

**CHELAN COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
CUP 2025-201	)	DECISION AND
Helion CUP	)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Chelan County Hearing Examiner on October 1, 2025, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. An application for a Conditional Use Permit has been requested for a High Impact Utility in order to construct, prepare for operation and operate a fusion power plant. The utility complex will include a 100,000 square foot power generation building, an approximate 27,000 square foot assembly building, a 6,000 square foot office building, a 150-space parking lot and an 80,000 square foot onsite substation.

2. General Information

Project Location:	7588 Malaga Alcoa Hwy, Malaga, WA 98828
Parcel Number(s):	21-22-05-000-025
Legal Description & size:	The size of the property to be encumbered with the Conditional Use Permit is 20 acres. The abbreviated legal description is Lot B of CE 2025-138. Recorded under AFN 2609148
Applicants/Owners:	Helion One LLC Chelan Co PUD 1415 75 th St SW PO Box 1231 Everett, WA 98203 Wenatchee, WA 98807
Urban Growth Area:	The subject property is not located within an Urban Growth Area.
Comprehensive Plan Designation & Zoning:	Rural Industrial (RI)

3. Site Information

Existing Land Use & Permit History	The applicant has been issued commercial building permits for the office and assembly buildings which are currently under construction.
Property North:	Chelan County PUD facilities for the operation of the Rock Island dam
Property South:	Undeveloped
Property East:	Chelan County PUD Rock Island dam facilities
Property West:	Undeveloped
Fish & Wildlife Habitat Conservation Areas:	Construction on the site will disturb moderate to low-moderate grade shrub-steppe habitat which will be mitigated through replanting and new planting of the site
Wetlands:	There are no wetlands located on the site, therefore, the provisions of ccc 11.80 would not apply
Aquifer Recharge Area:	The site does not contain highly permeable soils and therefore is not subject to the provisions of CCC 11.82.060

Frequently Flooded Areas:	The site is not located within a mapped frequently flooded area therefore, the requirements of CCC 11.84 would not apply
Geologically Hazardous Areas:	No geologically hazardous areas are located within the site boundaries, therefore, the provisions of CCC 11.86 would not apply
Cultural Resources:	A cultural resource survey was performed and no historic properties or archaeological sites were found on the property

4. Project / Design Information

Construction Phasing/Timing:	Commercial building permits for the office and assembly buildings have been approved and issued and construction work has begun. Commercial building permits will be applied for upon approval of the Conditional Use Permit for a High Impact Utility
Traffic Circulation:	Access to site will be via the existing road from Colockum Rd. Internal circulation is via Rock Island Dam Road and internal drives connecting the parking area to the building area. The PUD will have exclusive use of the new road.
Domestic Water:	Water will be provided via two new wells developed for drinking water, heat exchange, industrial, and other facility uses
Power:	Electricity will be provided by the Chelan County PUD
Noise:	The applicant shall comply with CCC Chapter 7.35 Noise.
Visual Impact:	As conditioned, the visual impact is anticipated to be minimal. Fencing and landscaping will be provided to further reduce visual impacts

5. SEPA Environmental Review

- 5.1. Pursuant to WAC 197-11-800(6) of the State Environmental Policy Act (SEPA), the proposed action is not categorically exempt from environmental review. A Mitigated Determination of Nonsignificance (MDNS) was issued for the project on May 30, 2025.

6. Noticing & Comments

- 6.1. The Notice of Application was sent to surrounding property owners within 300 ft. (excluding 60' of right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on August 21, 2025 with comments due September 4, 2025. Agency comments were considered by the Hearing Examiner and, when set as, associated Conditions of Approval.

