA. The report states that "Big Creek flows are recharged by groundwater throughout the reach extending for 1 mile downstream of the upper diversion" (Appendix D, p. 3-40). 68

We hope that the comments presented above are useful to you in formulating outstanding issues that need to be addressed for SEPA evaluation and water rights issues. Please feel free to contact any of the consultant team members should you have any related questions.

Sincerely,  
Pacific Groundwater Group

*Peter Schwartzman*  
*by cw*

Peter Schwartzman  
Associate Hydrogeologist

Cc: Bob Sullivan (Parametrix)  
Bob Pfeifer (Parametrix)  
Bob Montgomery (Montgomery Water Group)  
Dan Matlock (Pacific Groundwater Group)

### **Comment 1**

Trendwest proposes to transfer its tributary water rights to instream flows, which would help move Big, First, Swauk, and Reecer creeks and the Teanaway River toward a more normative condition. The normative flow concept stresses the importance of natural flow paths and hydrology to sustain the conditions to which naturally spawning salmon have adapted over centuries of evolution (Poff et al, 1997). No significant adverse impacts on fish habitat are anticipated, and quantifying the relationship between streamflow and fish habitat was not considered necessary. However, in support of additional studies performed for the Final EIS, Ecology's consultant team conducted a reconnaissance of the fish habitat in affected tributary streams in the summer of 2001; an additional description of the tributaries is included in Section 3.6, Fisheries, of the Final EIS. Also, as part of the updated Water Supply Technical Report Supplement, Ecology's consultant team provided a hydrologic analysis of each of these tributary basins based on field investigations in 2001. These are included as Exhibit G to Appendix B of the Final EIS.

### **Comment 2**

Uncertainty was addressed in the Draft EIS (see Figures B-3 and B-4 and Table B-2 of the Water Supply Technical Report). The model was updated and expanded for the Final EIS analysis, as described in Appendix B, the Water Supply Technical Report Supplement. Statistical evaluation of the regressions used to estimate streamflows and upper, middle, and lower simulation runs were used to predict a range of streamflow results for the study years 1991 through 1993 and 1995. These were used to characterize the "average" flow year condition. The evaluation provided in Section 3.4, Water Supply, and in Appendix B of the Final EIS used the middle and lower simulation runs to characterize the most likely range of Yakima River streamflows resulting from proposed transfer of Trendwest's tributary and Yakima River water rights under average conditions. Appendix B, Exhibit H of the Final EIS adds a description of variability in streamflow estimates, irrigation return flow time lag distributions, and uncertainty in other model inputs such as irrigation efficiencies.

### **Comment 3**

Since the Draft EIS was published, Ecology's consultant team performed field investigations on all tributaries affected by Trendwest's transfer of irrigation diversions to instream flows, including seepage studies. The results of the 2001 fieldwork recommended in this comment have been incorporated into the analysis as summarized in Section 3.4, Water Supply, and detailed in Appendix B of the Final EIS. Instream flow changes predicted for the tributaries at the former points of diversion and hydraulic effects determined by Montgomery Water Group, one of the Ecology consultant team members, are described in Section 3.4, Water Supply.

### **Comment 4**

The Final EIS incorporated additional analysis of impacts on third party diverters on the Yakima River mainstem, third party diverters in the affected tributaries, and groundwater users of aquifers potentially influenced by irrigation returns on lands appurtenant to Trendwest's water

rights. The Final EIS also incorporated information from studies conducted by Ecology's consultant team during 2001. Refer to Section 3.4, Water Supply, and Appendix B of the Final EIS for additional detail.

#### **Comment 5**

A monitoring program is described in Section 3.4, Water Supply, and Appendix B of the Final EIS as one mitigation element for the combined UGA and MPR projects. The monitoring program has been updated and expanded in detail since the Draft EIS was published. Trendwest would rely on compensatory transfers of tributary water rights to instream flows to ensure no net direct or indirect impacts on total water supply available (TWSA) and no increase in consumptive use of water under its mainstem water rights. While the model runs were used to characterize the anticipated magnitude of impacts, actual water availability from year to year cannot be forecasted by the model. An ongoing monitoring program would be established to assure Trendwest and other water users that the amount of water that would be used in connection with the MPR and UGA proposals is consistent with the water available under the several water rights that have been acquired by Trendwest, and the collective operations described in the water supply plan for the Trendwest resort are protective of other water users' rights on the Yakima River's tributaries and mainstem. Refer to Section 3.4, Water Supply, for a detailed description of: (1) the conceptual monitoring plan, including onsite metering, reporting, and response to monitoring results; (2) offsite streamflow monitoring for each tributary on which Trendwest has water rights and of the mainstem river flow in the reach between Cle Elum and Ellensburg; (3) provisions for monitoring when an acquired water right is one of two or more that are diverted at a common point, or share a ditch or canal; (4) periodic monitoring of the other water users on the tributary streams that are downstream of stream gauges; (5) monitoring already required to report water use to USBR under interim Court Orders in *Acquavella* consistent with RCW 90.03.360; and (6) how Cle Elum's and Trendwest's use of water under Trendwest's proposed water supply plan would be altered to reduce diversion or implement a pre-approved mitigation plan during periods when the diversion would conflict with USBR operations.

#### **Comment 6**

We agree with the comment. The analysis provided in Section 3.4, Water Supply, and Appendix B of the Final EIS no longer contains this statement. Trendwest's water rights transfers to instream flows would move First Creek toward a more normative condition during the irrigation season (see Comment 1, above).

#### **Comment 7**

Ecology's consultant team has evaluated the changes in shallow groundwater elevations arising from discontinued irrigation return flows, which is one result of Trendwest's transfer of water rights to instream flows. The results of that analysis are described in Section 3.4, Water Supply, and in Appendix B, Exhibit I. Impacts on groundwater levels are evaluated generally for the Big Creek, Teanaway River, First/Swauk Creek, and Reecer Creek basins. Wells completed in the upper portions of their aquifers in the areas predicted to be influenced by the former irrigation



returns would be vulnerable to impact. These impacts are presented as a significant unavoidable adverse impact in the Final EIS.

**Comment 8**

Refer to Comment 7, above. The maximum seasonal decline in groundwater resulting from the Trendwest water rights transfers in the Reecer Creek subbasin could not be determined. Drilling information from area well logs was too vague and other sources of hydrogeologic information were not available. The change in field/ditch seepage from the formerly irrigated properties associated with Trendwest water rights would be approximately 1 cfs during the irrigation season. This translates to an annual average recharge of 0.56 cfs. Seepage from the First Creek Water Users Association main ditch would also reduce by about 0.1 cfs. Some localized reduction in groundwater elevations could be reasonably expected to occur, but related effects could not be assessed from available information.

**Comment 9**

Since the Draft EIS was published, Ecology's consultant team performed field investigations on all tributaries affected by Trendwest's transfer of irrigation diversions to instream flows. Transfer to instream flows is proposed as mitigation for consumptive use increases that might otherwise occur under the transfer of its mainstem Yakima River water rights. Terminating the irrigation diversions in the tributaries would also terminate human-induced irrigation return time lags. Ecology's consultant team has estimated these time lags based on field investigations in 2001. Tributary time lags were incorporated into the water supply model for the Reduced Density MPR and Alternative 5. Results of the water supply analysis are described in Section 3.4, Water Supply, and detailed in Appendix B of the Final EIS.

**Comment 10**

The Big Creek Groundwater Study included in the Draft EIS shows the direction of irrigation return flow paths migrating through groundwater from the Gentry property. A conceptual and numerical model of the study area was developed to estimate the groundwater flow gradients between recharge sources and discharge sinks. The numerical model showed that the predominant factors in determining the groundwater gradient field in the study area were the recharge from the KRD Canal and the discharge to the Yakima River.

The model was updated to incorporate an analysis of the Big Creek basin performed in 2001 by Ecology's consultant team (see Exhibit I to Appendix B of the Final EIS). Stream-specific assumptions and inputs for the Big Creek water availability portion of the model are described in detail in Appendix B of the Final EIS.

**Comment 11**

The degree to which riparian conditions would be changed by added flow during the irrigation season was not analyzed. If, in the future, increased evapotranspiration causes a reduction in water availability, it would be mitigated through the monitoring program described in Section

3.4, Water Supply, which was designed to ensure that water used by Trendwest would not exceed water availability under its water rights.

**Comment 12**

Refer to the response to Comment 9, above.

**Comment 13**

Based on existing information, fish species potentially affected by the project include those listed in Table 3.7-1 of the Draft EIS. Since the Draft EIS was published, Ecology's consultant team has conducted surveys of the affected tributaries. Detailed description of the habitat characteristics and fish use is included in Section 3.6, Fisheries, of the Final EIS. Trendwest's water rights transfers from irrigation to instream flows would tend Reecer Creek toward a more normative condition (see Comment 1, above).

**Comment 14**

Between the Cle Elum River and Reecer Creek, flow reductions would result in both average and drought years, as described in Section 3.4, Water Supply. The flow changes are small relative to irrigation flow releases by USBR during most of this period. The small hydraulic changes that result are described in Section 3.4 and in Exhibit K to Appendix B of the Final EIS. Northwest Hydraulic Consultants analyzed impacts from the water supply plan on flows at selected diversions in the mainstem Yakima River between Cle Elum and Ellensburg (see Exhibit K of Appendix B). Fluctuations in water levels during the driest flows observed in each two-week period evaluated during the irrigation season ranged from an increase of 0.5 inch to a decrease of 0.25 inch. These small fluctuations would not reasonably have any measurable impact on fish or aquatic resource habitats.

**Comment 15**

Trendwest discussions with the USBR since the Draft EIS was published have established that USBR is not restricted by flows in the portion of the mainstem Yakima River that is affected by the MPR and UGA proposals. Rather, target flow requirements upstream of the projects determine the USBR's releases in the Yakima River basin. An updated discussion of potential impacts on TWSA is provided in Section 3.4, Water Supply.

**Comment 16**

Comment noted. An updated analysis of USBR flow management and obligations, including those to sustain fish, is described in Section 3.4, Water Supply, and in Appendix B of the Final EIS. Since 1981, the USBR's System Operations Advisory Committee (SOAC) has assisted USBR on fish-related issues associated with Yakima River Basin Water Enhancement Plan implementation. USBR determines flows for maintaining fish life in the Yakima Basin according to the annual prevailing conditions and in consultation with SOAC, irrigation district managers, and others (USBR 1999). Since 1995, targets for instream flows during the irrigation season have

been set annually by SOAC at Parker and Prosser, based on prevailing conditions, to meet flow targets at Parker and Prosser from April through October. Section 3.4 includes acknowledgement of the need to alter Cle Elum's and Trendwest's use of water under Trendwest's proposed water supply plan to reduce diversion or implement a pre-approved mitigation plan during periods when the diversion would conflict with USBR operations.

**Comment 17**

Comment noted. Eight diversions exist in the reach of the Yakima River between Cle Elum and Ellensburg. The eight diversions are described and analyzed in Section 3.4 and Appendix B, Exhibit K of the Final EIS.

**Comment 18**

Both the Draft EIS analysis and the supplemental analysis in Section 3.4, Water Supply, and Appendix B of the Final EIS account for legal diversions of water downstream of the Trendwest points of diversion, including priority dates of the water rights. The Roza Irrigation District water rights are not included in the model (see Exhibit C to Appendix B) because Trendwest's water rights are senior to the Roza Irrigation District's water rights. None of the other mainstem water rights were included in the model because the flow changes were insignificant relative to low flows in the river. A separate analysis was used to evaluate the potential for impairment to third party diversions on the affected reach of the Yakima River. Trendwest is proposing to transfer its tributary water rights to instream flows that could be conveyed to Ecology under RCW 90.38, or could be retained by Trendwest as private instream flows.

In general, Ecology would be responsible for management of tributary water rights transfers into the Yakima Trust Water Program until water available under the transferred rights reaches the mainstem of the Yakima River. At that point, USBR would manage water transferred to the Yakima Trust Water Program as part of TWSA. Tributary water rights that would not be transferred to the Yakima Trust Water Program would be managed by Trendwest as private instream flow rights to the confluence of each affected tributary stream with the mainstem Yakima River. The Washington Department of Ecology has a responsibility to protect trust water rights. The trust water rights would be protected from competing uses through monitoring, enforcement against the unauthorized use of water, and regulation of valid water rights according to priority. Ecology has the authority to issue regulatory orders against the use of water without a water right or in excess of a water right, and to regulate valid water rights according to priority, as long as a court order determines the existence, amount, and priority of the water claimed. Some but not all Trendwest water rights are currently described in an order from *Acquavella*. Big Creek and the Teanaway River each have a conditional final order, and the First and Swauk creeks order is pending.

**Comment 19**

The Water Supply Technical Report included in the Draft EIS identified that stockwater consumptive use was available outside of the irrigation season. It was assumed that 10% of the diversion volume specified in the Pautzke water right for stockwater was consumed uniformly

over its period of use. Ecology and the EIS consultants agreed to use 10% as the most probable value in the updated analysis for the Final EIS.

**Comment 20**

Section 3.6, Fisheries, of the Final EIS presents an expanded analysis of cumulative fishing pressure impacts from development of the Reduced Density MPR and Cle Elum UGA and additional discussion of mitigation measures. Discussions among Trendwest, WDFW, and Yakama Nation are ongoing for implementation of the Cooperative Agreement and possible amendment to address management of additional fishing by MPR and UGA residents on the mainstem and tributaries. The Cooperative Agreement is described in Appendix B of the Final EIS.

**Comment 21**

The Cle Elum Critical Areas Ordinance (CAO) has been reviewed for adequacy in meeting the Endangered Species Act 4(d) rules for protecting listed species. The Kittitas County CAO Title 17A, Section 17A.07.010 Riparian Habitats, should provide adequate protection of listed species present in Type 1 or Type 2 waters if it is appropriately implemented and adequately monitored and enforced. To ensure compliance with the Endangered Species Act 4(d) rules, the County could consider setting minimum buffers for Types 1, 2, and 3 waters to one “site potential tree height” from the ordinary high water level along rivers where trees naturally grow and 60 feet along rivers where trees don’t grow.

For the City of Cle Elum CAO, a designation for Type 1 waters would need to be added and the sections with buffers would need to be updated in Chapter 18.01, Section 18.01.160, Designation of Riparian Corridors, and Section 18.01.170, Buffer Requirements for Riparian Corridors, as recommended above for Kittitas County.

**Comment 22**

Bull trout have not been documented in the reach of the Cle Elum River from the dam to the confluence with the Yakima River (including the reach through the UGA); however, it is possible that they migrate through this reach.

The comment expresses concern that bull trout spawners may be at risk from harassment in the UGA reach of the Cle Elum River. Spawning, incubation, and juvenile rearing are the bull trout life history stages that require the coldest water temperatures and the lowest fine sediment levels. Spawning typically occurs in the smaller tributaries and headwater streams that may be upstream of anadromous salmonids. The reach of the Cle Elum River through the UGA is not a headwater or tributary and would not meet the criteria (temperature) for bull trout spawning during the typical spawning season of August through October. Bull trout in the Cle Elum system would typically spawn in the small, high elevation streams that run into Cle Elum Lake. Because bull trout spawning is extremely unlikely to occur in the UGA reach of the Cle Elum, there is no risk of harassment of spawners.

**Comment 23**

A conservation easement covering the dedicated open space within the Cle Elum River corridor would be conveyed to the MountainStar Conservation Trust as part of the Cooperative Agreement among Trendwest, the WDFW, and the Yakama Nation. These three entities would manage the conservation easement. Currently, no details on trails or service road placement exist. Refer to Section 3.6, Fisheries, of the Final EIS for additional discussion of potential impacts from additional fishing on Upper County streams and rivers.

**Comment 24**

Results of simulations from the updated model indicate a deficit condition is anticipated under average climate conditions during two months, as described in Section 3.4, Water Supply, and Appendix B of the Final EIS. In July, a deficit of approximately 33.6 acre-feet to a surplus of approximately 13.4 acre-feet could result under long-term average conditions (as characterized by 1991 through 1993 and 1995 study years) for the cumulative MPR and UGA projects. In September, under the same conditions, a deficit ranging from 25.3 to 34.4 acre-feet was estimated. These deficits are recognized as significant adverse impacts requiring mitigation. These deficits would be mitigated as described in Section 3.4, Water Supply, of the Final EIS. No mitigation option requires storage releases by USBR, and no mitigation is dependent on increased TWSA from prior months. Impacts to TWSA have been reevaluated as described in Section 3.4, Water Supply.

**Comment 25**

The City of Cle Elum is the lead agency for construction of the regional treatment plant and is preparing a Facilities Plan and EIS. A discussion of potential loadings to the Yakima River from the regional wastewater treatment plant has been added to the cumulative impact discussion in Section 3.16, Utilities, of the Final EIS. Outfall studies that would be conducted as part of the Facilities Plan are also identified. Refer to Section 3.16 for an updated discussion on the status of the environmental review process for the treatment plant.

**Comment 26**

In response to comments on the Draft EIS, a quantitative analysis of potential water quality impacts has been conducted on the current proposed development (Alternative 5) and cumulatively with the MPR. No adverse impacts after proposed stormwater treatment and infiltration were determined to occur (see Section 3.3, Water Quality, and Appendix A of the Final EIS). Refer to the response to Letter 12, Comment 7 for additional detail.

**Comment 27**

Refer to the response to Letter 12, Comment 7. A quantified water quality analysis was prepared for the Final EIS and is included in Section 3.3, Water Quality, and Appendix A of the Final EIS. Water quality treatment prior to stormwater infiltration under Alternative 5 has been enhanced since the Draft EIS was prepared for Alternatives 2, 3, and 4.

**Comment 28**

The water quality analysis is updated in Section 3.3, Water Quality, and Appendix A to quantitatively assess Alternative 5. The revised analysis describes a higher level of stormwater treatment proposed for Alternative 5 than had been previously evaluated for Alternatives 2, 3, and 4 in the Draft EIS. The water quality analysis divides the UGA into four stormwater management zones for the determination of stormwater treatment based, in part, on the underlying geology. The underlying soils are moraine and outwash soils, which have a silty sand component that meets Ecology's criteria for crediting infiltration to native soils as water quality treatment in its 2001 Stormwater Management Manual (see Section 3.2.5 of Appendix A, the Water Quality Technical Report). The average transit time for the infiltrated stormwater to reach the underlying aquifer is between 120 and 200 days; solutes or particles in the water would travel much more slowly due to electrostatic attraction and particle deflection and/or trapping.

**Comment 29**

Alternative 5 (Preferred Alternative) does not include a golf course, equestrian village, or Horse Park. Nitrate-nitrogen from residential sources was conservatively described, under the unlikely assumption that 75% of households would both overfertilize and overwater (see Section 3.2.6 in Appendix A of the Final EIS). A 5% reduction in nitrate-nitrogen was attributed to denitrification in native soils, which is a low value. Because the rate of aquifer passage under the UGA and the exact amount of landscaping under Alternative 5 are not known, a loading analysis was not possible. However, under the very conservative assumptions used, the greatest residential nitrate concentration contribution to infiltrating stormwater was approximately a 1.0 mg/L increase immediately under the residential areas. This is well below the 10 mg/L nitrate-nitrogen standard for groundwater and drinking water. There is no nitrate-nitrogen standard for surface waters because it is virtually non-toxic (see Section 3.2.4 in Appendix A).

**Comment 30**

Additional information on the fraction of water demand returning as wastewater is provided in the subsection labeled *Wastewater Flow Projections*, Section 4, Appendix E. The City of Cle Elum does not currently propose water reuse as part of its wastewater planning effort, and impacts have not been analyzed in the Final EIS. If a proposal for reuse is considered in the future, water balance issues would be revisited at that time.

**Comment 31**

Refer to the added subsection *Water Use Standards* in Section 3 of Appendix E.

**Comment 32**

Return flows from the MPR and the UGA properties traveling as groundwater were evaluated for time delays in transit, and a schedule for their attenuated return to the Cle Elum and Yakima rivers was incorporated into the revised water balance model summarized in Section 3.4, Water

Supply, and described in detail in Appendix B, the Water Supply Technical Report Supplement. The specific return flow analysis is provided in Exhibit F to Appendix B of the Final EIS.

**Comment 33**

The estimate of increased recharge from stormwater was not used as a return flow component of the UGA's water balance, or cumulatively with the MPR for the same purpose. It is not a component in any of the analyses included in the Water Supply Technical Report Supplement (Appendix B). Recharge from irrigation returns and systems leakage and wastewater return flows from the UGA (and cumulatively from the MountainStar MPR) are included in the water balance and are discussed in detail in Section 3.4, Water Supply, and Appendix B of the Final EIS.

**Comment 34**

Refer to the response to Letter 5, Comment 6 for a discussion of increased human use and population that could affect riparian vegetation or cause harassment of fish. Refer to the response to Comment 21, above, regarding applicable city and county ordinances.

**Comment 35**

The employment-induced water demand analysis has been revised and is included as Appendix C in the Final EIS. This analysis includes an explanation of the induced growth estimation methods for the UGA and the MPR.

**Comment 36**

Comment noted. Since the Draft EIS was published, the potential impact of indirect and induced growth in the unincorporated areas of Kittitas County due to the Reduced Density MPR and the Cle Elum UGA has been analyzed.

In performing the analysis, the estimated increased population induced by the Reduced Density MPR and the Cle Elum UGA was allocated to the areas surrounding the resort, including the I-90 corridor from Snoqualmie Pass to Ellensburg. In addition, the analysis eliminated the public lands in the unincorporated areas near the resort as potential areas for future growth. The analysis also allocated the estimated population growth in these unincorporated areas to the individual subbasins designated by the Yakima River General Stream Adjudication (*Ecology v. Acquavella*), specifically, subbasins 1 through 9 and 12. The analysis estimates that the consumptive use from the indirect and induced growth in these unincorporated areas to be approximately 804 ac-ft/yr associated with the Trendwest MPR and residential UGA, and with the non-residential components (including the business park) of the UGA. Refer to Section 3.4, Water Supply, and Appendix B, Water Supply Technical Report Supplement, of this Final EIS for additional detail.

**Comment 37**

Refer to Letter 12, Comment 3 for a discussion of the indirect impacts from future consumptive use on lands made fallow by the transfer of Trendwest water rights. An analysis of those impacts and proposed mitigation is included in Section 3.4, Water Supply, and Appendix B of the Final EIS.

**Comment 38**

The requested analysis is provided in Appendix B, the Water Supply Technical Report Supplement, which cumulatively evaluates the MPR and UGA proposals.

**Comment 39**

The requested analysis is provided in Appendix B, the Water Supply Technical Report Supplement, and Appendix C, Employment-Induced Water Demand Analysis. The impacts are summarized in Section 3.4, Water Supply.

**Comment 40**

Section 3.16, Utilities, of the Final EIS provides a discussion of the environmental review process for the expanded Cle Elum wastewater treatment plant and identifies loadings and future water quality analyses that will be performed. Cumulative water quality impacts from the UGA and MPR projects are addressed in Section 3.3 of Appendix A, the Water Quality Technical Report.

**Comment 41**

Refer to the response to Comment 32 above, which describes how and where the delay in irrigation return flows from the UGA and MPR projects are addressed (raised as “issue W-3.3”). Refer to the response to Comment 33 above, which explains that increased stormwater recharge was not used in the project water balance (raised as “issue W-3.4”). Refer to the response to Comment 20 above, which describes cumulative assessment of fishing pressure impacts (raised as “issue F-3.1”). Alternative 5 would retain a total of 246 acres as undeveloped natural open space within the Cle Elum River corridor, as described in the Final EIS (see Section 2.6, Alternative 5 Description). A conservation easement covering the dedicated open space within the Cle Elum River corridor would be conveyed to the MountainStar Conservation Trust as part of the Cooperative Agreement among Trendwest, WDFW, and the Yakama Nation. These three entities would manage the conservation easement cumulatively for the UGA and MPR (raised as “issue F-3.4”).

**Comment 42**

Cumulative water quality impacts from the UGA and MPR projects are addressed in Section 3.3 of the Water Quality Supplemental Report, which is Appendix A of the Final EIS. Refer also to the responses to Comments 27, 28, and 29, above.



Except for a very small contribution from the extreme northeast corner of the MPR, no groundwater from the MPR passes under developed portions of the UGA under Alternative 5. The MPR and UGA's quantified water quality results indicated no cumulative adverse impact is reasonably expected.

In response to Ecology's request for an alternative analysis of the MPR groundwater quality as a check on the method used in the MPR Draft EIS, a specific analysis method was agreed on August 1, 2001 and implemented. No adverse impacts on surface water or groundwater quality are predicted as a result of the re-analysis. A subsequent request from Ecology for an even more conservative approach as a final confirmation of no adverse effect was also incorporated in the analysis (A.C. Kindig & Co. January 15, 2002. Groundwater and Surface Water Quality Reanalysis; letter to George Cockill, Trendwest Resorts, Inc.). Both alternative analyses, which Kittitas County has incorporated in an addendum to the MPR EIS, confirm the results and conclusions presented in the MPR Draft EIS.

**Comment 43**

As described in the Draft EIS and updated in Section 3.4, Water Supply, and Appendix B of the Final EIS, Cle Elum withdraws water from two surface water sources in the Upper Yakima River basin. The City is in the process of developing a new treatment plant and water system improvements, including new diversion works associated with both the Cle Elum and Yakima rivers, designed to serve the City of Cle Elum and Town of South Cle Elum. The new Cle Elum diversion works will function as a source of supply when Cle Elum River flows exceed a specified amount, to be determined annually by USBR and the System Operations Advisory Committee.

At present, the City relies on two sources for its municipal supply: (1) a water right owned by the City with a priority date of June 30, 1896 (confirmed by a Conditional Final Order in *State v. Acquavella*, and thereafter modified by Ecology in 2001) in the amount of up to 1,100 ac-ft per year and 3 cfs from the Cle Elum and Yakima rivers; and (2) a series of water supply agreements with the USBR, beginning in 1932, for a municipal supply derived from the Yakima River system of up to 2,170 ac-ft per year and 3 cfs (based on water rights of the United States). In conjunction with the processing of *Acquavella*, the City is now negotiating the latest in the series of USBR water supply agreements. In the context of *Acquavella* processing, the maximum to be withdrawn by the City pursuant to its 1896 priority right and the USBR agreement is 2,375 ac-ft per year. The yearly amounts of the City's water use have ranged between 3,100 ac-ft per year to 800 ac-ft per year. The latter amount is based on most recent withdrawal experience after the upgrading of the water supply facilities and has yet to be verified in light of long-term experience. Additional discussion of the City of Cle Elum's ability to serve secondary growth within the UGA is contained in Section 3.4 of this Final EIS.

**Comment 44**

Refer to the response to Comment 6, above.

**Comment 45**

As described in Appendix B of the Final EIS, Trendwest proposes to transfer its Yakima River water rights so that they may be exercised for beneficial uses within the MPR and UGA. Trendwest has filed water transfer applications with Ecology and the Kittitas County Water Conservancy Board (KCWCB). The applications filed with the KCWCB seek to transfer Trendwest's mainstem Yakima River irrigation and stock water rights from their current place of use near Ellensburg to year-around diversions at the City of Cle Elum's Yakima and Cle Elum River water supply diversion works. The three mainstem water rights have six water rights transfer applications pending, three of which would serve the MPR and three would serve the UGA. A portion of each of Trendwest's three mainstem water rights would provide for recreation, irrigation, and domestic beneficial uses within the MPR and a portion of each of its three mainstem water rights would provide for municipal supply within the City of Cle Elum. Trendwest has also filed applications with Ecology to transfer Trendwest's 11 tributary water rights to instream flows. These 11 rights have 22 water rights transfer applications pending, 11 to offset consumptive uses on the MPR and 11 to offset consumptive uses within the UGA. The tributary water rights could be conveyed to Ecology under RCW 90.38, or could be retained by Trendwest as private instream flows. Nearly all of the mainstem and tributary water rights proposed for transfer are seasonal irrigation rights, although a portion of some water rights are authorized for year-around stock watering. All of the proposed transfers would require changes in purpose and place of use; additionally, transfer of the mainstem rights would also require a change in the season of use and points of diversion

**Comment 46**

The irrigation efficiencies in Appendix E are 60% for residential and commercial, 70% for recreation turf, and 80% for golf course turf, as described in Section 3.16, Utilities, and Appendix E of the Final EIS.

**Comment 47**

Comment noted. Since the Draft EIS was published, the description of the Pautzke and Teanaway water rights and the annual quantities of water available under those water rights has been updated. The Qa for the Pautzke water rights is not to exceed 4,783 ac-ft/yr. and the Qa for the Teanaway water rights is not to exceed 1,016 ac-ft/yr. Refer to Section 3.4, Water Supply, for additional detail.

**Comment 48**

Comment noted. Although there is a pending appeal before the Washington Supreme Court concerning the use of multiple wells for a single development (*Ecology v. Campbell & Gwinn*, Washington Supreme Court No. 70279-9; Yakima County No. 99-2-02859-6), there has been no decision from the Supreme Court. Yakima County Superior Court, which is the basis for the matter pending before the Supreme Court, found that where there are withdrawals from multiple exempt wells within a subdivision, if each withdrawal is less than 5,000 gallons per day, they are considered multiple withdrawals and not a single withdrawal. Furthermore, the Superior Court

held that each 5,000-gallon per day withdrawal is exempt from the permit requirement of RCW 90.44.050. Therefore, the Yakima County Superior Court decision would allow the use of individual exempt wells for 106 residences, as mentioned in Alternative 1 (No Action Alternative).

Direct and indirect employment-induced households in unincorporated areas of the county would most likely rely on small public water systems or individual wells. Any use of surface water to meet this demand would necessarily have to rely on existing water rights (as opposed to new water rights) because the Yakima River system has been, by every practical measure, fully appropriated during the latter half of the irrigation season since the early 1900s. Additionally, all remaining water that might be available for appropriation under new water rights has been withdrawn from appropriation, pursuant to RCW 90.40.030, by various actions of the United States.

Small groundwater withdrawals for non-commercial irrigation and domestic purposes up to 5,000 gallons per day can be anticipated as a way of meeting the projected needs in unincorporated areas of the county. The effects on the Yakima River system would depend on the degree to which the groundwater aquifer is connected to the river, and would vary in accordance with the distance from the well to the river, the aquifer characteristics, and the rate and volume of water pumped to meet the demand. For these reasons, no new surface water permits for year-round residential use and only groundwater withdrawals that are exempt from permitting (see RCW 90.44.050) can be reasonably expected to meet this demand (see Section 3.4, Water Supply, and Appendix B of the Final EIS).

**Comment 49**

During the 2001 irrigation season, Ecology's consultants installed continuous depth sensors in the affected and previously ungauged tributaries. Data were downloaded from the sensors, and converted to discharge using consultant-derived rating curves. Appendix B of the Final EIS describes this monitoring effort.

**Comment 50**

The Washington Department of Fish and Wildlife operated the gauge near the mouth of Swauk Creek during the 1990s. These data, and data from Reclamation's Teanaway River gauge at Lambert Road (lower gauge), are referenced in Appendix B of the Final EIS.

**Comment 51**

Agreed. The low flow cited on page 3.3-11 in the Draft EIS for the Yakima River immediately below its confluence with the Cle Elum River is too low. The low flow figure offered of about 1,800 cubic feet per second in an average year would make the added 1 cubic foot per second stormwater recharge equate to about a 0.05% increase.

**Comment 52**

Refer to Section 3.4, Water Supply, and Appendix B of the Final EIS for a revised discussion of total water supply available (TWSA) impacts.

**Comment 53**

Refer to the response to Comment 9, above.

**Comment 54**

The rate of surface water infiltration through the creek bed and the transmitting capacity of the alluvial aquifer adjacent to the stream mouths affect the amount of water present at the mouth. Ecology's consultant team investigated these processes during the basin studies performed in 2001 (see Exhibit G to Appendix B of the Final EIS). The water balance model is modified to include seepage, alluvial subflow, and other hydrogeologic factors estimated from those studies. This is described in Section 3.4, Water Supply, and in Appendix B.

**Comment 55**

The uncertainty analysis has been expanded to include confidence limits for streamflows predicted by regression (see Appendix B). Tributary streamflows, irrigation, stockwater efficiencies, and lag time distributions of irrigation and alluvial aquifer return flows were all input using values agreed by Ecology to define upper and lower reasonable bounds for each parameter. The supplemental analysis added new data from streamflow and other field monitoring by Ecology's consultant team during 2001, a drought year. The analysis provides linear regression statistics, the 90% confidence limits for streamflow predictions, and standard error for predicted versus observed flows in Swauk, First, and Big creeks. Results for the average year conditions, characterized by the 1991 through 1993 and 1995 study years, were provided as a range between the middle and lower value simulations in Section 3.4, Water Supply, and in Appendix B. Late in the irrigation season in 2001, when streamflows were lowest, the observed streamflows tended to vary between the middle and lower value simulation results. Thus, the most reliable results of Trendwest's water rights transfers were also considered to vary in the range established by these simulations.

**Comment 56**

Appendix B describes the final water balance model for the Cle Elum UGA project and its construction in detail. The diversion requirement for water at each irrigation site is computed as the consumptive use divided by the irrigation efficiency. The range of irrigation efficiency values (0.32 to 0.45) was based on three sources of information. First, the Washington State Irrigation Guide provides on-farm irrigation efficiencies. The furrow irrigation efficiency of 60% was multiplied by a conveyance efficiency of 75% to obtain the upper end of the efficiency range. Second, the *Acquavella* adjudication provides the total volume of diversion allowed for the irrigation season (Qa) in each irrigation water right. The Qa was divided by the net consumptive use estimated by the Blanney-Criddle equation using mean monthly temperature and

precipitation input values for the period of 1989 to 1995. Third, Ecology provided its measurements of diversions into the 3M Ditch and the Ballard Ditch during 2001. Independently, for both ditches, the daily net consumptive use was estimated for the day of the measurements using the Blanney-Criddle equation with actual mean monthly temperature and precipitation measured during 2001. The irrigation efficiencies of the areas served by 3M and Ballard Ditches were estimated from net consumptive use divided by the measured diversion.

Irrigation consumptive use was defined as the volume of water consumed through plant evapotranspiration. The calculations, based on the Blanney-Criddle formula, used the same conceptual method as described in the Washington State Irrigation Guide to estimate crop net consumptive use. The Blanney-Criddle method incorporates, at minimum, precipitation, temperature, and crop types. The Washington State Irrigation Guide also includes averaged relative humidity and wind data; however, it does not include sufficient data to estimate relative humidity at the places of use of the Trendwest water rights. Therefore, the version of the Blanney-Criddle equation used in the Guide could not be incorporated into the model. The Blanney-Criddle equation incorporated into the model included temperature and precipitation inputs for which spatial and temporal distributions could be determined to estimate location-specific and time-specific net consumptive use.

Applicable proceedings in *Ecology v. Acquavella* were used to estimate the amount of land to be irrigated under each water right. For the Big Creek (Easton), Teanaway River, and Reecer Creek subbasins, these consist of Conditional Final Orders entered by the Court. The Court has not yet entered a Conditional Final Order for the Swauk Creek subbasin. Consequently, the Supplemental Report of Referee for Swauk Creek was used to describe the number of irrigated acres for each Swauk Creek water right.

#### **Comment 57**

The developed condition model reflects the compaction that would occur in construction of lawns. King County Surface Water Management Division parameters developed for golf and turf were used, both of which use lower infiltration capacity values than the value for pasture.

#### **Comment 58**

Figure 2-2 in Appendix E of the Final EIS has been corrected to show the AGI soils delineation. The soil-cover-slope complex summary has been corrected to conform to the data in Table 2-2 in Appendix E. The model generates runoff from the till soil unit as indicated by the interflow component for basins Y4-U and Y5-U in Table 2-4. The runoff is fully infiltrated as shown in Figure 2-6 in Appendix E, either inside or outside the basin generating the runoff.

#### **Comment 59**

Under the existing condition, Bullfrog Road contributes some direct runoff to the Cle Elum River. This is the runoff referred to in basins 1, 12, Y1, and Y2 in the Draft EIS Appendix G. That non-infiltrating runoff would not be changed as a result of the UGA or MPR projects. It

remains true that all newly developed runoff would be infiltrated, including under the UGA Alternative 5. This has been clarified in Section 2 of Appendix E to the Final EIS.

#### **Comment 60**

The boundaries of basin 1 are shown in Figure 2-1 in Appendix E of the Final EIS. Basin 1 consists of basin 1-1 and basin 1-2. The boundary between basins 1-1 and 1-2 are shown in Figure 2-5 of Appendix E. The soil types for the two basins are given in Table 2-2 of Appendix E. Basin 1-2 has 40 acres of outwash soil and 45 acres of bedrock soils. The bedrock soil causes the total flow per unit area to be higher than the outwash range of values.

#### **Comment 61**

The assumptions for diversion and consumptive use for in-migrant households are summarized in Table 9 in Appendix C of the Final EIS. Water demand for in-migrant households in unincorporated areas was estimated by applying the same method for “per household” demands as was used for the Cle Elum UGA Draft EIS. This assumes 240 gallons per household (2.4 persons per household assumed), less 80% return flows. Irrigation demands were calculated using the Washington State Irrigation Guide in Cle Elum for Upper County subbasins, and in Ellensburg for Lower County subbasins. These are compared to other assumptions made for incorporated areas, which used figures from each jurisdiction’s latest Water System Plan. In most cases, these data were based on demand estimates dating to the early to mid-1990s.

#### **Comment 62**

Comment noted. Test pit logs are presented in Section A.3 of the Draft EIS. Drilling logs from the MPR EIS were not reproduced in the Cle Elum UGA EIS.

#### **Comment 63**

Ecology’s consultant team collected additional streamflow data on Big Creek, which shows that seepage of additional streamflow (from reduced upstream diversion) would be insignificant. These data are included in the analysis provided in Section 3.4, Water Supply, and in Appendix B.

#### **Comment 64**

The water availability model for Big Creek described in Appendix B of the Final EIS calculates the amount of water available daily for the 1887 priority date Gentry water right, which was acquired to help offset consumptive use at the MPR and UGA site. The water availability model for Big Creek simulated the effects of transferring the Gentry water right by computing:

- The amount of water diverted daily from Big Creek by the senior users.
- The volume and timing of irrigation return flows before and after the water right transfer.
- The volume and timing of alluvial seepage return flow before and after the water right transfer.

Irrigation return flow from this property flowed vertically through the vadose zone to the water table, then laterally by groundwater to the Yakima River rather than back into Big Creek. The flow path to the Yakima River was approximately 1 mile, and delayed return flows in such a manner that some proportion of the return flow reached the Yakima River throughout the entire year. Ecology's consultant team estimated that about 80% of the total irrigation return flow reaches the Yakima River within 4 to 10 months after the start of the irrigation season (Pacific Groundwater Group 2002).

Ecology's consultant team modified and expanded a groundwater model to estimate the timing of return flow, adding an additional two-week delay to account for estimated time lags in the unsaturated zone (see Exhibit G to Appendix B). Ecology's consultant team and the project team agreed on reasonable ranges in values for the background recharge, seepage from Big Creek ditches, and hydraulic properties of the local soils. Hydraulic properties of soils are described by their hydraulic conductivity (K), which is the rate at which soil can transmit a liquid under the influence of gravity. A high K value means the soils can transmit water quickly (for example, gravel), and a low K value means the soils transmit water slowly (for example, silts). Ecology's consultant team developed fast and slow return flow schedules from this range of inputs by groundwater modeling.

#### **Comment 65**

The gradient of the creek is steeper than the groundwater gradient, and the groundwater level is below the surface water level near the KRD Canal. Therefore, the potential for groundwater to be hydraulically connected to Big Creek upstream of the KRD Canal is highly unlikely. Ecology's consultants confirmed this to be the case during their 2001 evaluations of the affected tributary basins, provided as Exhibit G to Appendix B. The model was set up to represent these conditions, and was revised to reflect the results of consultants' evaluations as warranted.

The uncertainty of the model boundary conditions is documented in Appendix B of the Final EIS. Calibration of the model also included testing the influence of the model boundary conditions on computed groundwater flow gradient and direction. Changing the model boundary conditions changed the flux through the model and affected the heads computed for the interior of the model. Calibration requires recharge and/or a change in the hydraulic conductivity of the aquifer to compensate for the effects of changing boundary conditions.

Ecology's consultant team conducted an extensive uncertainty evaluation by varying the hydraulic conductivity values in addition to recharge and boundary conditions. They also tested the sensitivity of computed lag times of irrigation return flow to hydraulic conductivity, recharge, and boundary conditions. These results, and their incorporation into the analysis, are summarized in Section 3.4, Water Supply, and in detail in Appendix B.

#### **Comment 66**

Refer to the response to Comment 65, above.

**Comment 67**

Refer to the response to Comment 55, above, with regard to the sensitivity analysis and uncertainty. Recharge from precipitation (i.e., stormwater) was not included in evaluation of the water rights transfers, except as climate-affected crop consumptive use estimates. A detailed description of the model's construction is provided in Appendix B of the Final EIS.

**Comment 68**

Ecology's consultant team conducted streamflow monitoring on Big Creek (upstream of the dam and downstream of Ensign Ranch Diversion) during 2001 to evaluate the seepage of streamflow through the creek bed and into the underlying alluvial aquifer. The consultants did not note seepage gains from the groundwater flow system into Big Creek during their review of the monitoring data and other available data. They used their 2001 data to develop a flow-seepage relationship for the reach between the two monitoring stations, which does not support the USBR's description of groundwater-surface water interactions in its water supply analysis report to the Bonneville Power Administration.



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Erin Krake  
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Roslyn, WA 98941

City of Cle Elum

Gary Berndt, Mayor  
City of Cle Elum  
119 W. First Street  
Cle Elum, WA 98922

May 6, 2001

Dear Mayor Berndt,

I am writing to comment on the Draft Environmental Impact Statement for the City of Cle Elum's Urban Growth Area development by Trendwest Resorts, Inc.

Due to the limited commenting period I can personally address only one issue. Please refer to RIDGE's comments for a complete list of the issues that need to be addressed in the final document.

1

In the DEIS chapter on housing and population, I noticed some glaring problems. The number of total units (for Alternative 2) is 898 permanent new units with 1,983 permanent new residents (table 3.11-11) and 530 seasonal units with 266,815 visitors each year (table 3.11-12).

The first problem is that of those units, none are expected to be "affordable," (3.11-24) even though many of the employees in the UGA and the MPR will be making minimum wage or slightly above. The second is the impact this lack of affordability will have on the housing market in Roslyn and Cle Elum. The final EIS should include binding and meaningful language that the company will mitigate its substantial impact on the area's housing availability and on providing affordable housing for, at the very least, its own employees.

2

What is more, this document is misleading in regards to population projections. It uses the plan's own figures for how many units the company WANTS to put in and the number of people it WANTS to house as projections for the county. Instead the document should adhere to the OFM's projections before the company bought the land or made a plan. In the least it should not try to say that the UGA MUST meet these projections to be in compliance with the Growth Management Act. This is a blatant falsity. (see entire chapter 3.11.2)

3

In reviewing the mitigation measures the company proposes, I did not find any real mitigation proposals. For example, there is no proposed employee housing "at this time" except for a "monitoring program" that uses "benchmarks" to identify what is attributable to Trendwest. There is no definition of what those benchmarks will be or who will be ultimately in charge of making the decision as to what caused it. Secondly, the plan proposes RV housing for its construction workers, but they haven't identified where or how big the park will be, at least in the part I read. Also, what about sewer and water for the RV park? How are they going to provide this before they have either of these facilities? Finally, it says the company "could" work with KCAC and the Housing Authority to "support" below market rate housing programs and "explore" subsidies for low income housing. In fact, the document admits there will "unavoidable adverse impacts" in that there will be an increase in population that hasn't been planned for or projected in any empirical way; there will be an increase in property values and

4

taxes, and there will be a lack of affordable housing. Where is the mitigation for these "unavoidable adverse impacts?" Aren't they required to mitigate these impacts?

4 (cont.)

I wish I had the time to read this document in its entirety. I hope the City protects itself and its citizens (and the rest of the county residents) by analyzing this draft thoroughly and making the final EIS better. It is only fair that this multi-million dollar corporation fully mitigate the negative impacts such a huge increase in our population and its subsequent needs will bring.

5

I don't disagree with developing businesses and housing in the UGA. I just don't think it must or should be on such a scale. I don't think it should take over all wildlife habitat, just because it's there. I don't think it should create a whole new town, just because they need more services and recreation for their MPR. And I don't think your existing city should have to create new, large-scale infrastructure that you don't even need, just because they will pay for it. You and I and all life in the upper county will be paying for it in the end.

6

Sincerely,  
  
Erin Krake

**Comment 1**

Comment noted. The comment period for the Draft EIS was 45 days, beginning on March 23, 2001 and ending on May 7, 2001.

**Comment 2**

Affordable housing is addressed in the City's draft Conditions of Approval for the project. Mitigation measures include implementing an Affordable Housing Mitigation Program. A temporary RV park with a maximum of 100 spaces is proposed to house construction employees. Refer to Section 3.10, Population and Housing, of the Final EIS for a summary of the key elements of the Affordable Housing Mitigation Program.

**Comment 3**

Section 3.11 of the Draft EIS identifies the population *capacity* of Alternatives 2, 3, and 4 and compares this to the Office of Financial Management's 2020 population projection allocated to Cle Elum under the Kittitas County Countywide Planning Policies. Section 3.10 of the Final EIS provides an analysis for Alternative 5. OFM is expected to update its population projections in early 2002.

**Comment 4**

Refer to the response to Comment 2, above.

**Comment 5**

Comment noted.

**Comment 6**

Under the Growth Management Act, the City of Cle Elum would annex and serve the Urban Growth Area. Further, the deliberative process undertaken by the City of Cle Elum and Kittitas County of designating and planning for the UGA would have proceeded even without the MPR.

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received  
5/7/2001  
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City of Cle Elum  
119 West First Street  
Cle Elum, WA 98922

May 7, 2001

As an Affected Agency and neighboring municipality, the City of Roslyn has reviewed the Draft Environmental Impact Statement for the Bullfrog Urban Growth Area dated March 23, 2001 and submits these comments for your consideration.

Water Supply for School District #404

The City of Roslyn has delivered potable water to the school campus on State Route 903 since 1968 when the high school was first constructed and has further expanded its delivery capacity to accommodate the growth and consolidation of school facilities. While no formal agreement between the City of Roslyn and the School District has been executed, we remain committed to serving the school's treated water supply needs because schools are a vital component in the quality of our community.

The expansion of the School District campus, as described in the DEIS, will enable our schools to construct facilities to accommodate the increase in student population directly and indirectly attributable to the proposed UGA and MPR developments. However, the water supply needs for an expanded school facility are not addressed.

Appendix D (Water Supply), Page 2-2: "The water demand estimates do not include the public facility demands, identified as the School District #404 school expansion area, cemetery expansion area, Community Recreation Center, and Business Park"

1

Roslyn's Comprehensive Water System Plan (1996) was based on growth projections that did not include population increases attributable to Trendwest's Master Plan Resort or Cle Elum's Urban Growth Area. The 1996 projections for water supply demand indicated that Roslyn will approach the limit of its capacity to divert water from Domerie Creek for a municipal water system in 2015.

1 (cont.)

The ability of Roslyn to accomodate growth in population, promote economic development, and plan for the future will be directly impacted by the water supply demand attributable to the expansion of the School District facilities.

The City of Roslyn proposes the following mitigations for the water supply impacts:

1) Expand the Environmental Impact Statement to include an analysis of the public facility demands for water supply, specifically the increased water supply needed to expand School District #404 onto an additional 25 acres

2

2) Include water rights transfers to the City of Roslyn as part of the conveyance of the School District expansion land

3

3) Facilitate a water delivery agreement with School District #404 and the City of Roslyn to formalize the terms and conditions of the water supply needed for growth.

4

Law Enforcement Level of Service

The Interlocal Agreement for Police Services, executed in July, 2000 defines the service area of the Cle Elum/Roslyn/South Cle Elum Police Department as the area inside the corporate city limits of the three municipalities. Annexation by Cle Elum of the Bullfrog Urban Growth Area will enlarge this service area by 1,100 acres and significantly impact the ability of our law enforcement agency to provide the established level of service to the City of Roslyn. We suggest that this be mitigated by frequent analysis and reports to the Police Oversight Committee so that staffing and equipment expansions can be implemented in a timely fashion.

5

Net Fiscal Impacts

Projections in the DEIS for the City of Roslyn to experience neutral or positive net fiscal impacts are based on increased retail sales tax revenues due to off site purchases by visitors and occupants from the UGA and MPR, and from an inflow of construction workers needed to fill the demand for building trades employment. Given the current profile of retail sales tax revenue generating businesses in the City of Roslyn the vast majority of the projected sales tax increases will be attributable to eating and drinking establishments. Significant public facility improvements and enhancements will be required to facilitate the projected sales tax revenue increases, including expanded public parking capacity, construction of public toilet facilities, and development of visitor information and interpretive sites. Costs for these visitor driven improvements are quantified in the City of Roslyn Capital Facilities Plan and should be included in the analysis of net fiscal impacts in the Final EIS.

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Increased consumption of alcoholic beverages implicit in the increased sales tax projections for Roslyn will create increased law enforcement expenditures and potential incarceration cost impacts. Currently the City of Roslyn contracts with the Kittitas County Sheriff's Office for booking and jail services. Given the vast array of fiscal benefits that Kittitas County will accrue from the development of the MPR and UGA, designating the County as the responsible entity for jail and booking costs for the City of Roslyn would be a reasonable mitigation.

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The City of Roslyn has already seen increased costs attributable to the population increases that will result from the development of the UGA and MPR. Updating the Comprehensive Plan has required contracting for the services of a City Planner, modifying the Comprehensive Wastewater and Sewerage Plan to accommodate new population projections has required engineering expenditures, and increased staff time has been devoted to responding to requests concerning zoning requirements and the availability of water and sewer for proposed new construction, both residential and commercial. Since Roslyn has no jurisdiction regarding MPR or UGA development there has been no straight forward procedure for a cost sharing agreement with the proponent to mitigate these staffing and revenue shortfalls. The Final EIS needs to address these indirect impacts to the City of Roslyn and propose appropriate mitigations.

8

Phased Environmental Review and Relationship of UGA and MPR Impacts

"Proposed mitigation measures are generally project specific, however, there is overlap to the extent that project impacts from the MPR and UGA may affect the same service provider, facility, or infrastructure. In these cases, mitigation measures for the MPR and UGA reflect a potential coordinated approach." (DEIS pg. 1-6) SEPA rules allow for phased review under certain criteria, but deems phased review inappropriate when "It would merely divide a larger system into exempted fragments or avoid discussion of cumulative impacts" ,WAC 197-11-060 (5)(d)(ii). The only access to the City of Roslyn is Highway 903 and the cumulative effects of development of the MPR and UGA will create significant adverse impacts to ingress and egress capabilities. Population growth attributable to in-migrant construction and operational workers will impact Roslyn with increased affordable housing demands since both MPR and UGA development could commence concurrently. Environmental review for water supply and wastewater infrastructure will likely focus on one system to serve both the MPR and the UGA and be based on cumulative impacts to the environment. Revising of Roslyn's Comprehensive Plan would be based on population projections derived from impacts attributable to both the MPR and UGA.

The Final EIS should coordinate all the cumulative information on impacts from both the MPR and UGA so that affected agencies are not handicapped in assessing what actions will be required to accurately plan for growth. Information used for assessing impacts and implementing mitigations should be brought up to date to reflect the most current statistics available. Water supply and treatment plans should be brought up to date and presented in more detail. Wastewater treatment facility plans expressed in the DEIS do not reflect the level of detail that should be available for reasonable environmental review of the alternatives. Neighboring municipalities that will be required to modify and update their planning documents should be compensated by the proponent for the direct costs attributable to the proposed developments.

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### Population and Housing

Statistics provided in the DEIS concerning numbers of in-migrant workers needed for construction and operation of the UGA and MPR, and the anticipated levels of compensation that these workers can expect, lead to the conclusion that there will be a significant shortage of affordable housing available during the early phases of construction. This shortage will continue for several years after construction begins and create a major impact on the City of Roslyn. The price of housing will escalate with the increased demand and property taxes will increase due to the increased valuations. Present and historic home owners in Roslyn will see their property taxes go up and potentially create a financial hardship, especially for senior citizens on a fixed income. Many of the developable lots in Roslyn will require new water and sewer hook-ups, and the process required for reviewing and permitting new construction could overwhelm the existing staff capabilities.

