



CHELAN COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
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Chelan County Community Development Department - Administrative Decision
Wheeler Ridge LLC Orchard Conversion Habitat Management and Mitigation Plan
(HMMP)

Applicant:

Wheeler Ridge, LLC
Ben Alworth, Project Manager
4597 Stemilt Hill Road
Wenatchee, WA 98801

Chelan County File No: HMMP 21-067

Project Location: Township 21N; Range 20E; Section 17, and portions of Section 9 and Section 16. Chelan County Assessor's Parcel Numbers: 212017000000, 212016000000, 212009430010, and 212009440050.

Project Description: The project consists of the construction of three orchards (Orchard Unit 1, 2 and 3) on Section 17, including seasonal housing for workers, associated orchard processing buildings, gas pumps and loading docks. To prepare the orchard areas for planting, forest trees will be harvested under a Forest Practices permit. Other activities include:

- Construction of irrigation facilities in an existing easement extending from Section 9 to Section 17.
- Construction of irrigation pipeline facilities in an existing easement in Section 16. The irrigation pumping station will be located in Orchard Unit 1, within the 2-acre area including the seasonal housing, shop, and gas pumps. The irrigation pumps will operate June to September.
- Construction of a new 9.9-acre-foot reservoir for irrigation (filled from the existing reservoir on Section 9) and irrigation pipelines connecting between orchard polygons.
- Preservation and rehabilitation of two existing Type Ns stream crossings, including culvert update/replacement as needed.
- Improvement of and relocation of 2.3 miles of Chelan County Road
 - Maintenance, reconstruction and repair on Section 16 (1.3 miles) and Section 17 (0.27 miles)
 - Relocation of approximately 1.0 mile of road in Section 17.
- Rock Crushing Facilities
- Construction of an 8-foot "deer" fence around the three Orchard Units. The total fence will be approximately 25,000 lineal feet and constructed from woven wire and secured by wooden and/or steel stakes.

In addition, orchard operations will include spring maintenance each year (for example: spraying, pruning, irrigation, mowing, weed control) and a period dedicated to harvesting fruit at the end of August or early September each year. Bird dissuasion techniques will be utilized during late summer and fall (in accordance with the MDNS – Chelan County 2020). Fall maintenance each year will involve pruning, topping, compost application, fertilizing in preparation for the next summer growing season.

SEPA Determination: A SEPA Mitigated Determination of Non-Significance (MDNS) was issued on December 30, 2020.

Appeal Information: Any appeal of this decision must be filed in accordance with Ch. 14.12 of the Chelan County Code within 10 working days of the issuance of this decision, together with the applicable appeal fee. See CCC 14.12.005 and 14.12.010 for more information on appeals.

Analysis of Policies and Regulations Applicable to the HMMP:

CCC 11.78.100.2.B

1. *A description of the nature, density and intensity of the proposed use or activity in sufficient detail to allow analysis of such a land use change upon identified wildlife habitat including the proposed amounts of excavation, grading and vegetation disturbance.*

Staff analysis: A detailed description of the proposed project is included on page 5 of the *Wheeler Ridge Habitat Management and Mitigation Plan (Wheeler Ridge HMMP)* (Exhibit A) dated May 2021.

2. *An analysis of the effect of the proposed use or activity upon fish and wildlife species and their habitats, identified with the priority habitat and species program.*

Staff analysis: According to the WDFW *Priority Habitat Species on the Web* the only two priority habitat species occurring on the site is for breeding area for the Colockum elk herd and the northern spotted owl. Studies were provided during the County's review of SEPA to provide information that the northern spotted owl nests that had originally been identified 0.9 miles west and a second 1.8 miles to the south in the mid-1990's are no longer active and is therefore not addressed within the HMMP.

The submitted May 2021 *Wheeler Ridge HMMP* contains discussion throughout addressing the proposed orchard conversion project and the anticipated impacts to the suitable calving habitat of the elk in this identified polygon (Exhibit A).