- 6.2. The following is a list of Agencies who received notice and the date comments were received:

Agencies Notified	Response Date	Nature of Comment
Chelan County Fire Marshal	August 25, 2025	Applicant will be required to meet all applicable fire codes
Chelan County Building Official	No response	
Chelan County Public Works	September 4, 2025	Access and internal road system requirements and drainage plan requirements
Chelan County PUD	No response	
WA Dept. of Ecology	September 3, 2025	Department is working with applicant regarding water rights and water quality issues

Agencies Notified	Response Date	Nature of Comment
WA Dept. of Archaeology and Historic Preservation	No response	
Yakama Nation	No response	
Chelan-Douglas Health District	September 11, 2025	Public water system and septic system permits will be required
Confederated Tribes of Colville	No response	
Wenatchee Valley Fire Department	No response	
Washington Dept. of Fish and Wildlife	No response	
WA Dept of Natural Resources	No response	
Malaga Water District	No response	
WA Dept of Transportation	August 20, 2025	No Comment on Proposal
Wenatchee School District	No response	
City of Wenatchee	No response	
Malaga Community Council	No response	
WA Dept of Archaeology	No response	
Port of Chelan County	No response	
Douglas County Commission	No response	
Link Transit	No response	
WA Dept of Health	No response	
Douglas Co. Transportation and Land Services	No response	

6.3. **Public Comments.** A number of comments were received from the general public during the public comment period. All comments have been included in the file of record and are summarized below:

6.4. **Gibbons:** In favor of proposal

6.5. **White:** Objects to proposal, feels technology is unproven and applicant has history of unfounded claims regarding profitability. Includes comments regarding Microsoft's server farm facility, however, these comments have no bearing on the CUP for Helion LLC.

6.6. **Herling:** Expressed concerns regarding the possibility of radioactive contamination.

6.7. **Kimmel:** Challenges the efficacy and potential of fusion produced energy.

6.8. **Clayson:** Objects to proposal, feels it would lead to expanded growth in the area

6.9. **Seaman:** Concerns regarding decommissioning of the facility when no longer in operation.

6.10. **Brandt:** Opposes construction due to concerns regarding strain on water resources and not a benefit to existing public power.

6.11. **Leban:** Concerns regarding Helion's ability to ultimately provide power with potential to negatively impact Chelan County PUD.

6.12. **Poliquin:** Opposes project due to unproven technology, concerns that the facility will use more power than it generates, release of high-powered particles.

6.13.**McLean:** Concerns regarding timing of building permit issuance and conditional use permit processing, concerned regarding whether the technology has been adequately tested.

6.14.**Schooley:** Primary concern regarding the unknown impacts from first of its kind facility, concerns regarding the potential for health risks from the byproduct of Tritium of the fusion process, and the wider potential negative impacts to the Wenatchee Valley.

6.15.**Straub:** In support of constructing a nuclear fusion power plant.

7. Application & Public Hearing Notice Compliance

Application Submitted:	July 29, 2025
Determination of Completeness issued:	August 12, 2025
Notice of Application:	August 21, 2025
Notice of Public Hearing:	September 20, 2025
Public Hearing:	October 1, 2025

8. Chelan County Comprehensive Plan

8.1. The proposed development is located in the Rural Industrial (RI) zoning and therefore reviewed under the RI zoning criteria and provisions. This site is also located in a Type 1 LAMIRD which is described as: “rural development consisting of existing and potential infill of commercial, industrial, residential, or mixed use, whether characterized as shoreline developments, villages, hamlets, rural activity centers, or crossroads developments. These LAMIRDs must meet the general criteria listed above, and must be principally designed to serve the existing and projected rural population (with the exception of industrial LAMIRDs and/or industrial uses within a mixed use LAMIRD, which are not required to meet this standard). It is also important that these designations are consistent with the character of the existing uses, particularly in terms of building size, scale, use or intensity. Changes in use from vacant land or some previous use may be allowed, provided the new use complies with these above requirements.”

8.2. The Malaga LAMIRD, as this area is known, has historically been developed with high intensity uses such as the Alcoa aluminum foundry, built in 1952 and the Rock Island hydroelectric dam and appurtenant facilities constructed beginning in 1922. Recent permitted industrial uses in the area include a Microsoft Data Center currently under construction. The construction of a High Impact Utility facility would be in character with the surrounding uses.

8.2.1. The Hearing Examiner finds that the project, as conditioned, would be consistent with the goals and policies of the Rural Element within the Chelan County Comprehensive Plan.

9. Chelan County Code

9.1. CCC Section 14.98.1915: Utility, high impact

9.1.1. “Utility, high impact” means buildings, structures and facilities in public or private ownership relating to the furnishing of utility services such as electric, gas, communication, water, sewer and technology infrastructure. High impact public utilities shall include, but are not limited to, generating and switching stations, substations, pumping stations and antennas or repeaters when not installed on a building.