The DEIS states that Trendwest has not proposed any employee housing, but will rely on the market to respond to affordable housing needs. Mitigation measures outlined are primarily based on a monitoring program that would commence with the issuance of construction permits and consist of various incentives to the market. However, a shortfall of available affordable housing will be created by the intrinsic time lags in this monitoring process.

Affordable housing construction should be included in the Development Agreement with Cle Elum so that projected demand for affordable housing will be met with a planned supply. The Final EIS should also include a more detailed break down of the expected rates of pay for specific types of construction, operational, and seasonal employees so that more accurate predictions can be made about the types of housing that will be required to meet the anticipated demand.

Any monitoring program will rely on establishing an accurate assessment of existing conditions so that impacts can be identified and mitigated. Roslyn is already responding to speculative inquiries about available housing and buildable lots. A base line study of affordable housing should be implemented before construction permits are issued.



The Cities of Roslyn and Cle Elum share a rich cultural heritage and pristine natural setting that have been the foundation of our municipal relationship. As we respond to population growth and the development proposed to accommodate that growth, a shared respect for the natural physical amenities that create our environment will carry that relationship into the future.

16

Sincerely,



David Gerth, SEPA Official

**Comment 1**

The City of Cle Elum, the School District, and the City of Roslyn are continuing discussions regarding how to implement water service to the School District expansion area. Pursuant to the UGA Water Supply Agreement between Trendwest and the City of Cle Elum, the City of Cle Elum has agreed to provide water rights in an amount sufficient to meet school district growth needs (*Agreement Regarding Water Supply for the Bullfrog Flats UGA* dated June 19, 2001). The City of Roslyn serves the current school campus through an existing arrangement, which presumably would continue into the future. The City of Cle Elum is developing a water treatment plant and pipeline network that will be able to serve any new school expansion facilities located within the UGA. The City of Cle Elum water rights would cover this service, as provided for in the water supply agreement. Assuming this division of service, the City of Roslyn would continue to supply water to the existing school campus and the City of Cle Elum would serve any expansion on lands within the UGA (Michael Cecka, pers. comm., December 2001).

**Comment 2**

Water demand for irrigation requirements for the School District and cemetery expansion areas is identified in Section 3.17 of the Draft EIS and Section 3.16 of the Final EIS. Water demand for future School District expansion would depend on student populations and has not been estimated at this time. Refer to the response to Comment 1 above for a discussion of water provision for the School District. As part of the RIDGE Settlement Agreement, Trendwest has agreed to provide water for induced growth impacts on the City of Roslyn.

**Comment 3**

Refer to the response to Comments 1 and 2, above.

**Comment 4**

Refer to the response to Comment 1, above.

**Comment 5**

Comment noted. The interlocal agreement for police services establishes an oversight committee that includes all three jurisdictions and this governing structure would continue (*Interlocal Agreement for Law Enforcement Services* dated June 27, 2000). As population of the City of Cle Elum increases due to UGA development, the parties to the interlocal agreement could revise the oversight committee governing structure, as appropriate, to ensure an ongoing significant decision-making role for the City of Roslyn and South Cle Elum, even if the majority of the future population growth occurs within the City of Cle Elum.

The expected impact on police services is discussed in Section 3.16 of the Draft EIS and is discussed for Alternative 5 in Sections 3.15 and 3.18 and in Appendix D of the Final EIS. The analysis of Alternative 5 (Preferred Alternative) identifies projected personnel and equipment

expenditures and associated mitigation measures. The RIDGE Settlement Agreement includes payments directly to the City of Roslyn to address increased demand for public facilities.

**Comment 6**

The RIDGE Settlement Agreement includes payments directly to the City of Roslyn to address increased demand for public facilities. Refer to Appendix D of the Final EIS for additional detail.

**Comment 7**

Comment noted. Refer to the response to Comment 5 above regarding police service impacts and mitigation. Any decision regarding what jurisdiction is responsible for costs of booking and jail must be decided between the affected jurisdictions and is not a mitigation measure that the City of Cle Elum can decide for those independent jurisdictions.

**Comment 8**

Refer to the response to Comment 6, above.

**Comment 9**

Refer to the response to Letter 4, Comment 2.

**Comment 10**

Cumulative impacts are addressed for Alternatives 2, 3, and 4 under each element of the environment in the Draft EIS. Cumulative impacts are addressed for the Reduced Density MPR and Alternative 5 under each element of the environment in the Final EIS. Mitigation measures are identified to address potential cumulative impacts, as necessary.

**Comment 11**

The analyses in both the Draft EIS and Final EIS reflect the most current available statistics.

**Comment 12**

Section 3.16 of the Final EIS updates the status of the water and wastewater treatment plants currently in the design and planning phases. A discussion of potential loadings to the Yakima River and future water quality studies has been added to the cumulative impact discussion of Section 3.16. These are facilities proposed by the City of Cle Elum to implement the City's adopted water and wastewater comprehensive plans. A standalone water treatment plant is no longer proposed.

**Comment 13**

Refer to the response to Comment 12, above.

**Comment 14**

Neighboring jurisdiction's planning documents do not need to be modified as a direct result of MPR and UGA development, but may need modification because of future Office of Financial Management growth population projections for the County. As such, imposing mitigation for the costs of such planning updates on the project proponent is not appropriate. The City of Roslyn could adopt a full cost-recovery permit fee structure that would more directly address the potential impacts of any increased land use or building permit activity on existing city staff and resources. In addition, the RIDGE Settlement Agreement includes mitigation payments directly to the City of Roslyn to address fiscal impacts on the City from increased demand for public facilities and services.

**Comment 15**

Refer to the response to Letter 26, Comment 2.

**Comment 16**

Comment noted.

received  
5/3/01



# Kittitas County Department of Building & Fire Safety

411 N. Ruby, Suite 4, Ellensburg, WA 98926  
Telephone (509) 962-7694 Fax (509) 962-7682

May 3, 2001

As the Fire Marshal of Kittitas County I have the following conditions that will apply to the Cle Elum UGA. Under an agreement between Kittitas County and City of Cle Elum Fire Marshal duties are provided. The comments are to be entered into the record as comments on the UGA Annexation.

If any questions arise please call.

Derald Gaidos  
Fire Marshal  
Kittitas County

The phasing of projects shall be in a way that fire protection can be maintained to protect the previous phase or phases. Water supplies for fire fighting and roads must be made available at the earliest point to allow the sites to be protected. As roads and paths become the established fire department/emergency access, maps should be kept up to date, with street names posted. Each development application shall specify how it relates to the overall phasing program.

1

Special efforts by the developer in the control of his work force will be a main concern to prevent the wild fire from ever starting. The Department of Natural Resources has Industrial Precautions, which limit and control all spark-emitting devices within forested areas of Washington State. Requiring the developer to follow the precautions should be a must requirement. If conditions are such that the work does not present a serious threat, City of Cle Elum Fire Chief can allow work with added conditions.

2

All open space lands shall be managed to buffer sensitive environments from intensive development or activities; to retain and restore native plant communities and to maintain

3

and enhance habitat; and, for developed areas, to provide an aesthetically pleasing landscape, provide habitat connections, and minimize risk of fire.

3 (cont.)

To document and achieve these landscape planning objectives, the developer will finalize and submit to the City for approval the existing conceptual Land Stewardship Plan and a Noxious Weed Plan for the entire UGA site prior to any construction and/or land clearing activities for the first phase or subphase of UGA development. An amendment to the Land Stewardship Plan and Noxious Weed Plan shall be submitted to the City for approval with a general site plan or site development plan for any phase or subphase of UGA development if the general site plan or site development plan is inconsistent with such Land Stewardship Plan and/or Noxious Weed Plan. Such amendments shall demonstrate how the goals and policies of the Land Stewardship Plan and Noxious Weed Plan will be implemented for the developed area in the phase or subphase of UGA development covered in the general site plan or site development plan.

4

The Land Stewardship Plan shall include and follow the Department of Natural Resources Backyard Stewardship Program, (Eastern Washington Type) as a model of fire prevention in the interface as a proven working program.

The amount of clearing on lots shall be consistent with City of Cle Elum Regulations or as otherwise stated. Single specimens of trees, ornamental shrubbery or similar plants used as plant covers, provided that they do not form a means of rapidly transmitting fire from the native growth to any structure will be exempt.

Uniform Building Code (UBC) guidelines shall be followed for siting and design of any facilities located in seismic hazard areas. Provisions for evaluating seismic issues as currently described in the draft International Building Code 2000 (IBC2000) shall be considered in design. If facilities are sited in areas prone to soil liquefaction, foundation supports shall be designed to extend deeper than the liquifiable soils. The Building and Fire Codes reference anywhere in "This Document" shall reflect to the most current code/codes adopted by the Washington State Building Council and City of Cle Elum. This will allow buildings to be built with the most current codes applicable rather than the code at approval of the Development Agreement.

5

Standards shall be as specified in the Development Agreement. The storage of all hazardous materials shall follow the same guidelines as prescribed by the latest codes and regulations from various agencies. The focus on the golf course chemicals shall be part of a total plan for use, containment and disposal of all hazardous materials during construction and operation of the MPR. All chemicals on site will require MSDS sheets at site and construction main office for use in emergency situations.

6

All golf course fungicides, herbicides, insecticides and fertilizers shall be stored in an enclosure with a closed sump to prevent chemical release. Mixing areas for golf course chemicals shall be enclosed with concrete curbs or other means for spill containment and a closed sump or collection point.

The applicant shall prepare a golf course spill prevention and accidental spill response plan consistent with Department of Ecology requirements. Following approval by Ecology, a copy of the plan shall be submitted to City of Cle Elum and Kittitas County.

6 (cont.)

Native plant species shall be used in landscape plantings in developed areas, and to revegetate cleared but open areas, including rights-of-way along UGA roads. A program to control the introduction or spread of noxious weeds or invasive species, using chemical and/or biological means, shall be developed by a professional forester in consultation with the Kittitas County Weed Coordinator, and shall be reviewed and approved as part of or in conjunction with the Land Stewardship Plan. The revegetation of open areas and disturbed areas shall be in conformance with the Land Stewardship Plan. Such Land Stewardship Plan shall include provisions relating to: (a) revegetating open and disturbed areas with use of low growing, perennial grass species close to native or cultivars of native species; and (b) using drought resistive species to minimize the risk of transmitting fire. These Conditions shall be addressed by the applicant through adoption of the Land Stewardship Plan and through general site plans or site development plans, and through restrictive covenants applicable to subdivisions and lots.

Remaining stands of un-thinned mature forest habitat within development areas shall, to the extent feasible, be retained and incorporated within open space areas. Any forest management activities within these areas shall comply with applicable local, state, and federal rules and regulations, and with the Land Stewardship Plan. The stands of doghair trees must be thinned and ladder rules removed as Kittitas County FIREWISE has dictated.

7

The applicant shall prepare and submit to City of Cle Elum for approval a Land Stewardship Plan which:

The Plan shall follow the guidelines of:

- The Department of Natural Resources, Backyard Stewardship Program (Eastern Washington Type)
- Recommendations for Fire Safety and Prevention of Forest and Rangeland in Kittitas County including Rural, Commercial and Private Developments as updated March 1999 by the Kittitas County Fire Co-op, a committee of the Kittitas County Fire Chief's Association.

These guidelines shall be used to protect the wildfire interface area, which is being developed. These are proven useful tools in fire protection.

Wood burning stoves shall be limited to common areas in the resort lodges, conference facilities and similar spaces. No stoves or wood burning devices shall be installed in any other units. The restriction of wood burning stoves shall be included to all privately owned units including the single-family residences. This would allow the fire prevention to be implemented from the highest standards and through out the UGA thus lowering the need for fire department response to wood stove related problems and also the problem of wood storage in a wildfire interface area.

8

Wood storage in the wildland interface area presents a problem of possible fire encroachment into the woodpiles and the radiant heat produced enhancing the fire front and making protecting the building impossible. In general, people have their wood storage very close to the building being heated.

8 (cont.)

Development management practices shall include using well-maintained construction equipment and trucks to reduce emissions. Prolonged periods of vehicle idling and engine-powered equipment shall be avoided. Development Management Practices shall include the following fire safety items:

- (a) All construction and maintenance vehicles on site shall have the industrial fire safety equipment, which includes a fire extinguisher, shovel, and spark arrestor/muffler and other specific per application.
- (b) All smoking shall be controlled in prescribed smoking areas.
- (c) Open flame/spark emitting shall follow the WA State DNR Industrial Precautions.

9

Any exception of these will be examined on a per case basis by: (1) Fire Chief of the City of Cle Elum, (2) Department of Natural Resources and (3) Kittitas County Fire Marshal.

Burning of land clearing debris shall be consistent with the County Solid Waste Plan, Fire Protection regulations, and as conditioned by WAC 173-425-030 or otherwise permitted in accordance with the City-approved Land Stewardship Plan.

10

Construction activities should/shall be limited to daytime hours. For the months of November through February construction activities shall be limited to 8:00 AM to 6:00 PM and for the months of March through October to 7:00 AM to 8:00 PM. During the summer months, these may be amended to reflect those hours prescribed by the WA State Department of Natural Resources Industrial Fire Precautions as to hours started and completion per precaution level. In "Hoot owl" level operations it is permissible to work 8 PM to 1 AM to lessen the fire danger. Working outside of the prescribed work hours should be an option with each case being looked at and reviewed by City of Cle Elum Fire Chief as an Administration Decision.

11

All on-site roads shall be approved by City of Cle Elum, privately constructed to City of Cle Elum Standards for Emergency Vehicle Access following the KCFCA Fire Prevention Standards for development.

12

Mapping and Addressing. The applicant shall provide to the City all mapping and addressing of the MPR development in a form consistent with the County's existing addressing system and in such GIS or other database format requested by the Public Works Department, consistent with how such information is maintained by the Department. Applicant shall provide City and zip code information for the entire UGA site before final approval of the first phase or subphase

13

Any closures or restriction shall not prevent or hinder access necessary for emergency vehicles and shall be equipped with compatible OPTICOM or equivalent emergency vehicle access devices.

14



At the point that the LOS requires adding a traffic signal or signals in the Upper Kittitas County, the applicant shall outfit the Fire/EMS vehicles that respond to the MPR and shall equip the traffic signal(s) with appropriate OPTICOM, or other similar equipment or system that is determined appropriate by the City for the safe movement of Fire/EMS equipment through congested intersections.

14 (cont.)

Proposed building materials, design and other architectural and landscape features of the UGA, including signage and lighting, shall be designed to help structures fit within the visual setting. The developer shall in consideration of building design and materials address the need for fire resistivity in construction. Wildfires are spread via the radiant heat that is produced. The use of fire resistive materials lessens the chance of wildfire spread. The UGA is in a high fire danger area.

15

The applicant shall prepare, and submit to City for approval, proposed covenants, conditions and restrictions (CC&Rs) applicable to privately owned residential units/buildings within the UGA. The CC&Rs shall address, at a minimum, the following concerns: building material, color and design; limits on clearing open space portions of individual lots; accessory buildings; landscaping requirements and limitations; lighting; policies regarding domestic pets; storage and use of toxic or hazardous materials (e.g. pesticides, herbicides); and maintenance. The City shall ensure consistency of these elements of the CC&Rs with applicable policies in its Comprehensive Plan; other elements of the CC&Rs are not subject to review by the City. The applicant and City may address the above mentioned standards in the UGA Development Agreement. The applicant shall add to the covenants list the following items:

16

(a) All building including private SFR single family residence, MFR multi family residence and buildings required under the most current building code adopted, shall have approved fire sprinklers installed, tested and maintained as listed in National Fire Protection Association sections 13, 13D, 13R.

17

(b) All buildings shall have a defensible space requirement around each structure. Defensible spaces shall be determined by application of formulas found in "Recommendations for Fire Safety and Prevention", dated March 1999, copies of which are available in the office of the Kittitas County Fire Marshal. Defensible space around structures does not constitute a portion of the developed area of a lot or parcel, and shall not be counted against any applicable lot coverage restrictions.

18

(c) The Wildfire Hazard Severity Rating shall have the following additional adjustment factors"

- Fire sprinklers in structures – subtract three (3) points; and
- External underground sprinklers – subtract one (1) point.

(d) Overall wildfire rating for :

Point Totals	Defensible space distance from structures
Low = 0-15 points	10 feet
Moderate = 15-30 points	20 feet
High = 30-45 points	25 feet
Extreme = 45+ points	30 feet +

18 (cont.)

Required conditions for public services are based, in large part, on assumptions and analyses of costs and revenues to City of Cle Elum and other service providers. The applicant shall verify, monitor and report on costs and revenues accruing to Kittitas County, the Cities of Cle Elum, South Cle Elum, and Roslyn and any other service providers periodically throughout development of the UGA. Such reports shall be submitted at the end of Year 1, Year 3, Year 5, Year 7, Year 10, and thereafter in 5-year increments until full buildout. The Conditions herein shall be modified, as appropriate; to reflect changes in UGA construction plans or operations that result in significant modifications to expected revenues and costs.

19

Fire Protection

The fire-flow for buildings other than one and two-family dwellings is dictated by the Uniform Fire Code as type of building construction and square footage of the building. Appendix III-A, Table A-III-A-1 provides fire flow in relation to building construction type. Fire flows range from 1500 gallon per min. for 2 hours of duration to 8000 gallon per min. for 4 hours of duration. Exception: A reduction in required fire flow of up to 75% , as approved, is allowed when the building is provided with an approved automatic sprinkler system. The resulting fire flow shall not be less than 1,500 gallons per minute

20

The developer shall establish an in-house, multi-service Fire/EMS unit, appropriately trained and equipped to respond as an initial-attack fire force. The persons in this unit shall be affiliated to its parent organization. City of Cle Elum shall require membership to its fire department. Cle Elum Fire will require the affiliation to an EMS service within Kittitas County to allow pre-hospital care as directed by the Medical Program Director.

21

All principal UGA structures with assembly, business, mercantile, residential, storage, and mixed use occupancies, shall be equipped with automatic fire sprinkler systems designed and installed in accordance with applicable codes and standards. The Kittitas County Fire Marshal shall determine whether additional buildings, not described previously, shall also be required to be sprinklered.

22

A UL approved site shall monitor all fire suppression and fire alarm detection automatic alarms. This is required by nationally recognized Fire Sprinkler codes, NFPA 13, 13D & 13R

The applicant shall provide support, through funding and/or in-kind contributions, for monitoring and reporting of Fire District 6, Fire District 7, Cle Elum, South Cle Elum and Roslyn responses to UGA-related fire service/EMS calls as a result of mutual aid provisions. Reports shall be submitted to City of Cle Elum at the conclusion of Years 1, 3, 5, 7 and 10 and thereafter in 5-year increments until buildout. Developer shall agree to enter into a Cooperative Agreement with City of Cle Elum Fire Department, similar to that attached hereto.

The applicant shall initiate discussions with City of Cle Elum regarding a funding/compensation agreement for UGA fire protection. As appropriate, in the event of any shortfall, the applicant shall provide contributions to City of Cle Elum, to supplement expected tax revenues, the additional staff and equipment deployed by City of Cle Elum to serve the UGA. Developer shall agree to enter into a Cooperative Agreement with City of Cle Elum Fire Department, similar to that attached hereto.

The applicant may make available a site and/or a proportionate share of funding, for a new fire station operated by City of Cle Elum on or adjacent to the UGA site. Developer shall agree to enter into a Cooperative Agreement with City of Cle Elum, similar to that attached hereto.

Recycling of wood building products will be a major issue. The recycle will allow waste to be used in a positive manner, the waste streams not increased, and the contractors not burning the products. Waste shall be controlled in a fire safe manner. All CDL wood waste shall be disposed of as called for in the Kittitas County Solid Waste.

The chipping and grinding of all forest debris, not considered as merchantable timbers, shall be considered as an alternative to large forest silvicultural fires. This large amount of wood product can and should be used in the trail system and the re-vegetating of the disturbed open areas. All CDL wood waste shall be disposed of as called for in the Kittitas County Solid Waste Plan. There shall be no outdoor burning of forest debris or other material by any owner of an individual residential lot.

The DOE is expecting and has planned for the restriction of open burning in all forms in the city of Cle Elum in the year 2005. With this in mind, all land clearing debris shall be properly disposed of

23

24

25

Emergency Response/Aid Services

The applicant shall, pursuant to a mitigation agreement with Hospital District 2, agree to acquire, equip and contribute an ALS ambulance to the district to ensure timely EMS capability to the UGA. The mitigation agreement shall address the timing of the mitigation plan. Alternatives to such purchase which may be pursued in cooperation with the District may include equipping the Cle Elm BLS ambulance to satisfy ALS requirements and arranging transport privileges that would allow an MPR/UGA paramedic to continue to provide ALS services during transport; or establishing protocols for automatically recalling and placing in service a back-up ambulance crew using the Hospital District 2 ambulance.

26

In cooperation with Hospital Districts 1 and 2, the applicant shall monitor the frequency of UGA-related demands for un-reimbursed emergency medical and hospital services generated by the MPR. Reports shall be submitted to City Years 1, 3, 5, 7 and 10 and thereafter in 5-year increments until buildout.

In coordination with Kittitas County's Solid Waste Department and the Department of Ecology, the applicant shall develop and implement a solid waste management plan for the UGA. The plan shall address expected waste volumes, waste reduction, recycling and handling considerations for all types of wastes. The plan shall include a recycling program to reduce solid waste volumes needed for disposal. The plan shall be submitted in accordance with the 1997 Kittitas County Solid Waste Management Plan for consideration as a project specific amendment. The plan shall complete the approval process in accordance with the 1997 Kittitas County Solid Waste Management Plan and shall become an UGA condition of approval. Any changes to the Plan shall be incorporated as UGA conditions of approval.

27

The following Condition is necessary to mitigate impacts related to land clearing debris.

- (a) The applicant shall not send land-clearing debris through the County owned transfer stations. Land Clearing Debris shall be given away free, chipped to be used in the equestrian facility, marketed as pulp, used on MPR trails or burned on site as conditioned by WAC 173-425-030 or as permitted by the County-approved Land Stewardship Plan.

The following Condition is necessary to mitigate impacts related to equestrian wastes.

- (a) The applicant shall not send equestrian wastes through the County owned transfer stations. Used bedding and horse manure shall be disposed of in accordance with WAC 246-203 and Board of Health Ordinance #1999-01. All such materials shall be hauled off-site for disposal.

The applicant shall support and participate in a program to monitor MPR-related demands for law enforcement, fire protection, emergency medical and hospital services, the response pattern to those service demands by local government service providers, and the costs associated with the respective jurisdictions' responses. The jurisdictions to be included in this program would include Kittitas County agencies, Fire Districts 6 and 7,

28

Hospital Districts 1 and 2, and the municipalities of Cle Elum, South Cle Elum and Roslyn.

The following measures shall be implemented by the applicant if necessary to ensure that revenue lags to service providers, if any, are identified and mitigated:

- (a) Provide funding to the City of Cle Elum Fire Department if necessary to supplement the increased tax revenues available to support the increased service costs.
- (b) In coordination with Hospital District 1 and Hospital District 2, monitor UGA-related revenues and costs to the Districts. The applicant shall reimburse the Districts for any shortfalls between MPR-generated revenues (including fee reimbursements from patients) and costs.

28 (cont.)

Fire Mitigation:

**“SAMPLE AGREEMENT”**

Surplus Military Vehicle

City agrees to:

- Secure a chassis that can be used as a combination tender and fire suppression vehicle during the initial phase of road and first building construction for UGA.

Developer agrees to:

- Pay the cost to convert the \_\_\_\_\_ vehicle to a usable unit. Conversion will include installation of a water tank, pump, side storage compartments, emergency radio and lights, miscellaneous equipment recommended by the Fire Chief and paint the vehicle. The Parties estimate that the cost of converting the surplus military vehicle may be approximately \$20,000, which equipment will be obtained through selection of the low bid in competitive bidding process;
- The \_\_\_\_\_ vehicle will be an all-terrain vehicle and should remain on the City of Cle Elum property until replaced by a newer tender; and
- The converted surplus military vehicle will be returned to the City when replaced by a permanent tender when it is necessary to replace it with a newer tender.

29

Training

City agrees to:

- Make arrangements for training classes to train members of the City and surrounding fire department in specialized rescue;
- Carry the mobile trench rescue equipment on the converted tender listed above; and
- Bid and purchase the equipment necessary for the trench rescue team and specialized rescue.

Developer agrees to:

- Reimburse the District for the cost of the trench rescue equipment in an amount estimated to be \$ \_\_\_\_\_;
- Pay the cost of the instructor and necessary materials used to put on the class;
- Have at least four of the UGA/Resort supervisory personnel attend the trench rescue class;
- Training programs shall be renewed on an annual basis during the period of open trench construction; and
- Have available on site, plywood, timbers and ropes designated only for use with the trench rescue team.

29 (cont.)

#### Public Safety Facility

City agrees to:

- To work with Developer in the design of a public safety facility on the property to accommodate fire personnel and equipment, medical personnel and equipment.

Developer agrees to:

- Construct such facility so that it is available concurrently with the opening of the first hotel.

#### Triple Combination Pumper

City agrees to:

- Provide specifications for a fully equipped triple combination pumper and tender, and to purchase the vehicle. The triple combination pumper shall be purchased such that it is available on site to coincide with the opening of the first hotel.

Developer agrees to:

- Reimburse the City for the cost triple combination pumper;

Initial Fire Fighters

City agrees to:

- The District agrees that the initial UGA personnel will also serve and be trained to serve as first response fire fighters.

Developer agrees to:

- Work with the City of Cle Elum Fire Department in the hiring process and pay the cost of the personnel. The personnel shall be hired and trained prior to the opening of the hotel.

Volunteer Fire Fighting Force

City agrees to:

- Recruit and maintain as large a volunteer fire fighting force as possible in the area of the UGA.

Developer agrees to:

- Pay the cost to train in fire suppression tactics those Resort employees who agree to serve as part of the volunteer fire fighting force; and
- Developers employees shall be under the supervision of the Chief of the City of Cle Elum Fire Chief for training and fire department activities.

The Parties understand and agree that conditions within the City as well as the UGA change from time to time. Consequently, flexibility must be maintained in this Agreement to allow for those changes. As a result, the Parties recognize that the following additional steps are necessary subsequent to the execution of this Agreement:

- Jointly develop a plan and schedule for additional fire fighting personnel and equipment. This plan shall be reviewed and updated on an annual basis, and filed with the City of Cle Elum.
- At full build-out the Parties anticipate that the equipment necessary for the UGA will include one (1) triple combination pumper, one (1) tender and

29 (cont.)

one (1) 4 x 4 one-ton or larger brush truck with skid mount tank and equipment. Providing mechanisms to ensure that this equipment is available at full build-out of the project shall be part of the plan listed above. All fire department apparatus must meet NFPA and Washington State Department of Labor and Industries Fire Fighter Safety Standards.

- Developer shall pay all costs for the firefighters and equipment on the UGA site not covered by revenues collected from within the UGA development so as not to result in any adverse financial impacts on parties outside the UGA who are served by the City.
- The City has the right to utilize these department members in any suppression activities within the City and for mutual aid responses as they see fit.
- The City shall negotiate the benefit these fire fighter personnel are to the entire City and pay a prorated share of the cost.
- The response area for apparatus and personnel assigned within the City to incidents outside the City shall be determined between the City Fire Chief and reviewed by the Director of the UGA. Any dispute to this designated response area as determined by the Fire Chief shall be resolved by the Kittitas County Fire Marshal.

29 (cont.)



**Comment 1**

Comment noted.

**Comment 2**

Comment noted. Section 3.16 of the Draft EIS includes compliance with the Washington Department of Natural Resources industrial precautions as a mitigation measure.

**Comment 3**

Comment noted. Implementation of a Land Stewardship Plan is discussed in Section 3.6, Plants and Animals, of the Draft EIS. The Cooperative Agreement among Trendwest, WDFW, and the Yakama Nation also includes a Land Stewardship Plan for the management of open space areas of the MPR property and the Cle Elum River corridor. Management of open space and buffer areas is incorporated in the City's draft Conditions of Approval for the project.

**Comment 4**

Refer to the response to Comment 3, above.

**Comment 5**

Comment noted. Section 3.1 of the Draft EIS states that development in the UGA would comply with Uniform Building Code guidelines.

**Comment 6**

Comment noted. Compliance with all applicable federal, state, and local regulations for storage and use of hazardous materials would be required. Alternative 5 no longer contains a golf course within the UGA. Refer to Section 2.5 of the Final EIS for a description of Alternative 5.

**Comment 7**

Refer to the response to Comment 3, above.

**Comment 8**

Wood-burning fireplaces and woodstoves would be prohibited in all residential units within the Cle Elum UGA. Construction-related and operational fire safety measures would be implemented (see Sections 3.16, Public Services, of the Draft EIS and 3.2, Air Quality, of the Final EIS).

**Comment 9**

Refer to the response to Comment 8, above.

**Comment 10**

Section 3.2, Air Quality, of the Final EIS has been updated to discuss “land clearing burning.” Outdoor burning would comply with fire protection regulations and provisions specified in a Land Clearing Burning Permit from the Department of Ecology. Potential recycling and disposal of land-clearing debris would be coordinated with the Kittitas County Solid Waste Program and the City of Cle Elum.

**Comment 11**

Mitigation measures in the Draft EIS include limiting noisy construction activities to between 7 a.m. and 7 p.m. This time period is carried forward in the draft Conditions of Approval and reflects a limitation on evening and nighttime construction that is more stringent than the Washington State Department of Ecology's noise regulations, which limit noisy construction activities to between 7 a.m. and 10 p.m. only at residential receiving properties (see Table 3.9-2 of the Draft EIS). Construction activity would occur consistent with city code requirements.

**Comment 12**

Comment noted.

**Comment 13**

Comment noted.

**Comment 14**

Comment noted. The City of Cle Elum and Kittitas County Fire Marshall would review and approve all emergency services access, which would meet all applicable state and local requirements. Access, fire (water) flow, and building standards are discussed in Section 3.16 of the Draft EIS and are updated for Alternative 5 in Section 3.15 of the Final EIS. Any traffic signals would require appropriate OPTICOM or other similar equipment to facilitate safe and efficient movement of emergency vehicles.

**Comment 15**

Comment noted.

**Comment 16**

Comment noted. Alternative 5 and the Master Site Plan Application include a proposal to prepare development standards and codes, covenants, and restrictions (CC&Rs) addressing the topics noted. Any proposed development standards or CC&Rs would only be approved if determined consistent with city plans and regulations.

**Comment 17**

All construction including, but not limited to, single-family residences would comply with adopted Uniform Fire Code requirements.

**Comment 18**

Comment noted. The City of Cle Elum and the Kittitas County Fire Marshall would evaluate all construction for compliance with applicable fire protection safety standards, including the March 1999 *Recommendations for Fire Safety and Prevention*.

**Comment 19**

The projected impact on public safety service providers is discussed in Sections 3.16 and 3.19 of the Draft EIS and in Sections 3.15 and 3.18 (for Alternative 5) and Appendix D of the Final EIS. These sections identify expected personnel and equipment costs associated with UGA development and a fiscal impact shortfall monitoring and mitigation program to track actual revenues and expenditures of the City of Cle Elum and Hospital District No. 2. The monitoring program would also require a shortfall mitigation payment if expenditures exceed revenues. Because the proposed shortfall mitigation would provide for monthly accounting of revenues and expenditures, it would respond fully to actual development impacts. Additional agreements associated primarily with development of the MPR that would apply to potential cumulative impacts have been negotiated with Kittitas County, Fire District No. 7, and KITTCOM. Shortfall monitoring and mitigation are not required for indirect impacts on other cities, which are not expected to be negative.

**Comment 20**

Comment noted. All construction would be required to comply with the Uniform Fire Code.

**Comment 21**

The City of Cle Elum would encourage UGA residents to participate in the Cle Elum volunteer fire department, although the City cannot require any individual to participate. Section 3.18 of the Final EIS identifies proposed mitigation for impacts on fire protection and emergency medical services.

**Comment 22**

Comment noted. All construction must comply with the requirements of the Uniform Fire Code, including, but not limited to, requirements for sprinklers.

**Comment 23**

Sections 3.16 and 3.19 of the Draft EIS describe projected impacts on fire protection services and proposed mitigation. Since the Draft EIS was published, the City's fiscal consultant has

prepared a Municipal Facilities and Services Expansion Plan, which describes in more detail expected personnel and capital expenditures necessary to mitigate impacts from the proposed development. Refer to Sections 3.15 and 3.18 and Appendix D of the Final EIS for additional discussion of these requirements for Alternative 5. Costs of fire protection services would be included in the proposed shortfall monitoring and mitigation program. Because the Fire Department is a department of the City and because the proposed shortfall monitoring and mitigation would be established in an agreement with the City, a separate agreement with the Fire Department is not necessary.

**Comment 24**

Comment noted. Refer to the response to Letter 2.

**Comment 25**

Refer to the response to Comment 10, above.

**Comment 26**

Since the Draft EIS was published, Hospital District No. 2 and Trendwest have negotiated a mitigation agreement. The agreement tracks UGA-related calls for service and establishes a shortfall mitigation plan to pay for UGA-related costs that exceed Hospital District property tax revenues and patient fees. Refer to Section 3.18 of the Final EIS for additional discussion of impacts and mitigation for Hospital District No. 2.

**Comment 27**

Refer to the responses to Letter 2 and Comment 10, above. Under Alternative 5, a Horse Park is not proposed.

**Comment 28**

Section 3.15, Section 3.18, and Appendix D of the Final EIS describe mitigation measures for impacts on public service agencies, including the City of Cle Elum, from development under the Reduced Density MPR and Alternative 5.

**Comment 29**

Comment noted. Refer to the response to Comment 23 above regarding monitoring and mitigation of impacts on fire services.

# REBOUND

• The Seattle/King County Building & Construction Trades Council •

5/2/01

received  
5/4/2001  
City of Cle Elum

The Hon. Gary Berndt,  
Mayor,  
City of Cle Elum  
119 W. First St.  
Cle Elum, WA 98922

Dear Mayor Berndt:

Comments herein are submitted on behalf of REBOUND, an organization representing the interests of skilled construction trade workers. REBOUND and its affiliates have many members who live in the area and would be affected by the proposed UGA expansion. We appreciate the extensive efforts the City has made to mitigate the proposed resort but continue to believe that more can and should be done. While many impacts have been studied, others have not been addressed.

## PROPORTIONATE SHARE

First I would like to follow up on my previous comments regarding proportionate-share payment for transportation improvements and the city's ability to pay its share "after the fact" through some cost-recovery mechanism. The State Constitution requires that taxation be "uniform" and this is commonly interpreted as meaning over an entire jurisdiction. The City cannot pick and choose who is to be taxed within its jurisdiction. This presents a problem in funding the City's after-the-fact proportionate share. Short of raising taxes on the entire jurisdiction, the only way the City can do this is to create a LID in the effected area. This could be problematic if a majority of the property owners in the proposed LID are opposed to paying for transportation impacts that are seen as caused by and benefiting Trendwest and have already been paid for. Furthermore, if the City's share is substantial, the LID may have to be sized such that the individual charge is not burdensome. This could put the City in the position of taxing those who do not directly benefit from the transportation improvement.

Additionally, impact fees to pay for transportation improvements would have to cover the entire jurisdiction and going this route will inevitably lead to projects that do not benefit from the traffic improvements paying for them.

This issue should be looked at with more scrutiny in the final EIS and further mitigation sought from Trendwest to avoid unnecessary legal and political hassles surrounding taxing mechanisms.

2700 First Avenue, #103 Seattle, Washington 98121 1-800-244-9178, (206) 441-7364 or 441-0455



**FISCAL IMPACTS**

Careful scrutiny of Appendix H, dealing with Fiscal Impacts, leads to a series of troubling questions regarding insufficiently studied and insufficiently mitigated fiscal impacts on local jurisdictions.

Of the ten governmental jurisdictions covered in the DEIS: the State of Washington, KITTCOM, Kittitas County Hospital District #2, Cle Elum-Roslyn School District #404, the Cities of Cle Elum, Roslyn, Ellensburg and South Cle Elum and Kittitas County Fire District #7, one is predicted to experience a positive net fiscal impact in all years, five are predicted to experience negative fiscal impacts in the first few years followed by positive fiscal impacts in future years and four are not discussed due to limited fiscal impact.

2

The State of Washington is the one jurisdiction predicted to experience a positive fiscal impact in all years. The total over 30 years is estimated to vary from \$50-74 million, depending on alternative. The important fact that is left out of this overview is that the costs attributed to WSDOT are likely underestimated and cover only road maintenance. Costs of additional safety and capacity improvements on SR 903 or I-90 are not included. Any kind of improvements to I-90, such as widening or improving the interchanges in the Cle Elum area, could easily erase any positive net fiscal impact to the state.

3

The Cities of Ellensburg, Roslyn and South Cle Elum and KCFPD #7 are not studied because impacts are thought to be minimal, due to distance in the case of Ellensburg and lack of a retail base in South Cle Elum and Roslyn. While legitimate arguments can be made to not study fiscal impacts on the Fire District, Ellensburg and South Cle Elum, failure to study fiscal impacts to the City of Roslyn misses potentially significant impacts.

Roslyn's proximity to the UGA and MPR and its historical attractions will naturally make it a destination for resort residents and visitors. While some positive fiscal impacts can be expected from addition patronage of the businesses in town and the possibility of new businesses growing to serve resort residents and visitors, the potential negative fiscal impacts remain unexplored. Chief among these are the impacts on the city's water supply system, both its quantity and quality, and the physical infrastructure in town, including roads, sidewalks and lighting. Increased development and tourist activity will lead to increased demands for infrastructure developments while the ability to finance such needs may not exist. Potential impacts to Roslyn should be studied in further detail.

4

**Short-term Revenue Shortages Predicted**

Of the ten jurisdictions studied, five are predicted to face short-term revenue shortages. Included in this predicament are Kittitas County, the City of Cle Elum, Kittitas County Hospital District #2, Cle Elum-Roslyn School District #404 and KITTCOM. All are predicted to lose anywhere from \$1,000 to \$100,000 in the first year and decreasing amounts in the following years.

5

**Kittitas County**

Kittitas County is expected to see shortfalls:

Alternative 2:	\$410,000 loss in the first five years
Alternative 3:	\$407,000 loss in the first five years
Alternative 4:	\$302,000 loss in the first five years

**City of Cle Elum**

Cle Elum is predicted to lose money the first few years of the UGA build out.

Alternative 2:	\$86,000 loss in first two years
Alternative 3:	\$92,000 loss in first six years
Alternative 4:	\$92,000 loss in first two years

**Kittitas County Hospital District #2**

The hospital district is predicted to lose money in the early years of the UGA build out:

Alternative 2:	\$424,000 loss in first 11 years
Alternative 3:	\$406,000 loss in first 11 years
Alternative 4:	\$206,000 loss in first 5 years

5 (cont.)

According to a recent Seattle Times Article (4/23/2001) the Hospital District is currently suffering financial difficulties. Some residents of the UGA and MPR will be retirees and thus more likely to utilize the District's services, driving up the impact on the District's financial situation.

**KITTCOM**

KITTCOM is predicted to lose money every year of the 30-year UGA build-out:

Alternative 2:	\$1.107 million loss over 30 years
Alternative 3:	\$1.264 million loss over 30 years
Alternative 4:	\$1.715 million loss over 30 years

Additionally, Appendix H lists subscriber fees as one of the UGA-generated revenues that are to fund KITTCOM. These subscriber fees come out of jurisdictional budgets and unless or until the jurisdictions have the necessary revenue to pay the increased subscriber fee, KITTCOM will face further shortfalls.

**Cle Elum-Roslyn School District #404**

District #404 is predicted to lose money the first five years of the UGA build-out:

Alternative 2:	\$272,000 loss in first five years
Alternative 3:	\$287,000 loss in first five years
Alternative 4:	\$210,000 loss in first four years

Additionally, the section on new school construction assumes that the state will pay 80% of the cost of new school construction. In reality, the state's share is closer to 40% on a statewide average so an 80% match seems particularly speculative.

**Making up the Difference**

Total Predicted Shortfalls for all jurisdictions under Alternative 2: \$2.299 million  
Total Predicted Shortfalls for all jurisdictions under Alternative 3: \$2.456 million  
Total Predicted Shortfalls for all jurisdictions under Alternative 4: \$2.525 million

While the same entities (with the exception of KITTCOM) are projected to see surpluses in succeeding years, there is little discussion of how the jurisdictions are to cope with the early-year shortfalls. Will staff be laid off or services cut? Will taxes be raised on current residents to make up the difference? Will Trendwest pay the difference?

5 (cont.)

Given that the jurisdictional entities must balance their budgets, they will have to either cut services or raise taxes to make up the difference, unless Trendwest can be made to make up the shortfalls in the early years of the UGA buildout.

Most mitigation measures referenced include frequent mention of monitoring, studies and cost-sharing arrangements. Trendwest should be required to transfer funds, in an amount sufficient to cover the total projected shortfall, to a fund set up to pay claims by effected jurisdictions.

**Increased Expectations of Government Services**

Harder to quantify but equally important is the likelihood of west-siders moving in and bringing with them increased expectations of government services. Since most UGA owners and dwellers will likely be from a higher-income bracket than many county residents, they will be able to afford increased taxes to pay for services they expect. For example, West-siders will expect a professional response during a fire, both in terms of response time and staffing. They will expect roads to be paved. They will complain about outdoor burning's effects on air quality and the smell from cows and horses. In sum, they will put increasing demands on local government to raise its services to urban standards and with it, urban costs. This has been the case in many of the formerly small, rural towns in the central Puget Sound region.

6

**Conclusion**

REBOUND believes the fiscal impacts are understated in the DEIS and should be examined in greater detail. Additional mitigation should be sought from Trendwest,

7



particularly "short-term shortfall" funds to make up for deficits in the early years of the UGA build out.

7 (cont.)

Respectfully Yours,



Brian Carpenter  
Research Analyst

opeiu8/afl-cio

## **Letter 29**

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### **Comment 1**

Comment noted. Refer to the response to Letter 7, Comment 16.

### **Comment 2**

Refer to the response to Letter 7, Comment 16.

### **Comment 3**

Refer to the response to Letter 14.

### **Comment 4**

Comment noted. The RIDGE Settlement Agreement has addressed this issue. Refer to the response to Letter 27.

### **Comment 5**

Refer to the response to Comment 1, above. The discussion of KITTCOM has been updated in the Final EIS. The Draft EIS discussed KITTCOM as a separate public service agency and projected deficits throughout the 30-year buildout period. In reality, costs to KITTCOM would be mitigated through the structure of its revenue acquisition. It is anticipated that the subscriber fees will be set to cover costs not covered through the telephone surcharge or grant monies. Subscriber fees (per-call basis) will be billed to affected public service providers (City of Cle Elum and Hospital District No. 2). Charges attributable to UGA development will be included in the shortfall monitoring and shortfall payment agreements between Trendwest and the City of Cle Elum, and Trendwest and Hospital District No. 2.

### **Comment 6**

Comment noted.

### **Comment 7**

Comment noted. Refer to Section 3.18 and Appendix D of the Final EIS. Refer to the response to Letter 7, Comment 16.

**Dark Skies Northwest**

C/O Bruce Weertman  
 6749 18<sup>th</sup> Ave NW  
 Seattle, WA

**received**  
 5/1/2001  
 City of Cle Elum

May 1, 2001

City of Cle Elum, 119 West First Street, Cle Elum, WA 98922

Dear City of Cle Elum:

This letter concerns the UGA / Trendwest Properties Draft EIS and Light Pollution.

I represent the International Dark Sky Association (IDA). The IDA's mission is to "To preserve and protect the nighttime environment and our heritage of dark skies through quality outdoor lighting". IDA's goals are to be effective in stopping adverse environmental impacts on dark skies by building awareness of the problem of light pollution and of the solutions, and to educate everyone about the value and effectiveness of quality nighttime lighting.

Thirty years ago, the Milky Way was visible from many of Seattle's neighborhoods. Today, because of excessive light pollution, only the brightest stars are visible from Seattle. For amateur astronomers living in the Everett, Seattle, and Tacoma metropolitan region, the countryside around Cle Elum is one of the closest areas with skies that are dark enough for serious observing. Table Mountain, which is about 15 miles east of Cle Elum, is by far the most popular star-watching site in the state of Washington and perhaps for the entire NW United States (see <http://www.tmspa.com>). Every summer, Table Mountain is the site of one of the largest "Star Parties" in the country. This three-night event draws close to 1,500 amateur astronomers. Several members of the Seattle Astronomical Society own property in the Cle Elum area for astronomical observing. The University of Washington operates the Manastash Ridge Observatory roughly 15 miles south east of Cle Elum. My point is simple; many people value the darkness of the night sky in the Cle Elum area.

In general, the level of sky glow generated by light pollution is proportional to an urban area's population; when the population doubles, the number of lights double and the level of sky glow doubles. Effective outdoor lighting codes can, and do, reduce this proportionality. For example, Tucson Arizona has a population approaching 1 million yet because of its good lighting code it creates the sky glow of a "typical" population of 80,000. A good lighting code dictates, amongst other things, that outdoor lights must be fully shielded. The IDA publishes an *Outdoor Lighting Code Handbook* which discusses in detail how to write an effective Outdoor Lighting Code (a copy is included with this letter and it is available on the web at <http://www.darksky.org/ida/library.html>). Many communities have adapted their own lighting codes. In the NW United States, noteworthy examples are Deschutes County, Oregon and Ketchum, Idaho. Copies of these well-written lighting codes are included with this letter. A compilation of lighting codes in the NW is available at <http://www.scn.org/darksky/code/>.

The Outdoor Lighting Code Handbook defines four environmental zones:

**Zone E1:**

Areas with intrinsically dark landscapes. Examples are national parks; areas of outstanding natural beauty, areas surrounding major astronomical observatories, or residential areas where inhabitants have expressed a strong desire that all light trespass be strictly limited.

**Zone E2:**

Areas of low ambient brightness. These are suburban and rural residential areas.

Zone E3:

Areas of medium ambient brightness. These will generally be urban residential areas.

Zone E4:

Areas of high ambient brightness. Normally these are urban areas that have both residential and commercial use and experience high levels of nighttime activity.

I encourage you to define the UGA / Trendwest Properties as an E1 zone and to write your code with the handbook's recommendations for this zoning. This will guarantee the preservation of your areas dark skies. Amongst other things, you should consider a "lumen cap". A lumen cap sets a maximum for the number of lumens that maybe shined onto an acre of property. I also encourage you to limit the number of months that holiday lighting may be displayed. For example, only allow holiday lighting from Thanksgiving through 15 January. Although I may sound like the Grinch, I would like to point out that at a distance of 1 mile a single 100 watt incandescent bulb outshines the combined light of all of the stars in the night sky! I encourage you to ban sports lighting. In particular I would like to point out that it is essentially impossible to light a night time golf driving range in a way that doesn't great huge amounts of glare and sky glow. If you do allow sports lighting, the code should dictate that only fully shielded lighting system be used such as the one sold by Softlite (<http://www.serv.net/soft/index.html>).

2 (cont.)

A good lighting code will (1) help preserve your natural setting, (2) save energy and money, (3) help preserve your property values and (4) save our view of the cosmos for generations to come.

Sincerely,



Bruce Weertman  
Chair, Dark Skies Northwest – NW Section of the IDA  
On the web at <http://www.scn.org/darksky>  
The IDA is on the web at <http://www.darksky.org>

COMMENT SHEET  
City of Cle Elum - UGA / Trendwest Properties DEIS

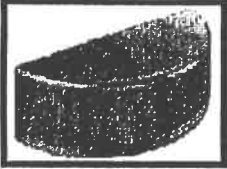
See Attached Letter

Bruce Weertman	6749 15th Ave. NW	Seattle	98117
Name	Street Address	City/Town	ZIP

**OUTDOOR LIGHTING**

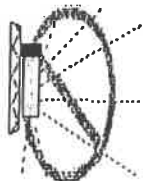
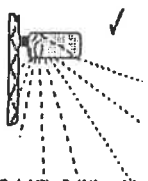
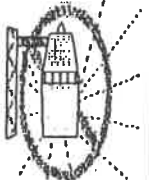
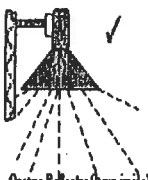
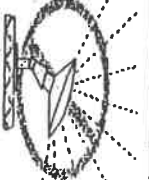
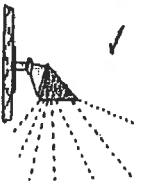
If outdoor lighting is not well-designed and properly installed, it can be costly, inefficient, glare, and harmful to the nighttime environment. Four effects of poor lighting are:

- Glare
- Light Trespass
- Energy Waste
- Sky Glow



**mcPhilben Lighting**

**EXAMPLES OF SOME COMMON LIGHTING FIXTURES**

POOR	GOOD
 Typical 'Wall Pack'	 Typical 'Shoe Box' (forward throw)
 Typical 'Yard Light'	 Opaque Reflector (lamp inside)
 Area Flood Light	 Area Flood Light with Hood

Deschutes County Community Development Dept.  
117 NW Lafayette Avenue  
Bend, OR 97701  
(541) 308-6575  
Website: <http://newberry.deschutes.org/cddweb/cdd.htm>

OUTDOOR LIGHTING  
ORDINANCE



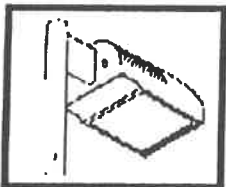
**Good  
Neighbor  
Outdoor  
Lighting**

**EFFICIENT  
 OUTDOOR  
 LIGHTING**

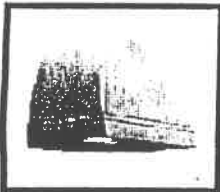
The efficient and effective use of electrical lighting outdoors can offer major energy and cost savings. This information sheet shows some of the different types of lighting that can be used to replace the old type outdoor lighting.



Hubbell Lighting NPU-BI-Skycap  
 Low Cost



Kim Lighting SAR High cost



McPhibben Lighting High Cost



Abolite DWB-1 Low Cost

**ALTERNATIVE LIGHTING  
 RESOURCES**

Good lighting means that we save energy and money, and we avoid hassles. A quality lighting job makes a "good neighbor." And we have a safer and more secure nighttime environment.

**GOOD  
 LIGHT-  
 ING**

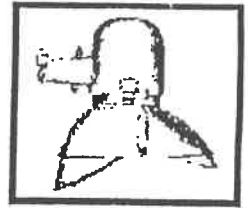


Westerfield-low cost-Series 500

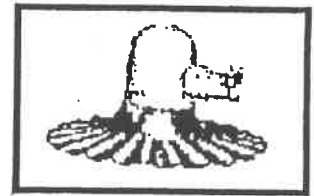
**COMMON  
 LIGHTING  
 FIXTURES**

It provides adequate light for the intended task, but never over-lights. It uses "fully-shielded" lighting fixtures, fixtures that control the light output in order to keep the light in the intended area. It has the lighting fixtures carefully installed to maximize their effectiveness on the targeted property and minimize their adverse impact beyond the property borders.

Thomas & Betts  
 Series 113 & 125



Pemco Lighting  
 Model-Admiral Hat



Slonca RLM3000 & RMS 3000



Deschutes County Community Development Dept.  
 117 NW Lafayette Avenue  
 Bend, OR 97701  
 (541) 388-6575  
 Website: <http://newberry.deschutes.org/cddweb/cdd.htm>

### Frequently asked questions

#### WHAT ABOUT CRIME?

Experienced professionals  
in law enforcement say:

"There is no statistically  
significant evidence that  
street lighting impacts  
the level of crime,  
although it reduces the  
fear of crime."

—Law Enforcement Assistance  
Administration, Dept. of Justice.

#### WHAT ABOUT VANDALISM?

The 4-J school district in  
Eugene, Oregon has eight  
schools enrolled in their  
"Dark Campus" program.  
"Vandalism has virtually  
disappeared in certain  
problem schools.

This is not a program to  
eliminate lighting! This is a  
program to eliminate bad  
lighting and encourage  
BETTER and BEST lighting.