3. *A plan which explains how the applicant will avoid, minimize or mitigate adverse impacts to fish and/or wildlife habitats created by the use or activity. Mitigation measures within the plan may include, but are not limited to:*
 - a. *Establishment of buffer areas;*
 - b. *Preservation or critically important plants and trees, preferably in consolidated areas;*
 - c. *Limitation of access to habitat area;*
 - d. *Seasonal restrictions of construction activities;*
 - e. *Clustering of development and preservation of open space, if permitted by the underlying zoning district;*
 - f. *Signs marking habitats or habitat buffer areas;*
 - g. *Title note or plant dedication with warning statements;*
 - h. *Conservation easements;*
 - i. *Preserve and introduce native plant species which serve as food and shelter from climatic extremes and predators and structure and cover for reproduction and rearing of young for critical wildlife;*

- j. *The use of native species or species recommended by the Washington State Department of Fish and Wildlife in the revegetation or landscaping or disturbed or developed areas and in any enhancement of habitat or buffers.*

Staff analysis: The May 2021 *Wheeler Ridge HMMP* (Exhibit A) includes a description on how the project avoided the wetlands and streams and their associated buffers. In addition, the applicant is proposing mitigation measures including: road restoration and abandonment of approximately 1.2 miles to protect and enhance elk habitat, enhancement of existing forested and grassland areas for wildlife cover and forage through thinning and seeding and riparian area restoration, providing wildlife corridors to allow for wildlife movement between Orchard Units, wetland, stream and buffer restoration in previously disturbed areas, setting aside approximately 355 acres in a designated Conservation Area, seasonal road closures, monitoring and adaptive management as well as entering into a *Declaration of Conservation Covenants* with Chelan County for the long-term protection, monitoring, maintenance and adaptive management with financial securities for the designated Conservation Area. The conceptual planting plan contained in Exhibit A, Appendix III, calls for the use of native plants to complement the existing native plant species currently in and near the area to be restored. The review and approval of the detailed planting plan has not yet occurred and has been added as a condition of approval. Signage to depict the location of Habitat Management Areas is proposed on Section 17. Other than seasonal restrictions related to bird cannons and seasonal road closures (April 1st through June 30th), no other seasonal construction or orchard activity restrictions have been proposed as the majority of the orchard operations are in the summer and fall.

4. Review comments by a habitat biologist from the Washington State Department of Fish and Wildlife will be required.

Staff analysis: Review comments by the Washington State Department of Fish and Wildlife were received by Chelan County on June 23, 2021. The comment letter was signed by Ms. Carmen Andonaegui, Habitat Program Manager Region 2. In addition, comments from the following agencies were accepted in accordance with CCC 11.78.100(2)(B)(iv): Chelan-Douglas Health District, Chelan County Fire Marshal, Colville Tribes, Washington State Parks and Recreation Commission, Chelan County Natural Resources Department.

MDNS Condition 15:

The applicant shall develop and implement a detailed, site-specific (i.e., not conceptual) habitat management and mitigation plan (HMMP) consistent with CCC 11.78.100(2) and in consultation with WDFW in order to achieve no net loss of habitat functions and values. This HMMP shall mitigate for the permanent loss of 260 acres of upland forest elk habitat, nearby impacts to elk habitat from the development proposal, and other impacts to local and regional wildlife habitats. The HMMP shall address the requirements of CCC 11.78.100(2) and shall include the following additional required content:

- a. *Assessment of the functions and values of the habitat being lost compared to the habitat being proposed for mitigation;*

Staff analysis: An assessment of the functions and values of the habitat being lost compared to the habitat being proposed for mitigation was addressed on pages 22

through 30 of the *Wheeler Ridge HMMP* (Exhibit A). Table 4 of Exhibit A provides a summary of impacts to proposed elk habitat and mitigation within Section 17. “*Elk habitat was classified by low, moderate, and high, with index scores ranging from 0 to 10. No high-quality habitat was identified in Section 17. Mitigation is described for the entire Conservation Area outside of slopes greater than 60 degrees. Additional mitigation in the form of habitat enhancement would occur through wetland restoration and road abandonment/restoration (~5.3 acres) as well as 80 acres of thinning in the NW corner of the Conservation Area.*”

Within Exhibit B, Attachment 3 contains a review of the WDFW comments, including the citation of Rumble 2005 et al. Dr. Raedeke states “[T]his publication is cited a number of times in the WDFW comments. However it may not be appropriate to the current analysis as it deals with elk response and habitat use during the intensive hunting seasons. These hunting seasons are in the fall, and hence, non-applicable to analysis of spring and summer range use by elk on the Section 17 site’. In addition, Exhibit B, Attachment 2 discusses apparent confusion in WDFW’s interpretation of the analysis and that WDFW is incorrectly describing the proposed orchard areas as Mixed Upland and Grassland Vegetation and the designated Conservation Area as riparian habitat. Analysis provided by the applicant using aerial imagery shows that the orchards are a mix of Forest and Mixed Upland and Grassland, and that the proposed designated Conservation Area is a mix of all three.