9.2. CCC Section 11.12.010: Permitted, accessory and conditional uses

9.2.1. The proposed project is located in the RI zoning district of Chelan County. According to CCC Section 11.04.020 District Use Chart, Utility, High Impact requires a Conditional Use Permit in the RI zoning district.

9.3. Chelan County Code 11.26.020 Standards

9.3.1. All development in this zone shall meet the applicable provisions of the Chelan County Code, including without limitation the following:

9.3.1.1. Minimum lot size: Lot size shall be in accordance with the Chelan-Douglas health district standards for public or community water and sewage disposal.

9.3.1.2. Maximum building height: sixty feet.

9.3.1.3. Maximum Lot Coverage. Buildings and structures shall not occupy more than seventy percent of the lot area.

9.3.1.4. Minimum Setback Distances. Minimum setback requirements shall be as provided in this section except when abutting commercial agricultural lands (AC), riparian and shoreline areas, or as increased by the provisions of this title:

9.3.1.4.1. Front yard: 10 ft. from the front property line or 40 ft. from the street centerline, whichever is greater.

9.3.1.4.2. Rear yard: 0 ft. except 30 feet from the rear property line when the lot abuts any zone other than an industrial district.

9.3.1.4.3. Side yard: 0 feet, except 30 feet from the side property line when the lot abuts any district other than an industrial district.

9.3.1.5. **Finding of Fact and Conclusion:** The assembly and office buildings already under construction meet the required setbacks. The site plan submitted on July 29, 2025 shows setbacks in excess of 100 feet which is greater than the required setbacks of 0 feet.

9.3.2. Off-street parking requirements in this district shall be as follows:

9.3.2.1. One space per peak shift employee and one space per three hundred square feet of office space for manufacturing, assembly facilities, shipping terminal and warehousing.

9.3.3. One space per three hundred square feet of floor area for retail trade serving industrial uses.

9.3.4. One space per six hundred square feet of floor area for wholesale trade.

9.3.5. Other off-street parking and loading shall be provided as prescribed in Chapter [11.90](#) of this title.

9.3.5.1. **Finding of Fact and Conclusion:** The applicant is proposing to construct a 150-space parking lot, including 5 ADA spaces which exceeds the minimum parking requirements for this use.

9.3.6. Landscape standards shall be provided as prescribed in CCC Chapter 15.50, Development Standards, as amended.

9.3.6.1. **Finding of Fact and Conclusion:** A screening and landscaping plan that meets the landscaping requirements of CCC Chapter 15.50 shall be submitted with the building permit application for the facility. This plan shall include the required mitigation plantings as well.

9.3.7. Maximum noise levels shall not exceed the standards of Chapter [173-60](#) WAC, as amended.

9.3.7.1. **Finding of Fact and Conclusion:** The applicant has indicated that during construction, construction related noise will comply with the provisions of Chelan County's noise provisions and that building construction will be designed to comply with state and federal noise regulations. Staff finds that compliance with WAC 173-60 will satisfy this criterion.

9.3.8. Vibration discernable at the property line without the use of measuring instruments is prohibited.

9.3.8.1. **Finding of Fact and Conclusion:** The applicant has indicated in their application materials and Environmental Checklist that this criterion will be met by the operation of the facility.

9.3.9. Air emissions must comply with the Clean Air Act.

9.3.9.1. **Finding of Fact and Conclusion:** In a letter dated September 5, 2025, the Washington State Department of Ecology determined that the potential emissions from the project would be below their de minimis thresholds and exempted the project from Notice of Construction review.

9.3.10. The emissions of odorous gases or matter beyond the property of the industrial activity is prohibited.

9.3.10.1. **Finding of Fact and Conclusion:** No odorous gases or matter is proposed to be emitted from the facility.

9.3.11. Activities producing heat or glare shall be conducted within buildings.

9.3.11.1. **Finding of Fact and Conclusion:** All assembly and power generation activities will be conducted within enclosed buildings meeting this criterion.