### You can help improve the quality of your night lights!

#### 1. For more information CONTACT:

\* International Dark Sky  
Association.  
Phone: 520-293-3198  
<http://www.darksky.org>  
E-mail: [IDA@darksky.org](mailto:IDA@darksky.org)

\* Dark Skies Northwest  
<http://www.scn.org/darksky>  
[darksky@scn.org](mailto:darksky@scn.org)

#### 2. To ARRANGE for an informative talk for your church, community group, service club, city council, school board or just a group of neighbors and friends—contact:

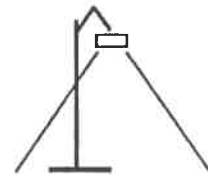
Bruce Weertman  
Dark Skies Northwest  
6749 18th Ave NW  
Seattle, WA 98117

(206) 783-9514  
[darksky@scn.org](mailto:darksky@scn.org)  
<http://www.scn.org/darksky>

### Standard Outdoor Lighting Creates Serious Problems for Everyone

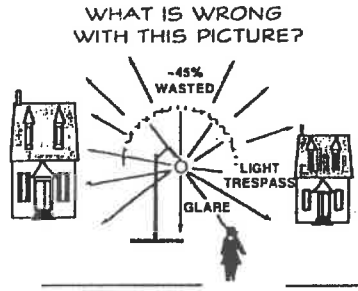
because it:

1. Decreases security  
and safety.
2. Causes glare.
3. Decreases visibility.
4. Is expensive.
5. Wastes money.
6. Causes global  
pollution.
7. Obliterates beauty  
of the night sky.





**Current lighting fixtures create widespread problems.**

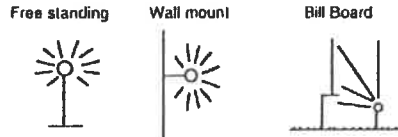


This picture shows a typical widely-used light. It is bright and unshielded which leads to the following problems:

- a. Unshielded lights create glare. Glare decreases visibility.
- b. Unshielded lights are expensive. 35-70% is wasted by going up in space.
- c. Wasted energy contributes to unnecessary global pollution.
- d. Unshielded lights cause light trespass into one's own home and violate privacy in others'.
- e. Uplight causes sky glow and obliterates stars, meteors, and the northern lights. As a result, astronomical deep-space study is severely hampered and we can no longer see the beautiful night sky.

The SOLUTION is SIMPLE:  
"Light the subject, hide the source."

**The best lighting fixtures put light where it is needed.**



**POOR**

Notice how these light fixtures throw light every where. "One person's security light can become another person's prison light."



**GOOD**

This fixture does not throw the light up.



**BETTER**

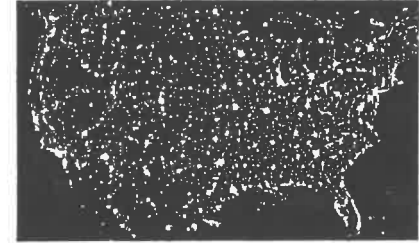
These fixtures direct the light exactly where it is needed! Here we get everything we want in outdoor light systems:

- ✓ Visibility: Shopping malls, streets, building entrances, driveways.
- ✓ Security: Improved personal security and minimized vandalism.

**BEST**

Use fixtures indicated above as "BETTER," -then turn the lights off when they are not needed.

**Lighting the sky wastes money.**



This composite photograph of the USA at night shows the problem that must be solved. We are lighting up the universe, and the USA alone is wasting, each year, more than \$1,000,000,000.

**WHO IS CHANGING?**

- Schools across the US are implementing "Dark Campus."
- At least 150 cities and counties have passed good night light laws and ordinances.
- Lighting engineers are beginning to consider the total environment, not just filling spaces with light.
- City of Tucson is saving \$2M per year with new street lights.
- San Diego reduced electric costs by 67% with updated fixtures!

Replaced existing light fixtures usually pay for themselves in 3-5 years! Use upgraded fixtures in new installations!

**Ordinance Number 743**

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO, TO BE KNOWN AS THE "DARK SKY ORDINANCE" ESTABLISHING REGULATIONS AND GUIDELINES FOR EXTERIOR LIGHTING; PROVIDING FOR GENERAL PROVISIONS, DEFINITIONS, CRITERIA, NOTIFICATION, THE CITY'S ROLE, AND VIOLATIONS, LEGAL ACTIONS AND PENALTIES; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, unnecessary and improperly designed light fixtures cause glare, light pollution and wasted resources; and,

WHEREAS, glare and light pollution can result in: hazardous circulation conditions for all modes of transportation; the diminishing ability to view the night sky; light trespass; and, unattractive townscape; and,

WHEREAS, the people who live in and near Ketchum value the natural environment, including the beauty and high quality of the night sky; and,

WHEREAS, the City of Ketchum is a destination resort community, economically dependent upon tourists and part-time residents; and is dependent upon its natural resources and environment to attract tourists and part-time residents; and,

WHEREAS, the City of Ketchum desires to protect the health, safety and welfare of the (residents, tourists, motorists and) general public, and to protect the night sky that adds to the quality of life and economic well being of the City; and,

WHEREAS, these regulations for exterior lighting will not sacrifice the safety of our citizens or visitors, or the security of property, but instead will result in safer, efficient and more cost-effective lighting.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO:**

**SECTION 1 - GENERAL PROVISIONS**

1.1 Title - This Ordinance together with the amendments thereto, shall be known and may be cited as the Ketchum Dark Sky Ordinance.

1.2 Purposes - The general purpose of this Ordinance is to protect and promote the public health, safety and welfare, the quality of life, and the ability to view the night sky, by establishing regulations and a process of review for exterior lighting. This Ordinance establishes standards for exterior lighting in order to accomplish the following:

- a. To protect against direct glare and excessive lighting;
  - b. To provide safe roadways for motorists, cyclists and pedestrians;
  - c. To protect and reclaim the ability to view the night sky, and thereby help preserve the quality of life and the tourist experience;
  - d. To prevent light trespass in all areas of the City;
- <http://www.scn.org/darksky/code/id/ketcdrl0.html> 5/1/01

- e. To promote efficient and cost effective lighting;
  - f. To ensure that sufficient lighting can be provided where needed to promote safety and security;
- g. To allow for flexibility in the style of lighting fixtures;
- h. To provide lighting guidelines;
  - i. To provide assistance to property owners and occupants in bringing nonconforming lighting into conformance with this Ordinance; and,
  - j. To work with other jurisdictions within Blaine County to meet the purposes of this Ordinance.

1.3 Scope - All exterior lighting installed after the effective date of this Ordinance in any and all zoning districts in the City of Ketchum shall be in conformance with the requirements established by this Ordinance and any other applicable ordinances. All existing lighting installed prior to the effective date of this Ordinance in any and all zoning districts in the City of Ketchum shall be addressed as follows:

- a. All existing lighting located on a subject property that is part of an application for a City of Ketchum Planning Department Design Review, Conditional Use, or Subdivision Permit, or Building Permit is required to be brought into conformance with this Ordinance. Conformity shall occur prior to issuance of Certificate of Occupancy, Final Inspection, or Final Plat Recordation, when applicable. For other permits, the applicant shall have a maximum of thirty (30) days from date of permit issuance to bring the lighting into conformance.
- b. All existing exterior commercial lighting that is not in conformance with this Ordinance shall be brought into conformance with this Ordinance within twelve (12) months from the date of adoption of this Ordinance, by June 30, 2000.
- c. All existing lighting that does not meet the requirement of Zoning Ordinance Number 208, Section XXIV, Subsection 24.5, which states that "any parking, yard, or building illumination in [any] zoning [district] shall be so directed as to protect adjacent properties from glare and direct lighting" is required to be brought into conformance with this Section of Zoning Ordinance Number 208.
- d. All existing exterior residential lighting, not affected by (a) and (c) above, that does not comply with this Ordinance is required to be brought into conformance with this Ordinance within two years from the date of adoption of this Ordinance, by June 30, 2001.
- e. In the event of a discrepancy in applicable ordinances, the most restrictive shall apply.

**SECTION 2 - DEFINITIONS**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application.

<http://www.scn.org/darksky/code/id/ketcdrl0.html>

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**2.1 Area Light** - Light that produces over 1800 lumens (See Addendum 1 for Light Output of Various Lamps). Area lights include, but are not limited to, street lights, parking lot lights and yard lights.

**2.2 Average Footcandle** - The level of light measured at an average point of illumination between the brightest and darkest areas. The measurement can be made at the ground surface or at four to five feet above the ground.

**2.3 Ballast** - A device used with a discharge lamp to obtain the necessary voltage, current, and/or wave form for starting and operating the lamp.

**2.4 Building Official** - The City of Ketchum Building Official.

**2.5 Bulb** - The source of electric light. To be distinguished from the whole assembly (See Luminaire).

**2.6 Candela (cd)** - Unit of luminous intensity.

**2.7 Commission** - The City of Ketchum Planning and Zoning Commission.

**2.8 Eighty-five (85) Degree Full Cut-Off Type Fixtures** - Fixtures that do not allow light to escape above an 85 degree angle measured from a vertical line from the center of the lamp extended to the ground. (See Figure 2).

**2.9 Existing Lighting** - Any and all lighting installed prior to the effective date of this Ordinance.

**2.10 Exterior Lighting** - Temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside are considered exterior lighting for the intent of this Ordinance.

**2.11 Fixture** - The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

**2.12 Flood Light** - Light that produces up to 1800 lumens (See Addendum 1 for Light Output of Various Lamps) and is designed to "flood" a well-defined area with light. Generally, flood lights produce from 1000 to 1800 lumens.

**2.13 Flux (radiant flux)** - Unit is erg/sec or watts.

**2.14 Footcandle** - Illuminance produced on a surface one foot from a uniform point source of one candela. Measured by a light meter.

**2.15 Full Cut-Off Fixtures** - Fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted. (See Figure 1).

**2.16 Glare** - Intense light that results in discomfort and/or a reduction of visual performance and visibility.

**2.17 Holiday Lighting** - Festoon type lights, limited to small individual bulbs on a string, where the spacing of bulbs is not closer than three inches and where the output per bulb is no greater than 15

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lumens.

**2.18 IESNA - Illuminating Engineering Society of North America (IES or IESNA) -** The professional society of lighting engineers, including those from manufacturing companies, and others professionally involved in lighting.

**2.19 Illuminance -** Density of luminous flux incident on a surface. Unit is footcandle or lux.

**2.20 Lamp -** The source of electric light: the bulb and its housing. To be distinguished from the whole assembly (See Luminaire).

**2.21 Light -** The form of radiant energy acting on the retina of the eye to make sight possible; brightness; illumination; a lamp, as defined above.

**2.22 Light Pollution -** Any adverse effect of manmade light including, but not limited to, light trespass, uplighting, the uncomfortable distraction to the eye, or any manmade light that diminishes the ability to view the night sky. Often used to denote urban sky glow.

**2.23 Light Trespass -** Light falling where it is not wanted or needed, generally caused by a light on a property that shines onto the property of others.

**2.24 Lighting -** Any or all parts of a luminaire that function to produce light.

**2.25 Lumen -** Unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one candela. One footcandle is one lumen per square foot. One lux is one lumen per square meter.

**2.26 Luminaire -** The complete lighting unit, including the lamp, the fixture, and other parts.

**2.27 Luminance -** At a point and in a given direction, the luminous intensity in the given direction produced by an element of the surface surrounding the point divided by the area of the projection of the element on a plane perpendicular to the given direction. Units: candelas per unit area. The luminance is the perceived brightness that we see, the visual effect of the illuminance, reflected, emitted or transmitted from a surface.

**2.28 Non-Essential -** Lighting that is not necessary for an intended purpose after the purpose has been served. Does not include any lighting used for safety and/or public circulation purposes. Example: For purposes of this Ordinance, lighting for a business sign is considered essential during business hours, however, is considered non-essential once the business is closed.

**2.29 Partially Shielded -** The bulb of the fixture is shielded by a translucent siding and the bulb is not visible at all. Light may be emitted at the horizontal level of the bulb. (See Figure 3).

**2.30 Planning and Zoning Administrator -** The City of Ketchum Planning and Zoning Administrator or a member of the City of Ketchum Planning Department Staff.

**2.31 Recessed -** When a light is built into a structure or portion of a structure such that the light is fully cut-off and no part of the light extends or protrudes beyond the underside of a structure or portion of a structure.

**2.32 Shielded -** When the light emitted from the fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted. The bulb is not visible with a shielded  
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light fixture, and no light is emitted from the sides of the fixture. Also considered a full cut-off fixture. (See Figure 4).

**2.33 Temporary Lighting** - Means lighting that is intended to be used for a special event for seven (7) days or less.

**2.34 Uplighting** - Lighting that is directed in such a manner as to shine light rays above the horizontal plane.

### SECTION 3 - CRITERIA

The Commission, the Building Official and/or the Planning and Zoning Administrator shall have the authority to require new lighting, and existing lighting pursuant to Section 1.3(a) hereinabove, to meet the recommendations and guidelines, in addition to the requirements of this Ordinance.

3.1 All applications for Design Review, Conditional Use, Subdivision and/or Building Permits shall include lighting plans showing location, type, height, and lumen output of all proposed and existing fixtures. The applicant shall provide enough information to verify that lighting conforms to the provisions of this Ordinance. The Planning and Zoning Administrator, Commission and/or Building Official shall have the authority to request additional information in order to achieve the purposes of this Ordinance.

3.2 All exterior lighting shall be full cut-off fixtures with the light source fully shielded, with the following exceptions:

a. Luminaires that have a maximum output of 260 lumens per fixture, regardless of number of bulbs, (equal to one 20 watt incandescent light), may be left unshielded provided the fixture has an opaque top to keep light from shining directly up. (See Figure 5).

b. Luminaires that have a maximum output of 1,000 lumens per fixture, regardless of number of bulbs, (equal to one 60 watt incandescent light) may be partially shielded, provided the bulb is not visible, and the fixture has an opaque top to keep light from shining directly up. (See Figure 3).

c. Flood lights with external shielding may be angled provided that no light escapes above a 25 degree angle measured from the vertical line from the center of the light extended to the ground, and only if the light does not cause glare or light to shine on adjacent property or public rights-of-way. (See Figure 6). Flood lights with directional shielding are encouraged. (See Figure 7). Photocells with timers that allow a floodlight to go on at dusk and off by 11:00 p.m. are encouraged.

d. Holiday lights as defined in Subsection 2.17 are exempt from the requirements of this Ordinance for the six and one half month period from November 1 to April 15, except that flashing holiday lights are prohibited on commercial properties. Flashing holiday lights on residential properties are discouraged. Holiday lights are encouraged to be turned off after bedtime and after close of businesses.

e. Sensor activated lighting may be unshielded provided it is located in such a manner as to prevent direct glare and lighting into properties of others or into a

public right-of-way, and provided the light is set to only go on when activated and to go off within five minutes after activation has ceased, and the light shall not be triggered by activity off the property.

f. Vehicular lights and all temporary emergency lighting needed by the Fire and Police Departments, or other emergency services shall be exempt from the requirements of this Ordinance.

**3.3 Light Trespass** - It is the intent of this Ordinance to eliminate and prevent light trespass through the proper installation of lighting fixtures. All existing and/or new exterior lighting shall not cause light trespass and shall be such as to protect adjacent properties from glare and excessive lighting.

**3.4 IESNA Guidelines** - The Commission may require that any new lighting or existing lighting that comes before them meet the standards for footcandle output as established by IESNA.

**3.5 All non-essential exterior commercial and residential lighting** is encouraged to be turned off after business hours and/or when not in use. Lights on a timer are encouraged. Sensor activated lights are encouraged to replace existing lighting that is desired for security purposes.

**3.6 Area Lights** - All area lights, including street lights and parking area lighting, shall be full cut-off fixtures and are encouraged to be eighty-five (85) degree full cut-off type fixtures. Street lights shall be in accordance with the Idaho Power Franchise Agreement and/or the Light Conformance Schedule adopted by resolution by the City Council. Street lights shall be high pressure sodium, low pressure sodium, or metal halide, unless otherwise determined by the Council that another type is more efficient. Street lights along residential streets shall be limited to a 70 watt high pressure sodium (hps) light. Street lights along nonresidential streets or at intersections shall be limited to 100 watts hps, except that lights at major intersections on state highways shall be limited to 200 watts hps. If the Council permits a light type other than high pressure sodium, then the equivalent output shall be the limit for the other light type (See Addendum 1). For example: a 100 watt high pressure sodium lamp has a roughly equivalent output as a 55 watt low pressure sodium lamp, or a 100 watt metal halide lamp.

Parking area lights are encouraged to be greater in number, lower in height and lower in light level, as opposed to fewer in number, higher in height and higher in light level. Parking lot lighting shall not exceed IESNA recommended footcandle levels.

All freestanding area lights within a residential zone, except street lights, shall be mounted at a height equal to or less than the value  $3 + (D/3)$ , where D is the distance in feet to the nearest property boundary.

**3.7 Luminaire Mounting Height** - Free standing luminaires shall be no higher than 25 feet above the stand/pole base, except that luminaires used for playing fields shall be exempt from the height restriction provided all other provisions of this Ordinance are met and the light is used only while the field is in use, and except that street lights used on major roads may exceed this standard if necessary as determined by the City Council, as advised by a lighting engineer. Building mounted luminaires shall be attached only to walls, and the top of the fixture shall not exceed the height of the parapet or roof, whichever is greater.

**3.8 Uplighting** - Uplighting is prohibited in all zoning districts, except in cases where the fixture is shielded by a roof overhang or similar structural shield from the sky and a Idaho licensed architect or engineer has stamped a prepared lighting plan that ensures that the light fixture(s) will not cause light to extend beyond the structural shield, and except as specifically permitted in this Ordinance.

**3.9 Flag Poles** - Upward flagpole lighting is permitted for governmental flags only, and provided that

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the maximum lumen output is 1300 lumens. Flags are encouraged to be taken down at sunset to avoid the need for lighting.

**3.10 Service Stations** - The average footcandle lighting level for new and existing service stations is required to be no greater than 30 footcandles, as set by the IESNA for urban service stations.

**3.11 Canopy Lights** - All lighting shall be recessed sufficiently so as to ensure that no light source is visible from or causes glare on public rights-of-way or adjacent property.

**3.12 Landscape Lighting** - Lighting of vegetation is discouraged and shall be in conformance with this Ordinance. Uplighting is prohibited.

**3.13 Towers** - All radio, communication, and navigation towers that require lights shall have dual lighting capabilities. For daytime, the white strobe light may be used, and for nighttime, only red lights shall be used.

**3.14 Temporary Lighting** - Temporary lighting that conforms to the requirements of this Ordinance shall be allowed. Nonconforming temporary exterior lighting may be permitted by the Planning and Zoning Administrator only after considering 1) the public and/or private benefits which will result from the temporary lighting; 2) any annoyance or safety problems that may result from the use of the temporary lighting; and, 3) the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Planning and Zoning Administrator. The Administrator shall provide written notice of said request to owners of property immediately adjacent to the subject property. Said notice shall inform adjacent property owners they may comment on the request during a period of not less than ten (10) days after mailing of the notice and prior to final action on said request.

**3.15 Neon Lights** - Neon lights are only permitted pursuant to the Sign Ordinance, Section XXIV, Zoning Ordinance Number 208.

**3.16** The attached figures and information sheets shall be incorporated into this Ordinance as guidelines for the public and the City for use in meeting the intent of this Ordinance. The figures and information sheets only serve as examples. The City does not endorse or discriminate against any manufacturer or company that may be shown, portrayed or mentioned by the examples. Additional information is provided at the Ketchum Planning Department

#### SECTION 4 - NOTIFICATION

**4.1** The City of Ketchum Building and Planning Department permits shall include a statement asking whether the subject property of the proposed work includes any exterior lighting.

**4.2** Within thirty (30) days of the enactment of this Ordinance, the Planning and Zoning Administrator shall send a copy of the Dark Sky Ordinance with a cover letter to all local electricians and local electric suppliers listed in the local 1999 telephone books, as well as to the Ketchum/Sun Valley Chamber of Commerce. Within ninety (90) days (coincide with next available mailing) the Planning and Zoning Administrator shall send notice to all property owners on the Ketchum Water/Sewer mailing list.

#### SECTION 5 - THE CITY'S ROLE

**5.1** The City of Ketchum will commit to changing all lighting within the City rights-of-way and on City-owned property to meet the requirements of this Ordinance through the franchise agreement with the power company and/or through the Light Conformance Schedule adopted by resolution by the Council.

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5.2 The City of Ketchum will assist property owners and/or occupants to correct any nonconforming lighting through consulting with the owner/occupant and assisting in the provision of shields.

**SECTION 6 - VIOLATIONS, LEGAL ACTIONS AND PENALTIES**

6.1 Violations and Legal Actions - If, after investigation, the Planning and Zoning Administrator finds that any provision of this Ordinance is being violated, the Administrator shall give notice by hand delivery or by certified mail, return receipt requested, of such violation to the owner and/or to the occupant of such premises, demanding that the violation be abated within thirty (30) days of the date of hand delivery or of the date of mailing of the notice. The Planning Department Staff shall be available to assist in working with the violator to correct said violation. If the violation is not abated within the thirty (30) day period, the Administrator may institute actions and proceedings, either legal or equitable, to enjoin, restrain or abate any violations of this Ordinance and to collect the penalties for such violations.

6.2 Penalty - A violation of this Ordinance, or any provision thereof, shall be punishable by a civil penalty of one hundred dollars (\$100) and each day of violation after the expiration of the thirty (30) day period provided in Subsection 6.1 above, shall constitute a separate offense for the purpose of calculating the civil penalty.

**SECTION 7 - SAVINGS AND SEVERABILITY CLAUSE**

It is hereby declared to be the legislative intent that the provisions and parts of this Ordinance shall be severable. If any paragraph, part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 8 - REPEALER CLAUSE**

All City of Ketchum ordinances or resolutions or parts thereof which are in conflict herewith are hereby repealed.

**SECTION 9 - EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO and approved by the Mayor this 21st day of June, 1999.

\_\_\_\_\_  
Guy P. Coles

Mayor

Attest:

\_\_\_\_\_  
Sandra E. Cady, City Clerk

Publish: Idaho Mountain Express

<http://www.scn.org/darksky/code/id/ketcdrl0.html>

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**Chapter 15.10. OUTDOOR LIGHTING CONTROL**

- 15.10.010. Purpose and intent as relates to residential, commercial and public area lighting.
- 15.10.020. Purpose and intent as relates to street lighting.
- 15.10.030. Conformance with applicable codes.
- 15.10.040. Approved materials and methods of construction or installation/operation.
- 15.10.050. Definitions.
- 15.10.055. Definition-Outdoor light fixtures.
- 15.10.060. Definition-Community Development Department.
- 15.10.065. Definition-Exempt light fixtures.
- 15.10.070. Definition-Individual.
- 15.10.075. Definition-Installed.
- 15.10.080. Definition-Shielding.
- 15.10.085. Definition-Fully Shielded.
- 15.10.090. Definition-Partially shielded.
- 15.10.095. Definition-Directed shielding.
- 15.10.100. Definition-Unshielded.
- 15.10.105. Definition-High intensity discharge lamp sources.
- 15.10.110. Definition-Luminous tube lighting.
- 15.10.120. Requirements for installation of outdoor lighting.
- 15.10.130. Submission of plans and evidence of compliance with code-subdivision plats.
- 15.10.140. Shielding.
- 15.10.150. Prohibitions.
- 15.10.160. Externally lighted outdoor advertising signs, billboards.
- 15.10.170. Exemptions.
- 15.10.180. Violations and penalties.
- 15.10.190. Violations constitute public nuisance.
- 15.10.200. Code requirements tables for shielding
  
- 15.10.010. Purpose and intent as relates to residential, commercial and public area lighting.

The purpose of this section is to affirm the right of citizens in Deschutes County, Oregon to

illuminate residential, commercial and public areas with lighting fixtures appropriate to the need while utilizing such illumination in a way that preserves rural and urban vistas and is confined to the property from which it is generated.

(Ord. 94-024 § 1, 1994)

**15.10.020. Purpose and intent as relates to street lighting.**

The purpose of this section is to affirm that citizens of Deschutes County, Oregon have a right to the safety of well-lighted streets and highways and that such illumination by nature cannot be confined to the property from which it is generated. Thus, certain high wattage and low wattage applications for the propose of highway safety as defined below are allowed under these provisions.

(Ord. 94-024 § 1, 1994)

**15.10.030. Conformance with applicable codes.**

All outdoor electrically powered illuminating devices shall be installed in conformance with the provisions of this code, the building code, the electrical code, and the sign code of the jurisdiction. No provision of this ordinance are intended to pre-empt applicable state codes.

(Ord. 94-024 § 1, 1994)

**15.10.040. Approved materials and methods of construction or installation/operation.**

The provisions of this code are not intended to prevent the use of any design, material, or method of installation or operation not specifically prescribed by this code, provided any such alternate has been approved. The building official may approve any such proposed alternate that:

- A. Provides an equivalent alternative design that does not exceed 1800 lumens nor project light off-site of the subject lot or parcel.

(Ord. 94-024 § 1, 1994)

**15.10.050. Definitions.**

Whenever appropriate in applying the provisions of this chapter, the following words and phrases are defined as set forth in 15.10.055-110.  
(Ord. 95-063 § 1, 1995; Ord. 94-024 § 1, 1994)

**15.10.055. Definition-Outdoor light fixtures.**

"Outdoor light fixtures" means outdoor artificial illuminating devices, outdoor fixtures, lamps and other similar devices, permanently installed or portable, used for flood lighting, general illumination or advertisement. Such devices shall include, but are not limited to, search, spot and flood lights for:

1. buildings and structures;
2. recreational areas;
3. parking lot lighting;
4. landscape lighting;
5. billboards and other signs (advertising or other);
6. street lighting;
7. product display area lighting;
8. building overhangs and open canopies;
9. holiday lighting.

(Ord. 94-024 § 1, 1994)

**15.10.060. Definition-Community Development Department.**

"Community Development Department" means the Community Development Department or designated representative(s) for the purposes of this ordinance.  
(Ord. 95-063 § 1, 1995; Ord. 94-024 § 1, 1994)

**15.10.065. Definition-Exempt light fixtures.**

"Exempt light fixtures" means outdoor artificial illuminating devices which are exempted by section 15.10.110.  
(Ord. 94-024 § 1, 1994)

**15.10.070. Definition-Individual.**

"Individual" means any private individual, tenant, lessee, owner or any commercial entity including but not limited to companies, partnerships, joint ventures or corporations.  
(Ord. 94-024 § 1, 1994)

**15.10.075. Definition-Installed.**

"Installed" means initial installation of outdoor lighting fixtures following the effective date of this ordinance. Projects with approved construction plans prior to effective date of this ordinance are excluded from compliance with the ordinance in the initial installation only.  
(Ord. 94-024 § 1, 1994)

**15.10.080. Definition-Shielding.**

"Shielding" for the purpose of this ordinance is provided for a lighting fixture by design of such fixture or by an externally applied device such as a shroud or hood of metal, wood or painted glass that does not allow transmission of light.  
(Ord. 94-024 § 1, 1994)

**15.10.085. Definition-Fully Shielded.**

"Fully shielded" means outdoor light fixtures shielded or constructed so that light rays emitted by the fixture are projected below the horizontal plane.  
(Ord. 94-024 § 1, 1994)

**15.10.090. Definition-Partially shielded.**

"Partially shielded" means shielding so that the edge of the shield is at or below the centerline of the light source or lamp so as to limit light emission above the horizontal plane to 10 percent or less.  
(Ord. 94-024 § 1, 1994)

**15.10.095. Definition-Directed shielding.**

"Directed shielding" means shielding by design or external application that directs light downward and limits direct line-of-sight of a fixture's lamp to the property upon which the fixture is installed.  
(Ord. 94-024 § 1, 1994)

**15.10.100. Definition-Unshielded.**

"Unshielded" means light fixtures lacking any means to restrict the emitted light to below the horizontal plane.

**15.10.105. Definition-High intensity discharge lamp sources.**

"High intensity discharge lamp sources" means high pressure sodium, mercury vapor, metal

halide, low pressure sodium, and other similar lamps.

(Ord. 94-024 § 1, 1994)

**15.10.110. Definition-Luminous tube lighting.**

"Luminous tube lighting" means gas-filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g. neon, argon, etc.

(Ord. 94-024 § 1, 1994)

**15.10.120. Requirements for installation of outdoor lighting.**

A. Except as exempted by provisions of this ordinance, as of the date of adoption, the installation of outdoor lighting fixtures shall be subject to the provisions of this ordinance.

(Ord. 95-063 § 1, 1995; Ord. 94-024 § 1, 1994)

**15.10.130. Submission of plans and evidence of compliance with code-subdivision plats.**

A. All proposed subdivisions and partitions within Deschutes County that include outdoor lighting fixtures or street lighting shall be subject to the provisions of this ordinance.

(Ord. 95-063 § 1, 1995; Ord. 94-024 § 1, 1994)

**15.10.140. Shielding.**

A. All nonexempt outdoor lighting fixtures shall have shielding as required by the tables set forth in section 15.10.200.

(Ord. 95-063 § 1, 1995; Ord. 94-024 § 1, 1994)

**15.10.150. Prohibitions.**

A. Laser Source Light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal is prohibited.

B. Searchlights. The operation of searchlights for advertising purposes is prohibited between eleven o'clock P.M. and sunrise the following morning.

C. Recreational Facilities. No outdoor recreational facility, public or private, shall be illuminated after eleven o'clock P.M.

except to conclude a specific recreational or sporting event or any other similar activity conducted at or in the facility which was in progress under such illumination prior to eleven o'clock P.M., except that any outdoor recreational facility, public or private, which is illuminated with outdoor lighting fixtures conforming to this code may operate any time with such illumination.

(Ord. 95-063 § 1, 1995; Ord. 94-024 § 1, 1994)

**15.10.160. Externally lighted outdoor advertising signs, billboards.**

A. All externally lighted advertising signs and billboards will be illuminated by one of the following manners:

1. Top mounted fixtures in which case such fixtures will conform to the shielding requirements as set forth in section 15.10.140.

2. Bottom mounted fixtures in which case such fixtures shall be shielded either by application of external device or manufactured in such a way that upward and side directed light is confined to an area within 4 (four) inches of the outermost surface of the sign's top and sides. Shielding will be constructed in such a manner that no reflective surface of the lighting fixture will extend past the limit of the shielding in the vertical plane when viewed from directly above. (See typical drawings - Figure 1 and Figure 2 attached.)

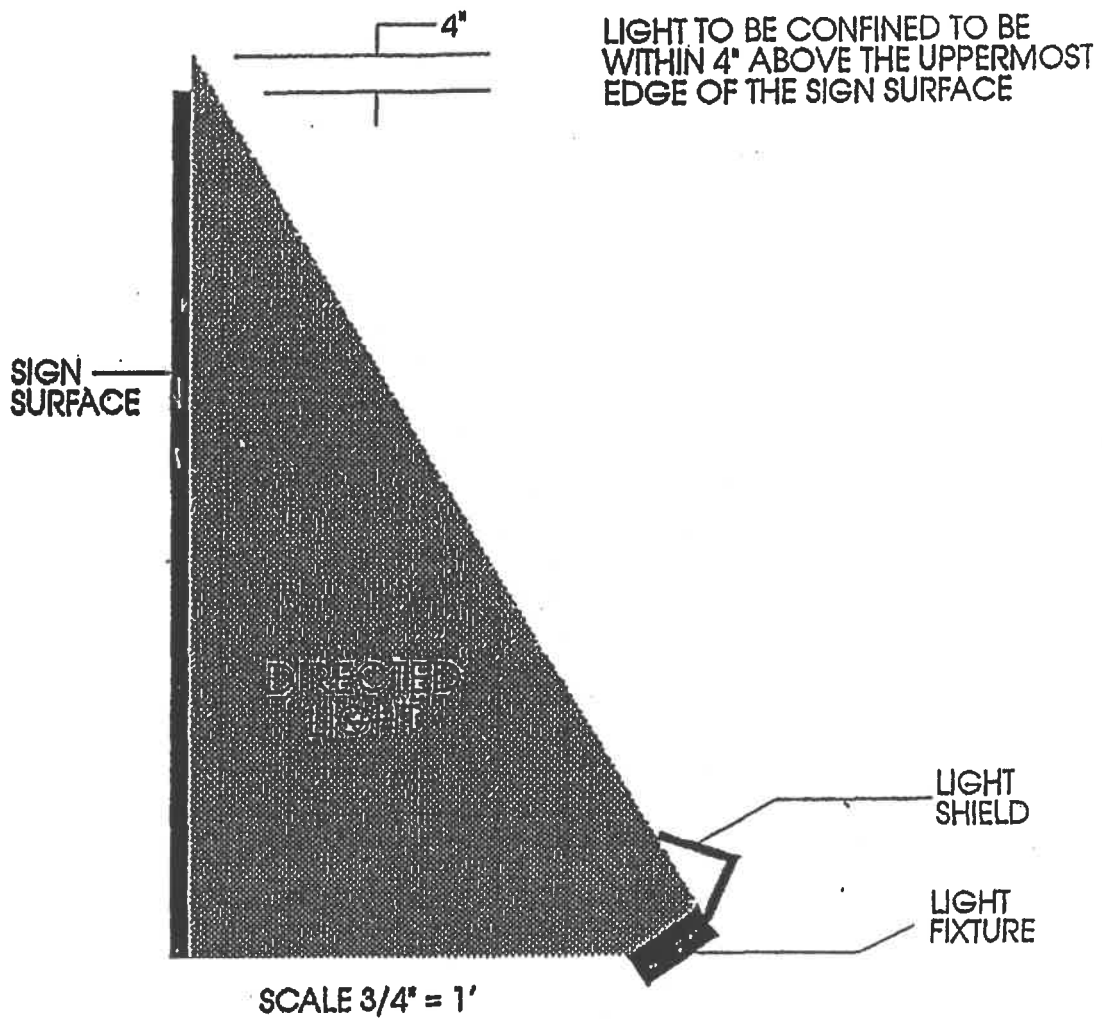
(Ord. 95-063 § 1, 1995; Ord. 94-024 § 1, 1994)

**15.10.170. Exemptions.**

A. Nonconformance.

1. All other outdoor light fixtures lawfully installed prior to and operable on the effective date of the requirements codified in this ordinance are exempt from all such requirements except those regulated in subsections A, B, and C of section 15.10.090 or as follows:

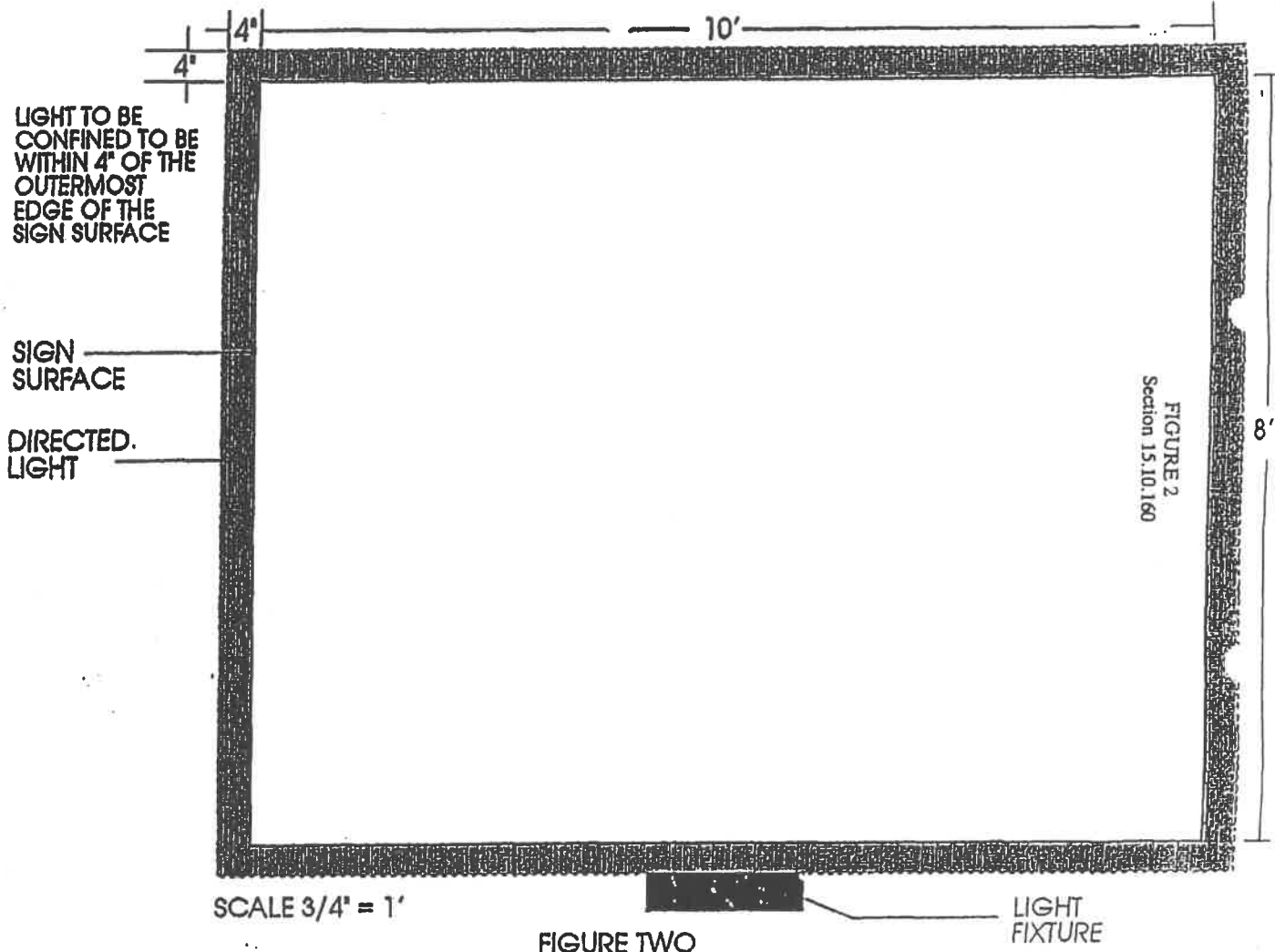
a. All replacement of outdoor lighting fixtures, as of the date of adoption, shall be subject to the provisions of this ordinance.



LIGHT TO BE CONFINED TO BE WITHIN 4" ABOVE THE UPPERMOST EDGE OF THE SIGN SURFACE

FIGURE 1  
Section 15.10.160

FIGURE ONE  
TYPICAL EXTERNALLY ILLUMINATED OUTDOOR SIGN CONFIGURATION



SCALE 3/4" = 1'  
FIGURE TWO  
TYPICAL EXTERNALLY ILLUMINATED OUTDOOR SIGN CONFIGURATION

15.10.200. Code requirements tables for shielding

A. Outdoor lighting fixtures (except street lighting - see Table 2).

Table 1 WATTAGE - SEE SECTION 1 BELOW

Lamp Type	25	30	35	40	50	60	75	100	110 OR MORE
LOW PRESSURE SODIUM	UNSHIELDED	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD
HIGH PRESSURE SODIUM	UNSHIELDED	UNSHIELDED	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD
METAL HALIDE	UNSHIELDED	UNSHIELDED	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD
FLUORESCENT	UNSHIELDED	UNSHIELDED	UNSHIELDED	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD
QUARTZ	UNSHIELDED	UNSHIELDED	UNSHIELDED	UNSHIELDED	UNSHIELDED	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD
TUNGSTEN HALOGEN	UNSHIELDED	UNSHIELDED	UNSHIELDED	UNSHIELDED	UNSHIELDED	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD
MERCURY VAPOR	UNSHIELDED	UNSHIELDED	UNSHIELDED	UNSHIELDED	UNSHIELDED	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD	DIRECTED SHIELD
INCANDESCENT	UNSHIELDED	UNSHIELDED	UNSHIELDED	UNSHIELDED	UNSHIELDED	UNSHIELDED	UNSHIELDED	UNSHIELDED	DIRECTED SHIELD

1. For the purpose of this section wattage ratings for lamp types will be for either a single lamp source or multiple lamp sources when installed in a cluster.
2. Lamp types not listed in the table may be approved for use by the building official providing installation of these lamps conforms to the lumen limits established in this section.
3. Glass tubes filled with argon, neon or krypton do not require shielding.



**Table 2**

**TYPICAL LUMEN VALUES FOR VARIOUS LAMP WATTAGE \*\***

WATTAGE	LOW PRESSURE SODIUM	HIGH PRESSURE SODIUM	METAL HALIDE	FLUORESCENT	QUARTZ	MERCURY VAPOR	INCANDESCENT
9				500			
18	1,800						
35	4,725	2,250					
40		4,000		2,250			800
50							800
55	7,925						
60							800
70		5,800	5,500				
75						2,800	1,190
90	14,400						
100		9,500	8,000			4,300	1,950
110				6,600			
150		16,000					2,850
175			14,000			8,600	
200		22,000					4,010
250		27,500	20,500			12,100	
300							6,360
400		50,000	36,000			22,500	
500							10,850

\*\* Taken from data supplied by Portland General Electric - Energy Resource Center

**Table 3**

**WATTAGE - SEE SECTION 1 BELOW**

**B. STREET LIGHTING.** All street lighting fixtures will be shielded in conformance with Table 3 included in this section.

WATTAGE	55	70	75	90	100	150	175	250	400 OR MORE
LOW PRESSURE SODIUM	PARTIAL SHIELDING	PARTIAL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING
HIGH PRESSURE SODIUM	PARTIAL SHIELDING	PARTIAL SHIELDING	PARTIAL SHIELDING	PARTIAL SHIELDING	PARTIAL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING
METAL HALIDE	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING
FLUORESCENT	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING
QUARTZ	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING
MERCURY VAPOR	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING
INCANDESCENT	PARTIAL SHIELDING	PARTIAL SHIELDING	PARTIAL SHIELDING	PARTIAL SHIELDING	PARTIAL SHIELDING	PARTIAL SHIELDING	FULL SHIELDING	FULL SHIELDING	FULL SHIELDING

1. For the purpose of this section wattage ratings for lamp types will be for either a single lamp source or multiple lamp sources when installed in a cluster.
2. Lamp types not listed in the table may be approved for use by the building official providing installation of these lamps conforms to the intent of this code.

**Comment 1**

Comment noted.

**Comment 2**

Comment noted. All lighting for development within the MPR and UGA would meet the International Dark Sky Association's Zone E1 standards, as specified in the draft Conditions of Approval for the project. Roadway lighting would be consistent with the Illuminating Engineering Society and WSDOT lighting criteria.



**Kittitas County Planning Department**

411 N. Ruby, Suite 2 • Ellensburg, WA 98926  
(509) 962-7506 • Fax (509) 962-7697

**received**  
5/4/2001  
City of Cle Elum

May 4, 2001

Brian Carrico, Planner  
City of Cle Elum  
119 West First ST  
Cle Elum, WA 98922

FAX: (509) 674-4097

Dear Mr. Carrico:

Kittitas County has received the DEIS for the Trendwest Cle Elum UGA project. At this time the County has no comments but wishes to be considered a party of record for the project.

Thank you for the opportunity to comment on this project.

Sincerely,

KITTITAS COUNTY PLANNING DEPARTMENT

*Catherine G. Dunn*  
Catherine G. Dunn  
Office Manager

1

**Letter 31**

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**Comment 1**

Comment noted.

Town of South Cle Elum

6th and Lincoln - P. O. Box 160  
South Cle Elum, Washington 98943

509-674-4322

May 3, 2001



City of Cle Elum

Mayor Gary Berndt  
Bob Burke  
Brian Carrico  
119 West First Street  
Cle Elum, WA 98922

Re: dEIS Comments

Gentlemen:

The following constitutes the Town of South Cle Elum's official comments on the draft EIS for the Cle Elum Bullfrog UGA. After reviewing the entire document, the Town Council is left with the firm conviction that the matter of housing impacts, both direct and cumulative, in conjunction with the development of the MountainStar, is inadequately addressed and analyzed in the dEIS, and instead, the topic is largely deferred to the future and diffused throughout the document. It is our strong conviction that there is both an area-wide insufficient supply of housing stock for UGA development workers, and also that the subsequent impact to the value of homes as a result of massive new construction of residences in the UGA will render prices and taxes for existing housing unaffordable for those already here.

1

In addition, the Town remains concerned that the impacts to traffic, roads and solid waste be addressed prior to the issuance of any development permits. We trust that mitigation agreements will be put in place which include input from the Town of South Cle Elum, so that our citizens suffer no unavoidable significant adverse impacts as a result of the subarea planning and zoning for development in the Bullfrog area.

2

Thank you for your consideration of the Town's comments. We look forward to working with you in developing appropriate mitigation as the need arises.

Sincerely,

JAMES L. DeVERE, Mayor  
JLD:sn

**Comment 1**

Comment noted. Affordable housing is addressed in the City's draft Conditions of Approval for the project. Mitigation measures include implementing an Affordable Housing Mitigation Program, which includes, in part, maintaining a minimum of 150 rental units in the UGA for 20 years. A temporary RV park with a maximum of 100 spaces is proposed to house construction employees. Refer to Section 3.10, Population and Housing, of the Final EIS for a summary of the key elements of the Affordable Housing Mitigation Program.

**Comment 2**

Comment noted. In general, the Town of South Cle Elum is included in the impact analyses conducted for the Draft and Final EISs. With regard to transportation issues, the Town of South Cle Elum was included within the study area for the analysis of transportation impacts, and mitigation measures are identified for the intersection of First Street and South Cle Elum Way.



— Since 1903 —

## **Cle Elum Fire Department**

**P.O. Box 147      Cle Elum, Wa. 98922**

May 2, 2001

**received**  
5/4/2001  
City of Cle Elum

The Cle Elum Fire Department requires the following mitigation for the Cle Elum Urban Growth Area (UGA).

### **Equipment**

City agrees to:

- Develop specifications for the equipment for fire protection of the UGA.
- Provide specifications for a fully equipped triple combination pumper, brush truck and tender, and to purchase the vehicles. The triple combination pumper shall be purchased such that it is available at 2004 or before. All other equipment shall be purchased at the start of the project.

Developer agrees to:

- Fund as required in EIS (page 101).  
Triple Combination Pumper-fully equipped.  
Brush Truck-One Ton, 4X4 or better.  
Water Tender-3000 gallons minimum.
- Reimburse the city for the costs of fully equipped triple combination pumper, brush truck and tender.
- Pay for the equipment at the time dictated by Cle Elum Fire Department Fire Chief.

1

1



**Training**

City agrees to:

- Make arrangements for training classes to train members of the city and surrounding fire department in specialized rescue.
- Carry the specialized rescue equipment.
- Bid and purchase the specialized equipment.

Developer agrees to:

- Reimburse the city for the cost of specialized rescue equipment in an amount to be determined by the Fire Chief..
- Pay the cost of the instructor and necessary materials used to put on the class.
- Have at least four of the UGA resort supervisory personnel attend the specialized class.
- Training programs shall be renewed on an annual basis during the period of open trench construction.
- Have available on site, plywood, timbers and ropes designated only for use with the trench rescue team.

2

**Public Safety Facility**

City agrees to:

- To work with developer in the design of a public safety facility (one that accommodates the fire personnel and equipment, medical personnel and equipment.)

Developer agrees to:

- Work with the city on design of the Main Public Safety Building and fund as required in EIS. (page 101)

3

2

**Initial Fire Fighters**

City agrees to:

- The city agrees that 1 paid Fire Chief and 3 paid Firefighters will be trained as first response fire fighters. (to be phased in by the discretion of the Fire Chief.) The personnel shall be hired and trained prior to the opening of the hotel.

4

Developer agrees to:

- Work with the City of Cle Elum Fire Department paying the cost of the personnel including turnouts, personal protective equipment and radio equipment.

**Volunteer Fire Fighting Force**

City agrees to:

- Recruit and maintain a volunteer fire fighting force as large as possible in the area of the UGA.

Developer agrees to:

- Pay the cost to train in fire suppression tactics those resort employees who agree to serve as part of the volunteer fire fighting force.
- Developer's employees shall be under the supervision of the Chief of the City of Cle Elum Fire Chief for training and fire department activities.

5

The parties understand and agree that conditions within the city as well as the UGA change from time to time. Consequently, flexibility must be maintained in this agreement to allow for those changes. As a result, the parties recognize that the following additional steps are necessary subsequent to the execution of this agreement:

- Jointly develop a plan and schedule for additional fire fighting personnel and equipment. This plan shall be reviewed and updated on an annual basis, and filed with the City of Cle Elum.

6

- At full build-out the parties anticipate that the equipment necessary for the UGA will include one (1) triple combination pumper, one (1) tender and one (1) 4 x 4 one-ton or larger brush truck with skid mount tank and equipment. Providing mechanisms to ensure that this equipment is available at full build-out of the project shall be part of the plan listed above. All fire department apparatus must meet National Fire Protection Association and Washington State Department of Labor and Industries Fire Fighter Safety Standards. 6 (cont.)
- Developer shall pay all costs for the firefighters and equipment on the UGA site not covered by revenues collected from within the UGA development so as not to result in any adverse financial impacts on parties outside the UGA who are served by the city. 7
- The city has the right to utilize these department members in any suppression activities within the city and for mutual aid responses as they see fit. 8
- The city shall negotiate the benefit these fire fighter personnel are to the entire city and pay a prorated share of the cost. 9
- The response area for apparatus and personnel assigned within the city to incidents outside the city shall be determined between the City Fire Chief and reviewed by the Director of the UGA. Any dispute to this designated response area as determined by the Fire Chief shall be resolved by the Kittitas County Fire Marshal. 10

If any questions arise, please call.



Chuck Norton  
Fire Chief  
Cle Elum Fire Department

cc: Mayor Gary Berndt  
Cle Elum City Council

**Comment 1**

Projected impacts and suggested mitigation measures for City of Cle Elum Fire Department services are discussed in Section 3.16 of the Draft EIS. Since the Draft EIS was published, the City has prepared a Municipal Facilities and Services Expansion Plan that evaluates more specifically potential impacts on the fire department. This information is incorporated into the analysis for Alternative 5 in the Final EIS. Refer to Sections 3.15, 3.18, and Appendix D of the Final EIS for a revised detailed discussion of projected impacts on fire department personnel and capital facilities. Mitigation measures also are revised in these sections and are included in the City's draft Conditions of Approval for the project.

**Comment 2**

Refer to the response to Comment 1, above.

**Comment 3**

Refer to the response to Comment 1, above.

**Comment 4**

Refer to the response to Comment 1, above.

**Comment 5**

Refer to the response to Comment 1, above.

**Comment 6**

Refer to the response to Comment 1, above.

**Comment 7**

Refer to the response to Comment 1, above.

**Comment 8**

Refer to the response to Comment 1, above.

**Comment 9**

Refer to the response to Comment 1, above.

**Comment 10**

Comment noted. The issue of when Cle Elum fire personnel and equipment would be available to respond to calls outside the city limits is outlined in the mutual aid agreement between the City and other firefighting jurisdictions.

Post Office Box 441  
Roslyn, Washington 98941

Brian Carrico  
CleElum City Hall  
119 West First Street  
CleElum, WA 98922

Dear Mr. Carrico,

We believe that both the CleElum UGA and MPR should be considered together in terms of cumulative impacts. Between both these proposed developments, the County and the City of CleElum are planning to do a lot more than pave paradise and put in a parking lot. In both of these combined scenarios, we are talking about almost 6,000 units (apartments, condominiums, single-family residences, townhouses, hotel rooms, etc.), 3-4 hotels, a major horse park, several minor equestrian parks, 3-4 golf courses, a major business park, retail shops, an amphitheatre, a waste water treatment facility, trails, school and cemetery expansions, a community recreation center, recreational vehicle campgrounds, etc., etc. It doesn't take a degree in urban planning to forecast that there will be significant impacts to water, wetlands, noise, aesthetics, light, glare, traffic, air quality, plants and animals, etc. We are not reassured when the experts report salient facts like "even under the most extreme conditions, traffic noise rarely approaches the level that could cause hearing damage" or that "no locations close to the UGA have extensive long-duration views of the UGA" except for frequent users of Bullfrog Road and SR 903. Have any of the people who prepared this report lived in our area over time? Between the two of us, we have lived in Roslyn for over 45 years. We love the night sky and do NOT want the combined sky glow from both the UGA and MPR. The beauty of the night sky from our backyard is one of the reasons that we chose Roslyn for our home. We also love the visual landscape of the upper county. We are concerned that it is more important to the planners of the UGA to have buffers along I-90 than along SR 903. Why aren't view sheds from SR 903 not buffered in alternatives 2, 3, or 4. Even a buffer of 150 feet along this road would not adequately screen or diffuse views to the interior of the UGA. We think the planning priority should be to consider residents of upper county communities not travelers along I-90.

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Secondary growth is a major issue, which is largely not addressed in this DEIS. Following the second public hearing in a conversation with Mayor Berndt, he mentioned his concerns with the sale of the ridge lands bordering CleElum. He stated that he preferred a planned development like the UGA to unplanned development, and he was concerned about the impacts of logging trucks on the roads through CleElum. This type of secondary growth needs to be addressed and mitigated. Secondary growth will be encouraged through both these developments. Please address this in the EIS.