The applicant stated that during their discussions with WDFW there were never any discussions regarding analysis based on vegetation communities and that a model that relied on vegetative communities would require a completely different approach that would ignore the relationships of the other model covariates and would not be based on best available science.

b. Discussion of short and long term impacts of the loss of habitat;

Staff analysis: The May 2021 *Wheeler Ridge HMMP* (Exhibit A) provides a discussion of the short- and long-term impacts of the loss of habitat on pages 26 through 39. According to Exhibit A, in Section 17 a total of approximately 257 acres of elk habitat would be permanently impacted by the installation of the orchards and associated improvements. Short-term impacts would occur during construction of the orchard areas and associated improvements. Long term impacts are associated with orchard operations. These include, but are not limited to:

- Seasonal orchard operations
 - Sprayers and mowers
 - Fruit harvesting
- Irrigation facilities
- Rock pit materials removal and crushing
- Road maintenance
- Bird cannons (limited to August and September, not continuous)
 - See Exhibit A for the full discussion.

In addition, in the response letters provided by the applicant in response to comments received by WDFW, *Attachment 3 Review of WDFW 6/23/2021 Comments on Wheeler Ridge HMMP* by Dr. Kenneth Raedeke (Exhibit B, Attachment 3) agrees with the statement on page

23 of the *Wheeler Ridge HMMP* that ‘*the project implementation will have an insignificant impact on the sub-population of elk that use the area (i.e., Section 17)...*’ The justifications provided by Dr. Raedeke are:

‘First, the analysis in the HMMP shows an increase in elk habitat functions and values in Section 17 with implementation of the mitigation plan. When I first assessed the possible impacts of the development of Section 17 in the 1990’s with WDFW biologist, John Musser, he rated the elk habitat value of the section as a “3” on the 1 to 10 scale with 10 being the highest quality. At that time there was minimal off-road vehicle usage (ORV) use of that section, which has increased dramatically in the subsequently 25 plus years with the advent of numerous, inexpensive ORVs, and minimal control over their use. The section is now crisscrossed with ORV trails and appears to be heavily used by ORVs.’

Second, as a population biologist based on the facts below, Section 17 does not provide a habitat feature that is limiting elk population in any way.

More importantly, based on Figure 9 of the HMMP, Section 17 is within or adjacent to an area designated by WDFW as an “Elk damage hunt area” with liberal hunting seasons designed to reduce the number of elk in the area.

Further the PHS elk calving area mapped by WDFW is based on a GIS exercise simply characterizing areas above a certain elevation as “calving areas”, with no field data to confirm the designation. Elk use has been documented, however use by elk for calving has not been documented.’

- See Exhibit B, Attachment 3 for the full discussion.

c. *Discussion of landscape permeability, including in relation to wildlife crossing corridors between the Orchard Areas and related road activity within those corridors;*

Staff analysis: Discussion regarding landscape permeability provided by the applicant is on pages 29 and 30 of the *Wheeler Ridge HMMP* (Exhibit A). In summary, the applicant discusses the movement of elk migration from the winter range and that they follow the growth of highly nutritious emergent vegetation up to a higher elevation summer range. Within the HMMP, the authors claim that it is known that human recreation and development can influence elk movements, potentially altering patterns and that these increased movement rates and altered routes, as a result of human disturbance or development, can reduce the amount of time spent foraging and more time moving, resulting in energetic costs. Section 17 is not located within the mapped migration route of the Colockum elk herd; and, therefore any elk in this vicinity use this area to move through, but not linger as it is at a lower elevation and it does not provide high quality, secure habitat would that would function as a stopover site. In addition, the high density of open roads and existing human activity further decrease the quality and function of the site.

The required 8-foot-tall standard wildlife fence is required to limit human-wildlife contact. The designated Conservation Area was designed to provide movement corridors between the Orchard Units that will allow elk to cross Section 17 – these range from 110 to over 1,300 feet in width.