9.4. Chelan County Code, Section 11.93.040, Conditional Use Permit Criteria

9.4.1. A conditional use permit may be approved only if all of the following review criteria and any special criteria listed in this chapter are met:

9.4.1.1. All criteria required for a specific use by this chapter can be satisfied.

9.4.1.1.1. **Finding of Fact and Conclusion:** The criteria for a High Impact Utility use have been addressed by the applicant in the submitted application materials, the Environmental Checklist and the supporting environmental studies. The proposed project, as conditioned, would satisfy the code requirements for the proposed use.

9.4.1.2. The design standards of the zoning district within which the lot is located, critical area regulations, and all other applicable development standards and regulations can be met.

9.4.1.2.1. **Finding of Fact and Conclusion:** As conditioned, the proposed development would meet applicable zoning and critical areas regulations.

9.4.1.3. Compatibility with the adjacent uses and the protection of the character of the surrounding area.

9.4.1.3.1. **Applicant's Response:** The adjacent properties are compatible with the Conditional Use. The adjoining property is already operated as a utility-The

Rock Island Dam. Other adjacent property is zoned the same and used for primary metal industries (owned by Alcoa Wenatchee LLC), or is currently otherwise undeveloped land or used for governmental services.

- 9.4.1.3.2. **Finding of Fact and Conclusion:** The site is a 20-acre parcel which until recently was a portion of a larger 400+ acre site on which the Chelan County PUD has operated electrical power generation facilities in support of the Rock Island Dam since 1922. The now defunct Alcoa foundry also operated in the area for many years. The relatively small footprint of the Helion One facility with all operations conducted within buildings would be compatible with the surrounding properties.
- 9.4.1.4. Detrimental impacts on the natural environment and productive use of surrounding natural resource lands can be mitigated or avoided.
- 9.4.1.4.1. **Applicant's Response:** Consistent with the MDNS, it has been determined that the Project will not have a probable significant adverse impact on the environment that cannot be mitigated as set forth in the MDNS.
- 9.4.1.4.2. **Finding of Fact and Conclusion:** The comment letter received from WDFW recommended including a requirement as a condition of approval that additional native vegetation be planted to mitigate impacts to the shrub steppe habitat located on the property. Staff is recommending as a condition of approval that the provided mitigation plan be required to be implemented during project construction and that monitoring reports be submitted to Community Development in Years 1 and 5 with the required Conditional Use Permit compliance report. As conditioned, the proposed development would not be detrimental to the natural environment.
- 9.4.1.5. No conditional use permit shall be issued without a written finding that: a) After adequate opportunity for review and comment, all providers of water, sewage disposal, schools, and fire/police protection serving the development have issued a letter that adequate capacity exists or arrangements have been made to provide adequate services for the development; b) No county facilities will be reduced below adopted levels of service as a result of the development
- 9.4.1.5.1. **Applicant's Response:** The project will not rely on municipal sewage disposal or water, and there is no anticipated impact on school use/enrollment in Chelan County due to the Project. Police/fire authorities have been and shall be consulted in connection with the Project and provided the opportunity to comment in connection with SEPA and, in the case of fire, will be involved in applicable permitting processes.
- 9.4.1.5.2. **Finding of Fact and Conclusion:** Through the process of public and agency noticing, opportunity for review and comments were provided for the proposed development. All received comments are included in the file of record. As conditioned, the proposed development would not result in county facilities reduced below adopted levels of service
- 9.4.1.6. The proposed use shall not result in undue adverse impacts affecting the public health, safety and welfare.
- 9.4.1.7. **Applicant's Response:** There is no anticipated undue adverse impact affecting public health, safety or welfare from the Project, consistent with the MDNS.

9.4.1.8. **Finding of Fact and Conclusion:** As conditioned, the proposed development is not anticipated to result in an adverse impact on public health, safety and welfare. The applicant submitted a detailed Monitoring and Reporting protocol with their environmental documentation in support of their Environmental Checklist. The protocol covered monitoring of emissions, water discharge, stormwater, materials, waste and service water input. The applicant is required to obtain a number of environmental health related permits by various agencies and will be held accountable should they exceed the permit parameters.

9.4.1.9. Adequate provisions have been provided for roads, ingress and egress, stormwater, parking and loading, domestic and irrigation water, sanitary facilities, power, fire protection, and other necessary facilities, improvements or services consistent with the requirements of Titles 11 and 15 of the Chelan County Code.