What about snowmobile traffic in the UGA? Will they be allowed in the self-proclaimed snowmobile capitol of the world? What about the noise, smell, and traffic flow impacts caused by snowmobiles? This should be mitigated!

Please also review the comments we both made at the second public hearing. We would also like to go on record as supporting the comments and supporting documents submitted by RIDGE.

Sincerely,

Peg Bryant and Cordy Cook

**Comment 1**

Comment noted. Both the Draft EIS and this Final EIS reflect a proactive effort to undertake detailed analyses of cumulative impacts related to the MPR and UGA for all elements of the environment. Analyses were conducted in close coordination with affected agencies, organizations, and local jurisdictions and addressed all issues identified during the scoping period for the EIS.

**Comment 2**

Comment noted. Refer to the response to Letter 10, Comment 1 for a discussion of lighting standards that would be implemented.

**Comment 3**

Alternative 5 includes a 50-foot buffer along SR 903. Setbacks from SR 903 and height limits for structures will be specified in the Conditions of Approval for the project. Building design guidelines for the Business Park (now located along SR 903) would be specified in the development standards for the UGA. Refer to Section 3.11, Aesthetics, of the Final EIS and responses to Letter 11, Comment 3, and Letter 22, Comments 3 and 6 for additional information.

**Comment 4**

Indirect impacts on land use are discussed in Section 3.10 of the Draft EIS and in Section 3.9 of the Final EIS. All growth within the County would occur consistent with adopted land use plans and zoning regulations.

**Comment 5**

Snowmobile traffic was not a mode of travel or use that was identified in the Draft EIS. Unlike the adjacent MPR, snowmobile use is not expected to be significant with the UGA property. All existing regulations regarding snowmobile use on city streets and rights-of-way would similarly apply to development within the UGA. The City could monitor snowmobile use on the proposed trail network within the UGA and if it was determined to be a problem. The City also could impose appropriate restrictions on snowmobile use on the trails.

**Comment 6**

Comment noted.

Brian Carrico, Planning Director  
City of Cle Elum  
119 West First Street  
Cle Elum, WA 98922

Dear Mr. Carrico,

I am a Cle Elum resident. However, I work for a business in the Ellensburg area. We are interested in opening an office in the Upper County, however, we have had difficulty locating a suitable site in the downtown retail district. Inadequate parking is definitely contributing to this difficulty.

Many of our clients are Upper County residents and an office up here would be of great benefit for them as well as for us. We don't know what we will do as the need is now and we have had difficulty reaching a solution. However, if we can not find an adequate office we will set our sights on the business park in the Urban Growth Area.

Growth is inevitable given our proximity to the Seattle Metropolitan Area and I believe that the proposed plans and related mitigation outlined in the EIS offer a well planned solution to the pressures of this growth.

By what I have experienced, in our search for adequate facilities for our business, I must stress again that the need is now.

What I see in the UGA EIS is that the proposal will have a significant beneficial impact on the existing retail core of Cle Elum. I also know that many of our clients when they come to see us remain in the Ellensburg area to shop or dine. Why keep sending business out of town? Why not keep this revenue here?

I have observed that over the past four years, Trendwest has demonstrated a committed relationship with the City Cle Elum and I believe that the city's EIS document is comprehensive. I applaud the mutual efforts towards the goal of creating a first rate Urban Growth Area to be annexed into the city and I urge your approval of this document.

Sincerely,



Keith W. Hartley



**Comment 1**

Your support of the project is noted.

Cle Elum Urban Growth Area DEIS – RIDGE Narrative Comments

5/7/01

**INTRODUCTION**

- 1) The division between the UGA proposal and the MPR is untrue and artificially imposed by TW to avoid having to deal with impacts. There is language about cumulative impacts in the UGA DEIS, but all the problems with the MPR as approved by the County (scale, size, unmitigated impacts to the community) are not adequately identified in either project, and will compound problems with the UGA as proposed.
- 2) The "phased environmental review" of these projects that should be in this DEIS (starting with MPR, Horsepark, water supply, water delivery system (including intakes), sewer systems (including discharge), Cle Elum's proposed re-do of its zoning code, etc.) are not being considered at this time.
- 3) Shifting corporate structures (JeldWen, TW Resources, TW Investments, MountainStar Resources) it is unclear who is doing what and when and with whom.
- 4) There are many examples of unidentified water use. How many swimming pools? (The Community Center, the private recreation center, the lodge just in the UGA, for starters)
- 5) Population numbers have to balance throughout the County. Huge growth in Cle Elum could generate the same total growth for the County, but only if the rest of the County doesn't grow at a reasonable rate. State services provided are dependent upon these numbers, so if growth spike beyond projections, the County will not receive what it needs, when it needs it, for state funded programs.) TW says that the UGA's projected growth (never mind the MPR's or secondary growth) is just barely within OFM's projections.
- 6) Lands given to Community Center, Horse Park and School don't come with water rights
- 7) Sometimes irrigation is proposed, sometimes there won't be any. Which is it?
- 8) Private housing vs. integrated community housing (check out the golfcourse lots and "equestrian village")
- 9) How many equestrian centers? (The Horse Park, the "temporary equestrian area," and another equestrian center in its own "village")
- 10) Does one want to get on or off the freeway? When? MPR didn't address this issue (only looked at Bullfrog exchange, nothing in Cle Elum, even though backups were predicted). Take a look at how the Business Park traffic will need to go through CE to come or go east.
- 11) Mitigation is based on existing levels of service (LOS) of Cle Elum. This means if Cle Elum doesn't have adequate parks, street maintenance, traffic flow, etc., then the UGA will only "mitigate" to meet existing levels. It COULD raise LOS for City. TW consultants are using Cle Elum's standards for entire area (such as Bullfrog Road, which means it can get as congested as downtown Cle Elum before there is any situation that would call for mitigation.)
- 12) Consultants for UGA didn't do their homework and/or used "conceptual" information in dealing with cumulative impacts from MPR:

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a) impact to school district: wrong costs /foot, wrong reimbursement, wrong estimates of students coming in.

b) traffic entrances and exists from MPR are based on "conceptual" locations

c) wildlife consultant was unaware of where water intake on Cle Elum River is proposed, he used information from engineering consultant re: footprints ("conceptual?") within site, and was unaware of construction other than a small kiosk in floodplain (see p 1-15, what is proposed is a "interpretive center and supporting road).

12 (cont.)

d) beware of the distinction between "operational" and construction. All mitigation is categorized under both, but if you look at "proposed" phasing (this is cited later in chapter 2), some parts will not be built out all at once. So when does "operational" begin? At full build-out? When things begin?

13) Storm water run-off from both MPR and UGA that contaminates surface water (water that is contiguous with the Cle Elum River)

13

14) Just like the MPR, way too much of the proposed mitigation is based on monitoring. By the time an impact has been documented, what needs to be done for mitigation is too late. (Consider the school district's examples of lag time as new students arrive.)

14

15) We want concurrency and the mitigation to go into effect before we get slammed with the problems.

## WATER SUPPLY

1) The issues surrounding the UGA water supply are very similar to what we raised with the MPR. Trendwest has not obtained approval to move water up to the Cle Elum area. Whether they will be able to move water, how much, and the time frame, is highly speculative at this point. Ecology's consultants have raised questions about whether there is a true environmental benefit that comes from TW's tributary (e.g., Teanaway, Big Creek) water rights that it proposes to leave instream as mitigation for all this development.

15

2) TW offers, as mitigation for its water right impacts, to "not divert water from the Yakima River if flows are insufficient to meet Yakima River target flows." UGA DEIS at p. 3.5-35. If TW is not diverting, where will the water come from to serve the UGA and the MPR?

16

3) We continue to disagree with the cumulative effects analysis. The impact of the UGA, combined on the MPR, is likely to be much greater than predicted. TW keeps insisting that folks who work at the resort will live elsewhere in the County. This is unrealistic. So what water will be used to serve all these people? Exempt wells, Roslyn's water, and CE and So. CE water. This is going to put a huge burden on local communities. Because TW has been in litigation over this, they refuse to admit how great the impacts are actually going to be. The MPR analysis was inadequate and underestimated impacts. But they continue to defend that analysis and use the same assumptions because they are still in court. This means that important impacts are not being considered.

17

For example, TW proposes to move water from properties in other places. But many of those "sending" properties are being developed. The DEIS refuses to acknowledge that the impacts associated with moving that water is really connected to the UGA and the MPR. See DEIS at 3.5-37. This is shortsighted and incorrect.

18

**WATER QUALITY**

1) General Surface Water Quality: The DEIS asserts that there is little direct run-off from the UGA site to surface waters, DEIS at 3.3-3, and that even this small amount will be eliminated with development of the UGA. Given the significant increase in impervious surfaces, this assumption is not entirely credible. Based on this assumption, the DEIS also concludes that no water quality impacts to the five UGA wetlands and the Cle Elum River will result from the development. DEIS at 3.3-11; 3.3-13. 19

2) Discussion of ground water recharge to the rivers acknowledges that pollutants may concentrate in ground waters, and that the upper aquifer zone beneath the UGA is in direct hydraulic continuity with surface waters. DEIS at 3.4-6. But, according to the DEIS, “cumulative concentrations of pollutants predicted in groundwater are expected to be undetectable in river water after instream mixing.” DEIS at 3.3-14. In other words, the UGA surface water pollution control strategy depends upon groundwater dilution and use of the Yakima and Cle Elum Rivers as additional dilution zones for contaminated groundwater discharge. 20

3) The DEIS identifies pollutant sources, but lacks information about actual concentrations of pollutants that can be expected to be generated by UGA activities. 12

4) Experience indicates that Trendwest is not likely to provide adequate protection for construction-generated sediment and erosion control. The TESC measures proposed for the MountainStar MPR site are very general in nature and are not being implemented. The UGA DEIS acknowledges that there is “significant potential for erosion and generation of turbid surface water runoff” for Alternatives 2, 3, and 4 during construction. DEIS at 3.3-9. There is a real question whether sediment impacts resulting from construction would in fact be controlled by mitigation. DEIS at 3.3-14 to 15. 22

5) Pollutants will be generated by UGA development, (e.g., increase in impervious surfaces (from 0 to 279 acres, page 3.3-10 at Table 3.3-1 and App. C, Table C-2); landscaping chemicals, household chemicals, petroleum compounds and other automotive chemicals, etc.). Significant precipitation occurs in the area, and that precipitation routed through the stormwater control system will convey pollutants to ground water. “The quality of stormwater is an indicator of the potential impact on groundwater quality.” DEIS at 2.4-15. Infiltration of recharge will increase significantly (from 1,630 to 2,380 af/yr for Alternative 2). 23

6) The DEIS acknowledges that pollutants generated by various activities proposed for the UGA will leach into groundwater. Indeed, the DEIS assumes that soils and surface materials will filter and remove pollutants before they contaminate ground water and surface waters. However, the conclusion that the unsaturated zone between ground surface and water table levels will “afford adequate attenuation of pollutants in infiltrating stormwater” is unsupported. See, e.g., DEIS at 3.4-17. Lacking information about the actual predicted concentrations of pollutants it is impossible to assess whether untreated stormwater filtration would be effective. Given the urban densities proposed for the UGA, one can assume this system would not be adequate. 24

7) Specific Pollutant Sources:

a) Golf course management plan: The golf course management plan does not employ appropriate measures to reduce and eliminate potential chemical contamination to ground waters. The DEIS fails to provide adequate quantification of the potential contamination. Moreover, given the pristine condition of the aquifers beneath the UGA, Cle Elum should require the most modern methods of golf course maintenance.

25

b) Horse park: From the description at p. 2-18 that the Washington State Horse Park will be a sizeable facility designed to accommodate a large number of horses. The DEIS acknowledges that even with proper BMPs, outdoor paddocks will be a source of water quality degradation. 3.3-13. There is no quantitative information to support the conclusion that mitigation measures would effectively reduce this impact.

26

c) Equestrian Village: The DEIS acknowledges that a residential horse grazing area could contaminate groundwater. DEIS at 3.4-17. This is an unacceptable impact that is not adequately quantified or discussed.

27

d) Master Drainage Plan: DEIS acknowledges that stormwater/drainage plan will influence operational impacts of UGA on groundwater quantity/quality. DEIS at 3.4-14.

28

8) The proposal to allow emergency overflows into the Cle Elum and Yakima Rivers for infrequent flood events is an unacceptable mitigation measure. DEIS at 3.3-17. The DEIS lacks discussion regarding the impact of such events on water quality.

29

9) Cumulative Effects: The DEIS limits its assessment of cumulative effects to the MPR and UGA developments. DEIS at 3.4-17. Are there other sources of groundwater contamination that should be considered in this analysis? Moreover, this DEIS accepts uncritically the assertion in the MPR EIS that there are no "adverse changes to water quality from the proposed MPR." DEIS at 3.4-18. The MPR development will generate similar pollutants and reduce pervious surface areas. No quantitative information is provided to assess, in total, the pollutant loading to local aquifers.

30

10) With all these people moving into the area, there will be water quality impacts related to impervious surfaces, people pouring bad things down their drains, increased use of pesticides and herbicides, etc.. It's inevitable. How does CE propose to maintain the relatively pristine environment in those circumstances?

31

11) Increased population will mean more people want to go the rivers. This will put pressure on fish species at the brink of extinction. How are you going to keep people from fishing, walking around in the rivers, etc.?

32

Conclusion: In reviewing the water quality section of the UGA DEIS it becomes apparent that the drainage plan is a linchpin. All precipitation in the area infiltrates to groundwater, taking the various construction, household, golf course, horse park and automobile chemicals with it. Soils and aquifer materials absorb and filter pollutants, flow-through ground waters dilute them, and by the time groundwater discharges to the Cle Elum and Yakima River, voila!, it's clean. Well, actually, it's not clean, but "contaminant concentrations" are quickly diluted by river flows. The DEIS actually says that. The drainage plan for the UGA will theoretically route waters and pollutants (concentrating them even more I suspect), prevent direct runoff into surface waters, etc. A summary of the Master Drainage Plan is presented at DEIS p. 3.3-16. There is an actual plan, however, which is not included in the appendices.

33

**TRAFFIC** (Also see attachment on traffic impacts – Brian Carpenter, REBOUND 4/25)

- 1) SR 903 is going to become a backed up, clogged mess with all the people visiting Cle Elum and Roslyn. On summer weekends, it will be jammed all the way from Roslyn to Cle Elum. 34
- 2) Downtown Cle Elum and Roslyn are going to be swamped with cars. Where are they going to park? 35
- 3) Making left turns off of SR 903 and Bullfrog Rd. will become more dangerous due to the increase in oncoming traffic. Many turns have no turn pockets or signals. 36
- 4) The EIS underestimates the number of car trips that will be generated by each dwelling. Friends and relatives will come to visit on the weekend and they will bring their cars too. 37
- 5) On big summer weekends, or when there's a big event at the Horse Park, the traffic will be horrible. Who is going to pay for the additional police service to direct traffic? Will emergency vehicles be able to respond in a timely manner on these clogged streets. (Up #903 to Roslyn/Ronald/Salmon la Sac or down Bullfrog Rd.) 38
- 6) Our schools are located on SR 903 and buses travel along 903. More traffic on this road will make it more dangerous for our kids. 39
- 7) All it takes is one fatal accident to cause an outcry for traffic improvements, but how do we fund them? 40
- 8) The proportionate share arrangement with Trendwest gives the County a license to tax growth in the future to pay for Trendwest's impacts. This isn't fair. Neither the City nor the County have any major source of road funding. What happens when SR 903 has to be widened to 4 lanes to accommodate the traffic 41
- 9) What about improvements to the intersections with I-90, exits 80 and 84. The state doesn't have any money to improve them. I-90 is already congested on weekends, the UGA development will only make this worse. 42
- 10) Pedestrians trying to cross SR 903 are going to face more dangers from speeding traffic. No mention of crosswalks in the DEIS. 43
- 9)Traffic analysis focused (almost entirely?) on summer; consultant wasn't aware of "any particular problems related to winter conditions" (Pass Closure? driving and parking conditions?) 44
- 10) How will the citizens of South Cle Elum get out of S Cle Elum when there is only one access road with no light? 45

**HOUSING AND POPULATION**

- 1) Affordable housing: There is no price info available on any Trendwest housing types and there are no plans for subsidized or low income housing within the UGA (yet many workers will be low income). TW still wants to "investigate" affordable housing options with other entities. Chapter 3.11-24 46
- 2) Population and housing projections: In 1995, the OFM (state Office of Financial Management) projected approx. 4733 more people in the county in 2015. At the request of the City of Cle Elum and because of the TW proposals, the County changed that figure to 14,470 by 2020 and moved the allocations from unincorporated Kittitas County to the Cle Elum UGA. 47

3) The DEIS states the UGA must meet the housing demands of those new 14,470 figures. However, it is these proposals creating the population projections. Therefore the DEIS should use the OFM figures for its no action alternative (alt. 1). 3.11-11

48

### **PUBLIC SERVICES**

1) Page 3.16.17: Concern: While the DEIS concedes that "Concurrent development of the MPR and UGA could create significant additional demand for law enforcement, fire protection, and EMS response", the "concurrent development" is not analyzed.

49

2) Concern: Secondary growth is not considered relative to public services. Page 3.16.16: The DEIS admits that the school district is already at very near full capacity and that a new K-12 school would need to be built. Concern: Wouldn't this raise taxes for all residents of school district 404? The DEIS also states that the water source for the school expansion area is yet to be identified. This is a concern. Page 3.16.17: The DEIS proposes that monitoring be done for police, fire, and Klttcom and then bonds be issued and then services upgraded. Concern: This will result in significant lag time and severe squeeze of existing services while new personnel are recruited, trained, equipped. These needs should be proactively addressed.

50

### **UTILITIES**

1) Page 3.17.22: The regional water and wastewater treatment plants are critical components of both the MPR and UGA. Neither of these development projects can proceed without these components. Concern: They should be included in the analysis and not only in a separate SEPA review process. What about the septic capacity for the school expansion – where are those plans?

51

2) Page 3.17.23: The DEIS concedes that a stand-alone water treatment plant may be necessary. They admit that both the UGA and MPR would be served by the plant. Concern: This shows that these two projects are really the same project artificially separated by Bullfrog Road. Concern: The stand-alone treatment plant should be included in this analysis and not only in a separate SEPA review process.

52

### **NOISE**

1) Page 3.9.3: "...even under the most extreme conditions, traffic noise rarely approaches the level that could cause hearing damage". Concern: Even at moderate levels, traffic noise could cause frustration and stress due to time delays, disruption of the rural quality and character of Upper County life, etc.

53

2) Page 3.9.5: The Cle Elum Cemetery is included in a category that includes playgrounds, active sports areas, and parks. Concern: The cemetery is more like land "on which serenity and quiet are of extraordinary significance". The cemetery is already heavily impacted by noise from I-90 and cannot tolerate additional noise impacts.

54

3) Page 3.9.6: The UGA DEIS uses the hours between 12:00 pm and 4:30 pm "to characterize the weekday afternoon rush hour noise levels". Concern: An average score here includes large periods of sparse traffic i.e. the sampling was started too early and ended too early. A 3:00 pm to 6:00 pm timeframe would have been a better measure of

55

- afternoon rush hour. These measurements were also done in the winter of 1998. What about more recent data? 55 (cont.)
- 4) Page 3.9.8: The no action alternative does not even consider a stand-alone MPR. Concern: If a stand-alone MPR is an option, this noise source must be addressed, and it is not. 56
- 5) Page 3.9.12: Predicted traffic noise levels contributed from the proposed MPR or secondary growth are difficult to assess due to unknown placement of the actual buildings, therefore the DEIS asserts no cumulative traffic noise impacts exist under any of the proposed alternatives. The DEIS also states that because "the exact location of proposed land uses within both the MPR and UGA and the specific distances between structures are unknown", ambient noise level predictions (i.e. operational activity noise levels and potential impacts from the proposed land uses—not including traffic) cannot be made. Concern: This issue was very poorly addressed in the DEIS. Wouldn't it be safe to say that noise would be increased with the addition of almost 6,000 living units, 3-4 golf courses, a proposed horse park, 2 "business" parks, an amphitheater, etc.? This needs to be studied and mitigated. 57
- 6) Additionally, in relation to noise, the DEIS has failed to even consider the impact of snowmobile noise from the UGA and the MPR. 58
- 7) Also not considered are the likely impacts of small plane traffic at the CE airport, the sound of mowers for golf course and lawn maintenance, and the impacts on the cemetery. 59

**AESTHETICS, LIGHT, AND GLARE**

- 1) Page 3.12-9: The DEIS states "no locations close to the UGA have extensive long-duration views of the UGA... Viewers most affected by changes in the visual landscape would be the frequent users of Bullfrog Road and SR 903." Concern: Current residents of Upper County would be significantly impacted. Bullfrog Road and SR 903 are much more relevant to Upper County residents and visitors than the view from the freeway, which is buffered in all of the alternatives. However, viewsheds from SR 903 are not buffered in alternatives 2, 3, or 4 to reduce the visual impacts of dense development. This needs to be mitigated! A buffer of 150 foot along Bullfrog Road would not adequately screen or diffuse views to the interior of the UGA. 60
- 2) Page 3.12-10: The DEIS asserts that "skyglow could change on properties within approximately 10 miles of the site...Development of the UGA would add to the skyglow effects of the proposed MPR...". Concern: The beauty of the night sky from our backyards not from Table Mountain or the Manastash Ridge is one of the reasons cited by many current residents of Upper County for living here. Astronomical observation can currently be done from our homes not from an observation station. This is a quality of life issue, and it is a definable significant adverse impact which is not adequately addressed. Mitigations must include state of the art shielding, elimination of landscape lighting, etc. 61

**WETLANDS**

- 1) The #4 and #5 Wetlands need more than 100 ft. buffers – located in residential areas migratory birds can be adversely affected by pets. 62



- 2) Demand buffers at a minimum of the Cle Elum Critical Areas Ordinance Standards.
- 3) Wetland #1, #2, #3 will fall inside open space plan. Human use could have adverse affects and should be mitigated by more upslope and natural open space dedicated to non-motorized use.

62 (cont.)

**PLANTS, ANIMALS AND FISHERIES**

- 1) Scale of development may require enforcing “No fishing” or “Catch and release” regulations – effecting existing users. 63
- 2) Stormwater run-off depends on “infiltration” no treatment- sediment and pollutants can affect habitat. 64
- 3) No WDF&W bull trout survey was ever conducted on the Cle Elum – it needs to be done. 65
- 4) How can surface water run-off from “section T” (housing development in Bullfrog Flats) – not be expected to disturb river health. 66
- 5) Mitigation to protect 38 sensitive species of plants that are potentially found on the property. 67
- 6) Management of priority habitats: eagle habitat, snags and downed wood; instream/riparian habitat, and wetlands not identified. 68
- 7) Management of wetlands and wetland dependent vegetation not identified. 69
- 8) Increased river buffering
- 9) Identification of important wildlife corridors and linking those with the MPR, the Roslyn ridge and the upper Cle Elum valley.
- 10) Reducing Elk-human conflict through conservation of Elk wintering grounds and management of set-aside lands. 70
- 11) Cluster homes and development on the east side of UGA to allow animal movement and connectivity.
- 12) Limit construction to after the bird-breeding season, in cooperation with the Migratory Bird Treaty Act.
- 13) Only allow native grasses and shrubs to be planted.
- 14) Eliminate snowmobile and motorized recreation on the property. 71
- 15) Keep trails out of the Cle Elum River and limit river access to protect wildlife.
- 16) Mitigation should include purchase of land on the south side of Easton Hill where Elk are repeatedly seen foraging.
- 17) Eliminate golf course which would eliminate lots of the human/wildlife conflicts. 72

**PARKS**

- 1) No hard numbers on how many people could potentially impact the surrounding recreations areas, specifically federal and state land. 73
- 2) DEIS states that each neighborhood must provide a "pocket park". But no specifics on how large or for what use. 74
- 3) The DEIS states often that there will be such a minimal increase in total people in the UGA that current recreational facilities will be able to absorb more use. How can they prove that? With recreational use increasing rapidly on federal land already, demands on resources are stretched beyond their limit. They need to show how use over the long-term 10-20-50 years down the road will affect the environment. 75

- 4) The UGA provides minor recreation facilities. It does not address the needs for large areas for snowmobiling, hiking, mountain biking, winter skiing. They also do not address how TW will tap into the already existing federal trail system. What type of agreement will they have, and is the Forest Service willing to do that? 75 (cont.)
- 5) How will they address the need for more RV parks for summertime construction employees. They state that the limit will be exceeded. 76
- 6) Items not addressed in the DEIS that RIDGE identified in the scoping process:
  - a) Loss of hunting opportunities, preservation of public access to trails.
  - b) Impacts to existing parks, impacts of snowmobiling and ORV use on and off the development. 77
  - c) local residents access to river corridor
  - d) increasing demand on Alpine Lakes Wilderness, need for integrated trails plan.
  - e) potential impacts from resort-induced growth stimulating adjacent land use changes.
- 7) The City of Cle Elum is developing open space Levels of Service (LOS) standards for regional open space. Their standard is 25 acres per 1,000 people – not including sensitive areas – steep slopes, floodplains, and golf courses. Trendwest proposes to set aside open space based on a National Recreation and Parks Assoc. standard which includes only the steep slopes and wetland floodplains. More usable open space should be set aside for recreation that is usable by the public and not just golfers. 78

**EARTH**

- 1) Did not address possible effects on ground water and historical mining in the UGA or on the surrounding landscape. 79
- 2) Did not address stability of ground due to mining in the UGA or on the surrounding landscape. 80
- 3) Did not address how the fluvial system could potentially affect runoff from the development. How permeable are the soils? And where does runoff go? 81

**AIR QUALITY**

- 1) A plan is needed to deal with winter inversions from wood burning stoves, snowmobiling and excessive driving. 82
- 2) Mitigation to deal with increased Carbon Monoxide emissions from above uses. 83
- 3) Phasing of construction to deal with poor air quality. 83
- 4) Analyze cumulative impacts of construction at Resort and UGA on air quality and identify mitigation. 84

**ECONOMICS AND FISCAL IMPACTS (Also see attachment from Brian Carpenter, REBOUND, May 2, 2001)**

- 1) Studies for employment and labor are based on the Kittitas County Profile and the Mountainstar Employment Analysis. Graphs are based on combining the UGA and MPR employment. Employment trends for upper county are not addressed. 85
- 2) Operations: 80% of combined MPR and UGA employment will pay less the \$30,000 annually. Retail, restaurant, lodging, and services – will pay non-living wage salaries. Are salary figures in 2001 dollars? 2010? 2020? 86
- 3) Property values: Accelerated property values would have tax ramifications. Appendix H. describes how taxes will be lower as the UGA reaches maturity or hold constant at worst. Where have tax bills in other Trendwest areas gone down? Where are the examples of other places? 87
- 4) Our Community has a very high level of Seniors on fixed incomes, they are reluctant to ask for reduced tax and fee rates even though they qualify (Cle Elum reduced water/sewer rate). How will increased property values affect their standard of living? 88
- 5) Economics of Cle Elum: A town that two months ago could not afford to cough up \$4,000 for their share of a dogcatcher. Where will the money come from to repair 2nd Street, or any other road ? Storm drains, sewer lines, water lines, sidewalks, parks; what will be the priority for Cle Elum? The east end of Cle Elum has been waiting for years for necessary repairs. Who comes first, the ones that have been waiting for municipal services or new connection lines in an Urban Growth Area? 89
- 6) Economic impacts for businesses relying on tourism.- traffic needs to be able to flow through Cle Elum. 90
- 7) The significant amount of retired people on fixed incomes in this community need to be considered in this study. 91

**LANDUSE**

- 1) According to the DEIS 3.10-2 the proposed development would be twice the physical size of Cle Elum with about the same #of housing units and population. With the contiguous Resort – the area will house 5 times the population of Cle Elum. Why this size and this population? 92
- 2) The Cle Elum Comprehensive Plan says that the City does not want to outpace its ability to provide infrastructure with the new UGA. By entering into the proposed water and sewer construction – doesn't the City waive its autonomy to control infrastructure? 93
- 3) Draft Bullfrog Subarea Plan states that the city wants development in the UGA “to enhance the natural environment of the Cle Elum River Corridor”. How does this density do that? 94

**CULTURAL RESOURCES**

- 1) Historic uses on the land have not been discussed or addressed. Ownership of historical finds have not been stated. Buffers of 50 feet from “cultural finds” are not large enough. 95

**Comment 1**

Refer to the response to Letter 4, Comment 2.

**Comment 2**

Refer to the response to Letter 4, Comment 2.

**Comment 3**

Comment noted.

**Comment 4**

Water demands for current proposed uses within the UGA are identified in Section 3.16 of the Final EIS.

**Comment 5**

The Office of Financial Management's 2020 population projection for Kittitas County is allocated to Cle Elum and other jurisdictions within the county, consistent with the Kittitas County Countywide Planning Policies. Updated OFM population projections are anticipated in early 2002.

**Comment 6**

The City would supply water to the Community Recreation Center. The Horse Park is not included under Alternative 5, and water rights would be the responsibility of the developer of that project. As part of the RIDGE Settlement Agreement, Trendwest would provide water for induced growth impacts on Roslyn.

**Comment 7**

Refer to Section 3.16 of the Final EIS for a summary of untreated water demands associated with Trendwest and non-Trendwest land uses.

**Comment 8**

Comment noted. The golf course, Horse Park, and equestrian village have been eliminated from Alternative 5.

**Comment 9**

Refer to the response to Comment 8, above.

**Comment 10**

The transportation model network that was developed for the Cle Elum UGA is shown in Appendix F of this Final EIS as Figure F-1. I-90 interchanges that serve the Cle Elum and Roslyn communities were included in the network, had traffic assignments made to each interchange, and were evaluated for level-of-service impacts. The Business Park traffic is one component of the UGA development that was modeled and included in the travel forecasts.

**Comment 11**

Level-of-service (LOS) goals are identified in the *Draft Bullfrog Subarea Plan* for park and recreational facilities within the City of Cle Elum. LOS standards for transportation are described in Section 3.15 of the Draft EIS and Section 3.14 of the Final EIS.

**Comment 12**

Comment noted. The analysis contained in the Draft EIS was conducted based on known and available information at the time. Typically, operational impacts are analyzed as following the initial five-year construction phase. Refer to the updated analyses included in the Final EIS for the Reduced Density MPR and Alternative 5.

**Comment 13**

Refer to Section 3.3, Water Quality, and Appendix A of the Final EIS for a detailed and quantified analysis of potential water quality impacts on the Cle Elum and Yakima rivers.

**Comment 14**

The definition of “mitigation” in the State Environmental Policy Act (SEPA) includes “monitoring the impact and taking appropriate corrective measures” (WAC 197-11-768). Monitoring is an effective technique to measure and quantify potential impacts that cannot be identified with reliability at this point in the planning and design process.

As a jurisdiction planning under state of Washington Growth Management Act (GMA), the City of Cle Elum cannot approve new development if it would cause the level-of-service of a road in its jurisdiction to decline below the standards in the transportation element of the City’s Comprehensive Plan, unless transportation improvements to accommodate the development are made concurrent with the development. GMA defines “concurrent” as: (1) improvements or strategies that are in place at the time of development or (2) a financial commitment that is in place to complete improvements or strategies within six years (RCW 36.70A.070).

The need for various public facilities and services is discussed in Sections 3.15 (Transportation), 3.16 (Public Services), and 3.17 (Utilities) of the Draft EIS. Potential impacts on public facilities and services under Alternative 5 are discussed in Sections 3.14 (Transportation), 3.15 (Public Services), and 3.16 (Utilities) of the Final EIS. The proposed mitigation measures are identified for construction and operation concurrent with the expected impact. In addition, policies from

the *City of Cle Elum Comprehensive Plan* and the *Draft Bullfrog Subarea Plan* require mitigation concurrent with development. Proposed mitigation measures reflect an appropriate balance between identifying specific mitigation measures and using ongoing monitoring to confirm these measures.

**Comment 15**

In December 2000, Trendwest entered into a contract with the Department of Ecology for the purpose of conducting additional environmental review and processing of Trendwest's water rights transfer applications. Additional analysis of the impacts of Trendwest's water rights transfers on the Yakima River target flows has been conducted and mitigation measures for these impacts have been identified. Refer to the response to Letter 5, Comment 1 for additional information.

**Comment 16**

Proposed mitigation measures have been updated in the analysis contained in the Final EIS. Refer to the response to Letter 5, Comment 1.

**Comment 17**

Comment noted. Refer to the response to Letter 5, Comment 2.

**Comment 18**

Comment noted. Refer to the response to Letter 5, Comment 4.

**Comment 19**

Under Alternative 5, all stormwater except for floodflows in excess of the 100-year design storm would be infiltrated onsite, with no direct connection to surface waters. The only wetlands on the developed portion of the UGA site under Alternative 5 are in isolated depressions. Roof runoff could be used to augment water supply to these basins, should that need be identified during engineering design after conclusion of SEPA requirements.

**Comment 20**

Refer to the responses to Letter 12, Comment 7 and Letter 25a, Comments 27 and 28. Since the Draft EIS's evaluation of Alternatives 2, 3, and 4, a higher level of treatment is proposed for Alternative 5, which has been quantitatively evaluated in Section 3.3, Water Quality (see Appendix A, Water Quality Technical Report, for details).

**Comment 21**

Section 3.3 and Appendix A of the Final EIS contain a quantified analysis of potential water quality impacts.

**Comment 22**

A temporary erosion and sediment control plan would be developed as described in Sections 3.1 and 3.3 of the Draft EIS. An individual National Pollutant Discharge Elimination System (NPDES) permit and approved Stormwater Pollution Prevention Plan would be obtained through the Department of Ecology. Control measures would be specified in the permit documents.

**Comment 23**

Refer to the response to Comment 20, above.

**Comment 24**

Refer to the responses to Comments 20 and 21, above. The UGA site was divided into four stormwater management zones to determine stormwater treatment for Alternative 5 based, in part, on the underlying geology. The underlying soils are moraine and outwash soils, which have a silty sand component that meets Ecology's criteria for crediting infiltration to native soils as water quality treatment in its 2001 Stormwater Management Manual (see Section 3.2.5 of Appendix A, the Water Quality Technical Report). The higher level of treatment proposed since the Draft EIS and the additional treatment afforded by infiltration of the treated stormwater are predicted to adequately mitigate water quality impacts.

**Comment 25**

No golf course is proposed under Alternative 5 for the UGA. The Golf Course Management Plan for the MountainStar MPR golf courses contains detailed analysis of proposed pesticides and their use within the framework of integrated pest management (IPM). IPM is a modern and accepted strategy that minimizes the use of, and need for, pesticides. Environmental information on mobility, persistence, and toxicity for each pesticide and the restrictions and conditions for their use are described in the IPM.

**Comment 26**

No Horse Park is proposed under Alternative 5 for the UGA. For the alternatives described in the Draft EIS, as noted in Section 3.3, when open paddocks were not used during the wet season, among other measures also specified, background (unaffected) water quality was maintained. The Draft EIS includes all measures listed in this section that maintained water quality as mitigation measures.

**Comment 27**

No equestrian village is proposed under Alternative 5 for the UGA. Groundwater quality protection under Alternative 5 is analyzed in detail in Section 3.3 and Appendix A of the Final EIS.

**Comment 28**

Water quality management has been substantially revised under Alternative 5. The revised management system is summarized in Section 3.3 and described in detail in Appendix A of the Final EIS.

**Comment 29**

Allowance for flood flow passage is an appropriate engineering requirement for stormwater systems design to provide for public safety. Only floods in excess of the 100-year event would generate emergency overflows. The 2001 Washington Department of Ecology *Stormwater Management Manual* proposed for use by Trendwest requires safe conveyance but not treatment of water quality for these rare flood events.

**Comment 30**

The Final EIS updates the cumulative assessment of the MPR and UGA in the Draft EIS. Refer to Section 3.3 and Appendix A of the Final EIS.

**Comment 31**

Water quality impacts associated with impervious surfaces under Alternative 5 will be handled by stormwater treatment system and infiltration. Drains in residences would convey water to the wastewater treatment plant. Pouring toxins into storm drains is illegal. The use of pesticides and herbicides is evaluated for Alternative 5 in the Final EIS. See the updated analysis for Alternative 5 in Section 3.3 and Appendix A of the Final EIS.

**Comment 32**

The evaluation of increased human pressure on fishing resources has been expanded for Alternative 5 in Section 3.6 of the Final EIS. Washington Department of Fish and Wildlife would continue to manage regional fisheries resources. Trendwest has entered into a Cooperative Agreement with the Washington Department of Fish and Wildlife and the Yakama Nation to address agency and tribal concerns about environmental impacts from Trendwest's development proposals for the MPR and UGA. The parties have agreed to work toward the goal of no net loss of fish and wildlife habitat, as well as the protection of the environmental, scenic, historical, cultural, and recreational values associated with the Trendwest property. The Cooperative Agreement establishes a number of restrictions within the Cle Elum River corridor, as described in Appendix B of the Final EIS. As part of the RIDGE Settlement Agreement, Trendwest would also contribute financially to the purchase of conservation easements on adjacent forested lands.

**Comment 33**

Refer to the response to Comment 28, above.



**Comment 34**

Comment noted. SR 903 was evaluated for level-of-service impacts at principal intersections. Mitigation measures are identified in the County's conditions for approval for the MPR and the City's draft Conditions of Approval for the UGA. Refer to the response to Letter 7, Comments 10 through 12 for additional discussion of SR 903.

**Comment 35**

Refer to the response to Letter 7, Comment 5.

**Comment 36**

Refer to the response to Letter 7, Comments 10 through 12.

**Comment 37**

Refer to the response to Letter 7, Comment 3.

**Comment 38**

No Horse Park is proposed under Alternative 5 (Preferred Alternative). Under the terms of its agreement with Trendwest, the Washington State Horse Park Authority will be responsible for all environmental compliance related to that facility. Expected cumulative traffic impacts from peak summer weekends with the MPR and UGA development are discussed in Section 3.15 of the Draft EIS and in Section 3.14 of the Final EIS.

**Comment 39**

Comment noted. As traffic volumes increase on SR 903, the community would need to consider new safety-related improvements for school-age children. This is something that is common in all communities. Refer to the response to Letter 7, Comment 6 for a discussion of existing conditions.

**Comment 40**

Each agency typically has its own mechanism for funding improvements to correct safety problems. The accident history analysis contained in Section 3.15 of the Draft EIS found no unusual safety conditions that required corrections. The general guideline used by most agencies in the state of Washington is to identify high accident locations (HALs), which are defined as an unsignalized intersection with five or more accidents in a year or a signalized intersection with 10 or more accidents in a year. Any location with a fatality is also classified as a HAL. These locations are then prioritized based on a variety of factors including the number and severity of accidents, traffic volumes, etc. and investigated for solutions that would correct the identified safety problems. Fatality locations typically receive the highest priority for available funding.

**Comment 41**

Commenting on the County's proportionate share arrangement associated with the MPR is beyond the scope of this EIS. Based on the transportation analysis conducted for Alternative 5 cumulatively with the MPR, projected roadway volumes on SR 903 are not anticipated to exceed the design capacity of SR 903. Refer to the response to Letter 7, Comment 10 for additional information. Under the City's draft Conditions of Approval, Trendwest would pay its proportionate share for necessary traffic improvements.

**Comment 42**

Refer to the response to Letter 7, Comments 8 and 9.

**Comment 43**

Refer to the response to Letter 7, Comment 6 and to Comments 39 and 40, above.

**Comment 44**

The traffic analysis did address the summer time frame as the time with the largest amount of traffic volumes, and therefore, the greatest transportation impacts. Winter conditions and pass closures were not evaluated.

**Comment 45**

The intersection of First Street and South Cle Elum Way is identified in the EIS and in the City's Conditions of Approval as likely needing a traffic signal in Year 5 due to the general growth in the area's traffic volumes.

**Comment 46**

Refer to the response to Letter 26, Comment 2.

**Comment 47**

Refer to page 3.11-11 of the Draft EIS. The second paragraph states "The OFM high series forecasted that 4,733 more people would reside in the County by the year 2015 than the medium series forecasts." This statement expresses the difference between the 2015 high series forecast of 44,183 total county population and the 2015 medium series forecast of 39,450 total county population.

Beginning in the last paragraph on page 3.11-11, the discussion focuses on projections for 2020 and presents 48,670 as OFM's high series projected population for Kittitas County. Table 3.11-6 on the next page summarizes how the 20-year growth (or change) in population of 14,470 was allocated by Kittitas County in its 1999 amendment to the Countywide Planning Policies. The portion of that 20-year increase allocated to Cle Elum was 2,750.

## **Letter 36**

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### **Comment 48**

Under the No Action Alternative, the City of Cle Elum would not annex the UGA and zoning would remain in Forest and Range 20 and Suburban.

### **Comment 49**

Impacts on law enforcement and fire protection under Alternatives 2, 3, and 4 are analyzed in Sections 3.16, 3.19, and Appendix H of the Draft EIS. Under Alternative 5, these impacts are addressed in Section 3.15, Public Services, Section 3.18, Fiscal Conditions, and Appendix D of the Final EIS. Mitigation measures are identified and have been incorporated into the City of Cle Elum's draft Conditions of Approval.

### **Comment 50**

Refer to the responses to Letter 1 regarding concerns about the School District.

Mitigation agreements have been negotiated in principle between Trendwest and primary service jurisdictions including the City of Cle Elum, Cle Elum-Roslyn School District #404, and Kittitas County Hospital District No. 2. Additional agreements associated primarily with development of the MPR that would apply to potential cumulative impacts have been negotiated with Kittitas County, Fire District No. 7, and KITTCOM. Provisions in the RIDGE Settlement Agreement provide mitigation to the City of Roslyn.

Mitigation agreements provide specific guidelines for identifying shortfalls by monitoring costs and revenue flows. The agreements outline Trendwest's funding responsibilities for expected or identified shortfalls, which may include personnel, operation, maintenance, and capital facilities costs as negotiated by the respective jurisdictions. Shortfall mitigation payments are used to address identified fiscal impacts as appropriate.

Refer to the response to Letter 27, Comment 1 for a discussion of water provision to the School District expansion area.

### **Comment 51**

Refer to the responses to Letter 4, Comment 2 and Letter 37, Comment 6 for a discussion of the relationship between the City's wastewater treatment plant and the Trendwest project. Refer to the response to Letter 1, Comment 5 for the issue regarding septic capacity of the School District.

Refer to Section 3.16, Utilities, in the Final EIS for an updated discussion of the water treatment and wastewater treatment plant planning processes.

**Comment 52**

A standalone treatment plant is no longer proposed.

**Comment 53**

Comment noted. The noise regulations and guidelines evaluated in the EIS are based on protecting human health and welfare from the adverse impacts of noise. Future traffic noise levels are predicted to be within highway noise guidelines.

**Comment 54**

This Final EIS has been updated to address construction noise impacts on the cemetery and to identify mitigation measures. At the adjacent cemetery, some noise from construction activities would exceed existing noise levels at times, and could temporarily disrupt contemplative activities. To mitigate noise impacts on the cemetery, nearby construction activities could be coordinated to avoid scheduled memorial services.

**Comment 55**

As described in Section 3.9 of the Draft EIS, equivalent sound level (Leq) measurements were taken during 15-minute sampling periods, which is consistent with WSDOT noise measurement procedures. The Leq places more emphasis on the high noise levels than the lower accompanying background noise during a sampling period, and a logarithmic average of 15-minute Leq noise measurements would not be biased by large periods of sparse traffic (if present). More recent noise measurements would be similar to the 1998 measurements because an increase in background traffic of 2% a year would not substantially increase measured traffic noise levels. Traffic noise impacts have been predicted with FHWA-approved computer models for the afternoon rush hour.

**Comment 56**

Noise impacts of a standalone MPR are evaluated in the EIS for that development. Development of 19 to more than 106 single-family residences within the UGA under the No Action Alternative would not contribute substantially to cumulative traffic volumes along area roadways or to cumulative traffic noise.

**Comment 57**

The City of Cle Elum agrees that noise levels would increase under the alternatives. Additional vehicular traffic to and from the Cle Elum UGA would be the primary source of noise under the alternatives. Cumulative traffic noise levels can be accurately predicted based on projected cumulative traffic volumes, and they were predicted with FHWA-approved computer models for the Draft EIS (see Table 3.9-6 in the Draft EIS). The cumulative traffic noise levels are predicted to be within FHWA noise impact guidelines for highway noise.

Any onsite noise from residential and commercial land uses within the Cle Elum UGA are difficult to predict, but must meet the property-line noise standards established by the Washington State Department of Ecology (see Table 3.9-2 of the Draft EIS). If a regulated noise source within the UGA were to consistently exceed the Ecology property-line standards at neighboring properties, then reasonable mitigation measures to reduce onsite noise levels could be coordinated with the City of Cle Elum.

**Comment 58**

This Final EIS has been updated to address potential impacts of snowmobile noise. Snowmobile noise would be mitigated by limiting speeds and restricting snowmobile use within the UGA and MPR to designated trails. Snowmobiles would be allowed on city streets in Cle Elum, but their use and noise levels would be regulated by city ordinance.

**Comment 59**

Noise impacts on the cemetery are addressed in Tables 3.9-5 and 3.9-6 of the Draft EIS. This Final EIS has been updated to address construction noise impacts on the cemetery and to identify mitigation measures (see Comment 45 above). Alternative 5 would not include a golf course and associated lawn mowers. Noise impacts from increased air traffic were not considered potentially significant and were not evaluated.

**Comment 60**

Alternative 5 includes a 50-foot buffer along SR 903. Setbacks from SR 903 and height limits for structures will be specified in the Conditions of Approval for the project. Building design guidelines for the Business Park (now located along SR 903) would be specified in the development standards for the UGA. Refer to Section 3.11, Aesthetics, of the Final EIS and the response to Letter 11, Comment 3 and Letter 22, Comments 3 and 6 for additional information.

**Comment 61**

Comment noted. Refer to Section 3.11 of this Final EIS for additional discussion.

**Comment 62**

Under the Cle Elum Critical Areas Ordinance, Wetlands 4 and 5 likely would be designated as Category III with a buffer of 50 feet. The buffer width requirements of the Cle Elum Critical Areas Ordinance would be applied. As described in the Draft EIS, the hydrological isolation and small size of Wetlands 4 (0.1 acre) and 5 (0.3 acre) limit their potential habitat value to waterfowl.

**Comment 63**

Comment noted. Current WDFW regulations prohibit fishing for, or retaining, bull trout, steelhead, and salmon in the Cle Elum River. Anglers may fish for other game fish June 1

through October 31. It is WDFW's responsibility to monitor and adjust regulations to conserve and protect fish resources.

**Comment 64**

Refer to the response to Letter 36, Comment 20.

**Comment 65**

Comment noted.

**Comment 66**

Comment noted. Development proposed in Planning Area T under Alternatives 2, 3, and 4 has been removed under Alternative 5.

**Comment 67**

Sensitive plant species are discussed in Section 3.6 of the Draft EIS and Section 3.5 of the Final EIS. Of the 38 plant species listed in Table E-3 (Appendix E in the Draft EIS) as potentially occurring within the UGA, 26 are described as unlikely to occur because of a lack of appropriate habitat within the UGA. Nine of the 12 plant species that occupy habitat types within the UGA occur in wetlands and riparian corridors. Retaining wetlands and the geomorphic floodplain of the Cle Elum River within the UGA as undeveloped open space is discussed in Section 3.6 of the Draft EIS. The remaining three sensitive plant species are associated with forested upland habitat. Areas of native forested vegetation will be retained within the UGA as undeveloped open space.

**Comment 68**

Management of wetlands and priority habitats is discussed in Section 3.6 of the Draft EIS and would occur in accordance with the City of Cle Elum Critical Areas Ordinance.

**Comment 69**

Under Alternative 5, the area of undeveloped open space known as the Cle Elum River corridor has been expanded to include what was Planning Area T under Alternatives 2, 3, and 4 and the adjacent west ridge.

**Comment 70**

Section 3.6.4 of the Draft EIS identifies the Cle Elum River corridor as the most significant wildlife corridor within the UGA, and includes a discussion of elk wintering grounds and linkage with offsite habitat. The major identified riparian corridor that connects the UGA with offsite habitat in the MPR and surrounding lands would be retained as undeveloped open space. This

corridor would allow for continued movement to offsite properties where elk feeding still occurs and to other seasonal range areas.

**Comment 71**

Management of priority habitats and species is discussed in Sections 3.6.3 and 3.6.4 of the Draft EIS. “Fish and wildlife habitat conservation areas associated with Washington State priority species include nesting areas (including species that would be protected under the Migratory Bird Treaty Act), breeding areas, and migratory routes/destinations identified by WDFW within the UGA occur in areas that will be retained as undeveloped open space.”

Mitigation identified in the RIDGE Settlement Agreement addresses concerns over purchase of adjacent land and management of the Cle Elum River corridor.

**Comment 72**

Under Alternative 5, the golf course has been eliminated.

**Comment 73**

Additional use of offsite recreational resources is acknowledged in both the Draft and Final EISs. Quantifying numbers of potential users to surrounding recreation areas would be speculative and likely inaccurate. An analysis of increased human pressure on fishing resources has been added to Section 3.6, Fisheries, of the Final EIS.

**Comment 74**

Comment noted. The *Draft Bullfrog Subarea Plan* contains a discussion of park requirements, including “pocket parks” or “mini-parks.” Mini-parks are typically 0.25 to 0.5 acre in size and are improved with minimal passive recreational facilities and, typically, children’s play equipment. These parks would be located in the residential parcels. The precise locations of these parks would be determined during the parcel platting stage. Section 3.15 of the Final EIS contains additional discussion of park mitigation requirements.

**Comment 75**

Nowhere in Section 3.14 of the Draft EIS is there any statement that recreation-related impacts would be minimal and capable of being mitigated by existing recreational facilities in the area. Refer to Table 3.14-2 and the accompanying discussion, which summarize the need for new recreational facilities in the UGA to comply with the City of Cle Elum’s level-of-service goals, and how the project would mitigate those impacts.

**Comment 76**

Refer to the response to Letter 26, Comment 2 and to the updated Section 3.10, Population and Housing, in the Final EIS.

**Comment 77**

Under the terms of the RIDGE Settlement Agreement, all access to the Cle Elum River shall be offered on an equal basis to all Kittitas County residents, MPR and UGA residents, and guests. River access would be managed and/or restricted to: (1) protect salmon spawning areas, (2) restrict motor vehicle use inside the river corridor, and (3) protect fish, fish habitat, and shoreline areas.

The Alpine Lakes Wilderness Area has been added to Section 3.13 of the Final EIS.

Snowmobiles must be licensed, have appropriate mufflers, and operated in a safe manner, consistent with the City of Cle Elum's code requirements.

**Comment 78**

Comment noted. The Cle Elum UGA Master Site Plan Application, described as Alternative 5 in Section 2.5 of this Final EIS, includes approximately 418 acres of open space, only a small portion of which is located within steep slopes and wetland floodplains. In particular, Alternative 5 proposes to retain the entire lower bench along the Cle Elum River as open space, including substantial acreage outside of the 100-year floodplain. The golf course has been eliminated from Alternative 5, although it is a potential use discussed in the *Draft Bullfrog Subarea Plan*. In addition, Alternative 5 includes a proposed community park and recreational center on approximately 12 acres and a neighborhood clubhouse and lake on approximately 18 acres.

**Comment 79**

Refer to the response to Letter 25a, Comment 28 for effects on groundwater quality and the potential for influence to offsite surface waters. Refer to Section 3.3 and Appendix A of the Final EIS for additional detail. Coal mine hazard areas are discussed in Section 3.1 of the Draft EIS and potential impacts are low.

**Comment 80**

Refer to page 3.1-12 of the Draft EIS for a discussion of existing coal mine hazards in the UGA area. On page 3.1-21, the Draft EIS discusses why the potential for future coal mine subsidence in the UGA is low.

**Comment 81**

Refer to the responses to Letter 12, Comment 7 and Letter 25a, Comment 28.

**Comment 82**

Under Alternative 5, wood-burning fireplaces and woodstoves would be prohibited in all residential units within the Cle Elum UGA.