Orchard operations in spring, when elk are more likely to be on-site, will be intermittent across the Orchard Units and will not be a source of constant disturbance. Disturbance from orchard operations may affect the utility of all three corridors to different degrees, however elk will still move through the area at night or during times of low human use. According to documentation from WDFW in 2006 and Walter in 2010 (see Exhibit A, page 30 for full citation) elk often become habituated to orchard activities.

- See Exhibit A, pages 29 & 30 for the full discussion.

On pages 5 and 6 of Exhibit B, Attachment 2 the WCSI lays out their understanding of elk movement on the site based on field experience, discussion with WDFW ungulate biologists, and considering best available science on ungulate movement ecology. The focus of this MDNS condition, and therefore the analysis required in the HMMP, was regarding mitigation of elk habitat on the site, not elk usage.

- d. Discussion of proximity and timing of orchard operations and implications for wildlife, including seasonal orchard restrictions to benefit wildlife, and analysis and development of an integrated bird deterrent program, including the use of noise and non-noise deterrents, impacts to wildlife, and adaptive management techniques. Bird cannons and similar noise deterrents may only be used between early August and early September when non-noise techniques are proven to be ineffective;*

Staff analysis: Pages 31 – 37 of the *Wheeler Ridge HMMP* (Exhibit A) provides discussion regarding this MDNS condition. Generally, the report notes that the site would see increased human activity during orchard development and be highest during construction activities that would occur during Phases 1 through 3 (See Exhibit A, Table 5, beginning on page 43). According to the applicant, the machinery that will be used for orchard construction (short-term) may include heavy machinery for logging, rock crushing and road construction, as well as agricultural machinery, such as tractors, mowers and sprayers for operation and maintenance (long-term).

According to the discussion on page 33 of Exhibit A, use will increase as the growing season progresses but will not be constant. For example, sprayers and mowers may be onsite up to 2 to 5 days per week, but on different parts of the orchard units. The pumping station would be centrally located and noise levels are anticipated to be commensurate with vehicles and tractors on the site. Increased use due to orchard harvesting operations are anticipated to occur for 2 to 3 weeks in late August to early September. During this time, elk are unlikely to be regularly using Section 16 or 17 as foraging has diminished substantially and elk will have moved higher up in the Stemilt Basin or elsewhere in the Colockum range.

As conditioned in the December 2020 MDNS, bird cannons can only be used in August and September when non-noise techniques are proven to be ineffective. Bird deterrents during the early season are limited to falconers, reflective ribbons and inflatable dancers.

- e. Identification of habitat mitigation area with similar functions and values to orchard conversion areas to compensate for the unavoidable loss and conversion of 260 acres of priority habitat and species habitat. Habitat mitigation area shall be of equal or greater*

habitat value and have similar slope, distance to cover, escape cover, and vegetation types and may not include areas with slopes in excess of 60 degrees. The specific size of the habitat mitigation area shall be determined and set forth in the HMMP consistent with this section and with WDFW guidance on habitat mitigation replacement ratios. Habitat mitigation area replacement ratio shall be 2:1, provided that the HMMP shall consider and discuss the need for habitat mitigation replacement ratios higher than 2:1 and may also consider and discuss the rationale for habitat mitigation replacement ratios lower than 2:1 provided that ratios lower than 2:1 shall include a review and analysis of WDFW mitigation guidance and best available science supporting any such ratios. In no case shall habitat mitigation replacement ratios include out-of-kind mitigation, fail to provide no net loss of functions and values to orchard conversion areas, or be less than 1:1. Habitat mitigation areas will be located on an appropriate site in Water Resource Inventory Area 40A (Squilchuck/Stemilt) or other site in the Colockum watershed;

Staff analysis: Pages 27 through 31 of the *Wheeler Ridge HMMP* (Exhibit A) provides a discussion regarding the rationale for the ultimate 1.4:1 mitigation ratio and that in actuality a 1:1 ratio is appropriate. Previous comments during SEPA by WDFW suggested mitigation ratio application based on their Wind Power Guidelines (2009); however, the mitigation descriptions in the Wind Power Guidelines area, according to the applicant, primarily focused on high quality habitat and categorizes habitat based on classes. Class I and Class II being considered the highest and having the greatest numbers of Species of Greatest Conservation Need (SGCN). Elk are not an SGCN species, although calving is a Priority Habitat. According to the *Wheeler Ridge HMMP*, *'habitat impacts from the Wheeler Ridge Project would occur in low to moderate quality habitat that is within 250 meters of an open road and would avoid high quality habitat (Figure 12, Table 4). In addition, the area in general is heavily loaded and disturbed, further contributing to the overall lower quality classification.'*

Table 4 on page 24, as mentioned previously, describes the areas by acre of habitat quality categories (low to high). That table shows that *'most of (60%) of the impacts would occur in low quality habitat based on the habitat assessment and presence of roads, which, according to the Wind Power Guidelines would not require mitigation. The remaining 40% would occur in moderate quality, where a 1:1 ratio would be appropriate.'*

- See Exhibit A, page 14 for full discussion.

The applicant provided a response to WDFW POL-5002 (which requires mitigation ratios be greater than 1:1. in Exhibit B, Attachment 2 stating that *'[t]he HMMP analysis is based on best available science and provides a 1.4:1 mitigation ratio, which exceeds the WDFW policy minimum. Additionally, when we consider that cumulative mitigation for onsite and indirect impacts, the total migration area would be about 513 acres: Conservation Area (294 ac.), thinning/forage enhancement (64 ac), riparian restoration (~5 ac) and seasonal road closures (~150 ac), then the final ratio is 2:1 (513:257).'*

- f. *Identification of additional habitat mitigation area with similar functions and values to orchard conversion areas to compensate for habitat impacts from effect radius extending beyond orchard polygons and related facilities, with consideration given to all aspects of orchard operations including human activity, operation of vehicles, pruning and harvest*

work, rock crushing, pump stations, sprayers, wind machines, noise, light, and glare, following the same habitat mitigation area replacement standards and analysis in section (e) above;

Staff analysis: The *Wheeler Ridge HMMP* (Exhibit A) discusses the impacts within the effect radius beginning on page 35. The effect radius encompasses private property to the north and west of Section 17, as well as Squilchuck State Park. Current levels of human activity in those areas are higher than currently in Section 17. The applicant classified those areas as no or low opportunity for mitigation because there is no opportunity for mitigation on adjacent private property and low opportunity for mitigation on state park lands. The applicant noted a high opportunity for mitigation south and west of Section 17 as those areas are managed by WDFW. The effect radius was overlain on the security habitat, about 10 acres of modeled security habitat was noted within the effect radius (and 9 acres once slopes of more than 60 degrees were removed).

Mitigation for impacts include the restoration of illegal roads in the southwest corner of Section 17, seasonal road closures in Section 20 during the early season as well as providing an approximately 355-acre designated Conservation Area where the property would be set aside from future development.

Exhibit B, Attachment 2 addresses WDFW's concern about the alleged summer model conducted and presented in the *Wheeler Ridge HMMP*. In this response, Washington Conservation Science Institute (WCSI) cited the study done by Lehmkuhl in 2013 where plots were sampled at the beginning of the growing season in spring (May, June) and at the end of the growing season (August, September, October) during 2005 and 2006. In addition, in Attachment 3 of Exhibit B Dr. Raedeke explains that if the model was to be reexamined, three of the four model covariates don't change (cover, habitat security and terrain). Dr. Raedeke also asserts that proposed mitigation measures could be even better in a spring model when compared to the extremely degraded habitat.

- g. Assessment of wetland buffers and determination of appropriate buffer widths. Wetland buffers shall be a minimum of 110 feet provided that the HMMP shall consider and discuss the need for more protective buffer widths;*

Staff analysis: Pages 9 through 11 of the *Wheeler Ridge HMMP* (Exhibit A) provide an assessment of wetland buffer widths. The report concludes that a 110-foot buffer per Ecology's recommendation is adequate as there is no scientific or technical justification for increasing the buffer width for elk habitat under either CCC 11.80.080 (which applies to wetlands) or under Ecology guidance.

- h. Preparation of a monitoring and evaluation plan containing benchmarks for monitoring effectiveness of mitigation, including criteria to determine nature and extent of expected success for mitigation and triggers and strategy for improving habitat functions and values of mitigation area;*

Staff analysis: The *Wheeler Ridge HMMP* (Exhibit A) on pages 37 through 40, and 50 through 53 contains a monitoring and adaptive management plan to

monitor and ensure the success of the proposed mitigation of the site. The applicant proposes to place remote wildlife cameras within the designated Conservation Area on Section 17 in strategic locations to track elk use within the mitigated habitat areas. These remote cameras are proposed to be used for at least one season (March to June) prior to construction activities as well as continue for five years after the mitigation installations have been completed to determine the success of the mitigation. Pages 50 through 53 provide specific details on the proposed monitoring plan, including mitigation performance standards, monitoring frequency and reporting.