Carbon monoxide (CO) concentrations were modeled in the Draft EIS with EPA-approved computer programs during conditions of winter inversions. Because the future CO concentrations under all alternatives are expected to be well below the National Ambient Air Quality Standards, air quality mitigation measures would not be required for traffic emissions of CO. Any traffic mitigation measures to reduce traffic volumes or improve intersection level-of-service under Alternative 5 or the MPR correspondingly would reduce cumulative air pollution. Increased snowmobile use would occur during the winter and temporary, localized air quality impacts could occur during snowmobile operation depending on the number of snowmobiles in use in a specific area. These impacts would not result in significant impacts on overall air quality.

**Comment 83**

Mitigation measures to reduce construction air quality impacts are identified in the Draft EIS, and additional construction mitigation measures under Alternative 5 are identified in Section 3.2, Air Quality, in this Final EIS. Section 3.2 of this Final EIS has been updated to evaluate outdoor burning impacts and mitigation measures under Alternative 5 during the land-clearing phase of construction. Construction phasing is discussed in Chapter 2 of the EIS.

**Comment 84**

Cumulative construction-related air quality impacts are discussed in Section 3.2 of the Draft EIS and in Section 3.2 of the Final EIS. Cumulative construction impacts under Alternative 5 would be similar to Alternatives 2, 3, and 4, and are not anticipated to be significant because construction activities between the MPR and UGA are geographically separated and mitigation measures would be put in place to control particulate matter and CO emissions.

**Comment 85**

Authoritative agencies, particularly Washington Employment Security, do not regularly monitor Upper Kittitas County separately from Kittitas County as a whole. Where possible, economic trend descriptions throughout Kittitas County have been updated in Chapter 3.17, Economic Conditions, to reflect newly released economic data.

**Comment 86**

Salary figures are in 1999 dollars unless expressed otherwise. It is reasonable to assume that in the future, salaries would at least keep pace with inflation of around 2.5% annually.

**Comment 87**

Based on surveys of area destination resorts, these types of developments do not measurably inflate existing property values and property tax bills in the Pacific Northwest (Johnson Gardner 2001).

**Comment 88**

Negative financial impacts on local senior citizens are not expected because: (1) surveys of destination resorts have shown that existing property values and property tax bills in the Pacific Northwest are not measurably inflated, (2) Washington voters have approved property tax growth caps (including I-747), and (3) property tax and utility programs to help senior citizens exist in Kittitas County. Consistent with the terms outlined in the Pre-Annexation Agreement between the City of Cle Elum and Trendwest, existing citizens and ratepayers should not suffer negative financial impacts as a result of Trendwest development activities within the UGA.

**Comment 89**

Refer to the response for Letter 16, Comment 3.

**Comment 90**

Comment noted. UGA traffic would travel into Cle Elum. Improvements would be needed at several locations to maintain traffic operations. Mitigation for traffic impacts is outlined in the City's draft Conditions of Approval for the project.

**Comment 91**

Refer to the response to Letter 36, Comment 88.

**Comment 92**

Comment noted. Kittitas County added this area to the City of Cle Elum UGA in 1998. It is sized to accommodate the range of OFM population allocated to Cle Elum in the County's Comprehensive Plan. Because the projected buildout of the UGA would take 30 years and the growth population allocations are for 20 years, total City population capacity with the full UGA development and existing city limits is slightly higher than the OFM 20-year projection. Alternative 5 includes significant new open space designation along the Cle Elum River corridor. When this open space area is taken into account, the average residential densities in the UGA are consistent with the Growth Management Act requirements for urban areas, thereby making this an appropriate-sized UGA. Refer to additional discussion of this issue in Section 3.10 of the Draft EIS and Section 3.9 of the Final EIS.

**Comment 93**

Water supply and wastewater treatment capacity for the City of Cle Elum are discussed in Section 3.17 of the Draft EIS. Expanded City water service and City wastewater treatment services are addressed in two separate agreements between the City of Cle Elum and Trendwest: *Water Supply System Project Development Agreement* dated June 19, 2001 and *Interim Wastewater Treatment Facilities Project Development Agreement* dated July 26, 2000. In addition, the City of Cle Elum, Trendwest, City of Roslyn, Town of South Cle Elum, and other interested parties are pursuing a regional wastewater treatment facilities plan and funding

agreement that is required prior to providing wastewater treatment capacity beyond that provided in the interim wastewater treatment plant improvements described in Section 3.17 of the Draft EIS and Section 3.16 of the Final EIS.

**Comment 94**

Alternative 5 has been selected as the Preferred Alternative for development in the UGA. By concentrating residential uses in a relatively small residential land base and locating development away from the Cle Elum River corridor, Alternative 5 would provide opportunities for new housing, community recreation, and employment in the UGA, while promoting the preservation of the natural environment within the Cle Elum River corridor. This is consistent with the *Draft Bullfrog Subarea Plan*.

**Comment 95**

Refer to Section 3.12 for an evaluation of potential impacts on cultural resources under Alternative 5. Mitigation measures have been revised and updated since the Draft EIS was published and are specified in the City's draft Conditions of Approval for the project.

## RIDGE Scoping comments/record for Cle Elum UGA

5/7/2001

Since the earliest days of discussion about Cle Elum's Urban Growth Area on Trendwest property, RIDGE has contended that environmental review of the UGA land and Master Planned Resort should be done simultaneously in one package. Due to the interrelationship of facilities in both projects, the resort and the UGA should have been analyzed in a single EIS rather than improperly segmented as they have been. The division between the UGA and the MPR was artificially imposed by Trendwest/Jeld-Wen to avoid mitigation of a multitude of impacts. As approved by the County, the MPR's unmitigated impacts due to comparative scale and monstrous size coupled with similar unmitigated impacts from the UGA will decimate the communities of Roslyn, Ronald, and Cle Elum.

RIDGE wishes to go on the record as saying that Trendwest's response to questions regarding their poor planning in both the MPR and UGA has repeatedly been that unresolved issues will be dealt with down the road reasoning these projects have a thirty-year build-out period. We find this response indicative of the inadequate quality of their planning and a strong indicator of Trendwest's carpetbagger mentality proving that they have no long-term commitment to the communities. We view this response as an insult to all Upper Kittitas County residents and communities; many residents have had family living in Roslyn and Cle Elum for over one hundred years and expect to have descendants living on in these communities for another few hundred years. Responsible planning must address all impacts, both short-term and long-term. Any other approach is totally unacceptable and can only be interpreted as the ultimate in short-sighted, inadequate planning. To assist you in scoping for the UGA we are submitting relevant documents for the record. Included are documents related to the City of Roslyn, to the MPR, to water, to wildlife, and to the UGA itself.

We request that these documents be added to the record:

- A) Final Environmental Impact Statement on MountainStar MPR, Vols. 1, 2, & 3
- B) Final Development Agreement for MountainStar MPR with all related County Ordinances
- C) Kittitas County Development Activities Application, MPR, March 7, 1997
- D) Trendwest Agreements from Cle Elum Notebook, 5/2000
- E) The "Green Book" Bullfrog Urban Growth Area, City of Cle Elum, 6/23/98
- F) Cle Elum Comprehensive Plan
- G) Kittitas County Comprehensive Plan
- H) Kittitas County Countywide Planning Policies
- I) Site Master Drainage Plan for MPR
- J) Cle Elum's Critical Area Ordinance
- K) Kittitas County's Critical Area Ordinance
- L) Cle Elum's Road Standards
- M) Kittitas County's Road Standards
- N) EIS documents on Cle Elum's Zoning Code Changes re: UGA & MPR
- O) Water Transfer Applications for Cle Elum UGA (these documents have been filed with

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- the DOE but are not yet available to the public due to the drought emergency)
- P) Aerial map of Cle Elum River Corridor including surrounding communities of Ronald, Roslyn, Cle Elum and South Cle Elum, MPR site and UGA land

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We submit copies of the following documents:

- 1) OFM Census Figures Based on Census 2000, March 30, 2001
- 2) Nomination of Roslyn to National Register of Historic Places
- 3) Comprehensive Plan for the City of Roslyn
- 4) Washington's Most Endangered Places 2000
- 5) City of Roslyn's scoping comments MPR, 4/3/1997
  
- 6) Letter from BOCC to Cle Elum, Roslyn, & South Cle Elum regarding Resolution 96-203's "special study area", including copy of Resolution 96-203
- 7) Summary Proposed Water Delivery Agreement, Cle Elum/ TW
- 8) Memo of Understanding re: UGA, 4/13/1999
- 9) Letter TW's Mike Moyer to Mayor Berndt re: UGA, 3/10/98
- 10) Letter TW to Mayor Berndt re: cooperative wastewater treatment, 4/7/97
- 11) Letter American Engineering Corp. to Mayor Berndt re: cooperative water system, 4/8/97
- 12) Letter and response TW's Moyer to Councilmen Goldie and Glondo re: UGA, 4/9/97
- 13) Letter City of Cle Elum to URA Greiner Woodward Clyde re: interim sewer i improvement work, 9/30/99
- 14) Letter from URS Greiner Woodward Clyde re: amendment to agreement for wastewater improvement work, 9/24/99
- 15) Cle Elum Ordinance 1011, Interim Sewer Capacity Improvements Design Fund
- 16) Cle Elum Resolution 9/28/99-1, policy on Interim Sewer Capacity Improvements
- 17) Interim Wastewater Treatment Facilities Project Development Agreement Cle Elum, South Cle Elum/ TW, 7/26/2000
- 18) Addendum No. 1, Cle Elum/ Huibregtse, Louman Associates. 3/14/2000
- 19) Design, Engineering and Surveying Services Agreement for Cle Elum Water Treatment Project, Cle Elum/TW 5/30/99
- 20) Easement Cle Elum, South Cle Elum/TW 5/30/99
- 21) Cle Elum Resolution 3/14/00-1 re: Water rights/supply for TW's MPR
- 22) Cle Elum Resolution 11/23/99-1 re: Water rights/supply for TW's UGA
  
- 23) Article, Clubbing Southeast Asia. The Impacts of Golf Course Development. 11/93
- 24) Timeshare Tribune, Rebound newsletter, 7/2000
- 25) Article Puget Sound Business Journal, TW Resorts readies \$47 million IPO. 5/30/97
- 26) Questions & Answers Concerning MountainStar Resort, 11/4/97
  
- 27) The Biological Case for Preserving Lands in the I-90 Corridor, Cascades Conservation Partnership, 7/10/00
- 28) Cooperative Agreement WDFW, YIN/ TW 12/4/2000
  
- 29) Letter Center for Environmental Law & Policy to Mayor of Ellensburg re: water rights 4/15/98
- 30) Letter TW to Mayor of Ellensburg re: water right purchase 4/15/98 with Proposal to Transfer City of Ellensburg Water Rights to TW
- 31) Letter Perkins Coie LLP to Barwin (DOE) re: water rights change applications, 12/24/98

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- 32) Letter Wash. DOH to Barwin (DOE) re: water rights change applications, 12/31/98
- 33) Memo of Agreement Kittitas County/ Bureau of Rec. 2/9/99
- 34) Letter DOE to Kittitas County re: scoping on MPR EIS, 3/24/99
- 35) Letter Bureau of Rec. to Kittitas County re: MPR water supply, 4/6/99 with attached comments and attached letters from DOE, Kittitas Reclamation District, & Roza Irrigation District
- 36) Letter DOE to Perkins Coie LLP re: Cle Elum & S. Cle Elum's water rights change applications, 4/22/99
- 37) Letter Perkins Coie LLP to DOE re: canceling two change authorizations, 5/14/99
- 38) Letter DOE to YIN re: Cle Elum's proposed change of pt. of diversion, 7/28/99
- 39) Letter Bureau of Reclamation to Rachel Paschal re: copies of documents related to water supply exchange request 10/27/99
- 40) Letter DOE to WDFW re: Cle Elum request for change of point of diversion, 7/28/99
- 41) Letter Rachel Paschal Osborn to DOE re: protest of water transfer applications, 10/27/2000
- 42) RIDGE Position Paper on MPR's, Doug Kilgore
- 43) RIDGE scoping comments TW MPR, 11/24/99 (also in Vol.3 of MPR EIS)
- 44) TW Application for Development Agreement, 12/23/96
- 45) Letter RIDGE to BOCC re: MPR project application 7/11/2000
- 46) Letter RIDGE to Kittitas County Planning Commission and BOCC re: TW Dev. Agreement with RIDGE's recommended conditions attached, 7/13/2000
- 47) Letter 1000 Friends of Washington to Kittitas County Planning Dept. re: MPR Dev. Agreement
- 48) Letter Rachel Paschal (for RIDGE) to Kittitas County Planning Dept. re: Development Application, 7/17/2000
- 49) RIDGE's/Rebound's Declaration with Opening Brief, Appeal of MPR FEIS, 5/25/2000 with attachments:
- 1) Pre-annexation Agreement (listed as exhibit: submitted with item # 60 as Exhibit 17)
  - 2) Letter City of Cle Elum to DOE re: modification of Cle Elum NPDES Permit, 2/9/99
  - 3) Letter Gray & Osborne to DOE re: Roslyn's Comprehensive Sewer & Waste-water Facility Plan, 8/3/99
  - 4) City of Roslyn Comprehensive Water System Plan, 6/96
  - 5) City of Cle Elum, Town of S. Cle Elum Comprehensive Water Plan, 7/96
  - 6) Water Rights Application Tracking System, 5/18/2000
  - 7) Central Washington Park Foundation SEPA checklist, 4/24/2000
- 50) RIDGE's/ Rebound's Opening Brief, MPR FEIS appeal, 5/25/00
- 51) Transcript of RIDGE witnesses MPR FEIS appeal, 7/5/2000 ( pp.54-89)
- 52) Transcript of Mayor Berndt, MPR FEIS appeal (pp. 161- 195)
- 53) Transcript of Joe Peck, MPR FEIS appeal, (pp. 1- 140)
- 54) Transcript of Joe Peck, MPR FEIS appeal, (pp. 54- 64)
- 55) Transcript of Bob Burke, MPR FEIS appeal (pp. 228- 251)
- 56) Prefiled Testimony of Mayor Berndt, MPR FEIS appeal, 6/13/2000 with attachments
- 57) Reply Brief, RIDGE/Rebound MPR FEIS appeal, 6/26/2000
- 58) City of Roslyn's Brief MPR FEIS appeal 4/26/2000
- 59) RIDGE's Petition for Review to Eastern Wash. Growth Management Hearing Board, 12/7/2000
- 60) RIDGE's Opening Brief before Eastern Wash. Growth Management Hearing Board, 3/26/01 with attachments:

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- 1) Roslyn Comp. Plan (excerpts)
- 2) Draft EIS (excerpts)
- 3) FEIS (excerpts)
- 4) Transcript of EIS appeal hearing (excerpts)
- 5) Conceptual Master Plan
- 6) MPR application (excerpts)
- 7) MPR Conditions of Approval: Condition C-19
- 8) Staff Report - Third Draft (Aug. 1, 2000) (excerpts)
- 9) Kittitas County Comp. Plan (excerpts)
- 10) Stipulation RE: Lack of Water Rights (July 5, 2000)
- 11) City of Cle Elum Resolution 11/23/99-1
- 12) City of Cle Elum Resolution 3/14/00
- 13) Pre-filed Testimony of Chris Lawson (excerpts)
- 14) Letter from DOE to Kittitas County, 7/11/00
- 15) Letter from DOE to Kittitas County, 3/18/99 with attached comments of Barwin
- 16) PUD Chapter of Kittitas County Zoning Code (Chapter 17.36.KCC)
- 17) Preannexation Agreement, revised 5/18/00
- 18) Letter from Mayor Berndt to DOE, 2/9/99
- 19) City of Roslyn Comp. Water System Plan 6/96
- 20) City of Cle Elum/ S. Cle Elum Comp. Water Plan, 7/96, draft
  
- 61) RIDGE's Reply Brief on the Merits, Superior Court, 3/12/01
- 62) RIDGE's Opening Brief on the Merits, Superior Court, 3/30/01
- 63) RIDGE's Supplemental Brief on Findings, Superior Court, 3/30/01
  
- 64) Forest Ecosystem Management Report, July 1993
- 65) Dept. of the Interior, 50 CFR Part 17, Fish and Wildlife Service
- 66) *Deer and Elk* excerpt of "Wildlife Habitat in Managed Forests"
- 67) Distribution of Mule Deer and Elk in Relation to Roads
- 68) *Big Game of North America* excerpt
- 69) *Domestic Dogs as Predators on Deer*
- 70) Graphs of Yakima River Flows at Richland, Horn Rapids Dam, Benton City, etc.
- 71) Wash. State EIS for Black Bear Management, Sept. 1996
- 72) State of Wash. Assessment of Elk Population Trends and Habitat Use, 1/1999
- 73) Living with Wildlife: Cougars
- 74) Living with Wildlife: Black Bears
- 75) Wash. State Management Plan for Black Bear
- 76) Wash. State Management Plan for Elk
- 77) Spring Chinook and Redd Counts in Yakima Subbasin
- 78) WDFW Weekly Report: re: Cougar and bear complaints in Roslyn
  
- 79) DEIS I-90 Land Exchange USFS/Plum Creek
- 80) FEIS I-90 Land Exchange, EIS Vol. 1, excerpt
- 81) FEIS Snoqualmie Pass Adaptive Management Area Plan
- 82) DOT Snoqualmie Pass Closures, 12/1999- 3/25/2000
- 83) FEIS Snoq. Pass Adaptive Management Area Plan, excerpt from Summary
  
- 84) Kittitas County Ordinance 2001-04, Amendment to Zoning Atlas for Deneen's Port Quendall Development
  
- 85) Yakima Herald Republic, *Judge Affirms Ruling to Halt Local Board Action on Water Rights*
- 86) Letter Larry Nickel, Kittitas County Water Quality/Quantity Coalition, re: TW EIS i inadequacy , 7/5/2000

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- 87) Judgment on Statewide Water Issues
- 88) Letter with Questions, Larry Nickel to Kittitas County re: Hydraulic Continuity, Aquifer Recharge, 9/13/1999
- 89) EHB 1350, Committee on Envir., Energy and Water re: appeals of DOE decisions regarding changes or transfers of water rights , adopted, 4/21/01
- 90) Letter Bureau of Reclamation to DOE regarding Concerns for Trendwest Water Rights Applications and Resort Proposal, 10/30/2000
- 91) Letter Kittitas Reclamation District to DOE re: TW water rights transfers, 10/26/2000
- 92) Letter City of Roslyn to DOE re: protest of TW water rights transfers, 10/25/2000
- 93) Letter Oshie & Spurgin for YIN re: protest of TW water rights transfers 10/30/2000
- 94) Letter Kittitas County Water Quality/Quantity Coalition to DOE re: protest of TW water rights transfers, 10/24/2000
- 95) Letter Peg & Tom Whitaker to DOE re: protest of TW water rights transfers, 10/26/2000
- 96) E-Mail Joe & Shirley Gardner to DOE re: protest of TW water rights transfers, 10/27/2000
- 97) E-mail Henry Fraser to DOE re: protest of TW water rights transfers, 10/30/2000
- 98) Letter Shannon Cernick to DOE re: protest of TW water rights transfers, 10/30/2000
- 99) E-mail Jim & Julie Steves to DOE re: protest of TW water rights transfers, 10/27/2000
- 100) E-mail John D. Jordan to DOE re: protest of TW water rights transfers, 10/27/2000
- 101) Letter John D. Jordan to DOE re: protest of TW water rights transfers, 10/27/2000
- 102) Letter Chairein Coughtry to DOE re: protest of TW water rights transfers, 10/23/00
- 103) Letter Jim and Wanda Munroe to DOE re: protest of TW water rights transfers, 10/29/00
- 104) Letter Lea Beardsley to DOE re: protest of TW water rights transfers, 10/30/2000
- 105) Letter Christy Mirande to DOE re: protest of TW water rights transfers, 10/26/00
- 106) Letter Kristin Karns to DOE re: protest of TW water rights transfers, 10/26/00
- 107) Letter Scott Karns to DOE re: protest of TW water rights transfers 10/26/00
- 108) Letter Brian Woldseth to DOE re: protest of TW water rights transfers, 10/19/00
- 109) Letter Julie Miller to DOE re: protest of TW water rights transfers, 10/26/00
- 110) Letter Millie Radonovich to DOE re: protest of TW water rights transfers, 10/24/00
- 111) Letter Marie Fischer to DOE re: protest of TW water rights transfers, 10/13/00
- 112) Letter Marjorie Lumsden to DOE re: protest of TW water rights transfers, 10/12/00
- 113) Letter Olivia Litzenberg to DOE re: protest of TW water rights transfers
- 114) Letter James Begley to DOE re: protest of TW water rights transfers
- 115) Letter Heidi M. Ofredal to DOE re: protest of TW water rights transfers
- 116) Letter Larry Susich to DOE re: protest of TW water rights transfers
- 117) Letter Doug Johnson to DOE re: protest of TW water rights transfers
- 118) Letter Francis Paul Sikon to DOE re: protest of TW water rights transfers
- 119) Letter Sandra Tingaud to DOE re: protest of TW water rights transfers
- 120) Letter Halverson & Applegate for Harry H. Siepmann to DOE re: protest of TW water rights transfers, 10/30/00
- 121) Letter Halverson & Applegate for WH Bill Mundy to DOE re: protest of TW water rights transfers, 10/30/00
- 122) Letter Halverson & Applegate for Teanaway River Ranch Assoc. to DOE re: protest of TW water rights transfers, 10/30/00
- 123) Letter Halverson & Applegate for Teanaway Ranch Inc. c/o Linda Nordstrom to DOE re: protest of TW water rights transfers, 10/27/00
- 124) Letter Halverson & Applegate for Lavinal, Inc. to DOE re: protest of TW water rights transfers, 10/27/00
- 125) Letter Halverson & Applegate for Ellensburg Water Company to DOE re: protest of TW water rights transfers, 10/27/00
- 126) Letter Halverson & Applegate for City of Ellensburg to DOE re: protest of TW water rights transfers, 10/30/00

3 (cont.)



- 127) Letter Halverson & Applegate for Cascade Irrigation District to DOE re: protest of TW water rights transfers, 10/30/00
- 128) Letter Halverson & Applegate for Mr & Mrs Fred Knoll, Mr and Mrs Steven Minalia, and Mr Tim Knoll to DOE re: protest of TW water rights transfers, 10/30/00
- 129) Letter Halverson & Applegate for Big Creek Water Users c/o David Lund to DOE re: protest of TW water rights transfers, 10/27/00
  
- 130) Letter Halverson & Applegate for West Side Irrigating Co. c/o Frank A. Gergerich to DOE re: protest of TW water rights transfers, 10/30/00
- 131) Letter Halverson & Applegate for Pat & Mary Burke to DOE re: protest of TW water rights transfers, 10/27/00
- 132) Letter Halverson & Applegate for Liberty Townsite to DOE re: protest of TW water rights transfers, 10/27/00
  
- 133) Supplemental Documentation in Support of TW Applications to DOE for Transfer of Water Rights, Mentor Law Group 9/2000
- 134) Application for Change of Water Right, No. 01724 Pautzke Bait Co. Inc. to Trendwest, 5/1/00
- 135) Application for Change of Water Right, Pautzke Bait Co. Inc. to TW, 5/1/00
- 136) Application for Change of Water Right, Pautzke Bait Co. Inc. to TW, 5/1/00
- 137) Application for Change of Water Right, First Creek Water Users to TW, 5/1/00
- 138) Application for Change of Water Right, First Creek Water Users to TW, 5/1/00
- 139) Application for Change of Water Right, Donald & Gloria Walker to TW, 5/1/00
- 140) Application for Change of Water Right, Walkers, 5/1/00
- 141) Map, First Creek Water Users Property
- 142) Map, Gentry Property
- 143) Map, Hartman Property
- 144) Map, Hartman Property
- 145) Map, Walker Property
- 146) Map, Walker Property @ 1
- 147) Map, Walker Property @ 2
- 148) Map, Walker Property @ 3
- 149) Map, Walker Property @ 4
- 150) Map, Walker Property @ 5
  
- 151) Agreement for Payment of Professional/ staff/consultant services, City of Cle Elum and Trendwest 12/22/99
- 152) Agreement for EIS Review and for EIS Consultant Services, Cle Elum and TW, with attachments, 11/2/99
  
- 153) GMA Publication *About Growth* , Winter 2000-2001
  
- 154) Letter DCTED to BOCC re: Proposed Ordinance for MTStar Resort Subarea, 7/17/2000
- 155) Letter Aramburu & Eustis for REBOUND re: MTStar Subarea & Dev. Agreement, 8/9/00
- 156) Letter Superintendent of Cle Elum School District to BOCC re: MPR & UGA, 7/5/2000
- 157) Letter Rachel Osborn for RIDGE re: MPR Development Agreement, 9/20/00
  
- 158) YIN Opening Brief FEIS Appeal on MPR
- 159) WDFW Opening Brief FEIS Appeal on MPR
- 160) WDFW List of Witnesses
- 161) City of Roslyn's Reply Brief, FEIS Appeal on MPR

3 (cont.)

- 162) National Audubon Society disclaims ties to golf sanctuaries, 6/7/98
- 163) Letter Fisher Consulting Services to RIDGE re: Biological Significance of Cle Elum River Property, 4/19/01
- 164) Map Deer Road-kill Distribution along I-90
- 165) Letter Cascade Conservation Partnership to Senators Gorton & Murray re: funding for federal land acquisition, 7/17/2000
- 166) Map of Cascade Conserv. Partnership Priorities
- 167) A Compilation of Info re: Noise
- 168) Guidelines for Urban Noise Ordinance
- 169) Noise Pollution Clearinghouse *Noise, Sovereignty, and Civility*
- 170) Noise Pollution Clearinghouse, *Fact Sheet, Noise effects on Wildlife*
- 171) Massachusetts Sec. 721.560 *Construction Noise Control*
- 172) Ordinance, City of Redmond re: exterior lighting standards
- 173) Chapter 15.10 Outdoor Lighting Control
- 174) Chapter 18.84 Deschutes County Oregon, Landscape Management
- 175) E-Mail Housing Trust Funds/Linkages 4/12/01
- 176) Letter Housing Trust Fund Project to Len Norwitz re: housing trust funds, 4/16/01
- 177) *Aspen's affordable housing program helps create community*
- 178) News from the Housing Trust Fund Project, Winter 00-01
- 179) DOE *Did you know?*
- 180) USDA Dust Palliative Selection and Application Guide
- 181) Response of Deer to Density and Distrib. of Housing in Montana
- 182) WAC 173-400-040 General Standards for maximum emissions
- 183) WAC 173-425 Outdoor Burning
- 184) Clean Air Washington
- 185) Wash. Clean Air Act, Chapter 70.94
- 186) Guide to Handling Fugitive Dust from Construction Projects
- 187) Nasdaq report re: TW: Risks associated with developing MTStar
- 188) TW letter to Kittitas County Residents, 1/7/97
- 189) Roslyn Houses Currently Not Receiving Water But Potential Customers
- 190) Roslyn Title 14, Subdivisions
- 191) Roslyn Chapter 10.30 Delayed Benefit Agreements Authorized
- 192) Roslyn Chapter 10 excerpt, re: water services
- 193) Roslyn Chapter 10 excerpt, re: sewer services
- 194) Letter Plum Creek to Roslyn Mayor Gerth re: "higher and better use lands", 12/4/00 with letter 12/9/00 from Gerth to Plum Creek attached, also map *Yakima Unit Higher and Better Use Lands*
- 195) Letter Gray & Osborne to Cle Elum re: Roslyn's Sewer & Wastewater Facility Plan, 10/26/00
- 196) Letter City of Roslyn to DOE re: Regional Sewage Treatment Plan, 10/30/00
- 197) Letter City of Roslyn to Cle Elum re: Regional Sewage Treatment Plan with G & O comments attached
- 198) Letter Cle Elum to Roslyn re: Roslyn's cost of planning for regional sewer, 12/28/00
- 199) Minutes Roslyn City Council 1/9/01 re: cost of UGA on Roslyn

3 (cont.)

- 200) Letter G & O to Mayor Gerth re: cost of reviewing Sewage Facility Plan, 2/1/01
- 201) Letter City of Roslyn to DOE re: sewage treatment plan 3/8/01 with attachments
- 202) Letter G&O to Mayor Gerth: re: Roslyn's sewage treatment plan, 4/18/01
- 203) City of Roslyn Expenditures re: NPDES Compliance
- 204) Map, K. County Public Works, Ronald & Roslyn 7/10/00
- 205) Map City of Roslyn Zoning
- 206) Roslyn Chapter 10.16, Cemetery Rates, Rules, & Regs
- 207) City of Roslyn Letter to TW re: Roslyn documents re: negotiations between TW & RIDGE, with attachments
  
- 208) Cle Elum UGA DEIS: RIDGE Narrative Comments, 5/7/01; including index of all items submitted on the Cle Elum UGA DEIS record
- 209) REBOUND Cle Elum UGA DEIS Traffic Comments, 4/25/01
- 210) REBOUND Cle Elum UGA DEIS Fiscal Comments 5/2/01
- 211) Notes, Len Norwitz & Thelma Simon re: money Cle Elum has received from Jeld-Wen/ Trendwest since May-June 1997
  
- 212) RIDGE's Reply Brief on EIS Issues, Superior Court
- 213) RIDGE's Reply Brief on the Merits, Superior Court (with attachments)
- 214) Letter, Edmund Januszkiewicz to Cle Elum re: concerns about stormwater management in UGA
- 215) Computer Disk containing Manual DOE *Stormwater Management Manual for Western Washington*, Vols. I - V, August 2000 including hard copies of manual organization, and tables of contents of volumes I - V
  
- 216) Letter DOE to Kittitas County Planning Dept. re: MPR project Application and Development Agreement, 7/11/00
- 217) Letter Bureau of Reclamation to DOE re: letter of concern re: TW water right applications and resort proposal 10/30/00
- 218) Letter DOH to Jon Barkee, TW, re: DOH comments on MPR water system plan, 2/14/01 with attached DOE letter, 12/11/00
- 219) Letter Pacific Groundwater Group to DOE re: Evaluation of Issues for Determination of Environmental Benefit from TW MPR Water Right Transfer Applications, 2/16/01
- 220) DOE letter to Pacific Groundwater Group re: TW water right applications Issue Paper dated Feb. 16, 2001, 3/12/01
  
- 221) Chart: Cle Elum Water Improvement Schedule
- 222) Easement between Cle Elum, S. Cle Elum and Jeld-Wen re: water utility system, 5/30/99
- 223) Tables Cle Elum's & S. Cle Elum's Water Storage Requirements, from Comprehensive Water Plan, 10/97, with attached map
- 224) Advertisement for Bids, City of Cle Elum 1996 Sewer System Improvements, 7/22/96
- 225) Chapter 8, Cost Analysis from City of Cle Elum 1991 Facility Plan Addendum, Feb. 1997
  
- 226) Letter Below for RIDGE re: UGA DEIS 5/7/01 with attached abstract Smithsonian Magazine article, *What's green, has holes, and is larger than Delaware and Rhode Island Combined?* (4/97) and attached *Environmental Principles for Golf Courses in the US* and attached Preliminary Evaluation of Pesticides Used by the City of Seattle

3 (cont.)

- 227) Letter David Bricklin for RIDGE re: comments on Cle Elum's UGA DEIS, 5/7/01  
with attached comments from Rachel Paschal on water quality/supply
- 228) Letter Pacific Groundwater Group to DOE re: TW MPR Environmental Review  
Outline, 4/26/01
- 229) Ad NKC Tribune for Alpine Land Company, 5/3/01

3 (cont.)

**Comment 1**

Comment noted. Refer to the response to Letter 4, Comment 2. The Final EIS acknowledges the RIDGE Settlement Agreement, which was negotiated after the Draft EIS was issued.

**Comment 2**

Comment noted. The Final EIS acknowledges the RIDGE Settlement Agreement, which was negotiated after the Draft EIS was issued.

**Comment 3**

The City of Cle Elum acknowledges receiving these documents.

**BRICKLIN & GENDLER, LLP**

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DAVID A. BRICKLIN  
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DAVID S. MANN

JENNIFERA DOLD  
CLAUDIA M. NEWMAN

May 7, 2001

Gary Berndt  
Mayor  
City of Cle Elum  
119 West First Street  
Cle Elum, WA 98922

Re: Cle Elum UGA: DEIS

Dear Mayor Berndt:

I write on behalf of RIDGE to provide comments to certain aspects of the above-referenced DEIS.

It appears that there is an inadequate description of the governmental action which triggers the legal requirement to prepare an EIS. The DEIS is drafted as if the proposed action were Trendwest's development plans. But Trendwest's development plans are not a governmental action and do not by themselves trigger a requirement to prepare an EIS. The governmental actions which trigger the need to prepare an EIS are the adoption of things such as comprehensive plan amendments, zoning regulations, and development agreements.

1

In my review of the DEIS, I have been unable to find any place where those governmental actions are described in any detail. Without an adequate description of the governmental actions being contemplated, it is impossible for the City to prepare an adequate EIS and impossible for others to prepare comprehensive comments.

2

At a minimum, the governmental action presumably would be an amendment of the City's Comprehensive Plan (perhaps in the form of the adoption of a Subarea Plan). Consequently, there should be a description of a proposed Comprehensive Plan amendment and alternatives to that proposal. Then there should be an analysis of the consistency of that proposed Comprehensive Plan amendment (and the alternatives) with the comprehensive plans of adjacent jurisdictions, with the Countywide Planning Policies, and with other elements of the City's own Plan. There appears to be no analysis of the consistency with the CPPs and only superficial analysis of consistency with the others. For instance, there appears to be no discussion of the extent to which housing supply from the

3

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Gary Berndt  
May 7, 2001  
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UGA together with housing supplies elsewhere in the City relate to the Plan's existing assessment of the City's housing needs. Indeed, in the absence of a proposed Comprehensive Plan amendment (and/or Subarea Plan), it would seem to be impossible to engage in meaningful inter-jurisdictional or internal consistency analyses at this time.

3 (cont.)

RIDGE continues to oppose the segmentation of analysis of development of the UGA from analysis of the development of the MPR properties. Rather than reiterate all of the bases for that objection in this letter, we are incorporating by reference our analysis of the segmentation issue that has been provided to the City in its capacity as a party to the pending Superior Court and Growth Management Hearings Board appeals pertaining to the MPR. (RIDGE is submitting those materials to you for this record under separate cover.) We supplement those referenced materials by noting that there are additional disclosures in this DEIS that corroborate our view that the MPR is dependent on development of the UGA. For instance, the housing analysis here confirms that there are inadequate housing supplies elsewhere in the Upper County to supply the needs created by development of the MPR. It is only by providing for substantial residential development within the UGA that the housing needs generated by the MPR can be satisfied.

4

The EIS fails to provide an adequate description of sewage treatment issues. First, it fails to provide a complete and adequate description of Cle Elum's current plans for a regional wastewater treatment plant. In the past, the term regional has been applied to two very different sewage treatment plant proposals. Initially, the term regional was applied to a relatively small treatment plant that did not include capacity for any of Trendwest's property. It is our understanding that later those plans were abandoned or put on hold and a decision was made to build a much larger facility. It is our understanding that two-thirds of the capacity of the larger facility now under consideration would be provided for development of Trendwest's lands. The description of the current proposed regional treatment plant is very unclear in the DEIS and needs to be expanded significantly. How does the current regional facility compare in size to the former regional facility? How much of the current regional facility's anticipated capacity would be based on needs anticipated from Trendwest's UGA property and, separately, how much would be derived from Trendwest's MPR property?

5

The EIS should make clear whether the sewage treatment plant that is now currently envisioned would be built if the MPR were not built. If not, how will sewage treatment be addressed differently if the MPR does not go forward?

6

Similarly, the EIS should make clear what type of sewage treatment plant would be constructed under the No Action alternative if the MPR goes forward and if it does not. The DEIS fails to distinguish clearly (if at all) between those two scenarios.

Gary Berndt  
 May 7, 2001  
 Page 3

There is a brief discussion of a stand alone treatment plant at 3.17 -23. There it is acknowledged that the treatment plant would likely be located in the UGA. Where? How big would its footprint be? What type of odor control and visual screening would be employed? The impacts of a stand alone plant cannot be assessed without more detailed information like that.

7

Has Cle Elum assessed the technical, legal, and practical feasibility of a stand alone plant? What are the results of that analysis? Testimony provided during the MPR EIS hearings indicated that it was very unlikely that a stand alone facility could be developed. Again, rather than reiterate that analysis, we incorporate by reference our previously prepared legal memoranda pertaining to that issue which RIDGE is submitting separately. In addition, we incorporate by reference the comments of the Department of Ecology (Bob Barwin) pertaining to that issue. We would like a response to the statements from Mr. Peck (the City of Roslyn) and Mr. Barwin that indicate that a stand alone facility is, for a variety of reasons, very unlikely.

8

There also ought to be discussion of how sewage treatment issues would be addressed if the MPR does not go forward but the UGA does. The City and Trendwest have asserted that the MPR and UGA are not linked in this regard. If that were the case, then this EIS ought to include an analysis of sewage treatment issues in the event that the UGA goes forward without the MPR. Please provide such an analysis.

9

Similar concerns apply to the DEIS discussion of domestic water treatment issues. For instance, there is an inadequate discussion of the existing plans for water treatment by the City of Cle Elum. There is an inadequate distinction made between the existing plans with and without the MPR. There is an inadequate description of the extent to which the water treatment facilities described under Alternatives 2-4 are dependent upon development of the MPR. Presumably, different facilities would be prepared if the MPR does not go forward but this is not discussed.

10

Throughout the document, population figures should be revised to reflect the recently released 2000 census data. This also will require revision of a variety of housing, economic, and other analyses that flow from current population figures.

11

Similarly, if the OFM 2001 population projections are available before the FEIS is published, those should be utilized in lieu of the older projections used in the DEIS.

12

The DEIS states that to mitigate the additional population projected to result from development of the UGA (under Alternatives 2-4) that the City will amend its Comprehensive Plan to reflect the County's use of the OFM high series population projections. See FEIS at 3.11-28. This appears to be a *non sequitur*. Please explain in

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May 7, 2001  
Page 4

what sense this constitutes mitigation. Amending the Comprehensive Plan in this manner does not seem to reduce or eliminate the impacts and therefore does not appear to constitute mitigation.

13 (cont.)

The DEIS is far too ambiguous in stating that development of the UGA could result in higher than projected population for Roslyn and South Cle Elum (3.11-30) and that it could limit the City's ability to provide affordable housing consistent with Cle Elum's affordable housing goals (*id.*). The EIS should include a better assessment of the likelihood of these impacts resulting and also include an assessment of the magnitude of these impacts. Decision makers and the public are not served by a document which couches its so-called analysis in such ambiguous terms.

14

The air pollution analysis wholly omits any discussion of the project's impacts in terms of greenhouse gas emissions. Automobiles are one of the major sources of greenhouse gas emissions. There probably is no more serious environmental problem facing this country than figuring out how to reduce its greenhouse gas emissions. The EIS acknowledges that there is increasing amounts of commuting from the Upper County into the King County metropolitan area. The EIS needs to clearly state a prediction of the number of vehicle miles that will result from commuters (and others) if the UGA is developed and then translate that figure into a quantity of greenhouse gas emissions. An alternatives analysis needs to be prepared which considers the potential for providing housing far closer to the Seattle metropolitan area for persons who work in that area. Transit, trip reduction, car pool/vanpool, and other alternatives should be analyzed for reducing total vehicle miles and greenhouse gas emissions.

15

The EIS includes a mundane discussion of solid waste issues (e.g., is there room at the dump?). Development of a new community from scratch provides unusual and exciting opportunities for making recycling easier than throwing things away. The EIS should explore options for facilitating reuse and recycling of domestic and construction materials. In terms of a Comprehensive Plan policy, consideration should be given to including language that would direct the City in its implementing regulations and permits to do far more than the status quo in terms of encouraging reuse and recycling. If this EIS is used for a zoning ordinance, too, then these general policies could be fleshed out in that document and, if this document is also to be used for development agreements and other permits, then even more detail would be required.

16

The EIS is similarly deficient regarding use and conservation of energy. At the Comprehensive Plan, zoning, and permitting stage, consideration should be given to the means by which energy demand could be reduced, for instance, by siting requirements to maximize solar heating in

17

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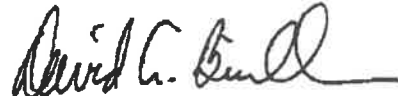
winter and minimize air conditioning demands in the summer; and to explore possibilities for solar powered and other green energy sources.

I would appreciate a meaningful response to these and other comments from RIDGE. Thank you for your time and consideration.

17 (cont.)

Very truly yours,

BRICKLIN & GENDLER, LLP



David A. Bricklin

DAB:psc

Enclosure

**Comment 1**

The City of Cle Elum's proposed action is described in the Fact Sheet and Section 1 of the Draft EIS and includes adoption of a subarea plan, zoning regulations, a SEPA planned action ordinance, and a development agreement. The discussion of the governmental actions has been expanded and updated in the Fact Sheet and Summary of the Final EIS.

**Comment 2**

The *Bullfrog Urban Growth Area Report*, which was issued by the City in June of 1998 and forms the basis of the proposed subarea plan, is described in Section 2 and Section 3.10 of the Draft EIS. Alternative land use plans both for the City's subarea plan and zoning actions as well as for Trendwest's project application are described in Section 2 of the Draft EIS. Consistency of the project with the *Bullfrog Subarea Plan* is discussed in Section 3.10 of the Draft EIS. Section 1 and Section 3.9 of the Final EIS include a discussion of these actions in the context of Alternative 5.

**Comment 3**

Refer to the response to Comment 2, above.

**Comment 4**

The State Environmental Policy Act (SEPA) allows for the separate review of projects that are fundamentally independent of one another. As discussed in detail in the pleadings submitted by Trendwest and the City of Cle Elum in *RIDGE v. Kittitas County, et al* (Yakima County Superior Court Docket No. 00-2-02761-2), the MPR proposal could proceed independent of development of the UGA and vice versa. While some employees of the MPR would likely live within the UGA, that fact alone does not inseparably link the MPR and UGA for purposes of SEPA review. Further, in the above-referenced Superior Court proceeding, the judge has ruled that separate SEPA review of the MPR and UGA was within the County's discretion (Memorandum Opinion Re: Appeal, May 29, 2001).

**Comment 5**

A discussion of projected flows, loadings to the Yakima River, and the planning process for construction of the wastewater treatment plant has been added to Section 3.16, Utilities, of the Final EIS. The City of Cle Elum is lead agency for that project. A discussion of the regional plant also is contained in Appendix E of the Final EIS.

**Comment 6**

The water and wastewater treatment plants currently in the design and planning phases are facilities proposed by the City of Cle Elum to implement the City's water and wastewater comprehensive plans. Some upgrade of these treatment plants, and accompanying environmental evaluations, would have been necessary to meet the City's projected demand even without the

Trendwest project in the UGA. The City of Cle Elum is lead agency on construction of both the water and wastewater treatment plants and is responsible for the environmental review and compliance requirements. The City of Cle Elum, City of Roslyn, Town of South Cle Elum, and Trendwest are continuing discussions regarding shared funding and construction of a Regional Wastewater Treatment Facility that would handle wastewater from each of those jurisdictions and the MPR and UGA. The City has decided to prepare an environmental impact statement for this facility, which would consider alternatives to the proposed action.

**Comment 7**

A standalone wastewater treatment plant is no longer proposed.

**Comment 8**

Refer to the response to Comment 7, above.

**Comment 9**

Refer to the response to Comment 6, above.

**Comment 10**

Refer to the response to Comment 6, above. In addition, the City of Cle Elum completed its SEPA review of the proposed water treatment facilities by issuing a Mitigated Determination of Non-significance on January 18, 2001. Comments were received from Bonneville Power Administration, Kittitas County Planning, and the Department of Ecology. No appeal of the Mitigated Determination of Non-significance was filed. In August 2001, the City of Cle Elum and U.S. Department of Agriculture issued a Draft National Environmental Policy Act (NEPA) Environmental Report on the water treatment plant and related facilities.

**Comment 11**

The analysis of Alternative 5 contained in the Final EIS reflects data from the 2000 Census that was available at the time of publication.

**Comment 12**

Comment noted. OFM projections were not available at the time of publication of this document.

**Comment 13**

The full array of plans, policies, and regulations that local agencies use to guide, condition, approve, or disapprove development proposals is considered to be legitimate mitigation of potential project impacts. Refer to Section 3.10 of the Final EIS for an updated discussion of proposed mitigation for population and housing impacts.

**Comment 14**

Refer to the response to Letter 26, Comment 2 for a discussion of affordable housing mitigation. Section 3.10 of the Final EIS has been updated to reflect proposed mitigation measures.

**Comment 15**

Section 3.2 of the Final EIS has been updated to reference the fact that additional traffic would emit “greenhouse” gases, primarily carbon dioxide. Potential increases in vehicle miles traveled from residents that may commute to King County cannot be predicted with any accuracy and thus, a quantified analysis of “greenhouse” gases would also be highly speculative and was therefore not completed. An alternative of providing housing closer to the Seattle metropolitan area would not meet the objectives of the proposal.

**Comment 16**

Comment noted. Since the Draft EIS was published, Kittitas County and Trendwest have developed a proposed Solid Waste Management Plan Amendment dated November 2001 that addresses solid waste management issues for both the MPR and the UGA, including discussion of recycling and waste reduction. The policies and strategies contained in that document, once adopted by Kittitas County, would apply to UGA development. Additional discussion of solid waste impacts and mitigation measures is contained in Section 3.16 and Appendix E of the Final EIS. Refer also to the responses to Letter 2.

**Comment 17**

Comment noted. Refer to Section 3.16, Utilities, and Appendix E of the Final EIS for a discussion of proposed measures to achieve energy efficiency.

Edmund A Januszkiewicz  
 PO Box 370  
 Roslyn, WA 98941

Dear Sirs,

I would like to voice some concerns about the stormwater management plan proposed for the Cle Elum UGA. The collection and treatment system is inadequate considering the area's unique geological structure and the high concentration level of contaminates which an urban environment manifests. The proposed system relies on infiltration of the stormwater runoff as the treatment technique. In the proposed configuration, the stormwater is to be channeled into collection areas and then allowed to infiltrate into the aquifers underlying the UGA. It is hoped that the act of infiltration will filter and absorb the pesticides, oils, heavy metals and other pollutants inherent in the runoff.

The highly permeable nature of the soils allows for the rapid dissipation of the stormwater runoff into the two aquifers. This reduces the resident time that the runoff will spend in the soil prior to reaching one of the aquifers. This rapid migration of the stormwater severely reduces the effectiveness of these filtration techniques. The glacial outwash that permeates this site is not a material that is conducive to this type of filtration method.

It is not wise to channel the stormwater runoff into one area. This will concentrate the contaminates. As they seep into the groundwater, the limited filtration aspects of the soils will be overloaded due to the high concentration of the contaminants. In effect non point source pollution will be turned into point source pollution. Every collection / infiltration site will have it's own contamination plume.

Due to the highly permeable soils, aquifers that are contiguous, the abundance of springs and seeps on the property, and the proximity of the Cle Elum and Yakima rivers other collection and treatment methods should be used. The Stormwater Management Manual for Western Washington should be used to guide the design and construction of the stormwater system. This manual includes BMP's that are to be promulgated by the Department of Ecology in June of 2001. Since the UGA is an urban area with urban densities the stormwater system needs to be designed to urban standards. This needs to include a contained piping system to direct and collect the stormwater. All of the runoff from roads, driveways, and parking lots need to be piped to oil / anti-freeze separators. All of the golf course irrigation and stormwater runoff needs to be piped to a treatment plant to prevent to accumulation and concentration of toxic pesticides. A physical treatment plant needs to be constructed on site to treat both the UGA's and the MPR's stormwater.

Thank you,

  
 Edmund Januszkiewicz

P.S. I am including the table of contents for all 5 volumes of The Stormwater Management Manual for Western Washington along with an IBM formatted zip disc that contains the complete manual.

1  
2  
3

## **Letter 38**

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### **Comment 1**

Refer to the responses to Letter 12, Comment 7 and Letter 25a, Comment 28.

### **Comment 2**

Refer to the response to Letter 25a, Comment 28. The UGA project proposes to conform to requirements of the 2001 Ecology Stormwater Management Manual. For portions of the site, the proposal exceeds Ecology's manual requirements. The manual does not require, and the applicant does not propose, to treat all runoff with oil/antifreeze separators or to transfer all stormwater runoff to a treatment plant. Refer to Section 3.3, Water Quality, and Appendix A of the Final EIS for a description of the proposed facilities and the quantified analysis of stormwater quality for Alternative 5.

### **Comment 3**

Comment noted.

From: Rachael Paschal <rdpaschal@earthlink.net>  
Subject: Re: Water Comments Part 2  
Cle Elum Urban Growth DEIS

1. Water Quality Comments

The Cumulative Effects analysis for the Surface Water quality section fails to identify pollutant loading and aquatic impacts to the Yakima and Cle Elum Rivers from the wastewater treatment plant (including the Cle Elum upgrade and the "stand alone" plant identified as an option in the MPR FEIS) as a cumulative impact.

1

Assumptions about groundwater infiltration do not appear to account for changes in runoff patterns due to soil compaction. What effect will new lawns and general development activities have on capacity of soils?

2

DEIS is incorrect to assume that Trendwest will construct a stand-alone wastewater treatment plant and that such a plant could mitigate for BOD and TSS loading. DEIS at 3.17-18; 3.17-23. It is virtually impossible for Trendwest to obtain an NPDES permit or permission to privately operate a treatment plant. The DEIS should recognize this in its analysis of water quality impacts related to wastewater treatment.

3

2. Water Supply Comments

The DEIS attempts to identify and propose mitigation for impacts relating to water transfers and water supply to the UGA. Because the Department of Ecology has determined that a Supplemental Environmental Impact Statement is needed before water transfer decisions can be made, it is duplicative and inappropriate for Cle Elum to attempt to identify, analyze, and propose mitigation for the impacts associated with the water right decisions. A major reason for this is that the DEIS makes a number of incorrect legal assumptions about water rights. This problem was also evident throughout the MPR EIS process, and in fact the UGA DEIS perpetuates legal errors of the MPR documents. For example, water balance for the UGA focuses on net consumptive use, but Trendwest must supply the UGA with the total diversion quantity needed. Another issue that the DEIS explicitly refuses to address are impacts of removing water from the "sending" properties from which Trendwest proposes to transfer water to the UGA, MPR and local tributaries. There are also a number of cumulative impacts associated with the water right transfer proposals that are simply not treated in the UGA DEIS. The discussion of water rights and water supply impacts is per se inadequate. Rather than attempt to resolve this issue, the matter should be deferred to the Ecology SEIS process, which, as pointed out below, should be conducted prior to or simultaneously with this and the other EIS's necessary for the project.

4

Several water supply-related impacts will result from development of the UGA, but have been determined to be subject to other EIS processes. Preparation of the UGA EIS before environmental analysis is conducted for the water right transfers, wastewater treatment, water supply plan, and water rights mitigation activity (whatever that might be), including all of these impacts related to the MPR, is improper. This segmentation or piece-mealing of

5



environmental review is improper. Segmentation of MPR and UGA environmental review, especially with respect to water resource impacts is improper. In the alternative, the numerous EIS's required for this project and the MPR should be tiered in a manner that allows meaningful consideration of all of the impacts related to the UGA in this EIS.

5 (cont.)

Trendwest has represented in correspondence to the Department of Ecology that it may pursue groundwater rights and aquifer storage and retrieval as options for supply to the UGA and MPR. The DEIS contains no discussion of these alternatives.

6

Discussion throughout Section 3.5 of the DEIS refers to "consumptive use" as the measure of demand for the UGA. This is incorrect. Demand for water for the UGA must be calculated based on total diversion quantity. Trendwest will not receive credit for return flows in the water right transfer or water system planning process. If total demand is analyzed, the comparison between demand and supply will likely reveal a significant deficit in water available to the UGA (and MPR) under Trendwest's present proposal.

7

The DEIS reference to "consumptive use" impacts (at p. 3.5-14 and throughout) is confusing and improperly narrows the scope of impacts.

Trendwest may not rely upon wastewater as an offset against water demand for the UGA.

8

Wastewater will be owned and subject to allocation (if any) by Cle Elum.

The ERU calculations are inconsistent. The DEIS acknowledges that it must utilize ERU demand as set forth in Cle Elum's Comprehensive Water Supply Plan as a basis for calculating UGA ERU, but fails to do so. Instead, demand calculations are based on a smaller number, 302 gpd/ERU, even though the DEIS acknowledges that "the City will initially issue certificates of water availability for the project based on the water use rate set forth in City's Comprehensive Water Plan (October 1997) which is currently 610 gallons per ERU." DEIS at 3.5-15; 3.17-14/15. Demand must be calculated at the legally required rate. As a result, the calculations of total water demand are grossly inaccurate. There is no discussion of future averaging of ERU demand city-wide.