The applicant in their response letter (Exhibit B, Attachment 2) discusses the scientific difficulty of determining the number of elk that are in an area and that it is not possible at the scale of a section of land. Additionally, WCSI states:

There are many factors that affect elk use that would make this difficult including the time of year, time of day, whether or not a vehicle drove through to displace elk, are other animals present that might discourage elk use, etc. Generally, animal use is assessed using radio-telemetry with many animals across a relatively large area, evaluating many habitat types, and with several replicates of each habitat type. "Thus reliance of use levels is problematic at this scale. Instead, other factors that provide indices of use, such as habitat quality, habitat effectiveness (e.g., influence of roads), foot availability, distance to cover, etc. are often used. This is the best available science approach for assessing elk use in the Stemilt watershed, and this approach has been adopted by the County and followed by WDFW's ungulate specialists."

Recently the County amended Chapter 11.78 and added performance standards that address the comments and concerns raised by WDFW, and other commentors, on this topic. While the *Wheeler Ridge HMMP* is vested to the prior code, in good faith, the applicant has offered to comply with the increased performance standards in the newly adopted CCC 11.78.060(15) and they will be added as an exhibit to the *Declaration of Conservation Covenants* and incorporated by reference. This will be a condition of approval.

- i. *Mitigation for the increased use of an improved Upper Wheeler Road on Section 16 as a result of orchard operations;*

Staff analysis: Mitigation to address this MDNS condition is provided on page 37 of the *Wheeler Ridge HMMP* (Exhibit A). The applicant proposes to mitigate the increased public use of Upper Wheeler Road across Section 16 by seasonally closing the road to motorized use when elk are likely to be in the area (from April 1st through June 30th). According to the applicant's expert, '*[C]losing this section of road across Section 16 would improve habitat conditions on over a mile long stretch of land that WDFW has designated for conservation and would be a highly beneficial short and long term mitigation measure for all wildlife in the area.'*' Wheeler Ridge, LLC would work with Chelan County and WDFW to implement this seasonal road closure.

- j. *Prior to undertaking any action that may result in impacts to existing habitat, a schedule of mitigation actions shall be provided to guarantee that all approved mitigation can be*

fully implemented; provided, that habitat mitigation area shall be acquired and permanently protected prior to commencement of timber harvest and/or orchard development activities. All other mitigation measures shall be implemented before or during project construction according to the schedule.

Staff analysis: Table 5 (starting on page 43) of the *Wheeler Ridge HMMP* (Exhibit A) provides a detailed, by phase, description of the various development activity as well as provides restoration actions and mitigation measures to offset impacts. This table shall provide the framework for the phased mitigation going forward unless otherwise set forth as a condition of approval below.

MDNS Condition 20:

The site-specific HMMP shall establish, with terms acceptable to the County, a habitat management agreement and associated legal mechanism to permanently assure performance and stewardship for the habitat mitigation area, which will include preparation of a proposed conservation easement, deed restriction, donation, or other legally binding arrangement together with: 1) identification of an entity designated to hold and administer the same; 2) management plan for conservation and restoration actions, monitoring activities, adaptive management actions, and reporting requirements; 3) timeline for implementation; and 4) financial assurances. All costs associated with operation and maintenance of mitigation measures, including ownership and management of the habitat mitigation area, shall be borne by the applicant in perpetuity.

Staff analysis: Exhibit A, Appendix II contains a proposed *Declaration of Conservation Covenants* encompassing the items listed in the MDNS condition. In addition, as noted above under the staff analysis of MDNS condition 15.h, the applicant will add the 'performance standards' as an exhibit to that agreement. A *Declaration of Conservation Covenants*, acceptable to Chelan County, and substantially in the form of Exhibit A, Appendix II shall be approved and executed prior to commencement of timber harvest and/or orchard development activities.

MDNS Condition 21:

Any required monitoring shall be performed in accordance with the requirements of the approved HMMP. A monitoring report shall be submitted by August 1st of each year, or as otherwise specified in the HMMP during the monitoring period, to the Chelan County Community Development Department and to WDFW. Reports shall update the County and WDFW on the status and progress of the mitigation, along with any corrective recommendations, and shall identify any adaptive management measures necessary in accordance with the HMMP.

Staff analysis: The *Wheeler Ridge HMMP* (Exhibit A) on page 52 lays out the monitoring report schedule. Rather than having them submitted by August 1st of each year, monitoring reports, according to the *Wheeler Ridge HMMP* will be provided by December 31st of each year. The applicant's experts stated that the August 1st submission deadline doesn't allow for assessment of plant conditions at the end of the growing season or time to make any adaptive management recommendations. The MDNS condition provided for an alternate submission schedule if it was specified in the HMMP.

Findings:

1. Orchards are a permitted use in the RR20 zone.

2. Some components of the proposal will require Conditional Use Permits (irrigation pipeline and pumping stations (Utility, High Impact (CCC 11.02.020 and 14.98.1915)), and for the rock crushing activities (Rock Crushing, Sorting, Batching of Concrete or Asphalt (CCC 11.04.020).
3. WDFW has identified a portion of Section 17 as being critical habitat for elk calving. These activities occur during the spring months. Elk are not considered a Species of Greatest Conservation Need (SGCN) species (<https://wdfw.wa.gov/species-habitats/at-risk/swap>), although calving habitat is a Priority Habitat.
4. The submitted *Wheeler Ridge Habitat Management and Mitigation Plan* (May 2021) was required under CCC 11.78.100 and the December 2020 MDNS. It was vested and reviewed under the previous CCC 11.78.
5. The *Wheeler Ridge HMMP* meets all requirements set forth in applicable County Code.
6. The *Wheeler Ridge HMMP* meets all conditions of mitigation contained in the MDNS dated December 2020.
7. To the extent the staff analysis above or expressed herein resulted in or otherwise constitute findings, those are hereby incorporated as such.

Approval: The Habitat Management and Mitigation Plan dated May 2021 is hereby **APPROVED** subject to the following conditions:

Conditions:

1. All mitigation measures identified in the May 2021 *Wheeler Ridge HMMP* (Exhibit A) shall be implemented per the schedule identified in Table 5 thereof, unless conditioned otherwise below.
2. A detailed planting plan, including cost estimates to inform bonding or other performance security assurances of the applicant, shall be submitted to Chelan County Community Development Department for review and approval, in the County's sole reasonable discretion, at or prior to approval by Chelan County of the *Declaration of Conservation Covenants*.
3. The *Declaration of Conservation Covenants* shall be modified to incorporate the performance standards language in the current version of CCC 11.78.060(15) without regard to any vested status of the application and pursuant to the applicant's consent thereto as set forth in Exhibit B, p. 2. The *Declaration of Conservation Covenants* shall also be modified to include implementation and fulfillment of the approved detailed planting plan as required herein and financial assurances relating thereto.
4. A *Declaration of Conservation Covenants*, substantially in the form of Exhibit A, Appendix II, and in conformance with the conditions of approval herein, shall be submitted to Chelan County Community Development Department for review and approval, in the County's sole reasonable discretion, and duly executed and recorded in the appropriate real property records of Chelan County by the applicant at the applicant's expense, prior to commencement of timber harvest and/or orchard development activities. In furtherance of the County's review of the acceptability of the *Declaration of Conservation Covenants* and prior to the County's approval of the same, the County and the applicant will develop a cost estimate for future responsibilities associated therewith.
5. Conduct noise level monitoring of the pumping station at the edge of the fence at least every two years and provide a report of the findings to Chelan County within two months of the termination of each monitoring period. If noise levels from the pumping station are determined to exceed noise levels for vehicles and tractors on-site, additional noise abatement measures shall be required to be implemented.

6. Remote wildlife cameras shall be installed and working for at least one season (March to June) prior to any construction activities on Section 17. The cameras shall remain on-site, in working order for at least five years after all mitigation installations have been completed. The results of the wildlife camera study shall be included in the annual monitoring report submitted to the Chelan County Community Development Department and to WDFW.



Jim Brown, Director Community Development

July 30, 2021
Date

Exhibits:

Exhibit A – *Wheeler Ridge Habitat Management and Mitigation Plan (HMMP)* prepared by Washington Conservation Science Institute and SCJ Alliance dated May 2021.

Exhibit B – Letter *Re: Wheeler Ridge, LLC Section 17 HMMP Comment Response* (and associated attachments) written by Ben Alworth dated July 7, 2021.