9

Development of new residences, businesses and recreational facilities, literally from the ground up, represents an opportunity to require high efficiency water conservation infrastructure and practices. Cle Elum should impose on the UGA water efficiency requirements more stringent than that required by state law, and discuss this alternative in the DEIS.

10

The DEIS acknowledges that "Water demands do not include public facilities, including the school and cemetery expansion areas, Community Recreation Center, or Business Park." DEIS at 3.5-15. While demand is analyzed, DEIS at App. G, p. 3-4, the impacts of these uses, which will occur within the UGA, are not considered. Nor does the DEIS discuss the source of water to serve these uses. Moreover, the DEIS fails to discuss the cumulative impacts of these demands.

11

The two-thirds/one-third split of water rights between the MPR and UGA illustrates that the two projects are integrally related and that segmentation of this EIS from that of the MPR is improper.

12

The DEIS repeatedly refers to "available water supplies" in reference to Trendwest's proposal to transfer water rights to the UGA and MPR. Trendwest's proposed water right transfers are speculative and even assuming they are approved, the quantities of water that will be approved

13

by the Department of Ecology and available for transfer cannot be known until Ecology makes its decision. The DEIS is inadequate in its reliance upon unsupported assumptions about water availability.

13 (cont.)

The assertion that winter water is available to the UGA is unexplained. Presumably this ties to Trendwest's acquisition of year-round stockwater rights, but no analysis is provided to explain quantification.

14

The DEIS asserts that "each of the tributaries would experience increases in stream flow during the irrigation season." DEIS at 3.5-18. However, the water supply technical analysis (Appendix D) relies on heavily on generalized assumptions and statistical analysis as a basis for this conclusion. Assumptions regarding stream hydraulics, hydrogeology, groundwater recharge, groundwater discharge, evapotranspiration rates are generalized and lack data and statistical support.

15

Reference to "drought period of 1991 to 1995" is unexplained. DEIS at 3.5-18. What is the basis for defining this period and what is its significance?

16

Discussion of relative benefits to Bureau of Reclamation operations on late fall and winter stream flow in the Cle Elum and Yakima Rivers is confusing and unsupported. See DEIS at 3.5-20. It is particularly unclear whether assumptions about impacts would hold true in all types of water years. Equation of reduction in storage releases of 3.49 cfs in September to reductions of 3.03 cfs in the period November through March is an unexplained assumption. DEIS at 3.5-33.

17

The DEIS identifies "deficit" periods caused by UGA and MPR diversion demand, but fails to identify these deficits as a significant adverse impact. The Yakima basin, as acknowledged in the DEIS, is a fully appropriated basin. Increased water use on the UGA will mean that during years in which water supply is pro-rated, junior water users will receive less water as a result of UGA water demand.

18

The proposal to reduce diversions for water supply to the UGA during deficit conditions is not a viable option for public water supply and should be identified as a significant adverse impact.

19

The DEIS assertion that there are no instream flow criteria during winter does not accurately characterize regulatory approaches to stream flow requirements. DEIS at 3.5-23. Salmonids need flow at all life stages, including winter, and under Yakama Nation treaty rights and Bureau of Reclamation operations, necessary winter flows are protected.

20

The DEIS assumes that 85% of the indirect growth induced by the UGA and MPR would settle in the Lower County. DEIS at 3.5-25. This assumption is unsupported; it is likely that many more households that are dependent upon the UGA and MPR for employment will settle closer to those developments.

21

Water consumption calculated for unincorporated area housing is low compared to water usage in adjacent communities. It is inappropriate to utilize DOH guidelines if water usage can be predicted to be higher. Likewise, the assumption that consumption equals 20% of diversion is not appropriate if water efficiencies are low (as discussed at 3.5-15). Moreover, the impacts to communities that serve induced growth are based on total diversion, not consumption.

22

The conclusion that increased consumption related to the UGA is insignificant, either alone or in combination with the MPR, is incorrect. Cle Elum and So. Cle Elum have experienced recent moratoria on hook-ups and do not have water available to serve new growth. Induced and

accelerated growth in Roslyn is inconsistent with Roslyn's water supply and land use comprehensive plans. Increased exempt well usage in unincorporated areas will remove water that is otherwise available to TWSA. In sum, there is no water available to serve induced growth and the increased demand represents a significant adverse impact.

22 (cont.)

The DEIS is inconsistent in its statement that TWSA would increase by 340 acre-feet, DEIS at 3.5-23 and 900 acre-feet, DEIS at 3.5-33.

23

It is unlikely that flow would increase at Parker gage during years when junior districts are pro-rated. DEIS at 3.5-19.

24

The DEIS mentions "emergency irrigation water storage within the UGA golf course" but does not provide environmental analysis of this option. DEIS at 3.5-20; 3.17-11.

25

DEIS discussion of third parties impacted by transfer of water upstream from Ellensburg to Cle Elum does not account for all diverters and is incomplete. DEIS at 3.5-29.

26

The DEIS acknowledges the need for Trendwest to conduct additional activities to offset impacts to third parties affected by its water right transfer strategy and further acknowledges that retention of carriage water in irrigation ditches may be such an activity. DEIS at 3.5-35. Retention of water in ditches would significantly alter the asserted instream benefits associated with tributary water rights. The DEIS should describe the impacts of these approaches.

27

The DEIS that development on "sending lands" from which Trendwest is removing water rights is outside the scope of impacts required to be considered is incorrect. DEIS at 3.5-27.

28

The reliance on change of use of Cle Elum's existing water rights to serve the UGA as an interim water source seems highly unlikely, given that Cle Elum rights are at capacity. DEIS at 3.17-11. The DEIS should identify other, more plausible sources of interim water supply.

29

**Comment 1**

Refer to the response to Letter 37, Comment 6. In addition, a discussion of wastewater flows and loadings to the Yakima River and a description of water quality studies that would be conducted as part of the EIS on the wastewater treatment plant have been added to Section 3.16, Utilities, and Appendix E of the Final EIS. Evaluation of aquatic impacts on the Yakima River from the wastewater treatment plant would be part of the EIS for the wastewater treatment plant. A standalone wastewater treatment plant discharging to the Cle Elum River is no longer being considered.

**Comment 2**

Grading and compaction by development activities would increase rates of stormwater runoff. The stormwater management system is designed to have adequate capacity for the increased runoff volume, including infiltration of treated stormwater. The infiltration facilities are described in the Draft EIS, Section 3.3, Surface Water. The stormwater management system is described in the Final EIS, Section 3.3, Water Quality, and in Appendix A of the Final EIS.

**Comment 3**

A standalone wastewater treatment plant is no longer being considered.

**Comment 4**

In December 2000, Trendwest entered into an agreement with the Department of Ecology for the purpose of conducting additional environmental review and processing of the proposed water rights transfers for both the MPR and UGA. This additional analysis is incorporated into the Final EIS. Section 3.4, Water Supply, and Appendix B of the Final EIS contain an expanded analysis of the cumulative impacts of the water supply plan. The analysis in Section 3.4 and Appendix B includes the impacts from ending irrigation on lands appurtenant to Trendwest's acquired water rights. Refer to the response to Letter 5, Comment 1 for additional detail.

**Comment 5**

Refer to the response to Comment 4, above, and to Letter 4, Comment 2 and Letter 39, Comment 1.

**Comment 6**

Trendwest is not proposing aquifer storage and retrieval as options for water supply; thus these options are not evaluated in the Draft or Final EIS.

**Comment 7**

Water demands for the UGA alone, and for the UGA and MPR cumulatively, are calculated in terms of total water diversion requirements, consumptive use, and total return flows. Section 3.4 and Appendix B of the Final EIS include an updated and expanded analysis of the potential water

supply impacts. The difference between the terms "water demand," which is the total diversion requirement, and "consumptive use," which is the total diversion less return flows, has been clarified in Section 3.4, Water Supply, of the Final EIS.

**Comment 8**

Trendwest proposes to transfer its Yakima River water rights so that they may be exercised for beneficial uses within the MPR and UGA, as described in Section 3.4, Water Supply, of the Final EIS. Beneficial use of this water would include a return flow component from the wastewater treatment plant to the Yakima River. At the present time, no consumptive use of the wastewater treatment plant return flows is proposed. Any future proposal to use these flows (for example, reuse) would be subject to environmental review at that time.

**Comment 9**

The demand calculations for each type of equivalent residential unit (ERU) for the UGA are described in detail in Section 3.5, Water Supply; Section 3.17, Utilities; and Section 3 of Appendix G in the Draft EIS. The demand calculations are the same as those approved by the Washington State Department of Health (DOH) for the Trendwest MPR (MountainStar Master Planned Resort Water System Plan 2001). The City's past high figure of 610 gpd/ERU is a result of its supply system and the fact that it has issued water at a flat rate to all users irrespective of actual usage. The efficiency of the proposed UGA system and the fact that water would be metered and billed based on the metering are both very different from the situation that resulted in the City's 610-gpd/ERU demand rate. As described in Section 3.4, Water Supply, of the Final EIS, in accordance with the City of Cle Elum's adopted water policy for the UGA, the City would initially issue certificates of water availability for the project based on the water use rate set forth in the City's Comprehensive Water Plan (October 1997), which is currently 610 gallons per ERU. Cle Elum would monitor the use of both the City's current water customers and new UGA customers so that, when appropriate, adjustments may be made to the ERU average daily demand in the future. DOH design criteria require a minimum of three years of historical consumption data be used to establish ERU average demand. Consequently, the City's intent is to reexamine Trendwest's estimated demands once units are constructed and water meter records reflecting water use are available, and incorporate updated ERU water demands into future required updates of the City's Water Comprehensive Plan. These updated ERU demands may result in the City issuing additional water availability certificates for the UGA from the water initially required by the City for each ERU beyond Trendwest's estimated demands. Alternatively, if the calculated ERU value for development within the UGA underestimates water demand, Trendwest would need to provide additional water rights to the City before full buildout of the UGA could be achieved.

**Comment 10**

The UGA would restrict the amount of area that may be irrigated by lot owners. The Uniform Plumbing Code requirements, which provide for water saving devices and construction methods, would be followed for UGA residential construction, and metering would be employed. There

are no existing City of Cle Elum landscaping restrictions. Refer to Appendix E of the Final EIS for a discussion of proposed measures to achieve water use efficiency in the UGA.

#### **Comment 11**

Refer to the response to Letter 27, Comments 1 and 2 for a response to the school expansion area. Future provision of water to the school district would be negotiated between Trendwest, the City of Roslyn, and the City of Cle Elum, as described in Section 3.4, Water Supply, of the Final EIS. The water demands for the Business Park and Community Recreation Center, as well as untreated water demands to irrigate the Business Park, Community Recreation Center, and cemetery and school expansion areas, are shown in Table 3.4-5 and described in Section 3.4, Water Supply, of the Final EIS. The City of Cle Elum would supply water for the Business Park, the Community Recreation Center, the school expansion area, and the cemetery expansion area within the UGA from its Yakima River system's existing water rights or water supply bases.

#### **Comment 12**

As described in Section 3.4, Water Supply, of the Final EIS, Trendwest's three Yakima River water rights have six water rights transfer applications pending, three of which would serve the MPR and three of which would serve the UGA. The three mainstem water rights have six water rights transfer applications pending, three of which would serve the MPR and three would serve the UGA. A portion of each of Trendwest's three mainstem water rights would provide for recreation, irrigation, and domestic beneficial uses within the MPR and a portion of each of its three mainstem water rights would provide for municipal supply within the City of Cle Elum. Trendwest has also filed applications with Ecology to transfer Trendwest's 11 tributary water rights to instream flows. These 11 rights have 22 water rights transfer applications pending, 11 to offset consumptive uses on the MPR and 11 to offset consumptive uses within the UGA. SEPA allows separate review of the impacts from projects that are fundamentally independent of each other. Filing water rights applications as described above does not mean the two projects are sufficiently interdependent to require a single SEPA analysis. The water rights could be transferred for MPR use whether the UGA development occurred or not. Similarly, the water rights could be transferred for UGA use whether the MPR development occurred or not. Further, the question of proper segmentation of SEPA review for the MPR development and the UGA development has been addressed by court appeal of the Kittitas County MPR approval, *RIDGE v. Kittitas County, et al*, Yakima County Superior Court Docket No. 00-2-02761-2 (Memorandum Opinion Re: Appeal, May 29, 2001)

#### **Comment 13**

Comment noted. The Department of Ecology will ultimately determine the availability of water as part of processing the water rights. However, potential water supply impacts modeled in the Draft and Final EISs are based on a legal review of available water rights and not on "unsupported assumptions."

**Comment 14**

The Water Supply Technical Report included in the Draft EIS identified stockwater consumptive use as available outside of the irrigation season. It was assumed that 10% of the diversion volume specified in the Pautzke water right for stockwatering was consumed uniformly over its period of use. For the Final EIS, Ecology agreed to use 10% as the most probable value.

**Comment 15**

Since the Draft EIS was published, the Water Supply Technical Report has been supplemented to respond to Ecology's comments and to analyze potential impacts from the Reduced Density MPR and Alternative 5. The Water Supply Technical Report Supplement is Appendix B to the Final EIS, which includes an expanded analysis showing the statistical basis of the streamflow estimates, hydrogeology descriptions from studies performed by Ecology's consultant team in 2001 (including groundwater recharge and discharge), and the basis of the crop consumptive use estimates using Blanney-Criddle calculations.

The Water Supply Technical Report Supplement (Appendix B of the Final EIS) analysis of tributary stream hydraulics is not included in the same manner as for the Water Supply Technical Report in the Draft EIS. The change in tributary flow depth and velocity is removed from the discussion of impacts in the supplement. Stream hydraulics in the Water Supply Technical Report Supplement is considered in the seepage analysis conducted by Ecology's consultant team. The results of the seepage analysis are included in the Water Supply Technical Report Supplement water balance model. Refer to Section 3.4, Water Supply, and Appendix B, Water Supply Technical Report Supplement, of the Final EIS for additional detail.

**Comment 16**

As described in Section 3.4, Water Supply, and Appendix B of the Final EIS, the simulation period for the model includes water years 1991 through 1995 and 2001. The period of water years 1992 through 1994 was the worst continuous drought on record for the Yakima River basin. Water availability in 1994 was the worst of these three continuous drought years. For purposes of this analysis, a "drought year" was defined as a year in which the USBR prorates water supplies to its contract water users because there are insufficient supplies to meet demands. Model results from four of the six water years are averaged on a monthly basis to represent long-term, average conditions. Those four years include the relatively average years of 1991 and 1995, and the dry years of 1992 and 1993, so the model's representation of the long-term average is likely conservatively dry. The worst simulated drought years (1994 and 2001) were removed when computing the long-term, average conditions. Mean monthly changes in Yakima River streamflow are computed for water year 2001 to exemplify drought condition results. Water year 2001 was the worst single year drought since 1977, which was the worst single year drought on record in the Yakima River basin.

**Comment 17**

Refer to Letter 12, Comment 5 regarding winter streamflow management for fish incubation by USBR in the Yakima and Cle Elum rivers. The analysis in Section 3.4 and Appendix B of the Final EIS was updated to include time delays from irrigation and other groundwater-routed system loss return flows from the UGA and MPR to the Cle Elum and Yakima rivers. These return flows, in combination with the more rapid return flows from the wastewater treatment plant to the Yakima River, offset winter consumptive use. Winter reductions in Yakima River streamflow below Reecer Creek would result from terminating the time delays from irrigation return flows from properties appurtenant to Trendwest's tributary water rights, but not from any other cause, as explained in Section 3.4 of the Final EIS. The cumulative impacts of the UGA and MPR projects on total water supply available (TWSA), and its management by the USBR, has been updated in Section 3.4 of the Final EIS.

**Comment 18**

A deficit condition is anticipated under average climate conditions during two months, as described in Section 3.4, Water Supply, and Appendix B of the Final EIS. In July, a deficit of approximately 33.6 acre-feet to a surplus of approximately 13.4 acre-feet could result under long-term average conditions (as characterized by 1991 through 1993 and 1995 study years) for the cumulative MPR and UGA projects. In September, under the same conditions, a deficit ranging from approximately 25.3 to 34.4 acre-feet was estimated. These deficits are recognized as significant adverse impacts requiring mitigation. Mitigation for these impacts is described in Section 3.4, Water Supply, of the Final EIS. An array of options is shown to be feasible for mitigation, including groundwater infiltration of surplus water, onsite storage releases from artificial ponds to reduce diversions, and additional water right acquisition. During drought years, Trendwest could also reduce golf course irrigation on the MPR to control diversions. As a result of mitigation, monitoring of Trendwest's water use, and monitoring of water availability under Trendwest's water rights, no significant unavoidable adverse impacts would result. In addition, Trendwest has agreed to obtain water to mitigate for some indirect uses in excess of what typically could be required under SEPA, through the Cooperative Agreement with WDFW and Yakama Nation and through the RIDGE Settlement Agreement (see Section 3.4, Water Supply, and Appendix B of the Final EIS for details).

**Comment 19**

As identified in the response to Comment 18 above, Trendwest could use untreated water stored in onsite artificial ponds to feasibly meet irrigation demands that would otherwise result in deficits even during drought years. Reduced diversions to supply untreated water for golf course irrigation could also be achieved with temporary reductions in irrigation (i.e., reduced acres or reducing water only to ensure turf survival). Neither of these strategies to control diversion demand would impair public safety or water supply. Mitigation for identified impacts on water supply has been updated in the Final EIS in Sections 3.4 and Appendix B.



**Comment 20**

As described in Section 3.4 and Appendix B of the Final EIS and in Section 3.5 of the Draft EIS, the Yakima River Basin Water Enhancement Project Act requires USBR to meet flow targets at Parker and Prosser, but only from April through October. Since 1995, a reduction in Yakima River streamflow at Parker or Prosser from November through March would not have resulted in stream flows being less than Title XII target flows. However, pre-Title XII instream flow targets were specified year-round at locations farther upstream than Parker (Cle Elum, Easton, and Martin) and on the Cle Elum River. Other flow targets may exist, but these are not formally stipulated in state or federal laws. Since 1981, the System Operations Advisory Committee (SOAC) has assisted USBR on fish-related issues associated with the operations of the Yakima River Basin Water Enhancement Project. The USBR Field Office Manager determines flows for maintaining fish life in the Yakima River basin according to the annual prevailing conditions, and in consultation with SOAC, irrigation district managers, and others (USBR 1999). Furthermore, according to the partial summary judgment regarding the rights of the Yakama Nation entered by the Superior Court on July 17, 1990, the Yakima Field Office Manager is responsible for providing minimum instream flows to maintain all life stages of anadromous fish in the Yakima River basin. Fall and winter flow targets that are set annually or seasonally by SOAC and the Yakima Field Office Manager are not listed in Title XII instream flow criteria. Problems related to fall spawning and winter incubation have been successfully managed in the Yakima River.

**Comment 21**

In the Draft EIS, the current population split between the Upper (15%) and Lower (85%) County was applied to the distribution of induced households to facilitate an evaluation of potential offsite water demand. For the Final EIS, a more detailed and comprehensive analysis of potential distribution of employment-induced households was conducted (see Appendix C of the Final EIS). Distribution of induced households across Kittitas County is assumed to occur consistent with the allocations identified in the Countywide Planning Policies. Unincorporated Kittitas County is projected to absorb approximately 26% of the 20-year population growth in the County.

**Comment 22**

Water consumption in adjacent communities is higher than the water consumption calculation for unincorporated housing because the water systems in the adjacent communities are older and less efficient. Induced housing in the unincorporated areas would follow current Uniform Plumbing Code requirements, which provide for water-saving and construction methods that were not used in the adjacent communities.

The water consumption calculations are discussed in Appendix D, Water Supply, and Appendix G, Site Engineering Report, of the Draft EIS. The water consumption calculation of 240 gpd per household is based on 100 gpd per person set forth in the Department of Health standard unit demands multiplied by the projected 2.4 person per household ratio. Refer to the response to Comment 21 above and Appendix C of the Final EIS for an analysis of potential water demand

from indirect and induced growth. See Section 3.4, Water Supply, for an updated discussion of potential impacts to TWSA.

The City of Cle Elum and the Town of South Cle Elum have combined their water systems and are enhancing the efficiencies of the joint water systems to allow for additional hookups. Trendwest would provide water to the City of Cle Elum for its development within the UGA.

In addition, as part of the RIDGE Settlement Agreement, Trendwest has agreed to negotiate an agreement with the City of Roslyn to mitigate for increased water demands resulting from induced offsite development within Roslyn.

**Comment 23**

Comment noted. Refer to the revised TWSA analysis in Section 3.4 and in Appendix B of the Final EIS.

**Comment 24**

The Draft EIS analysis of the 1991 through 1995 study period includes several years when prorationing was in effect. The results showed that flows at Parker would increase only if the cumulative effect of Trendwest water right transfers upstream of Ellensburg results in a decrease in net consumptive use and all other diverters did not change their diversion rates. This Final EIS uses the study years 1991 through 1993 and 1995 to characterize average year conditions, and adds water year 2001 to characterize conditions during a drought when supplies are prorated. Under average year conditions, Yakima River flows downstream of Reecer Creek would be increased as a result of Trendwest's proposed water rights transfers except during two months (July and September). Under drought conditions similar to those that occurred in 2001, the deficits in these two months would be increased, but surpluses would remain for all other months. See Section 3.4, Water Supply, and Appendix B of the Final EIS for details.

**Comment 25**

No golf course is proposed for the UGA under Alternative 5. A lake is proposed for recreation under Alternative 5, but not as a potential storage supply during periods of deficit. For the other alternatives and for the MPR, golf course irrigation would be supplied from untreated water pumped through artificial ponds. Those artificial ponds provide storage, which could be used if the ponds are drawn down as described for one mitigation option in Section 3.4, Water Supply, and in Appendix B. No adverse environmental consequences would occur from routing irrigation water through artificial ponds or from using water stored within them for irrigation purposes to control diversions during periods of deficit.

**Comment 26**

Refer to Letter 25a, Comment 17 and Section 3.4 of the Final EIS. Also, refer to Exhibit K of Appendix B for an updated discussion of impacts on third parties in the reach of the Yakima River between Cle Elum and Ellensburg and mitigation of those impacts.

**Comment 27**

Since the Draft EIS was published, the Water Supply Technical Report has been supplemented. Additional analysis of third-party impacts on tributary surface water users and mitigation for those impacts is contained in Section 3.4 and Appendix B of this Final EIS. No carriage water retention or storage is proposed that could affect the flow simulation results of the model used to evaluate impacts.

**Comment 28**

Comment noted. Refer to Section 3.4, Water Supply, of the Final EIS for an analysis of impacts from terminating irrigation of lands appurtenant to Trendwest's tributary water rights after those water rights are transferred to instream flows. Impacts resulting from water demands for development of these lands are described in Section 3.4, Water Supply, and in Exhibit H of Appendix B of the Final EIS.

**Comment 29**

As described for Alternatives 2, 3, and 4 in the Draft EIS, construction water for development of the UGA under Alternative 5 would likely be acquired from private or public water sources and either trucked into the construction site or diverted from existing utility lines for untreated water (e.g., the MPR untreated water main, if constructed).

May 7, 2001  
POB 927  
Roslyn, WA 98941

To: The City of Cle Elum  
RE: Comments of the DEIS of the proposed Cle Elum UGA

The following comments are submitted on behalf of RIDGE.

Phased environmental review lacks specifics

We are concerned at the lack of specifics regarding "phased environmental review" and what projects are or are not part of what is within the scope of this EIS. For example, mention is made of the Horse Park, yet there is not enough information to respond to impacts including the amount of animal waste that will be generated, where the trails system will go offsite, traffic impacts from the Horse Park use, etc..

1

The MPR, the water supply for the UGA and the MPR (and related impacts on other water consumption and quality), the water delivery system (including intakes), the sewer and stormwater systems, Cle Elum's proposed re-do of its zoning code, the school expansion, the proposed senior center, the electrical service system expansion, natural gas facilities, and the secondary development and real estate speculation that is occurring in the Cle Elum Lake and River corridor and elsewhere in upper Kittitas County all need to be fully incorporated into this EIS.

2

golf courses

The golf course within the UGA and the other golf courses proposed for the MPR will have huge and significant impacts. The amount and types of herbicides, fungicides, and pesticides need to be specified. No golf courses should be allowed unless they meet highest possible standards of IPM management.

In the most basic research concerning the impacts of golf courses, it is clear that the original design and operating standards of a golf course determine how great an environmental impact a course will have. We request that there be a higher "weed tolerance" ratio used (that is, that more weeds be allowed so that less chemicals will be needed to keep them out). We also recommend the turf height be kept as tall as possible, to reduce the stress on its vegetation. We are especially concerned about the use of fungicides, and their potential as carcinogens. We also oppose "preventative" use of pesticides, fungicides, and herbicides, as this dilutes their effectiveness and creates a heavier pattern of use.

3

We recommend review by Thomas R. Parent, President of Soil Organics Consulting Service (Lansing, Michigan) be incorporated into the approval of any golf course design. Mr. Parent is familiar with the principals of Eco-Turf culture. His company,

4

Soil Organics Consulting Service, has managed the fertility of the first organic golf course in history to be preliminarily certified. The course's name is Granite Ridge Lodge LLC and is located near Ashland, WI in the town of Highbridge and has been preliminarily certified by Farm Verified Organics. The National Eco-Turf Initiative could also provide guidelines for better golf course management.

4 (cont.)

I have attached the guidelines for better planning and practices outlined by the Gold Course Superintendents of America. I have also attached the abstract of an article by Jay Stuller, originally published in the April 1997 issue of Smithsonian Magazine. This article cites several recently constructed golf courses which incorporated design features to minimize environmental impacts. We request they be used as a model for conditions required on all golf courses in the MPR and UGA. The following two articles provide further specifics: "How Green Are These Fairways?" by John Grossman, Audubon, September-October 1993; and "Golf Courses Are Denounced as Health Hazards" by Timothy Noah, The Wall Street Journal, May 2, 1994. *Copy of "Preliminary Evaluation of Postdevelopment by the City of Seattle" also attached.*

5

Trendwest's sales operations  
Trendwest is marketing individual lots within the MPR before such development is platted. TW has carefully avoided actual sales of property, and yet continues a large campaign. I was called within the last three weeks and offered a free trip to Reno if I would tour the MPR lands with a sales representative. RIDGE believes this continued marketing part of a strategy to involve many individual parties who will feel their interests are violated if the MPR and UGA cannot be built out according to Trendwest's as yet unplatted (and in the case of the UGA, still in SEPA) projects. This is a concern and impact in relation to the UGA because of the MPR requires infrastructure and services that are part of the UGA.

6

Working for a sustainable forested ecosystem and economy,

*Ellie Belew*  
Ellie Belew  
for RIDGE

## Preliminary Evaluation of Pesticides Used by the City of Seattle

Philip Dickey, Washington Toxics Coalition, Green Gardening Program

### The Approach in Context

These notes describe the approach taken for a preliminary assessment of pesticides used by the City of Seattle. The purpose of this assessment is to prioritize candidates for phaseout in order to meet the City's desire to reduce pesticide use. The tiered lists generated as a product of this assessment can only be correctly interpreted with an understanding of the approach and methodology that was used.

It has become clear after working with the list of pesticides provided by the City that a single step assessment will be insufficient. The list was too large for a highly detailed analysis at the beginning. While some elements of exposure analysis will likely have to come into play at some point, it would be prohibitively expensive to do that for all of the products on the list. Therefore, a second assessment step, as described in the recommendations at the end of this report, is suggested for some products.

This initial screening is not, nor should it be, a risk assessment. Risk assessments require an enormous amount of information and analysis in order to estimate exposure and quantify risk. Risk assessments are only able to estimate risk subject to considerable uncertainties arising from incomplete toxicology data and current limitations in their ability to model the effect of exposures to many chemicals at one time. Thus, even though a risk assessment may be able to deliver a quantifiable result, there immediately arise valid questions about the precision, accuracy, and relevance of that number.

This report describes an initial cataloguing and hazard characterization. It identifies potential hazards of the products and may also characterize the degree of hazard (e.g. low, medium, or high) or the certainty of the hazard (possible, probable, or known). This hazard assessment identifies, for example, if a product contains a possible carcinogen (cancer-causing ingredient). A risk assessment would include cancer potency, estimated exposure levels, and other factors in order to estimate risk, i.e. number of cancers per million exposures. Whereas a risk assessment seeks to determine the likelihood of a given set of outcomes in a particular population, a hazard assessment can help decide if a chemical is appropriate for use under a given set of criteria. It is possible to decide as a matter of principle not to use any products containing known or probable carcinogens without seeking to determine exactly how many cancers might occur as a result of continuing to use the products.

It must be emphasized that this initial screening considered for the most part only active ingredients in the products. Active ingredients in pesticide products are those that are directly responsible for the pesticidal action. Active ingredients in the products were obtained from product labels. Other ingredients (so-called "inert" ingredients) are not usually listed on labels and are frequently considered proprietary information despite the fact that they may be toxic or otherwise hazardous. Although some hazardous inert ingredients are listed on MSDSs, all inert ingredients could not be identified in most products. Although a court ruled in 1996<sup>21</sup> that the identity of inert ingredients in pesticide formulations must be available to the public, the information is not disclosed on product labels and a process for obtaining this information in a timely manner has not yet been established. Thus, while an assessment of inert ingredients would be desirable, it has not been possible at this time. For this reason, hazards of inert ingredients were not evaluated unless included in parameters that relate to the full product formulation, such as product toxicity category or signal word. Only the active ingredients could be screened against lists of carcinogens,

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reproductive toxicants, and endocrine disruptors. In addition, only active ingredients were evaluated for persistence and mobility in soil.

### **Procedure**

A list of pesticides used was provided by the City. This list consisted of several parts containing a total of well over 200 products. Some of the product names were incomplete or duplicative. Apparent duplicate products were removed and additional information was requested on products with incomplete names. Some of the products were not pesticides, but rather pesticide adjuvants or fertilizers. Those products will not be covered in this report. A few products were added for evaluation as potential alternatives for some uses.

Whenever possible, a product label and Material Safety Data Sheet (MSDS) were obtained for each product. For many products, labels and MSDSs were downloaded from manufacturers' Internet web sites. If labels were not available electronically, they were obtained from the US EPA's Pesticide Product Label System CD-ROM<sup>1</sup>. Additional MSDSs were downloaded from various Internet sites. In many cases, more than one product is registered with a particular name. The US EPA's Office of Pesticide Programs registration database<sup>2</sup> was used to match product names and registration numbers in order to pinpoint the correct products to evaluate. In a few cases where exact product matches were not found, the evaluation was performed on similar products for which more complete information was available. In the end, some product registration numbers could not be identified and some product labels could not be found within the time available. If necessary, additional effort could be made later to resolve these issues if the products in question are used in quantities that would justify the effort.

A final list of approximately 220 products was entered into an Excel spreadsheet for analysis. A second spreadsheet was used to record properties of ingredients.

### **Parameters and Sources of Information**

A variety of product and/or ingredient attributes were collected so that the City would be able to use the information against different screening criteria in the future. The parameters used in this analysis are as follows:

#### Hazard Category (full product):

Each pesticide product registered by EPA is assigned a hazard category I, II, III, or IV by the Agency based on characteristics of the full product formulation, including acute toxicity, and skin and eye irritation. In evaluating the acute data, EPA assigns the hazard category based on the greatest hazard, i.e. ingestion, inhalation, skin absorption, eye irritation, etc. A relatively non-toxic product (via ingestion, inhalation, or skin absorption) could be placed in the highest hazard category merely on the basis of extreme eye irritation. Products in category I are most hazardous and bear the signal word DANGER on their labels. Those in category II are labeled WARNING. Both category III and IV products are labeled with CAUTION. Product category was determined from label signal words, and category III and IV products were not distinguished from each other.

#### Restricted Use Pesticides:

Some pesticides are restricted to use only by certified pesticide applicators and are not available to the general public because of high toxicity, particularly hazardous ingredients, or environmental hazards. Pesticides designed as restricted use are indicated as such in this analysis. Sources of information included product labels and EPA's list of restricted use pesticides.<sup>3</sup>

#### Dioxin-containing Ingredients:

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The City requested that the product list be screened for those that would pose disposal difficulty due to the presence of dioxin contamination. The criterion used for identifying potential dioxin-containing waste was the EPA waste designation F027: "Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols...does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component." No products on the list met this criterion.

Persistent, Bioaccumulative Toxic Chemicals (PBTs): (active ingredients only)

At the request of the City, the list of products was compared to two lists of chemicals designated as persistent, bioaccumulative, and toxic. The first is an initial list of 12 chemicals proposed by EPA as a priority list.<sup>18</sup> No products contained active ingredients on this list. The second list is the list of 27 PBTs proposed by the Washington State Department of Ecology as candidates for elimination in the state.<sup>19</sup> Two chemicals on this list (endosulfan and trifluralin) were found in a total of four products.

"P" Chemical Products on state Dangerous Waste List: (active ingredients only)

The product list was screened against the state of Washington Dangerous Waste Regulations list of "P" discarded chemical products list.<sup>17</sup> Products with a listed chemical as the sole active ingredient are indicated in the product tables. Only four ingredients in products on the list met this criterion: dimethoate, disulfoton, endosulfan, and oxamyl.

Carcinogens (active ingredients only):

Various state, federal, and international organizations evaluate or list chemicals for carcinogenicity. Due to the expense and difficulty of such evaluations, not all agencies have reviewed the same chemicals and not all reach the same conclusions on a given chemical. For this reason, we have presented the ratings of several agencies whenever possible. Those agencies and their categories are as follows:

US EPA<sup>4</sup>

Old system:

- Group A - Human carcinogen
- Group B - Probable human carcinogen
  - B1 - Indicates limited human evidence
  - B2 - Indicates sufficient evidence in animals, inadequate or no evidence in humans
- Group C - Possible human carcinogen
- Group D - Not classifiable
- Group E - Evidence of noncarcinogenicity for humans

New system (weight of evidence categories):

- Known/Likely
- Likely
- Cannot be Determined
- Not Likely

State of California<sup>5</sup>

No categories; single list of chemicals entitled "known to the State of California to cause cancer."

National Toxicology Program (NTP)<sup>6</sup>



- National Toxicology Program (NTP)<sup>6</sup>  
Known to be human carcinogens  
Reasonably anticipated to be human carcinogens
- International Agency for Research on Cancer (IARC)<sup>7</sup>  
Group 1 - carcinogenic to humans  
Group 2A - probably carcinogenic to humans  
Group 2B - possibly carcinogenic to humans  
Group 3 - not classifiable as to its carcinogenicity  
Group 4 - probably not carcinogenic to humans

Carcinogenicity information was obtained by screening active ingredients against the above lists. Although MSDSs do indicate listing of ingredients by some of these agencies, the information may not be current or complete. In the tables that accompany these notes, a blank cell in the carcinogenicity columns indicates that the agency has no listing for the chemical. It does not mean that the agency has determined that the chemical is not carcinogenic. The case of conflicting results from different agencies could be a problem in principle, but for the chemicals considered here there were few such conflicts. There were cases where one agency found a chemical to be a possible carcinogen, while another found it to be not classifiable. In such a case, which is not really a conflict, the finding of possible carcinogenicity is the one that would trigger the tier rating as the criteria are written. In the one case of an actual conflict (piperonyl butoxide), the single product where that compound was the only suspected carcinogen was marked as conflicting evidence.

Reproductive/Developmental Toxicants (active ingredients only):

Active ingredients in the products were screened against the State of California lists of reproductive and developmental toxicants<sup>5</sup>. Blank cells indicate that the compound is not listed.

Neuro-acting Pesticides: (active ingredients only):

Chemicals that act primarily via the central nervous system are indicated in this column by type of chemical. The fact that a chemical has this mode of action does not mean that products containing it should be considered neurotoxic in the sense that any exposure would cause nerve damage or even nervous system effects. The usual dose and threshold concepts would apply. However, these groups of chemicals should be considered carefully in terms of worker exposure and exposure of the general public, particularly children, pregnant women, the elderly, the chemically sensitive, and other highly susceptible populations.

The main chemical classes identified as neuro-acting are organophosphates, carbamates, pyrethroids (synthetic pyrethrins), and pyrethrins. In addition there were several organochlorines, one chlorinated nicotiny, and metaldehyde, which affects the nervous system but not as its principal mode of action. Although this information was collected, it was not used in the sample set of criteria provided for screening products into tiers. As it happens, most products with neuro-acting active ingredients were placed in Tier 1 because of at least one other sample criterion. This class of pesticides tends to have fairly broad ecotoxicity, being generally non-selective with respect to beneficial insects and often being quite toxic to birds and aquatic species as well. This lack of selectivity is perhaps the strongest reason to phase out or curtail the use of as many of these products as possible and to substitute more selective control methods where they are appropriate and available. It should be noted that the pyrethrins have the advantage (from a toxicology point of view) of very short residual life, a factor which helps to reduce both human and wildlife exposure.

Endocrine Disruptors: (active ingredients only)

Considerable attention has focused in recent years on the ability of certain chemicals to mimic or block the effects of hormones in humans and other wildlife. Because of the similarity of the

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block the effects of hormones in humans and other wildlife. Because of the similarity of the endocrine system across many species, its critical role in development and reproduction, and its extreme sensitivity to very low levels of hormone-like compounds, there is the potential for endocrine disrupting substances in the environment to adversely affect wildlife and humans. Although the science is relatively new and in many cases highly controversial, considerable evidence of effects in wildlife and some evidence in humans has caused many scientists to warn of potential dangers from exposure to endocrine disrupting chemicals. Under the Food Quality Protection Act, the EPA is required to screen pesticide ingredients for endocrine system effects. Until that screening is done, a comprehensive list of endocrine disruptors will not be available. For purposes of this analysis, we used the list of endocrine disruptors compiled by the State of Illinois Environmental Protection Agency. Chemicals on this list are classified as known, probable, or suspected of causing endocrine system effects<sup>8</sup>.

**Ecotoxicity: (active ingredients only)**

For purposes of this initial review, information on toxicity to non-target wildlife species was deduced primarily from required precautionary statements on product labels.<sup>9</sup> While these statements were not specifically designed for making comparisons between products, there are several reasons why this approach was taken:

- 1) As described below, the label warning language follows a hierarchy that is based on the toxicity of the active ingredient and field observations.
- 2) The product label is the primary document that describes the precautions required to use the product in a legal manner. It is the document that every product user should have in their possession and read before using the product.
- 3) The product label is the quickest source of information based on a uniform standard.
- 4) This screening does not consider chronic exposures. While it would be desirable to obtain additional ecotoxicity information in the form of appropriate LD50s, LC50s, and NOELs (no effect levels) or LOELs (lowest observed effect levels), not all Material Safety Data Sheets contain this information, and not all documents that offer some of this information present data for the same species. In addition, the information available may be for active ingredients only and not the full product formulation. Therefore, to pursue the approach of gathering and comparing detailed toxicity values was judged to be beyond the scope of what could be done within the time and budget limits of this evaluation. This level of investigation should occur in the level two toxicology assessment for a reduced number of products.

**Toxicity to Birds:**

According to EPA regulations,<sup>9</sup> the required label warnings for avian toxicity are derived in the following manner:

- \* Products labeled as "toxic to birds" contain an active ingredient with an avian acute oral LD50 of 100 mg/kg or less or a subacute dietary LC50 of 500 ppm or less.
- \* Products labeled as "extremely toxic to birds" have been shown by accident history or field studies that they may result in fatality to birds.

Additional data for active ingredients was taken from *the Farm Chemicals Handbook*<sup>10</sup> and EXTOXNET<sup>11</sup>, an Internet web site maintained by cooperative extension in a number of states. Ingredients were classified according to the following scale:

<u>Toxicity Category</u>	<u>Bird acute oral LD50 (mg/kg)</u>
Practically non-toxic (PNT)	>2000.
Slightly toxic (ST)	501-2000
Moderately toxic (MT)	51-500
Highly toxic (HT)	10-50

Very highly toxic (VHT) <10

This additional information on active ingredient toxicity was not used in any ranking criteria, but was gathered to see if label warnings were consistent with toxicity of the ingredients.

***Toxicity to Aquatic Organisms:***

According to EPA regulations, the required label warnings for aquatic toxicity are derived in the following manner:

\* Products labeled as "toxic to fish" contain an active ingredient with a fish acute LC50 of 1 ppm or less.

\* Products labeled as "extremely toxic to fish" have been shown by accident history or field studies that they may result in fatality to fish.

Additional data for active ingredients was taken from *the Farm Chemicals Handbook* and EXTOXNET. Ingredients were classified according to the following scale:

<u>Toxicity Category</u>	<u>Aquatic LC50 (ppm)</u>
Practically non-toxic (PNT)	>100
Slightly toxic (ST)	10-100
Moderately toxic (MT)	1-10
Highly toxic (HT)	0.1-1
Very highly toxic (VHT)	<0.1

This additional information on active ingredient toxicity was not used in any ranking criteria, but was gathered to see if label warnings were consistent with toxicity of the ingredients.

***Toxicity to Bees:***

According to EPA regulations, the required label warnings for bee toxicity are derived in the following manner:

**Honey Bee Toxicity Groups and Cautions**

Additional data was evaluated for the active ingredients as a supplemental source. Data for active ingredients was taken from *the Farm Chemicals Handbook* and EXTOXNET. Ingredients were classified according to the following scale:

<u>Toxicity category</u>	<u>Meaning</u>
Practically non-toxic (PNT)	Relatively nontoxic. Can be used with few precautions with minimum injury to bees.
Moderately toxic (MT)	Kills bees if applied over them. Can be used with limited danger to bees if not applied over bees in the field or hives. Correct dosage, timing, and method of application are essential.
Highly toxic (HT)	Kills on contact during application and for one or more days after.

This additional information on active ingredient toxicity was not used in any ranking criteria, but was gathered to see if label warnings were consistent with toxicity of the ingredients.

***Toxicity to other Wildlife or Domestic Animals:***

According to EPA regulations, the required label warnings for wildlife toxicity are derived in the

following manner:

- \* Products labeled as "toxic to wildlife" contain an active ingredient with an mammalian acute oral LD50 of 100 mg/kg or less..
- \* Products labeled as "extremely toxic to wildlife" have been shown by accident history or field studies that they may result in fatality to wildlife.

In addition, certain products carry label warnings about hazards to domestic animals or secondary hazards to particular species. For example, rat poison may pose a secondary hazards to birds of prey. Such warnings were taken as an indication of the presence of hazards to wildlife as well.

Persistence (active ingredients only):

The environmental persistence of compounds varies widely depending on many factors. In addition to the inherent degradability of the compound itself, persistence is affected by where the compound is found (soil, water, air, leaf surface), temperature, moisture, amount of organic matter present, and so on. We chose as a standard measure of persistence the half-life in average soil, disregarding half-lives in other media and in extreme soil types. This number, measured in days, is the amount of time required for the concentration of the chemical to decrease by one-half. For consistency, data were taken from the Oregon State University Extension Pesticide Properties Database,<sup>12</sup> the Agricultural Research Service/US Department of Agriculture Pesticide Properties Database,<sup>13</sup> or the Hazardous Substances Databank,<sup>14</sup> in that priority order.

Pesticides are classified as non-persistent, moderately persistent, or persistent based on their half-lives.<sup>12</sup> Those classifications are as follows:

Non-persistent	<30 days
Moderately persistent	30-100 days
Persistent	>100 days

In the cases of ingredients which are minerals, biodegradation of the metals does not occur, although the valence state may change, new compounds may be formed, or materials may be washed from the soil or taken up by plants. For minerals, the notation NA indicates not applicable. Half-lives were found for most, but not all, ingredients.

When thinking conceptually about degradation of pesticides, it is important to remember that after one half-life, half of the chemical remains. If the decay follows first order kinetics, another half-life would be required before the residue reaches 1/4 of the original. To decrease by one order of magnitude (a factor of 10), more than three half-lives are required. So even a pesticide considered non-persistent could remain in average soil at levels of around 10% of the applied concentration for as much as three months.

A final important issue relating to persistence is the presence of breakdown metabolites that may pose hazards in themselves. When one looks at the half-life and other attributes of the parent compound, it is easy to disregard the fact that as this compound disappears, other compounds may be forming that may be more toxic, persistent, or more mobile than the parent compound. These compounds can be overlooked in studies that are not specifically looking for them. No attempt was made in this assessment to look systematically for hazardous breakdown products for each active ingredient. However, in the course of looking at the environmental fate (persistence and mobility) data, it became apparent that in at least several cases major metabolites possess one or more properties that should not be ignored in evaluating the parent compound. The compounds identified thus far are the following:

Parent Compound	Metabolite	Concern
acephate	methamidophos	Metabolite is about 40 times more toxic than parent as measured by oral rat LD5011
daminozide	unsymmetrical dimethyl hydrazine (UDMH)	Also a probable carcinogen4,5,6,7
dichlobenil	2,6-dichlorobenzamide	More persistent, more soluble, more mobile, detected in ground-water20
malathion	malaaxon	1000 times more potent cholinesterase inhibitor, more persistent, slightly more mobile14
mancozeb	ethylene thiourea (ETU)	Also a probable carcinogen4,5,6,7
metaldehyde	acetaldehyde	Probable carcinogen4,5,6,7

**Water Pollution Hazard (active ingredients only):**

The potential for ground-water or surface-water pollution by pesticides is dependent on many factors, including persistence of the ingredients, water solubility, soil binding, amount of rainfall or irrigation, soil properties, amount and frequency of applications, soil slope, vegetation present, proximity to ground- or surface-water, etc. The parameters considered below are those that relate strictly to the pesticide itself. In use, the water pollution risk can often be mitigated by product

choices based on site-specific factors. Generally the risk is reduced when soil quality is high, vegetation is dense, and water is distant. The parameters discussed below can be used to identify the products with the highest inherent risk characteristics.

### ***Leaching Potential***

The Ground-water Ubiquity Score (GUS) is an empirically derived index that relates pesticide persistence and soil binding to mobility. GUS can be used to rank pesticides for their potential to move toward groundwater.<sup>12</sup> The GUS index is defined mathematically as follows:

$$\text{GUS} = \log_{10}(\text{halflife}) \times [4 - \log_{10}(\text{Koc})]$$

where Koc is the soil sorption coefficient and halflife is the soil halflife in days. GUS values for typical pesticides range from a low of about -6 to a high of about 7. A pesticide movement rating ranging from "extremely low" to "very high" has been assigned to the numerical values by the researchers in the OSU Extension Pesticide Properties Database.<sup>12</sup> The values are as follows:

<u>GUS value</u>	<u>Pesticide Movement Rating</u>
<0.1	extremely low
0.1 - 1.0	very low
1.0 - 2.0	low
2.0 - 3.0	moderate
3.0 - 4.0	high
> 4.0	very high

The GUS index was found for most, but not all, active ingredients in the OSU Database. When it was not found, it was calculated from the halflife and soil binding coefficient, if those were available. In a few cases, even though the GUS index could not be found or calculated due to data gaps, qualitative information on soil binding or mobility was identified in either EXTOXNET or the Hazardous Substances Databank.

In addition to the GUS index, information on pesticide movement potential was noted from product label warnings about the leachability of the products and/or the detection of such or similar chemicals in ground-water. EPA requires two levels of warnings for products with characteristics determined to result in likely contamination of ground-water from use as labeled.<sup>9</sup> A lower level of warning is required if no actual detections have occurred or no field studies have been done. A higher level of warning is required if detections have occurred or field studies have shown that the chemical leaches. For purposes of this initial screening, the presence of either warning was considered an indication that the chemical has high mobility. This approach was most consistent with the use of the GUS index, which does not indicate actual detections in ground-water or below a certain soil depth. In rare cases where a label ground-water advisory occurs but the GUS index did not indicate high mobility (e.g. glufosinate ammonium), the label advisory was given priority.

### ***Runoff Potential***

The potential of a pesticide to run off from the application site with applied (rain or irrigation) water is strongly influenced by its solubility in water and its soil binding. There are two main mechanisms whereby a pesticide can run off: dissolved in water or bound to soil particles. The properties which govern these processes are quite different. A pesticide that binds to soil can run off when the soil particles themselves are washed or eroded away. Products with high risk for this type of runoff have high soil binding, generally considered a desirable property because it prevents movement of the chemicals through or away from the soil. It is my judgment that this type of runoff is best prevented by site-specific factors or by avoiding pesticides entirely rather than by

product selection, since the products that have low risk for movement with soil particles are generally those with high risk for groundwater pollution. If erosion is occurring at the site, no pesticide will stay put. For this reason, no parameter was included to evaluate pesticide runoff via adsorption to soil. Although a "runoff potential" is listed in worksheet 2 of the Excel workbook that accompanies these notes, that information was not used because it appears to take account only of this one type of runoff mechanism and was judged of little value in this assessment for the reasons discussed above.

The other type of runoff scenario does lend itself more reasonably to product comparisons. If a pesticide is highly soluble in water but has poor soil binding, it has potential to move with applied water. If that water is tending to move laterally over or through the top layers of soil, the pesticide will move with it. Products at risk for runoff in water would tend to have high solubility, low soil binding, and a long half-life. Most pesticides that have high solubility also have low soil binding<sup>15</sup>, so for those products the low soil binding itself is an indication of the potential for both groundwater and surface-water hazard and the GUS index should be a reasonable index of hazard for both processes. The important exception to be considered is products with both high binding and high solubility or low binding and low solubility. The former group will have low GUS values, the latter high GUS values. Some products with low GUS values, considered low risk for groundwater, may pose a higher risk for surface water runoff if their solubility is high. On the other hand, some products with high GUS values, considered high risk for leaching, may be less prone to runoff because they do not dissolve in water. I have so far identified no standard benchmarks for making decisions in these cases, but if the City intends to continue using any pesticides near surface water or storm drains, a good GUS score should not automatically indicate low probability for runoff. Other factors must be considered, such as product solubility, application method (i.e. spray, wipe on, etc.), application rate and frequency, application timing, and site conditions that allow substantial water runoff or soil erosion from treated areas. Poor soil, high slope, and absence of vegetation are all risk factors for runoff.

#### **Initial Ranking by Tiers**

The City requested that all products on the list be classified into one of three tiers: products that should be highest priority for phasing out, those of moderate concern that might be used only under certain conditions, and those of lower concern that might be considered usable tools in an IPM framework. A set of sample criteria was written following the model provided in the form of a discussion draft. A proposed ranking follows in Tables 1-4, based on the test criteria below. A final determination will require finalization of the City's criteria for ranking pesticides. The factors influencing the tier assignments are shown in the tables so that products can easily be reassigned when changes are made to the criteria. As noted earlier, the pesticides must still undergo use and alternatives analysis.

#### Tier Definitions

Tier 1: Highest concern, highest priority for phaseout

Tier 2: Moderate concern, second priority

Tier 3: Lowest concern.

Tier 4: Insufficient information available to assign to above tiers

Tier 1: (Any of the following are true) (All ingredients should be identified so that they can be screened using these tests)

- \* Products in Hazard Category I: Signal word DANGER
- \* Restricted use pesticides (except aquatic herbicides#)
- \* Products that cannot be disposed of because of dioxin contamination
- \* Products with active ingredient on the state list of acutely dangerous wastes (P list)
- \* Products with known, likely, or probable carcinogens as active ingredients

- \* Products with reproductive toxicants as active ingredients (CA Prop 65 list)
- \* Products with known or probable endocrine disruptors as active ingredients
- \* Products labeled as highly toxic or extremely toxic to birds, aquatic species, bees, or wildlife. (exceptions for products used only indoors; exception to bee toxicity will be needed for products intended to control bees, wasps, or hornets, possible BMP needed)
- \* Products with active ingredients with soil half-lives greater than 100 days (possible exception for products used only indoors)
- \* Products with active ingredients with mobility ratings high or very high or with specific label warnings about groundwater hazard. (possible exception for products used only indoors)

#Note: aquatic herbicides are not included in this criterion because all aquatic applications in the state are restricted because of the need for a permit rather than because of particular properties of the chemicals involved. Aquatic herbicides could be included here, and if so, should be added via a separate criterion.

Tier 2:

- \* All products not specifically assigned to tier 1 or tier 3.

Tier 3: (All of the following are true) (All ingredients should be identified so that they can be screened using these tests)

- \* Product contains no possible or probable carcinogens
- \* Product contains no reproductive toxicants (CA Prop 65 list)
- \* Product contains no ingredients listed by Illinois EPA as known, probable, or suspect endocrine disruptors
- \* Active ingredient has soil half-life of 30 days or less (exception for minerals)
- \* Active ingredient has extremely low or very low mobility in soils. (possible exception for indoor products)
- \* Product is not labeled as toxic to fish, birds, bees, wildlife, or domestic animals.

Tier 4: Not enough information.

Product registration or label not found

or

Key data not located for active ingredient (half-life, soil binding, ecotoxicity, etc.)

## Discussion

All of the products analyzed were registered by EPA and were legal to use in accordance with the label at the time they were purchased. The City has determined that it wishes to reduce pesticide use, indicating that it desires to curtail or cease the use of certain products that it could legally use. In essence, the City wishes to set a higher standard than EPA registration as a basis for its pesticide use. There are many good reasons for doing so, not the least of which is bringing the City's own practices into accord with those that it recommends to its residents. Detection of a wide variety of pesticides in Puget Sound streams,<sup>22,23</sup> in some cases at levels exceeding chronic safety standards for aquatic life, has focused attention on the need to find and eliminate the sources of contamination. Preliminary research has begun to draw connections between pesticide levels in surface-water and pesticide sales.<sup>23</sup> The recent listing of salmon under the Endangered Species Act underscores the urgency of removing anthropogenic stresses on aquatic species. Recent research in the San Francisco Bay Area has shown that runoff of diazinon from only a few homes in a watershed is sufficient to raise diazinon levels in streams to levels that threaten some aquatic species.<sup>24</sup> The study further demonstrated that the contamination can occur even if the products are used scrupulously as directed on the label. These results lend support to the idea that some products need to be eliminated from use, not merely reduced.



Within the context of an integrated pest management program, choices of which control methods to use are based on many factors, including product hazards, label restrictions, effectiveness, site-specific factors, and available alternatives. The work reported here can be used to compare certain product attributes to screen products for desirability of use. It should be reiterated that actual risk from using products depends on many factors, some of which are not product dependent, such as weather, site conditions, application rates, and so on.

Nearly every chemical product (with a few exceptions) scores poorly in at least one parameter recorded in this analysis. For example, the Tier 1 lists (115 products) contained:

- \* 25 products with known, likely, or probable carcinogens (mostly fungicides)
- \* 20 products with known or probable endocrine disruptors
- \* 14 products with persistent ingredients (mostly herbicides and fungicides)
- \* 24 products with predicted high or very high soil mobility (mostly herbicides)
- \* 27 products labeled as highly toxic or extremely toxic to birds, fish, bees, or wildlife (mostly insecticides and molluscicides)

The decisions as to which products to use and which to discontinue requires applying a set of criteria over the hazard matrix to group the products into tiers. Only one set of criteria is offered here as an example. This particular set of criteria happens to screen many products into Tier I, those products of highest concern. Many of the products in Tier 1 were placed there because of only one of the criteria (not always the same one). Clearly, the choice of criteria is critical. I have indicated in the ranking criteria some cases where exceptions would seem to make sense. However, these products should be looked at carefully in the context of their uses to determine applicability of the criteria. Products for which elimination is not practical should undergo the second level of review to ensure that they are the best choice for the circumstances, that use will be as low as possible, and that all possible safety precautions will be applied.

### Recommendations

1. The enclosed set of screening criteria is proposed as a starting point that identifies important issues of concern that can be used as a basis for prioritizing products for phaseout, restrictions, or further review. This screening should be considered as preliminary. A second stage of toxicity review and exposure evaluation is suggested for any products that fall into Tier 1 or 2 but which the City would like to consider continuing to use after the use and alternatives analysis. (Details of how this would work are presented at the end of this section). The City should make its own decision, with public input, as to which of the screening criteria should be considered pass/fail for all products.

2. The City should use the ranking charts from the preliminary screening with the following understanding:

- a) Blank cells can mean that tests have not been done or other information is unavailable.
- b) Some criteria may be found not to apply to products (including those in Tier 1) after uses are analyzed.
- c) Placement of a product in Tier 2 or even Tier 3 does not mean that the product is necessarily safe. In addition, concerns raised by the presence of unknown, so-called "inert" ingredients should be addressed (see point #3 below).

3. The City should require knowledge of all ingredients in any products they continue to use. These additional "inert" (non-active) ingredients should then be screened against the same lists as the active ingredients, as shown in the flow chart. Without this information, it is impossible to do a valid scientific review. A recent study of poor salmon returns in Canada<sup>16</sup> hypothesizes that the culprit may be an inert ingredient (nonylphenol) in pesticides applied over the watershed. If this

hypothesis is proven, the situation would illustrate very clearly the importance of non-active ingredients in environmental safety. It would be fruitless to select products for salmon protection without knowing the identity of toxic inert ingredients that have produced toxic effects in salmon. In other words, you can rule out a product without knowing all ingredients, but you cannot with certainty rule it in.

4. The sheer volume of products used by the City, many for the same apparent purpose, reveals the need to reduce duplication and try to standardize usage. One area where this seemed most striking was in the array of products used for controlling bees, wasps, and hornets, presumably in the vicinity of utility meters or other similar sites. If it is determined that chemical use needs to continue for this purpose, it would be desirable to settle on the least hazardous formulation and to standardize that product or similar products city-wide. Unfortunately, I have not yet been able to adequately compare these products because of the lack of complete data for several pyrethroids widely used as active ingredients. There is need for followup work in this area.

5. The City must establish criteria that define the "need" for a pesticide based on reasonable thresholds in the IPM framework. The City should consider input from the public in establishing these need criteria. If it is eventually determined from the use/alternatives analysis that certain products will be retained for limited uses, reductions might be obtained through best management practices that clearly limit and define the uses that will be allowed. However, if comparison of new BMPs to actual current uses shows little reduction potential, the City will not have achieved its goals.

6. As new products are introduced, the City will want to do ongoing evaluations to determine if these products are acceptable or not. A considerable fraction of the time required in doing this assessment was spent gathering product labels and other information. Regardless of whether such evaluations are done in-house or by a consultant, the City can save time and money by providing product labels and MSDSs to the person or persons doing the evaluation. Additional product information such as product brochures, toxicology reports, etc. should also be collected as products are considered.

7. While it would be tempting to use actual detections in surface-water or ground-water as a criterion for ranking products, I have not followed this approach because of the time required to acquire the data and because the presence of chemicals in water is a lagging indicator of both use and product properties. The City may well decide to use the results of recent surface-water testing to phase out widely found contaminants such as 2,4-D, MCP, dicamba, and dichlobenil, or those found to exceed chronic aquatic standards, such as diazinon, carbaryl, chlorpyrifos, and malathion. However, it is critical to remember that some of the ingredients in other products are not detected either because they are not widely enough used or because the studies have not looked for them. If the science indicates that these chemicals are highly persistent and/or mobile, then continuing to use them (or especially increasing use of them) likely will result in their being found in water at a later time.

8. The time and budget allotted for this evaluation were far too small for a complete review of more than 200 products with approximately 100 active ingredients. New products continued to come in throughout the evaluation process. While I have made every effort to be accurate and have reviewed virtually every cell in the spreadsheets for errors, under the level of pressure imposed by this work the probably of mistakes in data entry or consistency inevitably goes up. In addition, I have been unable, within the time allowed, to locate adequate data on roughly 16 of the active ingredients. I suggest that the data gathered here, especially the tiered list of products, be considered preliminary and subject to revision and expansion as the process proceeds.

9. Finally, the City is to be commended for embarking on this important process. The City should remain committed to reducing pesticide use and persistent in reaching that goal. It would be tempting to take the easy way out and to maintain the *status quo* without trying hard to demonstrate leadership by challenging assumptions and finding wisdom and experience both inside and outside the local area. The Endangered Species Act listing should tell us that we cannot continue as we have been. But it's more than just salmon. We must also protect our residents, our workers, and our air, land, and water.

#### **Proposal for Additional Toxicology and Exposure Evaluation**

The diagram on the next page shows how the proposed two levels of screening would fit into the full evaluation process with its use and alternatives analyses.

1. The initial stage catalogues the products used and identifies a number of potential hazards such as acute toxicity or irritation potential, carcinogens, reproductive toxicants, endocrine disruptors, persistent chemicals, highly mobile chemicals, and chemicals that contain ingredients toxic to non-target organisms. The screening net at this stage must be quite wide-mouthed and fine meshed, so that all the important issues are picked up. For example, if a product is persistent (has a half-life over 100 days), that can have major implications for exposure potential and for mobility. The product needs to be flagged for that possibility. Later it may be found that the concerns about persistence are not likely to result in high exposure (e.g. used only in areas inaccessible to the public or wildlife) or mobility (e.g. very high soil binding and minimal solubility in water). On the other hand, if biological or mechanical methods are available that can control the problem, the chemical may be eliminated as unnecessary. Alternatively, if another chemical is available that has a much shorter half-life and is less toxic, the choice can be made to use it instead of the original chemical. Whatever the outcome, the initial flagging of the persistence allowed this decision to be made in a reasoned manner.

2. The screening criteria are used to generate lists (Tier 1, Tier 2, Tier 3) based on concerns raised about product characteristics. That has been done at this point. (A Tier 4 list was also generated, containing products for which more information is needed before screening can take place.)

3. The Tier 1 list (highest concern) is then examined for product uses, perceived need for the product, the availability of alternatives, and cost of implementing the alternatives. At this point, many products may be found to be obsolete, unnecessary, duplicative, and inappropriate for some uses. Those products can be discarded (through appropriate hazardous waste disposal channels!) and eliminated from further consideration. In addition, an examination and reassessment of pest and weed tolerances should provide additional opportunities to eliminate some products. A similar look should then be given to Tier 2.

4. Products that groundskeepers feel they must continue using or for which there are no apparent viable alternatives will then need to be looked at further. At this point the City should revisit the preliminary criteria to decide which of these should eliminate products absolutely and without exception. I suggest that many, if not most, of them should be. A precautionary approach to worker safety, public safety, and environmental protection will send an important philosophical message and set a good example for the public. Criteria that are deemed not applicable for particular product uses, such as toxicity to birds for products used only indoors, can be dropped for those products. At the same time, the

Wild: label warnings of toxicity to wildlife

Note: raw data are found on spreadsheets #1 (products) and #2 (ingredients).

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## **Letter 40**

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### **Comment 1**

Refer to the response to Letter 4, Comment 2.

### **Comment 2**

Comment noted. Both the Draft EIS and this Final EIS reflect a proactive effort to undertake detailed analyses of cumulative impacts related to the MPR and UGA for all elements of the environment. Analyses were conducted in close coordination with affected agencies, organizations, and local jurisdictions and addressed all issues identified during the scoping period for the EIS.

### **Comment 3**

A Golf Course Management Plan has been prepared for the MountainStar MPR golf courses. No golf course is proposed under Alternative 5 (Preferred Alternative). The golf course plan describes integrated pest management principles that would be used on the MountainStar MPR site, including weed tolerances, preferences for cultural methods (non-chemical) wherever possible to prevent or treat weed or disease infestations, and pesticides use, including any restrictions on their use.

### **Comment 4**

Comment noted. Refer to the response to Letter 40, Comment 3.

### **Comment 5**

Comment noted. Refer to the response to Letter 40, Comment 3. Receipt of the attachment is noted.

### **Comment 6**

Comment noted.

## **4.2 Public Hearing Comments and Responses**

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CLE ELUM UGA DRAFT EIS PUBLIC HEARING

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April 18, 2001

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REPORTED BY:  
KELLI S. STRICKLER

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YAKIMA COUNTY COURTHOUSE, YAKIMA, WA 509-574-2714 1

## Public Hearing 1

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1           MAYOR BERNDT: Good evening, everyone. If we could,  
2 I would like to go ahead and start tonight. The public  
3 hearing for the Cle Elum UGA Draft Environmental Impact  
4 Statement is now open. This public hearing will proceed in an  
5 orderly fashion and I would like to ask your cooperation in  
6 the following procedure:

7           Everyone present will be given the opportunity to be  
8 heard. In addition to our taking notes, the City is recording  
9 with a cassette and a court reporter is present to transcribe  
10 tonight's testimony as well. Therefore, when you make your  
11 comments, please begin by stating your name and address.  
12 Speak slowly and clearly so that the tape recorder and the  
13 court reporter can accurately get that information.

14          I ask that only one person be allowed to speak at a  
15 time. I also ask that your comments be directed to me as lead  
16 agency, not to supporters or proponents of the pending  
17 matter. This issue before us tonight is the Draft EIS for the  
18 Cle Elum Urban Growth Area, which the City of Cle Elum  
19 anticipates annexing and subsequently will require both  
20 planning and zoning to be adopted. The City will be  
21 conducting additional public hearings as it contemplates  
22 subarea planning and zoning for this area.

23          Tonight's hearing is geared to taking testimony,  
24 comments, questions and concerns about the content of the  
25 Draft EIS addressing environmental impacts to the built and

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1 natural environment that may flow from planning and zoning for  
2 growth in the Bullfrog UGA.

3 After we have received all the testimony, comments,  
4 concerns and questions about the Draft EIS, that information  
5 will be reviewed and considered, after which time a Final EIS  
6 will be published. It is our objective that the answers to  
7 the questions and concerns raised tonight will be addressed in  
8 the Final EIS. I cannot provide answers to your questions.  
9 My goal is to find out the questions that arise from the Draft  
10 EIS and revise it as necessary. Your cooperation is greatly  
11 appreciated.

12 Before we begin hearing from the audience, I would like  
13 to introduce the Cle Elum City Planner, Brian Carrico, who  
14 will present the staff report on the matter. When he is done,  
15 I will open the floor for comments from the audience.

16 In fairness to all here, each person will be given an  
17 opportunity to speak for an initial period not to exceed -- we  
18 originally had five minutes; however, I understand that we  
19 only have five folks signed up to speak and so we can increase  
20 that I would say to not more than ten minutes. If there are  
21 additional people, please come and sign up.

22 For ease of coordination tonight, I will be taking  
23 comments from those listed on the sign-up sheet first. If  
24 those who did not sign up, raise your hand, state your name  
25 and address so we can add your name to the sheet. Please

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1 don't hesitate to raise that hand to ask to speak. Our job is  
2 the public's business and we want to hear from you.

3 Does anyone wish to sign up at this point?

4 Anybody that is not signed up -- I am sorry. If not, I  
5 am introduce Brian Carrico.

6 MR. CARRICO: Thank you, Mayor Berndt. For the  
7 record, my name is Brian Carrico and I am the City Planner for  
8 Cle Elum. I will make some brief comments tonight regarding  
9 background of the project, the reasons for the hearing and  
10 then what happens next in this process.

11 As indicated by the mayor, the hearing tonight is to take  
12 comments on a Draft Environmental Impact Statement. The DEIS  
13 has been completed analyzing the impacts of a development  
14 proposal by Trendwest Properties for approximately 1,100 acres  
15 in the area commonly referred to as the Bullfrog Urban Growth  
16 Area.

17 A preliminary development plan is based on a proposal  
18 that was submitted to the county in 1998. As part of the  
19 proposal, the City will also consider the adoption of a  
20 subarea plan and zoning for the area as well as consideration  
21 of a master planned development for much of the area submitted  
22 by Trendwest Properties, Inc. A development agreement is also  
23 proposed between the City and the property owner to control  
24 the development of the property.

25 The Environmental Impact Statement is being completed to

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1 comply with the State Environmental Policy Act commonly known  
2 as SEPA. SEPA is a state law which was enacted back in 1971,  
3 and it requires that the impacts of activities of government  
4 on the built and natural environment are identified and  
5 assessed prior to the government taking action. It requires  
6 the submittal of a checklist on impacts and a decision on what  
7 impacts will occur as a result of the project.

8 The environmental review process for this item began on  
9 February 22, 1999 when Kittitas County issued a Determination  
10 of Significance and Scoping Notice for the project. Since  
11 then the City has taken over as lead agency status for the  
12 UGA. The EIS issued a determination of significance which  
13 caused the EIS to be written and a scoping notice for the  
14 project. Since that time the City has taken over as a lead  
15 agency for the entire process for the development within the  
16 Urban Growth Area.

17 The EIS that is the subject of tonight's hearing analyzes  
18 four different alternatives including the no action  
19 alternative, which is the current zoning within the county.  
20 The preliminary master plan, which is the original submittal  
21 by Trendwest that includes approximately 1,028 dwelling units,  
22 approximately 950,000 square feet of business park space, a  
23 golf course, a lodge and land designated for a city water  
24 treatment plant, for a future school expansion, for an  
25 expansion of a a city cemetery and a potential Washington

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1 state horse park.

2 Alternative three expands the number of residential units  
3 by 380 and reduces the business park to 600,000 square foot.  
4 The other activities remain the same.

5 Alternative four reduces the number of residential units,  
6 reduces the business park to 300,000 square feet and reduces  
7 the cemetery expansion areas to approximately three acres.

8 The subject property is currently located within the  
9 jurisdiction of Kittitas County. However, the area is part of  
10 the City's Urban Growth Area as adopted by the county. The  
11 property owner has signed a pre-annexation agreement with the  
12 City that indicates development will not occur until annexed  
13 into the city.

14 Trendwest Properties as the owner has submitted a notice  
15 of intent to annex to the city, which has been accepted. An  
16 annexation petition is expected soon. The decisions made by  
17 the City will not take effect until annexation of the  
18 property, until we gain control of it.

19 The reason for tonight's hearing is to take comments on  
20 the DEIS documents. SEPA requires a thorough assessment of  
21 the environmental impacts of the project so that the decision  
22 makers, in this case the City of Cle Elum Planning Commission  
23 and the city council have a full understanding of the impacts  
24 of the proposal and so that the impacts can be appropriately  
25 mitigated.

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1           Comments tonight should address the impact analysis  
2 contained in the EIS or not whether the project should or  
3 should not be ultimately approved. Tonight is not the time to  
4 engage in a back and forth debate or demand for specific  
5 answers to questions as part of the public hearing. The FEIS  
6 is the vehicle for answering those questions. Of course,  
7 their senior staff and EIS consultants are available before --  
8 they were available before the hearing and possibly afterwards  
9 and also at the next hearing on the 25th to have individual  
10 conversations with and to ask specific questions.

11           The comment period for the EIS is provided to ensure that  
12 the City has properly addressed the impacts from the  
13 proposal. The City will take the comments and questions  
14 provided tonight along with the comments provided at the next  
15 hearing and any written comments and those will be addressed  
16 in the Final Environmental Impact Statement.

17           You may comment tonight orally or at the next meeting.  
18 You may also submit written comments and address them in a  
19 Final Environmental Impact Statement at any time up to May 7th  
20 depending on the comment periods that the anyone is interested  
21 to; however, you can submit them in any form you like  
22 written. There is no greater weight given to oral or written  
23 comments.

24           Comments will be accepted in writing until Monday, May  
25 7th. They can be mailed, faxed or dropped off at City Hall.

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1 The FEIS will be used by the decision makers during  
2 deliberations on the project. There will be additional  
3 hearings scheduled before the City Planning Commission and the  
4 City Council to address the project and whether it's  
5 consistent with city plans and policies. It is at those  
6 hearings where the merits of the project will be discussed.

7 If you do leave your name and address, a mailing address,  
8 or make any comments orally tonight, we will be providing  
9 future notices of additional hearings on this project. So if  
10 you haven't and you would like to receive those, please sign  
11 up in the back and get your name and address to the city and  
12 we will put you on the list. That's all I have to say tonight  
13 and I will turn it back to the mayor.

14 MAYOR BERNDT: Beginning public comments. I would  
15 like to start with JoAnn Rushton.

16 MS. RUSHTON: I am JoAnn Rushton. My address is 508  
17 Madison Street, South Cle Elum. I am here representing the  
18 Community Center Complex Board. We are a group that is  
19 working towards the community center that is shown on the  
20 maps. And with the land and the financial support from  
21 Trendwest, we are hoping that with everything going through  
22 that we will be able to do to the compound center and pool.

23 The pool may be a problem with the water the way it is  
24 right now. We certainly hope to be able to do that to better  
25 serve the residents who are already here and the expanded

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1 residential people that are coming in.

2 I haven't had a chance to look over the actual  
3 Environmental Impact Statement, the large one, but they  
4 seemed -- Trendwest seems to do a very good job and the City  
5 does a very good job in identifying all the impacts. That's  
6 it.

1 (cont.)

7 MAYOR BERNDT: Thank you. And Evelyn Nelson.

8 MS. NELSON: Good afternoon. Welcome to you. I am  
9 Evelyn Nelson, Superintendent of Schools. I am here  
10 representing the school district and my address is 2690 State  
11 Road 903. I have prepared a principal comment, but I would  
12 also like to share that tonight before the city. So if you  
13 bear with me I am actually reading from my own statements.

14 The Cle Elum-Roslyn School District would like to take  
15 this opportunity to express concerns regarding the published  
16 EIS for the Cle Elum UGA. Upon reviewing the document, we are  
17 left with a number of concerns. Those include: No. 1,  
18 Appendix H, Fiscal and Economic Impact Analysis, page 110  
19 states, quote, The 25-acre land donation to the school by the  
20 applicant has been deemed adequate to accommodate such growth,  
21 end quote.

2

22 Four major limitations to this statement include: A:  
23 Not all acreage is useable as required in state law,  
24 Washington Administrative Code 180-26-020, for a school site.  
25 See diagram 2-5 main text.

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1           B: The value of the parcel does not offset the local  
2 fiscal impact. The fiscal impacts of anticipated growth in  
3 the student enrollment and subsequent housing are referenced  
4 on pages 3.19-15 and Table 3.19-6. The information cites an  
5 80 percent state match for construction costs. Those  
6 construction costs are also listed as \$110 per square foot.  
7 These statistics do not match the school district's capital  
8 facilities plan data.

3

9           The findings resulting from the school district's  
10 research on school facilities construction reveal a current  
11 state match of 30.73 percent of those items which the state  
12 will match or 13.23 percent of the total cost for constructing  
13 a new school. The current cost of construction is \$182.58 per  
14 square foot for an elementary school, \$214.96 per square foot  
15 for a middle school and \$246.70 cents per square foot for a  
16 high school.

17           C: The cost of interim housing for students is borne  
18 totally by the local community; state matching funds are not  
19 available for such costs.

4

20           Item D: The total fiscal impact of space needs is  
21 estimated on page 114, Appendix H, to be 1.5 million in excess  
22 of state matching funds. The school district's research  
23 indicates the space needs will cost \$25,647,114, of which  
24 \$3,088,670 is state match and \$22,558,444 is local  
25 responsibility. Eighty percent of these costs are the result

5

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1 of an anticipated student enrollment from the Cle Elum UGA and  
2 MountainStar Resort.

5 (cont.)

3 School districts concerns not addressed in the EIS  
4 include: A: Anticipated growth in student population will  
5 far exceed the district's current septic capacity.

6

6 B: Anticipated growth in student population and  
7 expansion of facilities will cause increase in water usage.  
8 Availability of water resources to meet these needs is a  
9 concern. Questions remain concerning the district's use of  
10 potable water as a source of irrigation.

7

11 C: The current UGA boundary may create a fiscal impact  
12 to the school district if necessary services must be purchased  
13 from a neighboring municipality.

8

14 D: Increased assessed valuation is seen in the EIS as a  
15 solution to local fiscal impacts. However, increased assessed  
16 valuations tend to follow the arrival of new students by a  
17 periods of 2.5 to three years. How should the district offset  
18 the impact of interim housing needs during this period?

9

19 E: For a district to realize any increase in revenue  
20 from increased assessed valuation, it must first successfully  
21 validate and pass a levy or bond measure by a super-majority  
22 vote, 60 percent. Thus, increased assessed valuation does not  
23 guarantee increased revenue.

10

24 The aforementioned limitations cause concern by the  
25 school officials on behalf of the district, its' children and

11

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1 the local community. Therefore, we strongly encourage city  
2 officials to support the district's position that a signed  
3 mitigation agreement must be in effect prior to the issuance  
4 of any permits or approvals. Thank you.

11 (cont.)

5           MAYOR BERNDT: Thank you. Did we get the written  
6 comments?

7           MS. NELSON: Yes.

8           MAYOR BERNDT: Brian Lenz.

9           MR. LENZ: Mayor, my name is Brian Lenz, residing at  
10 1441 Emerson Road. Tonight I am representing Puget Sound  
11 Energy & Utility Company that is the utility facility on the  
12 UGA area. We also own I believe 13 acres within the complex.  
13 I think it's noted as power station on the maps here.

14           The comments that we have as an utility is that we are  
15 able and willing to provide service to any of the planned  
16 facilities or that are listed in the UGA's different  
17 proposals. And that is the point where we receive the  
18 majority of the power through to the county, in through that  
19 station. So we have adequate capacity to handle new  
20 construction and any development that's listed within the --  
21 any of the proposals. We are also in the process of reviewing  
22 a natural gas requirements.

12

23           And as you may know, we have a partially completed  
24 project bringing natural gas to the upper county including  
25 this property. We are in the process of reviewing routes and

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1 looking at significant crossing issues to be addressed this  
2 year in order to possibly complete the project in 2002.

3 One of the comments I have is that without the type of  
4 development that is proposed, bringing natural gas is not as  
5 feasible to the community. And as you may remember in the  
6 past years of working with different community businesses and  
7 businesses that looked at locating in the area, many times  
8 they pass this community by because natural gas is  
9 unavailable. So we are excited for an opportunity to bring  
10 that resource and that energy source to the community if we  
11 can look at getting these sorts of plans before.

12 One of the things that we look at as an utility is that  
13 whether there's land that's been bought by different  
14 individuals. They may have one acre, three acre, five-acre  
15 parcels. It's very difficult to provide infrastructure to  
16 provide those sorts of properties when there's not a master  
17 plan or a plan that really addresses it.

18 In the three and a half four years that I have been  
19 working with the organization that is proposing this, it has  
20 been very positive and they looked at very many of the issues  
21 that come about in addressing growth through a planned way. I  
22 guess I am not really saying it well, but it certainly is a  
23 better way to go with a plan and environment for utilities  
24 versus the scattered sprawl that has occurred in other areas.

25 So as a company we are very supportive of the plans and

12 (cont.)

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1 stand ready to provide service to those.

12 (cont.)

2 MAYOR BERNDT: Thank you, Brian.

3 Keith Hartley.

4 MR. HARTLEY: I would like just to submit my  
5 letter. My name is Keith Hartley. I am just going to submit  
6 an address of 416 West Second Street, Cle Elum.

13

7 MAYOR BERNDT: Thank you, Keith.

8 Ellie Belew.

9 MS. BELEW: I am going to pass.

10 MAYOR BERNDT: That is the last speaker that I have  
11 registered for tonight. If you want to, come on up.

12 MS. SIMON: I am Thelma Simon. I reside at 1245  
13 Wallace Drive, I have a business at 701 East First Street. So  
14 it's hard to make comments when you're not able to read it.  
15 And as a person that does most of my reading in the evening, I  
16 don't know if anybody else reads in the middle of the day, but  
17 this has not been accessible. And since the issue has come  
18 up, the majority of our Cle Elum senior citizens haven't got a  
19 copy.

14

20 I would like to see that we get one down at the senior  
21 center and somehow I would like to be able to make comments,  
22 but I would like to be able to read it. So that's just what I  
23 would like to say.

24 MAYOR BERNDT: Thank you, Thelma.

25 Anyone else? If not, we will cease. Yes.

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1 MR. DANTZLER: Jeff Dantzler; 1702 West Side Road.  
2 I would just like to, Mr. Mayor, express my support as a  
3 business owner in the area for an opportunity to have a  
4 planned area come to this area. Whether it's on the business  
5 side of it or it's the community side of it, this brings a lot  
6 of opportunity, a lot of jobs to the area.

7 A lot of concerns came up when we located our business  
8 here some eight years ago that we didn't foresee. A few of  
9 the problems that we would run across in expanding that  
10 business in this area primarily is because we had to go  
11 through all the hassles of expanding, moving buildings out of  
12 the way and buying parcel by parcel and bringing utilities  
13 even though there are utilities already on this piece of  
14 land. Just a lot of inefficiency.

15 If we had come to this particular area today, we would  
16 not be interested in considering Cle Elum today because of the  
17 size. It would not be feasible unless an area such as this is  
18 proposed here existed with the large tract of lands with the  
19 utilities coming right up to the lots. Trendwest has  
20 obviously spent several years putting this together, that's  
21 obvious. If we were to be at a point to come out here now and  
22 do this, I would just skip Cle Elum and move on by.

23 So finally we really need to plan this out. We should  
24 have businesses where these employees can shop, places where  
25 they can raise their families. We will be able to bring some

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1 good jobs to this area.

2 One of the other things is the -- we have a problem with  
3 recruiting individuals that want to work for us because  
4 husband and wife both have a need for jobs, good quality jobs  
5 in the area. Many times we can only provide one of them  
6 employment. We cannot complete their needs, so there needs to  
7 be more professional jobs in the area.

8 And I do not believe that that business park atmosphere  
9 will create strip malls and create competition for downtown  
10 Cle Elum. It will bring business, office business, you know.  
11 When it's clean industry, hopefully it is clean manufacturing,  
12 that sort of thing. Think about it. Priceless retail  
13 orientation, that kind of thing, so I think that would be good  
14 for everyone.

15 MAYOR BERNDT: Thank you, Jeff.

16 Anyone else?

17 Okay. We will meet again next week same time, same  
18 place. We will gladly accept comments in writing through May  
19 7. We do have the EIS for sale at City Hall, copies are  
20 available for review at the city library in cross line and Cle  
21 Elum. I thank you for coming tonight.

22 And one thing I would like to ask just for my own  
23 edification was it of value to have the public session  
24 beforehand? Were you able to get any information?

25 MS. SIMON: It needed to be longer.

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15 (cont.)

1           MAYOR BERNDT: Okay. Thank you.

2           MS. SIMON: Maybe some of the documents that they  
3 are referring to when they are explaining how they arrive at  
4 some of this could be provided during the educational  
5 periods.

6           MAYOR BERNDT: Very good. Thank you. We appreciate  
7 that. Thank you all very much.

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## **Public Hearing 1**

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### **Comment 1**

Comment noted. Parks and recreation mitigation, including the Community Recreation Center, is described in Section 3.13 of the Final EIS.

### **Comment 2**

Refer to Letter 1, Comment 1 for the response to the comment letter submitted by the Cle Elum-Roslyn School District.

### **Comment 3**

Refer to the response to Letter 1, Comment 2.

### **Comment 4**

Refer to the response to Letter 1, Comment 3.

### **Comment 5**

Refer to the response to Letter 1, Comment 4.

### **Comment 6**

Refer to the response to Letter 1, Comment 5.

### **Comment 7**

Refer to the response to Letter 1, Comment 6.

### **Comment 8**

Refer to the response to Letter 1, Comment 7.

### **Comment 9**

Refer to the response to Letter 1, Comment 8.

### **Comment 10**

Refer to the response to Letter 1, Comment 9.

### **Comment 11**

Refer to the response to Letter 1, Comment 10.



**Comment 12**

Comment noted. Utility service is described in Section 3.16 of the Final EIS.

**Comment 13**

Comment noted. Refer to the response to Letter 35.

**Comment 14**

Comment noted. A copy of the Draft EIS was provided to the Senior Center. Please refer to the response to Letter 9, which was submitted by the Upper Kittitas County Senior Center.

**Comment 15**

Comment noted.

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CLE ELUM UGA DRAFT EIS PUBLIC HEARING

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April 25, 2001

REPORTED BY:  
KELLI S. STRICKLER

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YAKIMA COUNTY COURTHOUSE, YAKIMA, WA 509-574-2714 1

## Public Hearing 2

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1           MAYOR BERNDT: Good evening, everyone. If we could,  
2 I would like to go ahead and start tonight. The public  
3 hearing for the Cle Elum UGA Draft Environmental Impact  
4 Statement is now open. This is the second session. This  
5 public hearing will proceed in an orderly fashion and I would  
6 like to ask your cooperation in the following procedure:

7           Everyone present will be given the opportunity to be  
8 heard. In addition to our taking notes, the City is recording  
9 what is said and a court reporter is present to transcribe  
10 tonight's testimony as well. Therefore, when you make your  
11 comments, please begin by stating your name and address.  
12 Speak slowly and clearly so that the tape recorder and the  
13 court reporter can accurately get that information.

14           I ask that only one person be allowed to speak at a  
15 time. I also ask that your comments be directed to me as lead  
16 agency, not to supporters or proponents of the pending  
17 matter. The issue before us tonight is the Draft EIS for the  
18 Cle Elum Urban Growth Area, which the City of Cle Elum  
19 anticipates annexing and subsequently will require both  
20 planning and zoning to be adopted. The City will be  
21 conducting additional public hearings as it contemplates  
22 subarea planning and zoning for this area.

23           Tonight's hearing is geared to taking testimony,  
24 comments, questions and concerns about the content of the  
25 Draft EIS addressing environmental impacts to the built and

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1 natural environment that may flow from planning and zoning for  
2 growth in the Bullfrog UGA. In the last session there was an  
3 issue of a person believing they could not ask questions. We  
4 encourage that.

5 After we have received all the testimony, comments,  
6 concerns and questions about the Draft EIS, that information  
7 will be reviewed and considered, after which time a Final EIS  
8 will be published. It is our objective that the answers to  
9 the questions and concerns raised tonight will be addressed in  
10 the Final EIS. I cannot provide answers to your questions.  
11 My goal is to find out the questions that arise from the Draft  
12 EIS and revise it as necessary. Your cooperation is greatly  
13 appreciated.

14 Before beginning hearing from the audience, I am going to  
15 introduce the Cle Elum City Planner, Brian Carrico, who will  
16 present the staff report on the matter. When he is done, the  
17 floor will be open for comments from the audience. In  
18 fairness to all here, each person will be given the  
19 opportunity to speak for an initial period not to exceed five  
20 minutes. If more time is needed, we will make that available  
21 after everyone has had a chance to speak.

22 Sign-up sheets are in the entry for those of you who wish  
23 to speak. I will be taking comments from those listed on the  
24 sign-up sheet first. If there is anyone who wishes to speak  
25 who did not sign up, please raise your hand. As we get to

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1 you, please state your name and address so we can add your  
2 name to the sheet. Please don't hesitate to raise a hand.  
3 Our job is the public's business and we want to hear from you  
4 tonight.

5 On my left -- I failed at the last hearing to introduce  
6 the City's attorney, Erin Anderson. That's her (indicating).  
7 At this point I will give you Brian Carrico.

8 MR. CARRICO: Thank you, Mayor Berndt. For those of  
9 you who were here last time you will have to hear this again.  
10 For the record, my name is Brian Carrico, and I am a City  
11 Planner for Cle Elum. I will cover some brief comments  
12 tonight on the background of the project, the purpose of  
13 tonight's hearing and what the next steps are.

14 As indicated by the mayor, the hearing tonight is to take  
15 comments on the Draft Environmental Impact Statement for the  
16 Bullfrog Urban Growth Area. This DEIS has been completed to  
17 analyze the impacts of a development proposal by Trendwest  
18 Properties for approximately 1106 acres in the area commonly  
19 referred to as the Bullfrog UGA.

20 The preliminary development plan analyzed by the DEIS is  
21 based on a proposal originally submitted to the county in  
22 1998. As part of the proposal, the City will consider the  
23 adoption of a subarea plan, which there are copies of that  
24 draft in the back, and zoning, there is a copy of a draft  
25 zoning of the district for the property, as well as

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1 consideration of the master planned development for much of  
2 the area submitted by Trendwest Properties. A development  
3 agreement is also proposed between the City and the land owner  
4 to control the development of the property.

5 The EIS is being completed to comply with the State  
6 Environmental Policy Act commonly known as SEPA. SEPA is a  
7 state law that was enacted by the legislature back in 1971,  
8 and it requires that the impacts of activities of government  
9 that effect the built and natural environment are identified  
10 and assessed prior to taking action on the item. It requires  
11 the submittal of a checklist that identifies the impacts and a  
12 decision from the government or the city on what impacts will  
13 occur as a result of the project.

14 The environmental review process for this issue began on  
15 February 22, 1999 when Kittitas County issued a Determination  
16 of Significance and Scoping Notice for the project. Since  
17 that time the City has taken over as the lead agency status  
18 for the UGA.

19 The EIS analyses four different alternatives one of which  
20 is a no-action alternative there are maps in the back that  
21 provide details on what those different alternatives are.

22 To summarize the alternatives, the preliminary master  
23 plan, which is alternative 2, is the original submittal by  
24 Trendwest. It includes approximately 1,028 dwelling units,  
25 approximately 950,000 square feet of a business park, a golf

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1 course, a lodge and land designated for a city water treatment  
2 plant, an area for expansion of the school, an area for  
3 expansion of a city cemetery and land identified for a  
4 Washington state horse park.

5 Alternative 3 expands the number of residential units by  
6 380 and reduces the business park to approximately 600,000  
7 square feet.

8 Alternative 4 reduces the number of residential units,  
9 reduces the business park to 300,000 square feet and reduces  
10 the expansion area for the city cemetery to approximately  
11 three acres.

12 The subject property is currently located within the  
13 jurisdiction of Kittitas County. However, the area is part of  
14 the City's Urban Growth Area that was adopted by Kittitas  
15 County. The property owner has signed a pre-annexation  
16 agreement with the City that indicates development would not  
17 occur until annexed into the City of Cle Elum.

18 Trendwest Properties has submitted a notice of intent to  
19 annex to the city, which has been accepted by the city. An  
20 annexation petition from Trendwest is expected soon. Any  
21 decisions made by the City would not take effect until  
22 annexation of the property.

23 Regarding the reason for tonight's hearing, tonight's  
24 hearing is to take comments on the Draft Environmental Impact  
25 Statement documents. SEPA requires a thorough assessment of

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1 the environmental impacts of the project so that decision  
2 makers -- in this case the City of Cle Elum Planning  
3 Commission will make recommendations to the city council, and  
4 then the Cle Elum City Council will make a final decision on  
5 the project -- so that those decision makers have a full  
6 understanding of the impacts of the proposal and so that the  
7 impacts can be appropriately mitigated.

8       Comments tonight should address the impact analysis  
9 contained in the EIS and not whether the project should or  
10 should not be ultimately approved. Tonight is not the time to  
11 engage in a back and forth debate on issues or demand for  
12 specific answers to questions as part of the hearing. The  
13 FEIS is the vehicle for answering those questions. As the  
14 mayor said, you are welcome to pose questions, but don't  
15 expect answer to those questions tonight.

16       Staff and DEIS consultants were available beforehand to  
17 answer questions and you may have some time afterwards if  
18 there are other questions for you to ask.

19       The comment period that the City has set for the DEIS is  
20 to ensure that the City has properly addressed the impacts  
21 from the proposal. The City will take comments and questions  
22 that are provided tonight and those received in writing and  
23 address them in the Final Environmental Impact Statement.

24       You may make comments tonight in person or you can submit  
25 them in writing up until the end of the comment period which

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## Public Hearing 2

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1 is May 7th. There is a comment sheet in the back tonight if  
2 you want to take one of those and may comments on that as you  
3 hear things tonight. However, you should submit the comments  
4 in whatever form you like as long as we can read them. There  
5 is no greater weight given to testimony provided tonight or  
6 those provided in writing. They can be mailed, faxed or  
7 dropped off at City Hall and we will get them into the  
8 process.

9       Once we get all those comments and draft the Final  
10 Environmental Impact Statement, that will be used by the  
11 decision makers during deliberations on the project. There  
12 will be additional hearings scheduled before both the City  
13 Planning Commission and the City Council to address the  
14 project whether it is consistent with city plans and  
15 policies. It is those hearings where the merits of the  
16 project will be discussed.

17       If you leave your name and address, a mailing address in  
18 the back on the sign-up board or you have already signed up  
19 with your mailing address, we can provide you with any future  
20 notices of public hearings or other things going on on this  
21 project.

22       That's all I have to say tonight and I will turn it back  
23 to the mayor.

24       MAYOR BERNDT: Thank you, Brian.

25       Now for public comment. First up Ellie Belew.

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1 MS. BELEW: My name is Ellie Belew. I live at 145  
2 Fifth Street in Roslyn. I will give you a written copy of my  
3 comments when I am finished.

4 What do we want? We want more schools, we want more  
5 schoolhouses and less jails, more books and less guns, more  
6 learning and less fights, more leisure and less work, more  
7 justice and less revenge. We want more opportunity to  
8 cultivate our better nature. So said Samuel Doppers decades  
9 ago.

10 What we want here, what we all want? We want jobs. We  
11 want Cle Elum as a vibrant community, not simply an easy drive  
12 through. And we want this for all the upper county  
13 municipalities and communities. We want clean air and water;  
14 we want some peace and quiet; we want community both human and  
15 natural; we want affordable services that meet our needs and  
16 has predictability in rates and what is delivered; we want the  
17 ability to know exactly all what this development is before it  
18 happens.

19 And what are we getting? We are getting a nonspecific,  
20 quote, unquote, phase environmental review, unquote, of a  
21 variety of aspects of development that are really part of one  
22 huge development. There are a lot of projects that should be  
23 in this DEIS. These include the MPR, the horse park, the  
24 water supply for the UGA and the MPR, related impacts on other  
25 consumptions, water consumption and quality, the water

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1 delivery system including intakes, the sewer and storm water  
2 system, Cle Elum's proposed review of the zoning code, the  
3 range of secondary involvement and speculation that is  
4 occurring in the Cle Elum Lake and River corridor and  
5 elsewhere in the county. I could go on and on.

6 We are getting shifting corporate entities that have been  
7 involved in all of this development. Jeld-Wen, Trendwest  
8 Resources, Trendwest Investments, Trendwest Properties,  
9 Mountainstar Resources, World Mark and whatever comes next.  
10 We get unidentified water use. We get private residential  
11 development, long and short-term occupancy versus integrated  
12 community housing. Check out the golf course lots and  
13 equestrian village versus apartment house sightings. Compare  
14 the MPR development types to those in the UGA.

15 We get how many equestrian centers? So far I can count  
16 the horse park, a temporary equestrian area and another  
17 equestrian center in its' own village. How many of these  
18 convert to snowmobiles in the winter?

19 We get storm water runoff from both the MPR and the UGA  
20 that contaminates surface water, water that is contiguous with  
21 the Cle Elum River.

22 We get jammed traffic. Think about Bullfrog Road,  
23 putting in a freeway entrance and exit for both the MPR and  
24 UGA. Think about 903 through Ronald and Roslyn coming into  
25 this. Consider that part of Cle Elum between the UGA where

1 (cont.)

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3

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1 anyone who takes either I-90 is.

3 ( cont.)

2 I could go on and on about what is not addressed in this  
3 DEIS nor in the MPR EIS. I could write pages on what is not  
4 addressed in the proposed possible mitigation of those impacts  
5 that are identified. RIDGE will be do this in writing.  
6 Tonight in the very few minutes I am allowed, I want to speak  
7 what will be lost and destroyed with the Trendwest  
8 development.

9 Respect for this place will be destroyed. Piecemeal  
10 quantification of impacts into what can be measured in a few  
11 weeks of monitoring does not begin to address this. The  
12 various corporate entities that include Trendwest and  
13 Mountainstar, to name a few, have no respect for the property  
14 they are currently holding title to.

4

15 What do I mean by this place? I mean the property  
16 Trendwest currently holds title to is a grand living place.  
17 It is more of the natural world than not. You can see the  
18 stars at night and the weather during the day. You can smell  
19 the river and trees, the wetlands, the mushrooms. You can  
20 hear the wind in such trees as are left and animals in the  
21 river. You can sometimes even hear the land as I have when  
22 spring melt loosens the rocks in some other place and there  
23 are rock falls or when the rain whispers on a rock. This  
24 place right now is bigger than what humans have done to it.

25 When Trendwest, quote unquote, goes out and the entire

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1 development on all this property is, quote unquote,  
2 operational, this place will no longer be. There will be lots  
3 of buildings and roads, right of ways and golf course holes.  
4 There will be a comfortable way to tour virtually every foot  
5 of the physical location. It will not be a grand living place  
6 that is more equitable than not.

7 When Trendwest has had its' way with this place, much  
8 will be destroyed. Not lost because it will be sit here until  
9 it is gone. Then when I come from behind upon an older  
10 gentleman, we will not be following a game trail, we will not  
11 be on one of those benches above the Cle Elum River. I will  
12 not need to make extra noise so he is not unduly startled. He  
13 will not jump up and be surprised to see another human nor  
14 will he say, geez, I thought you were a big old elk. Mitigate  
15 that.

4 (cont.)

16 MAYOR BERNDT: Thanks, Ellie.

17 Brian Carpenter.

18 MR. CARPENTER: Brian Carpenter. B-R-I-A-N  
19 C-A-R-P-E-N-T-E-R. My address is 2049 South 36th, Suite 208,  
20 Tacoma, Washington 98409. I am going to limit my comments to  
21 transportation tonight. And I would like to start by pointing  
22 out the sort of transportation environment that the city and  
23 the county and the report are dealing with.

5

24 Washington state faces a severe lack of funding for  
25 transportation improvements. The same is felt in every city

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1 and county across the state and it has become even worse since  
2 passage of 695. The county's total transportation budget is  
3 14.7 million, the city's is about 302,000 with another 101,000  
4 for arterial work. That's for one year. This is not likely  
5 to change any time soon given the state legislature is  
6 unwilling to bite the bullet and find any revenues for  
7 transportation, so that's the environment we deal with.

5 (cont.)

8 Secondly I would like to start with the trip generation  
9 figures that were used in the transportation planning modeling  
10 LOS studies and impacts in mitigation. We believe that the  
11 trip mitigation -- or the trip generation statistics  
12 underestimate the actual number of trips that would be  
13 generated.

14 Modern families have multiple cars and multiple  
15 schedules. Many of the people will be using the resort as a  
16 weekend getaway. They will have multiple trips to and from  
17 the resort to accommodate their family members' schedules.  
18 Their family members and business associates will come and  
19 visit as well. So again we believe that the trip generation  
20 statistics are underestimated and underrepresented.

6

21 What this ultimately means is simply more traffic, lower  
22 levels of service and an increased need for mitigation. And  
23 there are any number of specific situations where this could  
24 be pointed out as likely to be necessary. The obvious point  
25 is the intersection of Bullfrog Road and 903, which Trendwest

7

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1 has agreed to pay for the channelization or the realignment of  
2 the intersection with right-turn lanes and left-turn pockets.

7 (cont.)

3 They have left out the traffic signal which will be  
4 needed sooner rather than later. They have called for the  
5 traffic signal to fall under what they call the proportionate  
6 share arrangement. The proportionate share arrangement is  
7 what I would like to sort of explore next. It seems to be  
8 something that a lot of thought has been put into and it  
9 raises a lot of important questions.

10 The obvious one being as what if the city or county  
11 doesn't have its' proportionate share when the improvement is  
12 needed. And the mitigation agreement or the development  
13 agreement says that if the city and county doesn't have its'  
14 share, Trendwest is supposed to pay the whole cost and seek  
15 reimbursements from the city or the county.

8

16 Well, the problem is, then, getting reimbursed from the  
17 city or county. The city or county will face political  
18 pressure not to raise taxes to pay for the rich yuppies from  
19 Seattle to come over here. The city and county will also face  
20 the state requirement for constitutional uniformity of  
21 taxation, which means you can't just pick and choose who you  
22 are going to tax and who you are going to slap a penalty on  
23 to. You have to set aside an entire group and it has to meet  
24 the constitutional test of uniformity.

25 So you're going to end up with people who are saying I am

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1 not benefitting from this, why am I paying for this and it's  
2 after the fact and it's already built. Additionally, the  
3 city's share is say 5 or 10 percent of the project and that  
4 amounts to 50 or \$100,000. That still is a sizeable amount of  
5 money in such a small city with such a small budget. And it  
6 raises the question of does the city have to tax individuals  
7 in an amount that is onerous and would cause -- or would  
8 simply deter people from developing a property because they  
9 don't want to pay a couple thousand dollars extra for the  
10 city's share after the fact.

8 (cont.)

11 These are questions that we think need to be looked at  
12 with more detail in the EIS and will hopefully be addressed in  
13 the Final EIS. Thank you.

14 MAYOR BERNDT: Thank you, Brian. Did you have the  
15 written one for us?

16 MR. CARPENTER: Yes.

17 MAYOR BERNDT: Thank you. There's a name that I  
18 cannot read. The address is 411 North Ruby.

19 MR. GAIDOS: I know who that is. My name is Derald  
20 Gaidos, D-E-R-A-L-D G-A-I-D-O-S. And I am Kittitas County's  
21 fire marshal. The reason I am here to testify tonight is  
22 because I also work for the City of Cle Elum as part of the  
23 building department's arrangements with the city, so I have  
24 been reviewing the information.

9

25 I have got a few comments I would like to make tonight

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1 and I'll submit most of it in writing. The proposed  
2 development is at this time under the jurisdiction of Kittitas  
3 County. The City of Cle Elum is extending the UGA to include  
4 this project sometime in the future. The infrastructure of  
5 this project in whatever manner it comes to exist is the  
6 upmost importance.

9 (cont.)

7 Roads should be built to Kittitas County's standard or  
8 better, to Cle Elum's standard or better. The water system  
9 will have to meet or exceed the 1997 Uniform Fire Code fire  
10 flow requirements and fire hydrant placement. All buildings  
11 shall be sprinklered if required and voluntarily sprinklered  
12 to keep the water flow down and the impact on the fire  
13 department less.

10

14 Developers in the City of Cle Elum's Fire Department have  
15 some issues to work out to ensure the level of service needed  
16 for the development is what they need. After starting the  
17 development, the developer will have to be extremely careful  
18 of starting a fire in the proposed area. The proposed area is  
19 directly west of the City of Cle Elum and with our summer  
20 conditions the chances for catastrophic wildfires are real.

11

21 Special efforts by the developer to control his work  
22 force will be the main concern to prevent wildfires from ever  
23 starting. They will be underneath the Department of Natural  
24 Resources industrial precautions which will limit control of  
25 all spark emitting devices in the forested regions of

12

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1 Washington state. All equipment, vehicles and stationary  
2 motorized equipment shall fall underneath the inspection and  
3 in the control of DNR during the season. That includes all  
4 vehicles going on to the site including pickups.

12 (cont.)

5 Fire flow is one reason why I think we should really put  
6 a sprinkler in everything possible. Fire flow, not knowing  
7 exactly what the buildings are going to be, can run up to  
8 8,000 gallons a minute for a duration of four hours. That's a  
9 lot of water. By fire sprinklering everything, we can reduce  
10 that down to a water system that only has to be at 1,500  
11 gallons a minute for two hours. Fire sprinklers take the  
12 impact off the fire department.

13

13 Defensible space matrix is provided by Kittitas County  
14 Fire Prevention Co-op, and we have worked it out so it is --  
15 we give points for slope, fire sprinklers so you have a space  
16 from your structure to the trees or the brush.

14

17 I urge that we take great caution in planning this  
18 development. In 20 years I want somebody to stand out front  
19 and say they did a good job when they built it. I don't want  
20 them to stand at the bottom of a few subdivisions that we have  
21 got in our county that right now we are in complete panic of  
22 what we are going to do. We need to look down the line 20  
23 years what this thing is going to look like in whatever shape  
24 it is and we do the best we can. Thank you.

15

25 MAYOR BERNDT: Thank you. And you have written

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1 comments?

2 MR. GAIDOS: I will drop it in.

3 MAYOR BERNDT: Peggy Pace.

4 MS. PACE: Peggy Pace. Do you want my physical  
5 address too? P.O. Box 651, Roslyn, Washington. Okay. I have  
6 pretty much the same experience about this Urban Growth Area  
7 as I did when I spoke about the master planned resort. I will  
8 go ahead and tell you what they are, but it seems like you  
9 have just moved the problem.

10 The traffic is the big concern. I work in Ellensburg. I  
11 am going to have to drive from Roslyn through this area and I  
12 don't think the road is going to be wide enough for all of the  
13 cars that are going to be here. I don't really think that Cle  
14 Elum's growth projections require that many residential  
15 units. If it is called the Cle Elum Urban Growth Area. That  
16 would mean to me that Cle Elum is planning to expand into this  
17 area, and I don't think that's what really is going to  
18 happen. I think it's going to be a bunch of people from  
19 somewhere else. So I am concerned also about all of those  
20 people and how they will fit into the school system.

21 And I am concerned about when they are building this  
22 project over how ever many years that takes, the workers will  
23 be here and where will their children go to school.

24 I am concerned about the water. So far there's no  
25 water. Trendwest does have water rights, but they are

16

17

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1 somewhere else.

17 (cont.)

2 And I am concerned about the fire and police coverage. I  
3 don't want them to be stretched so thin that if we have a fire  
4 up in Roslyn that we won't be able to be adequately covered.

18

5 Diminished quality of life. Between the traffic and the  
6 noise and all the extra people, I just don't think it will be  
7 quite as peaceful as what I have enjoyed here.

19

8 And the wildlife corridors. It seems to me that there is  
9 not going to be places for the wildlife to go through. I was  
10 looking at a map and couldn't quite figure out where the  
11 wildlife was supposed to go through.

20

12 And the glare from that many units, houses, hotels or the  
13 horse park and golf course and everything else, I don't think  
14 I will be able to see the stars at my house in Roslyn as I  
15 have been able to see them every night when it's been clear  
16 for the past 25 years. Thank you.

21

17 MAYOR BERNDT: Thank you, Peggy.

18 David Gerth.

19 MR. GERTH: David Gerth, 205 Alaska, Roslyn,  
20 Washington. The mayor of Roslyn and I am representing the  
21 City of Roslyn with these comments.

22 The development proposal described in the Draft  
23 Environmental Impact Statement is a very large and significant  
24 change in the upper county community. The city of Roslyn will  
25 be directly indirectly impacted in a significant way by the

22

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1 development proposal as described in the Draft Environmental  
2 Impact Statement. The City of Roslyn is drafting and refining  
3 written comments to be submitted by the May 7th deadline. It  
4 is proving a challenge given our level of staffing, but we  
5 will have a significant list of comments.

6 I do have two that are refined to the point of  
7 submission, and I would like to read these at this time. As  
8 an effected agency and neighboring municipality, the City of  
9 Roslyn has reviewed the Draft Environmental Impact Statement  
10 for the Bullfrog Urban Growth Area dated March 23, 2001 and  
11 submits these comments for your consideration.

12 The water supply for the School District No. 404. The  
13 City of Roslyn has delivered potable water to the school  
14 campus on State Route 903 since 1968 when the high school was  
15 first constructed and has further expanded its' delivery  
16 capacity to accommodate the growth and consolidation of school  
17 facilities.

18 While no formal agreement between the City of Roslyn and  
19 the school district has been executed, we remain committed to  
20 serving the school depleting our supply because schools are a  
21 vital component to the quality of our community.

22 The expansion of the school district campus as described  
23 in the Draft Environmental Impact Statement will enable our  
24 schools to construct facilities to accommodate the increase in  
25 student population directly and indirectly attributable to the

22 (cont.)

23

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1 proposed Urban Growth Area and master planned resort  
2 development. However, the water supply needs for an expanded  
3 school facility are not addressed.

4 Appendix D, the water supply appendix, page 2-2 states:  
5 The water demand estimates do not include public facility  
6 demands identified as the School District 404 school expansion  
7 area, cemetery expansion area, community recreation center and  
8 a business park.

23 (cont.)

9 Roslyn's comprehensive water system plan is based on  
10 growth projections that do not include population increases  
11 attributable to Trendwest master planned resort or Cle Elum's  
12 Urban Growth Area. The 1996 projections for water supply  
13 demand indicating that Roslyn would approach the limit of its'  
14 capacity to divert water for a municipal system in 2015.

24

15 The ability of Roslyn to accommodate growth in  
16 population, to promote economic development and plans for the  
17 future will be directly impacted by water supply demand  
18 attributable to the expansion of school district facilities.

19 The City of Roslyn proposes the following mitigations for  
20 the water supply impacts: No. 1: Expand the Environmental  
21 Impact Statement to include an analysis of the public facility  
22 demands for water supply. Specifically the increased water  
23 supply needed to expand School District 404 to an additional  
24 25 acres. No. 2: Include water rights transfers to the City  
25 of Roslyn as part of the conveyance of the school district

25

26

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1 expansion lands. No. 3: Facilitate a water delivery  
2 agreement with School District 404 and the City of Roslyn to  
3 formalize the terms and conditions of the water supply and  
4 needs.

26 (cont.)

5 The second comment has to do with law enforcement level  
6 of service. The interlocal agreement for police services  
7 executed in July 2000 defines a service area of the Cle  
8 Elum/Roslyn/South Cle Elum Police Department as the area  
9 inside the appropriate city limits of the three  
10 municipalities.

11 Annexation by Cle Elum of the Bullfrog Urban Growth Area  
12 will enlarge the service area by approximately 1,100 acres and  
13 significantly impact the ability of our law enforcement agency  
14 to provide the established level of service to the City of  
15 Roslyn. We suggest that this be mitigated by frequent  
16 analysis and reports to the police oversight committee so that  
17 staffing and equipment expansions can be implemented in a  
18 timely fashion.

27

19 There are more comments that are moving past the draft  
20 stage and will be in by May 7th. Thank you, Mayor.

21 MAYOR BERNDT: Thank you, David. Will those be  
22 included or do you want to leave those?

23 MR. GERTH: We will include them as a group, so these  
24 will be part of that.

25 MAYOR BERNDT: Thank you. Pat Christensen.

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1 MS. CHRISTENSEN: Pat Christensen,  
2 C-H-R-I-S-T-E-N-S-E-N, 320 West Fourth Street, Cle Elum,  
3 98922. All right. This will be brief. We have a letter  
4 coming from the senior center. And other than that I just  
5 wanted to make a comment that on behalf of the seniors here in  
6 Cle Elum and those especially that use the senior center that  
7 are in and out, we want you to be aware of our needs of the  
8 senior population in this. And I think that's all. We just  
9 want you to know that the seniors are here and please consider  
10 us. Thank you.

28

11 MAYOR BERNDT: Thanks, Pat.  
12 Thelma Simon.

13 MS. SIMON: Thelma Simon, 141 Wallace Drive, Cle  
14 Elum. I have some concerns. And, boy, that was some heavy  
15 reading, I will tell you. So some of the concerns I have  
16 right off the bat is air quality and water quality issues.  
17 You know, we seem to have a problem following state and  
18 federal regulations as it stands right now, so I am real  
19 concerned that these issues are really considered.

29

20 In terms of air quality, what happened last summer, I  
21 don't know if we will have a repeat of that again, but I  
22 wouldn't like to see it closer to home, which would be Cle  
23 Elum. So I would like to know that something like that  
24 affects the air we breathe and other things that affect the  
25 water we drink because we take our water right out of the

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1 river. So these are things that we really do safeguard as a  
2 community.

29 (cont.)

3 As reading the UGA EIS, I was concerned about how the  
4 graphs are made by combining the MPR employment in the graphs,  
5 so it's kind of a combination of MPR and the UGA -- Urban  
6 Growth Area. Anyway, one of the graphs I was reading talks  
7 about employment trends for the upper -- not upper county, but  
8 Kittitas County as a whole. And I was wondering if the upper  
9 county employment trends are addressed. The fact that people  
10 do drive over the pass every day to go to work do we have  
11 accurate records of that in the county.

30

12 And I was also concerned that when this MPR UGA is  
13 developed, it said that 80 percent of the combined employment  
14 will pay a modest salary. And, you know, what is a modest  
15 salary? They say less than \$30,000 annually, so that's around  
16 \$15 an hour or whatever. Is this today's price or is this 10  
17 years down the road or is this 20 years down the road?

31

18 One of the concerns that I have is if this is a young  
19 family or a single parent with a couple children, is this  
20 going to be a category of where our children get reduced  
21 lunches or qualify for services through our county.

22 They also discuss property taxes in Appendix H and that  
23 the taxes will be lower when this is -- reaches maturity or  
24 held constant. Do we have any other area that something like  
25 this is in where the taxes have dropped? Do you have any kind

32

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1 of an example that you can show people that will say that your  
2 taxes will go down and not up.

32 (cont.)

3 I am real concerned -- I am really concerned in terms of  
4 the economics of Cle Elum. It seems like the last few months  
5 we have been trying to dig up \$4,000 to pay for a dog  
6 catcher. If we can't come up with \$4,000, how are we going to  
7 repair the roads that are going to have that much more traffic  
8 on them. Second is a mess, we all know that right now. If we  
9 are planning on using Oak Street's exit or entrance to the  
10 freeway, Second is just going to become worse.

11 We have the east end of Cle Elum that we have water  
12 lines, sewer lines, sidewalks. All of these things have been  
13 on a list I suppose for quite a while for needing repairs.  
14 Where do the priorities lay? Do we have a town that has a  
15 list of repairs that needs to be done on one end or do we have  
16 annex an area where we have all new services.

33

17 I have a concern how we do this and still keep in touch  
18 with that -- what do we call that where this will not cost the  
19 citizens of Cle Elum anything. So if you have people living  
20 here that are not going to absorb any of these costs, where is  
21 this money coming from.

22 One of the things that I didn't notice was parks. In Cle  
23 Elum already we have three -- I thought we had three or four,  
24 but I can't figure that out, three parks. In the UGA I don't  
25 notice any parks, parks that children play in. And we do have

34

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1 a community center, we do have a golf course, but it seems  
2 like if you have housing you would need municipal parks. And  
3 I am out of time. Thank you.

34 (cont.)

4 MAYOR BERNDT: Thank you.

5 Larry Susich.

6 MR. SUSICH: Larry Susich, 504 -- P.O. Box 504,  
7 Roslyn, Washington. And my concern basically is with the  
8 Phase Environmental Review. And two points that I would like  
9 to make is when you go to look up the water treatment plant,  
10 it's lost in the UGA, it's not really reviewed. And I have a  
11 concern that currently Cle Elum's water intake is up by  
12 Winston Bridge above the MPR. And when the MPR comes in,  
13 there can be God knows how many golf courses, off site -- or  
14 non-source point pollution. All kinds of things are running  
15 into the Cle Elum River.

16 And then Cle Elum's two new intakes in impasse are going  
17 to be south of the MPR, from what I understand, by Bullfrog  
18 and down by the Yakima/Cle Elum conversion zone. So what  
19 you're doing is you're taking the pollutants from the MPR,  
20 running it into the river and then giving it to the people of  
21 Cle Elum to drink. Then I think that the environmental review  
22 of that needs to be a little better thought out.

35

23 I kind of started to think why would the City of Cle Elum  
24 do this to its' citizens. And I couldn't think of any  
25 environmental reasons, so I looked at it economically. And it

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1 would be a lot shorter route if the main stem went up just a  
2 couple miles instead of up to Winston Bridge.

3 And I would just like to point out that the NASDAQ  
4 reports Trendwest's financial reserves at about \$650 million  
5 dollars, so I think it would be prudent for the City of Cle  
6 Elum to continue to get our water from a cleaner source.

35 (cont.)

7 And also the horse park isn't reviewed, so you can't have  
8 a communally effect of the entire UGA. You can't wrap your  
9 arms around it and see what the whole effect of the whole  
10 thing is going to be. So I just think that the phase review  
11 is a big mistake. Thank you.

36

12 MAYOR BERNDT: Thanks. Bruce Werdman.

13 MR. WERDMAN: Hi. My name is Bruce Werdman. I am  
14 from Seattle 6749 18th Avenue Northwest. And I am the  
15 Northwest Chairman of the International Dark Sky Association.  
16 The International Dark Sky Association's mission is to promote  
17 and preserve our dark skies. And one of the ways in which we  
18 do this is to encourage good lighting codes. And so we are  
19 very interested in what goes on here in terms of a lighting  
20 code.

37

21 In 1970 in Seattle you could see the Milky Way 31 years  
22 ago, today it is a distant memory. So where do all the people  
23 from Seattle go if they want to see the Milky Way. Well, the  
24 answer is they come here. And in particular they come to  
25 Table Mountain, which is only like 15 miles away from here.

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1           In the summer there's a star party there every year. It  
2 is one of the biggest star parties in the entire world  
3 actually. It gathers up close to 1,500 people. It goes on  
4 for about four days. And over the years we have been noticing  
5 the light pollution levels at Table Mountain have been  
6 gradually increasing. The biggest offender there is  
7 Wenatchee. But looking at the population that would be coming  
8 into this area, it looks as though this area here would  
9 actually come into contention with Wenatchee.

10           Light pollution generally goes proportionate to the  
11 population unless you have good lighting ordinances in place,  
12 which they do not have in Wenatchee. I can throw all sorts of  
13 figures and facts at you. I only have five minutes, so I  
14 quite often -- I have an hour-long speech I can give you, but  
15 you probably don't want to hear it.

16           For example, a 100-watt light bulb at a distance of one  
17 mile, a bare 100-watt light bulb, outshines all the stars in  
18 the sky. We spends two billion dollars a year in the United  
19 States lighting up the bottoms of clouds. Eighty percent of  
20 the creatures in the natural world are nocturnal.

21           I could go on and on, but the point is that light  
22 pollution has an impact. So the solution is strong, well  
23 written lighting codes. And I particularly point you to  
24 Deschutes County in Oregon, which is where Bend is. They have  
25 a very good lighting code there. And from what I understand

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37 (cont.)

1 Bend is a very nice place to be at nighttime.

2 Some other things to consider is, you know, I know  
3 there's a lot of golf that's going to go on in this area and I  
4 have yet to see a good nighttime golf driving range. As far  
5 as I can, they are all a bunch of light bombs just lighting up  
6 the countryside.

7 I would also encourage you to put a lumen per acre  
8 limitation into your lighting code. This will put a cap on  
9 the amount of light that will be put on each area of land.

10 A good -- In summary, a good lighting code will preserve  
11 your way of life, it will save energy, it will preserve your  
12 property values. And this is good for Trendwest as well.  
13 It's going to be make this place a more beautiful place. We  
14 are not like anti anybody. We are pro to making the world a  
15 nice place to be in. And, finally, it will save the stars for  
16 generations to come. Thank you.

17 MAYOR BERNDT: Thank you. Bruce, will you put that  
18 in writing, please.

19 MR. WERDMAN: I can.

20 MAYOR BERNDT: Larry Jammes.

21 MR. JAMMES: My name is Larry Jammes, J-A-M-M-E-S,  
22 and my address is 491 Mitchell Road, Ellensburg. I am from  
23 lower county. I am an RN, I work in the emergency room down  
24 there. And I have a number of concerns in no particular  
25 order.

37 (cont.)

38

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1 First off is traffic. And I don't see any way you can  
2 double the population of this valley without putting a  
3 four-lane road out there. And that four-lane road shouldn't  
4 be paid for by the citizens of this county. And I also wonder  
5 how Trendwest is going to mitigate the inevitable inversion  
6 that's created by doubling the car traffic at least in this  
7 valley. We all see what it gets like in the winter when there  
8 is an inversion. Similarly in the summer, but especially in  
9 the winter with added snowmobile traffic.

38 (cont.)

10 As regards public services, EMS in upper county is  
11 already inadequate. And the upper county taxpayers have shown  
12 an unwillingness to bite the bullet and pay for what true  
13 emergency service constitutes. All the people coming to live  
14 over here are going to have their primary care physicians on  
15 the west side, so they will be using the emergency rooms as  
16 their primary care physicians.

17 I don't see any way that that can be mitigated by just  
18 allowing it to play out, it has to be proactively mitigated.  
19 And just reading the papers recently, I don't any willingness  
20 by upper county to really address that issue. Family care  
21 physicians are not emergency physicians and on-call family  
22 practice physicians are totally inadequate to address that.

39

23 Also how are the taxpayers going to react to the  
24 inevitable need for another school. Right now schools are at  
25 capacity. Are they going to want to pass a school levy to pay

40

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1 for Yuppies kids to get schooled over here.

40 (cont.)

2 And as regards housing, I didn't see any attempt to  
3 address the impact of the secondary growth and the low-income  
4 people who will need affordable housing. It's stated in there  
5 somehow that they are investigating alternatives, but there's  
6 absolutely nothing said about the cost of the housing in the  
7 UGA. They won't come up with an accurate description of how  
8 the housing is going to be priced for MPR, so it's kind of  
9 like dump it on the county and see how it plays out.

41

10 It seems like there's a whole lot of reference to  
11 monitoring, but there's nothing proactive as regards good  
12 solutions. They have done this before, they have been at it,  
13 they know what happens. And they know that if they just sit  
14 back and kind of get pulled along unwillingly that the  
15 taxpayers -- the existing tax base and the citizens already  
16 there will end up footing part of the bill for litigation for  
17 their moving in there. That's it.

42

18 MAYOR BERNDT: Thank you.

19 Courtney Cook.

20 MS. COOK: Courtney Cook, 117 North Fifth Street  
21 Alley, Roslyn speaking on behalf of myself and for RIDGE  
22 tonight. I would like to speak about public services and also  
23 about utilities. And while the Draft Environmental Impact  
24 Statement concedes that, quote, concurring development of the  
25 resort and UGA would create significant additional demand for

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1 law enforcement and fire protection in response to both the  
2 concurrent development is not analyzed.

43 (cont.)

3 Secondary buildup of growth is not considered relative to  
4 public services. This is a huge failure of this document.

5 The Draft EIS admits that the school district is already at or  
6 very near full capacity and that a new K through 12 could be  
7 built. Where is the money going to come for that.

44

8 The EIS also states that the water source for the school  
9 expansion is not yet identified. This is a real problem. You  
10 have got to get that figured out. The Draft EIS proposes that  
11 the monitoring be done for fire police Kitcom and then bond  
12 the issue and then services upgraded. This results in a  
13 significant lag time and puts a severe squeeze on existing  
14 services while new personnel are recruited, trained and  
15 equipped. These needs need to be proactively anticipated. We  
16 know that we will have to upgrade the services, it's a mistake  
17 to wait a year or more until those needs can be realized.

45

18 Then the regional water and waste treatment plants are  
19 critical components to both the resort and the UGA without  
20 which neither of those projects can proceed. They should be  
21 included in this analysis and not a separate SEPA review. The  
22 Draft Environmental Impact Statement concedes that a  
23 standalone water treatment plant may be necessary. They admit  
24 that both UGA and the resort will be served by the plant.  
25 This shows that these two projects are really the same project

46

47

48

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1 artificially separated by the Urban Growth Area.

2 The standalone treatment plant should be included in this  
3 analysis and not as a separate SEPA review process. Honestly,  
4 separating these various EISs out when this is really one big  
5 project is a farce. Thank you very much.

48 (cont.)

6 MAYOR BERNDT: Thanks. Peg Bryant.

7 MS. BRYANT: Hi. My name is Peg Bryant and I live  
8 at 116 Fifth Street Alley. At least that's the address this  
9 time. It's been changed three times. I have been a resident  
10 of Roslyn for almost 30 years and I have been thinking a lot,  
11 as you may know, about the MPR and UGA. And this just came to  
12 my mind as I was reflecting on the MPR the other that I think  
13 they should be considered together.

14 But in the area behind my house as you walk out my door,  
15 the area from Bullfrog Road to Ronald there's one farm, okay.  
16 And so I am not as familiar with this area here, but I know  
17 there's not that kind of single-family housing or  
18 multiple-family housing either in the large stretch of the  
19 proposed UGA. So I really think that we have to consider  
20 these two things together.

49

21 And we are doing a lot more than paving paradise and  
22 putting in a parking lot. We are talking about almost 6,000  
23 units, condos, townhouses, multiple single-family units, three  
24 to four golf courses and related facilities, a major horse  
25 park, several minor equestrian parks, a major business park.

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1 Plus then you have got the retail shops and pro shops over in  
2 the UGA -- or I mean the MPR. You have the amphitheater.  
3 Then we have the waste water treatment facility, at least  
4 everybody is hopeful we have one. I know your deadline is  
5 August 7th, right, to get that in place.

6 We have got trails, we have got schools and cemetery  
7 expansion. We have got hotels. Count them, three, four,  
8 five, I don't know. We have got community recreation centers,  
9 recreational vehicles campgrounds, apartment housing in the  
10 UGA.

11 So think about it. I mean I can't conceptualize what  
12 this area will look like if all of this goes through. I don't  
13 think that any number of consultants can in terms of quality  
14 of life issues.

15 Some specific concerns. I didn't see snowmobiles  
16 addressed. And isn't Cle Elum the snowmobile -- the  
17 self-proclaimed snowmobile capital of the world is it. So I  
18 imagine that that is going to be an issue. I think this needs  
19 to be addressed in terms of noise, smell, impact and traffic  
20 flow, multiple rates of travel, use of the different golf  
21 course or snowmobile, the horse trails, whatever.

22 Night sky has already been addressed. We don't need lit  
23 golf courses, we don't need lit horse parks flooding the night  
24 sky. So we need more specifics for significant mitigation.

25 I notice that the apartment complex is beautifully sited

49 (cont.)

50

51

52

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1 on SR903. I also notice that, though, there is a buffer along  
2 along Bullfrog proposed and along I-90, there is no buffer  
3 proposed that I could see along SR903.

52 (cont.)

4 Traffic impacts have already been discussed will be great  
5 in Roslyn and Cle Elum. I am really concerned about Roslyn.  
6 The UGA, which is the Cle Elum Urban Growth Area, has three  
7 major exits off of Bullfrog. One kind of off by Safeway going  
8 into the business park and then one off of. That's a big  
9 concern as to how that's going to be mitigated for people who  
10 go and come from Roslyn as well.

53

11 So what about those impacts on those surrounding  
12 communities on Lake Cle Elum and also on the Alpine Wilderness  
13 areas. I mean these people aren't going to be content just  
14 hanging around even though there's all this stuff. They are  
15 going to be going out and seeing the sites what's left of  
16 them.

54

17 The concerns about noise. In the UGA DEIS it stated even  
18 under the most extreme conditions traffic noise rarely  
19 approaches the level that could cause hearing damage. Well,  
20 that's good to know. Even at moderate levels, traffic noise  
21 could cause frustration and stress due to time-delays,  
22 disruption of the rural character and quality of upper county  
23 life.

55

24 The Cle Elum cemetery is included in a category that  
25 includes playgrounds, active sports areas and parks. It seems

56

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1 to me that the cemetery that is more like land which is stated  
2 on which serenity and quiet are of extraordinary  
3 significance. So maybe that should be re-examined. The  
4 cemetery is already heavily impacted by noise from I-90 and  
5 cannot tolerate additional noise impacts.

56 (cont.)

6 Also the predicted traffic noise level contributed from  
7 the proposed resort secondary growth that we know is going to  
8 happen because they are going to come here and the UGA and the  
9 MPR is going to look pretty crowded after a while so they are  
10 going to want to go somewhere else. And we haven't really  
11 looked at that in either the MPR or the UGA.

57

12 The DEIS also states that because of the exact location  
13 of proposed land uses within both the resort and the UGA and  
14 the specific distances between structures are unknown, noise  
15 level predictions cannot be made. Well, okay. I think they  
16 should be able to be made and that those things may be able to  
17 get more concrete and less conceptual.

58

18 Aesthetic light and glare. The DEIS states no locations  
19 close to the UGA have extensive long-duration use of the UGA.  
20 Areas most effected by changes in the visual landscape would  
21 be the frequent users of Bullfrog Road and SR903. Well that's  
22 what I am. I am a frequent user of that road and so are many  
23 people here. Time is up.

59

24 MAYOR BERNDT: There are three or four more, so we  
25 will try to come back.

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1 MS. BRYANT okay.

2 MAYOR BERNDT: Are we going to get written?

3 MS. BRYANT: Yes.

4 MAYOR BERNDT: Lynn Norwitz.

5 MR. NORWITZ: You can read along with me. My name  
6 is Lynn Norwitz. I live at 403 East Washington Street in  
7 Roslyn. I actually have two questions before I start. Can  
8 you tell me if there are planning commission members here from  
9 Cle Elum.

10 MAYOR BERNDT: One.

11 MR. NORWITZ: Out of how many?

12 MAYOR BERNDT: There are five I think.

13 MR. NORWITZ: And how many city council members are  
14 here in?

15 MAYOR BERNDT: One.

16 MR. NORWITZ: Great, thanks. That wasn't too tough  
17 a question. I am going read this. Trendwest -- it's about  
18 water. Hopefully I will send other comments in, but this is  
19 about water. Quantity. Trendwest has not obtained approval  
20 to move water up to the Cle Elum area as far as I can tell.  
21 Whether they will be able to move water, how much and the time  
22 frame is highly speculative at this point.

23 The Department of Ecology consultants have raised  
24 questions about whether there is a true environmental benefit  
25 that comes from Trendwest tributaries, Tenaway Creek water

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Public Hearing 2

1 rights. That if proposed to leave in stream as mitigation for  
2 all of its development, Trendwest offers as mitigation for  
3 its' water right impacts to not divert from the Yakima River  
4 whose flows are insufficient to meet Yakima River target  
5 flows. That's in Section 3.5. If Trendwest is not diverting,  
6 where will the water come from to serve the UGA and the MPR.

62

7 We continue to disagree with the cumulative effects  
8 analysis that have gone on for all these projects. The impact  
9 of the UGA combined with the MPR is likely to be much greater  
10 than predicted. The ancillary buildup already with  
11 speculation around the resort will only intensify with full  
12 buildup of the Urban Growth Area. All you have to do is take  
13 a drive up 903 through Roslyn and Ronald to see what the  
14 future will bring as you go up to the lake. And the county  
15 lacks oversight of the development is not something we can  
16 deal with, but it is our problem.

63

17 So I think that Trendwest keeps insisting that folks who  
18 work at the resort will also live elsewhere in the county is  
19 unrealistic. The question I have is so what water will be  
20 used to serve all of these people whether it will be Roslyn's  
21 water, Cle Elum's water, South Cle Elum's water. This is  
22 going to be a huge burden on the local community.

64

23 Because Trendwest has been in litigation over this, they  
24 refuse to admit how great the impacts are actually going to  
25 be. The MPR analysis would have us adequately believe there

65

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1 is minimum impacts. They continue to defend this analysis and  
2 use the same assumptions because they are still in court. And  
3 it seems that the court impacts are not being considered and I  
4 would ask you to pursue this as best you can.

65 (cont.)

5 For example, Trendwest proposes to move water from  
6 properties and other places, but many of those sending  
7 properties are being developed. Example is the Tenaway lots  
8 that will be divided up and sold throughout the coming years.  
9 The EIS refuses to acknowledge that the impacts associated  
10 with moving that water is really connected to this Urban  
11 Growth Area and MPR. And that is short sighted and I believe  
12 they are incorrect.

66

13 With all these people moving into the area, there will be  
14 water quality impacts related to certain services, people  
15 pouring bad things down the drains, runoff from roads and road  
16 surfaces, increased use of pesticides, etc. I mean it's  
17 inevitable. And I want to know how Cle Elum proposes to  
18 maintain the relatively pristine environment with these  
19 circumstances.

67

20 I guess my last couple of points are these. Increased  
21 population means more people will want to go to the rivers. I  
22 am obviously concerned about fish as a fisherman. My last  
23 concern I will mention is that we need to be factoring in  
24 swings in precipitation. I am not an expert, but we are  
25 obviously in a time which is as significant as any we have had

68

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1 in the last 25 years. I notice that Cle Elum has had water  
2 moratoriums for the last several years. I question where do  
3 you think this water is going to come from in lean water  
4 years. I would like to see further analysis of what this  
5 summer would bring if we are going live through it.

69 (cont.)

6 Again I will just refer to the fact that it was spoken  
7 that other lands were purportedly given to entities on this  
8 site, the community center and the horse park and the school  
9 district, I see like to know where those waters are coming  
10 from. Thank you very much.

70

11 MAYOR BERNDT: This is your submission in writing?

12 MR. NORWITZ: It is.

13 MAYOR BERNDT: It looks like Ron something, 204 East  
14 Arizona, Roslyn.

15 UNIDENTIFIED SPEAKER: I will decline to speak.

16 MAYOR BERNDT: Okay. Ellen Howe.

17 MS. HOWE: Good evening. I am Ellen Howe, I live at  
18 1441 Watt Canyon Road Road in Thorp, 98946. I am here tonight  
19 as chair of the Phoenix Economic Development Group. As chair  
20 of the Kittitas County Economic and Associate Development  
21 Organization, the Phoenix Economic Development Group, I would  
22 like to address the fiscal impacts of the Cle Elum Urban  
23 Growth Area as detailed in the Draft Environmental Impact  
24 Statement.

71

25 It's heartening that so many jobs would be created by the

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1 UGA project. We were pleased to see that the local labor pool  
2 took on half of the construction jobs and 80 percent of the  
3 operation jobs on the UGA. Even those who are hired outside  
4 the area are going to be spending some of their dollars here,  
5 which is certain to give our economy a boost.

6 As an stressed timber impacted county, Phoenix recognizes  
7 the importance of the community retaining family wage jobs  
8 such as those that this project will create. The business  
9 park truly has unlimited potential for our area. While  
10 existing services and retail sectors will benefit from the  
11 construction of lodging, restaurants and recreational  
12 facilities, the business park will greatly enhance our  
13 expansion and recruitment efforts for light manufacturing and  
14 the high tech businesses to our community.

71 (cont.)

15 In terms of the fiscal impacts, the state will benefit  
16 from the cautionary approach to the construction of the  
17 state-of-the-art water and waste water treatment plants.  
18 Finally, the mitigation agreement that Trendwest is willing to  
19 commit to will certainly ensure that local jurisdictions are  
20 fully funded if the impacts of the project are greater than  
21 expected. The Cle Elum Urban Growth Area development is a  
22 win-win for Cle Elum and Kittitas County and Trendwest. Let's  
23 move it forward. Thank you.

24 MAYOR BERNDT: Susan Willis.

25 MS. WILLIS: My name is Susan Willis. My post

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1 office is Box 315 in Roslyn. I don't think I am going to say  
2 anything new except I will also speak for the salmon. As a  
3 teacher, elementary teacher, we do a lot of work with salmon.  
4 We go out to the rivers and we watch them spawn. We look for  
5 that return in the fall.

6 And I know from teaching about salmon that salmon need  
7 cold clear gravel. And when I think about that development  
8 along that river stream, the golf courses, hotels, equestrian  
9 centers, the business park and all these homes, I can't  
10 imagine that that river is going to stay cold and clear and  
11 ready for those salmon. There are buses from all over eastern  
12 Washington that drive their children up to our river to watch  
13 those salmon spawn.

14 There have been a lot of comments tonight about air  
15 quality, the inversions we have in the winter, about the night  
16 sky. People have not talked yet about the elk habitat that I  
17 drive by every day on my way to school.

18 People talk about the expansion of the schools, who is  
19 going to pay for them, where is the water going to come from.  
20 We have a high quality of life here. We still have some  
21 wildness here, we still have some wildlife that benefits from  
22 that wildness. The reason people want to come here is because  
23 it's so wonderful and because it's so wild.

24 I don't see that the expansion of the MPR across Bullfrog  
25 Road or the MPR itself is going to preserve the wildness of

72 (cont.)

73

74

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1 this place. People need the stars, the salmon needs the  
2 gravel, the elk needs its habitat. Don't forget that, that's  
3 who we are.

4 MAYOR BERNDT: Thank you, Susan. This is the last  
5 of the signed up speakers that I have. Would anyone wish to  
6 make comments that has not signed up?

7 Not seeing that, Thelma, do you want to finish?

8 MS. SIMON: Yes, thank you. I will make it really  
9 quick. Thelma Simon again. One of the issues that I was  
10 trying to bring up, I didn't see transit as being part of  
11 this. If the growth projections are for more traffic, one of  
12 the issues that is a real concern of mine is also the fact  
13 that we have many senior citizens in the upper county that are  
14 still driving and they feel safe driving. I know that my  
15 mother on the other side of the mountains doesn't drive  
16 anymore because she feels she can't handle the traffic.

17 That's not true here. We have seniors that show up today  
18 on lunch day and drive in our community. And if there's a lot  
19 more traffic, how will they get to the new senior center.

20 The other issue is that we are proposing a community  
21 center on Bullfrog Road I have a son that's 11 years old. I  
22 don't know how he would get to that community center. I do  
23 not consider it would be safe to ride a bike up the highway  
24 because I didn't see a sidewalk or anything on it. And I  
25 don't know that that would be a very safe way to go where

74 (cont.)

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1 there's nothing along the road there.

76 (cont.)

2 My other concern is that I am one of those people that  
3 come down West Side Road that goes through South Cle Elm every  
4 day to get to my place of business. So are a lot of other  
5 people that come through lower Peoh Point and upper Peoh Point  
6 and West Side Road. So possibly South Cle Elum will have a  
7 light and possibly a second entrance to south Cle Elum.

77

8 And the other issue that I forgot to admit or talk about  
9 was 950,000 square foot for a business park. We have had a  
10 really hard time trying to figure out how large that is. We  
11 have decided it is smaller than a supermall and double the  
12 size of North Bend Outlet Mall. And, you know, we are still  
13 trying to get a real take on how big that is.

78

14 So if those people are working, where are they going to  
15 park, where are they going to drive through. So that's it.

16 MAYOR BERNDT: Thanks, Thelma.

17 Peg Bryant?

18 MS. BRYANT: I am not going to take long. I was  
19 talking about the aesthetics and about the long duration views  
20 of the UGA, that there wouldn't be any of those. And yet the  
21 DEIS states that the viewers most effected by the changes of  
22 the individual landscape would be the frequent users of  
23 Bullfrog and SR903. And I think that that's the current  
24 residents of upper county. Bullfrog Road and SR903 are at  
25 least to me much more relevant than the I-90 corridor, the

79

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1 view from that.

2 Also view sheds from SR903 are not an alternative to 2, 3  
3 or 4. This I think really does need to be mitigated if you  
4 choose to go ahead with the proposal. A buffer of 150 foot,  
5 which I think it is, off along Bullfrog Road would not  
6 adequately screen views to the interior of the UGA. And you  
7 can tell that just by walking out in the wooded area that's  
8 been thinned, which I am sure that it will be, and looking  
9 through it. I mean 150 feet is the length of my block, that's  
10 not very long.

79 (cont.)

11 The DEIS also asserts that the sky glow could change in  
12 the properties within approximately ten miles of the site.  
13 Well, that's where a lot of us live. It goes on to say that  
14 the development of the UGA would add to the sky glow effects.  
15 It is very important that these do get mitigated.

80

16 Just a little on plants, animals and fisheries. The  
17 management of priority habitats for snags, downed wood zones.  
18 These are not really identified. It might be an idea to  
19 consider to increase the forced buffer around the river to  
20 include all of Bullfrog Flats. Which in doing that it would,  
21 a, reduce the elk/human conflict by preserving elk wintering  
22 grounds. It would also allow animal movement and habitat up  
23 and down the river and north and south.

81

24 People have talked about storm water runoff.

25 Finally, this doesn't make me feel real comfortable.

82

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## Public Hearing 2

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1 Thank you for your time. We will be submitting a large number  
2 of comments in writing.

3           MAYOR BERNDT: Okay. Okay. That's all the folks  
4 that I have for speaking. I guess at this point I will close  
5 the public hearing. Erin says ask one more time. Okay. With  
6 that said I will close this public hearing. We will be  
7 accepting comments and then there is a time to work through  
8 them. We don't have a specified time periods for when the  
9 Final EIS comes out. It depends on how much analysis and work  
10 that will need to be done to come up with the final one.

11           So I would like to thank you all. I really appreciate  
12 it. There were some good and some very thoughtful comments on  
13 this and at this point we are done. Thank you very much.

14

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**Comment 1**

Refer to Letter 4, Comments 1 through 5 for the response to the comment letter submitted by Ellie Belew.

**Comment 2**

Refer to the response to Letter 4, Comment 6.

**Comment 3**

Refer to the response to Letter 4, Comment 7.

**Comment 4**

Refer to the response to Letter 4, Comment 8.

**Comment 5**

Refer to Letter 7, Comment 1 and Letter 29 for the response to the comment letters submitted by REBOUND.

**Comment 6**

Refer to the response to Letter 7, Comment 3.

**Comment 7**

Refer to the response to Letter 7, Comment 10.

**Comment 8**

Refer to the response to Letter 7, Comment 16.

**Comment 9**

Refer to Letter 28 for the response to the comment letter submitted by the Kittitas County Department of Building and Fire Safety.

**Comment 10**

Refer to the response to Letter 28, Comment 12.

**Comment 11**

Refer to the response to Letter 28, Comments 20 and 22.



### Comment 12

Refer to the response to Letter 28, Comment 9.

### Comment 13

Refer to the response to Letter 28, Comments 20 and 22.

### Comment 14

Refer to the response to Letter 28, Comments 18.

### Comment 15

Comment noted.

### Comment 16

Transportation impacts of both the UGA and MPR are addressed in Section 3.15 of the Draft EIS for Alternatives 2, 3, and 4 and are addressed in Section 3.14 and Appendix F in the Final EIS for Alternative 5. The study area extends from northwest of Ronald to (and including) the I-90/SR 970 interchange. Peak-hour traffic volumes are projected to be well below the design capacity for SR 903.

The Cle Elum UGA meets criteria in the Growth Management Act because it is designed to accommodate projected population growth in Kittitas County and the City of Cle Elum. The Kittitas County Board of County Commissioners approved updated population projections for Kittitas County in 1999. Those population projections included a specific allocation (19%) of that future growth to Cle Elum. Section 3.11 of the Draft EIS identifies the population *capacity* of Alternatives 2, 3, and 4 and compares this to the Office of Financial Management's 2020 population projection allocated to Cle Elum under the Kittitas County Countywide Planning Policies. Section 3.10 of the Final EIS provides an analysis for Alternative 5. OFM is expected to update its population projections in early 2002.

Since the Draft EIS was published, Trendwest has negotiated a mitigation agreement to address potential impacts from increased enrollment. Please see the response to Letter 1 and Sections 3.15, Public Services, and Section 3.18, Fiscal Conditions, of the Final EIS for additional detail.

### Comment 17

Comment noted. Trendwest proposes to change its Yakima River and tributary water rights under RCW 90.03.380. Trendwest has filed water change applications with the Washington Department of Ecology and the Kittitas County Water Conservancy Board. The applications seek to change Trendwest's mainstem Yakima River irrigation and stock water rights from their current place of use near Ellensburg to municipal purpose diverted year-around at the City of Cle

Elum's Yakima and Cle Elum River intakes. Trendwest has also filed applications with Ecology to change Trendwest's tributary water rights to instream flows. A detailed discussion of potential water supply impacts is included in Section 3.4, Water Supply.

**Comment 18**

Comment noted. Sections 3.16 and 3.19 of the Draft EIS describes projected impacts on fire protection services and proposed mitigation. Since the Draft EIS was published, the City's fiscal consultant has prepared a Municipal Facilities and Services Expansion Plan, which describes in more detail expected personnel and capital expenditures necessary to mitigate impacts from the proposed development. Please refer to Sections 3.15 and 3.18 and Appendix D of the Final EIS for additional discussion of these requirements for Alternative 5. No impacts on level-of-service are anticipated.

**Comment 19**

Comment noted.

**Comment 20**

Comment noted. Since the Draft EIS was published, the site plan has been redesigned to condense development within a smaller area and increase undeveloped open space along the Cle Elum River and for perimeter buffers. This riparian corridor connects the UGA with offsite habitat in the MPR and surrounding lands and would allow for the continued movement of wildlife to offsite properties. Refer to Section 3.5 of the Final EIS for an updated discussion of potential impacts on plants and animals under Alternative 5.

**Comment 21**

Comment noted. Alternative 5 (Preferred Alternative) does not include a Horse Park, hotel, or a golf course. All lighting for development within the MPR and UGA would meet the International Dark Sky Association's Zone E1 standards. These standards are recommended for use in "areas with intrinsically dark landscapes." Roadway lighting would be consistent with the Illuminating Engineering Society and WSDOT lighting criteria.

**Comment 22**

Refer to Letter 27 for the response to the comment letter submitted by the City of Roslyn.

**Comment 23**

Refer to the response to Letter 27, Comment 1.

**Comment 24**

Refer to the response to Letter 27, Comment 1.

## **Public Hearing 2**

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### **Comment 25**

Refer to the response to Letter 27, Comment 2.

### **Comment 26**

Refer to the response to Letter 27, Comments 3 and 4.

### **Comment 27**

Refer to the response to Letter 27, Comment 5.

### **Comment 28**

Comment noted. Please refer to the response to Letter 9, which was submitted by the Upper Kittitas County Senior Center.

### **Comment 29**

The water and wastewater treatment plants currently in the design and planning phases are facilities proposed by the City of Cle Elum to implement the City's water and wastewater comprehensive plans. Some upgrade of water and wastewater treatment plants would have been necessary to meet the Department of Health and Department of Ecology regulations as well as the City's projected demand even without the Trendwest project in the UGA.

Refer to the response to Comment 35 below and Section 3.3, Water Quality, in the Final EIS for an updated and expanded discussion of potential water quality impacts under Alternative 5.

The Cle Elum UGA is located in a region that is currently in attainment with the national ambient air quality standards (NAAQS), as designated by the Environmental Protection Agency and the State of Washington. Future carbon monoxide concentrations under all alternatives are expected to be well below the NAAQS (see Section 3.2 in the Draft and Final EISs).

### **Comment 30**

Authoritative agencies, including the Washington Employment Security Department, do not regularly monitor Upper Kittitas County separately from Kittitas County as a whole. An economic trend description throughout Kittitas County has been updated in Section 3.17, Economic Conditions, of the Final EIS to reflect newly released economic data. Where possible, information for jurisdictions in Upper Kittitas County is provided (e.g., taxable retail sales and assessed property value).

### **Comment 31**

Comment noted. Salaries for employees in the MPR and UGA identified in the Draft EIS reflect projected dollar per hour wages under the current economy – a salary of \$30,000 annually is

higher than the existing Kittitas County average annual wage of approximately \$21,600 (see Section 3.17 of the Final EIS). Because the golf course, Horse Park, lodge, and timeshare condominiums have been eliminated from Alternative 5, only minor employment is associated with Trendwest residential development under this alternative, reducing the cumulative impacts identified in the Draft EIS. Affordable housing is addressed in the City's draft Conditions of Approval for the project. See Section 3.10 of the Final EIS for additional detail.

**Comment 32**

Consistent with the terms outlined in the Pre-Annexation Agreement between the City of Cle Elum and Trendwest, existing citizens and ratepayers should not suffer negative financial impacts as a result of Trendwest development activities within the UGA. Property values are not expected to be significantly affected by combined MPR and UGA development (see Section 3.17, Economics, of the Final EIS).

**Comment 33**

Construction of infrastructure within the UGA would be the responsibility of Trendwest. Also, refer to the response to Comment 32 above regarding the terms of the Pre-Annexation Agreement.

**Comment 34**

City of Cle Elum goals for parks and recreational facilities at full buildout of the UGA are identified in the *Draft Bullfrog Subarea Plan*. Park and recreation resources proposed under Alternative 5 include 0.25- to 0.5-acre pocket parks in each planned residential area that would be dedicated to the City. Proposed trails include a combination of soft surface and hard surface trails or other pathways to provide uninterrupted bicycle and pedestrian routes through the UGA that link to road and/or trail systems outside the UGA. In addition, public use and access of the neighborhood lake would be allowed. Refer to Section 3.13, Parks and Recreation, of the Final EIS for an updated discussion of parks, open space, and recreational facilities proposed for the UGA.

**Comment 35**

Please refer to Letter 4, Comment 2 for a response to the issue of phased environmental review pertinent to the MPR and UGA projects.

The City of Cle Elum's existing and future primary water intake is on the Yakima River, not the Cle Elum River. It is anticipated that water for the MPR and UGA would be diverted from the Yakima River intake.

A quantified analysis of cumulative water quality impacts is included in Section 3.3 and Appendix A of the Final EIS. Impacts on the Cle Elum River are not anticipated due to: (1) treating stormwater based on current best management practices or better, (2) proposing source-control measures (most notably a golf course management plan for the MPR), and (3) proposing

## **Public Hearing 2**

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to infiltrate nearly all stormwater. Development and use restrictions within the Cle Elum River corridor (to the extent owned by Trendwest) would also minimize potential water quality impacts.

### **Comment 36**

The Horse Park was analyzed programmatically in the Draft EIS; however, the site design has since changed. Alternative 5 does not include a Horse Park. The Washington State Horse Park Authority would develop the Horse Park facility as a separate project. Trendwest has offered to donate land for a Horse Park contingent, in part, on the Washington State Horse Park Authority completing all required environmental review and having funds available for the project.

### **Comment 37**

Comment noted. All lighting for development within the MPR and UGA would meet the International Dark Sky Association's Zone E1 standards, as specified in the draft Conditions of Approval for the project. Roadway lighting would be consistent with the Illuminating Engineering Society and WSDOT lighting criteria.

### **Comment 38**

Transportation impacts of both the UGA and MPR are addressed in Section 3.15 of the Draft EIS for Alternatives 2, 3, and 4 and are addressed in Section 3.14 and Appendix F in the Final EIS for Alternative 5. The study area extends from northwest of Ronald to (and including) the I-90/SR 970 interchange. Road widening was not identified as necessary under any of the alternative scenarios.

Refer to Comment 29 above and Section 3.2 of the Final EIS for a discussion of air quality.

### **Comment 39**

Mitigation criteria have been negotiated between Trendwest and Hospital District No. 2 to address potential service and capital facility impacts (see Section 3.18, Fiscal Conditions, of the Final EIS).

### **Comment 40**

A mitigation agreement has been negotiated between Trendwest and the Cle Elum-Roslyn School District. Refer to the response to Letter 1 for additional detail on School District issues.

### **Comment 41**

Mitigation measures stipulated in the City's draft Conditions of Approval address potential affordable housing impacts on the City. Measures include, in part, donation of acreage for affordable housing and maintenance of 150 rental units within the UGA for at least 20 years. Refer to Section 3.10 of the Final EIS for additional detail.

**Comment 42**

Comment noted. Refer to the response to Comment 32, above.

**Comment 43**

Refer to Letter 36, Comment 49 for the response to the comment letter submitted by RIDGE.

**Comment 44**

Refer to the response to Letter 36, Comment 50.

**Comment 45**

Refer to the response to Letter 36, Comment 50.

**Comment 46**

Refer to the response to Letter 36, Comment 50.

**Comment 47**

Refer to the response to Letter 36, Comment 51.

**Comment 48**

A standalone treatment plant is no longer proposed.

**Comment 49**

Comment noted. Please refer to the response to Letter 4, Comment 2 for a discussion of the issue of phased environmental review.

Since the Draft EIS was published and in response to public and agency comments, Trendwest has developed Alternative 5 and submitted the site plan to the City. Alternative 5 does not include a Horse Park, golf course, lodge, or permanent RV park. Also, as part of the RIDGE Settlement Agreement, the overall number of units on the MPR is reduced by approximately 18%.

**Comment 50**

Snowmobiles are addressed in Section 3.8 of the Final EIS. Refer to the response to Letter 34, Comment 5 for additional information.

### **Comment 51**

Refer to the response to Comment 37, above.

### **Comment 52**

The Alternative 5 site plan includes a 50-foot buffer along SR 903. Perimeter buffers would be enhanced with plantings to further screen views of UGA development.

### **Comment 53**

Transportation impacts of both the UGA and MPR are addressed in Section 3.15 of the Draft EIS for Alternatives 2, 3, and 4 and are addressed in Section 3.14 and Appendix F in the Final EIS for Alternative 5. The study area extends from northwest of Ronald to (and including) the I-90/SR 970 interchange. Please refer to the responses to Letter 7, Comments 7, 8, and 9 for a discussion of potential impacts at interchanges with I-90.

### **Comment 54**

Comment noted. The Draft and Final EIS acknowledge the increased use of offsite recreational resources from development of the MPR and UGA.

### **Comment 55**

Comment noted.

### **Comment 56**

Comment noted. Based on the noise modeling, noise levels at the cemetery, which are dominated by traffic noise from I-90 as you note, would not increase above Federal Highway Administration guidelines (see Section 3.9 in the Draft EIS and Section 3.8 in the Final EIS).

### **Comment 57**

Noise impacts from cumulative traffic levels were modeled and are described in Section 3.9 in the Draft EIS (see Table 3.9-6).

### **Comment 58**

Comment noted. Noise level predictions were modeled based on preliminary site plan design; however, potential receptors were modeled in worst-case locations (i.e., adjacent to roadways versus within the interior of the development). The statement you refer to in the Draft EIS relates to the ability to predict exact noise levels, which can only be done once the locations of individual structures have been finalized.

**Comment 59**

Comment noted. Perimeter buffers along I-90, Bullfrog Road, and SR 903 proposed under Alternative 5 would help to screen views of the development. Impacts on aesthetics, light, and glare under Alternative 5 are addressed in Section 3.11 of the Final EIS.

**Comment 60**

Refer to Letter 5, Comment 1 for the response to the comment letter submitted by Len Norwitz.

**Comment 61**

Refer to the response to Letter 5, Comment 1.

**Comment 62**

Refer to the response to Letter 5, Comment 1.

**Comment 63**

Refer to the response to Letter 5, Comment 2.

**Comment 64**

Refer to the response to Letter 5, Comment 2.

**Comment 65**

Refer to the response to Letter 5, Comment 3.

**Comment 66**

Refer to the response to Letter 5, Comment 4.

**Comment 67**

Refer to the response to Letter 5, Comment 5.

**Comment 68**

Refer to the response to Letter 5, Comment 6.

**Comment 69**

Refer to the response to Letter 5, Comment 7.



### **Comment 70**

Refer to the response to Letter 5, Comment 8.

### **Comment 71**

Comment noted.

### **Comment 72**

Comment noted. No significant impacts on fisheries were identified from either the water supply plan or from potential water quality impacts. The Cle Elum River corridor would be protected as primarily undeveloped open space. Refer to the response to Comment 35 above and to Section 3.3, Water Quality, of the Final EIS for additional detail on proposed treatment for stormwater runoff.

### **Comment 73**

Comment noted. Elk use and animal movement and habitat within the UGA are discussed in Section 3.6, Plants and Animals, of the Draft EIS, which includes a discussion of elk wintering grounds and links to offsite habitat. Mitigation measures for potential human/elk conflicts are identified. The Cle Elum River corridor is the most significant wildlife corridor within the UGA. The major riparian corridor that connects the UGA with offsite habitat in the MPR and surrounding lands would be retained as undeveloped open space. This corridor would allow for continued movement to offsite properties where elk feeding still occurs and to other seasonal range areas.

### **Comment 74**

Comment noted. Please refer to the response to Letter 1 for a discussion of School District issues.

### **Comment 75**

Comment noted. Public transportation does not currently operate in Kittitas County. The transportation analysis considered cumulative impacts from the MPR and UGA and identified mitigation measures to address those impacts. The analysis does not rely on public transportation, so it accurately reflects existing conditions and looks at the worst-case scenario for future impacts. Growth in traffic volumes would occur and traffic patterns would change over time. The City of Cle Elum is incorporating mitigation for future traffic impacts into the Conditions of Approval for the project.

### **Comment 76**

SR 903 was evaluated for level-of-service impacts at principal intersections. Mitigation measures are identified in the County conditions for MPR approval and the City's draft Conditions of

Approval for the UGA. SR 903 is a state route and under the primary jurisdiction of the Washington State Department of Transportation (WSDOT); construction of a sidewalk or bike lane is not programmed by WSDOT at this time.

**Comment 77**

The Town of South Cle Elum was included within the study area for the analysis of transportation impacts, and the intersection of First Street and South Cle Elum Way is identified in the EIS and in the City's Conditions of Approval as likely needing a traffic signal in Year 5 due to general growth in the area's traffic volumes. Traffic impacts do not indicate the need for development of a secondary access from the City of Cle Elum.

**Comment 78**

Comment noted. The City of Cle Elum would specify parking requirements for the Business Park. Under Alternative 5, primary access to the Business Park would occur from SR 903 and Ranger Station Road.

**Comment 79**

Comment noted. As you note, the EIS identifies the frequent users of Bullfrog Road and SR 903 as most affected by changes in the visual landscape of the UGA. Perimeter buffers would be enhanced with plantings to further screen views of UGA development.

Visual contrast and harmony within the UGA between the built and natural environments would largely be a product of tree preservation, revegetation, the siting of structures, and design standards. Building mass, colors, and materials would determine the degree to which the structures visually blend with the natural settings and adjacent uses.

**Comment 80**

Refer to the response to Comment 37, above.

**Comment 81**

Management of priority habitats is addressed in Section 3.6 of the Draft EIS. In general, these areas are retained as undeveloped buffer areas in the site plan for Alternative 5. Undeveloped open space along the Cle Elum River has been increased from approximately 150 acres under Alternatives 2, 3, and 4 to approximately 246 acres under Alternative 5. Refer to the response to Comment 73 above for a discussion of elk use of the UGA.

**Comment 82**

Comment noted. Please refer to Section 3.3, Water Quality, of the Final EIS for a discussion of proposed treatment methods for stormwater runoff from UGA development.