9.4.1.9.1. **Applicant's Response:** Consistent with the MDNS and various applicable permitting requirements, adequate provision has been made in connection with the Condition Use consistent with the requirements of Titles 11 and 15 of the Chelan County Code, as applicable.

9.4.1.9.2. **Finding of Fact and Conclusion:**

9.4.1.9.2.1. **Roads, ingress and egress:** The subject property is split by the access road to Rock Island Dam also known as Rock Island Dam Road or Nixon Rapids Lane. This road connects to the Malaga Alcoa Hwy which becomes Colockum Road south of the project site. A new private access road is proposed which will connect these two roads south of the site.

9.4.1.9.2.2. **Stormwater:** The applicant shall comply with CCC Chapter 13.18 for stormwater drainage.

9.4.1.9.2.3. **Parking and Loading:** Off-street parking must comply with CCC Section 11.93.130 regarding off-street parking.

9.4.1.9.2.4. **Domestic and Irrigation Water:** Domestic water would be provided by new wells located on the subject property.

9.4.1.9.2.5. **Sanitary Facilities:** The site would be served by on-site sewage disposal systems approved by the Chelan Douglas Health District.

9.4.1.9.2.6. **Power:** Power is provided by Chelan County PUD.

9.4.1.9.2.7. **Fire Protection:** The proposed development is located in the jurisdictional boundaries of the Wenatchee Valley Fire Department.

9.4.1.9.3. All necessary facilities, improvements and services are consistent with or could be conditioned per the requirements of Titles 11, 13 and 15 of the Chelan County Code.

9.4.1.10. Noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards and related impacts on adjacent properties and to the vicinity can be mitigated or avoided.

9.4.1.10.1. **Applicant's Response:**

9.4.1.10.1.1. The Conditional Use will comply with applicable County requirements regarding noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical

disturbance, physical hazards, and relate impacts on adjacent properties.

9.4.1.10.2. **Finding of Fact and Conclusion:** Based on the application materials submitted by the applicant, the operation of the fusion power generation facility on the subject property would not impact adjacent properties in the vicinity with noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards, or any other related impacts. Any impacts on adjacent properties can be avoided or mitigated as conditioned.

9.4.1.11. The granting of the proposed conditional use permit is consistent and compatible with the intent, goals, objectives and policies of the comprehensive plan, and any implementing regulation.

9.4.1.11.1. **Finding of Fact and Conclusion:** As conditioned, the proposed fusion power generation and substation would be consistent with the goals and policies of the Comprehensive Plan.

9.5. Chelan County Code, Section 11.93.180, High and Low Impact Utilities

9.5.1. The following minimum criteria shall apply to public utility uses:

9.5.1.1. Equipment storage shall be within an enclosed building.

9.5.1.1.1. **Finding of Fact and Conclusion:** Per the submitted application materials, all equipment and other materials will be stored inside the proposed buildings.

9.5.1.2. In all residential districts, no equipment storage shall be permitted on-site.

9.5.1.2.1. **Finding of Fact and Conclusion:** The subject proposal is located in a Rural Industrial zoning district; therefore, this criterion does not apply.

9.5.1.3. The use shall be fenced.

9.5.1.3.1. **Finding of Fact and Conclusion:** The applicant has indicated that the site will be fenced by one or more fences.

9.5.1.4. The use shall be landscaped per the requirements of Chapter 15.50 of this code.

9.5.1.4.1. **Finding of Fact and Conclusion:** Landscaping is required per CCC, Chapter 15.50. Required landscaping as well as all mitigation plantings will be shown on the final landscaping plan and irrigation must be provided if necessary for landscape maintenance.

9.5.1.5. The minimum lot size in the district that a utility use is located in may be waived on a finding that the waiver will not result in noise or other detrimental effects to adjacent properties.

9.5.1.5.1. **Finding of Fact and Conclusion:** Per the submitted application materials and staff analysis, the proposed development would not have detrimental effects to adjacent properties. Properties in the immediate vicinity are undeveloped. The parcel that surrounds the site on three sides is also owned by Chelan PUD and leased to Helion. Properties west and south of the project site are vacant and owned by Alcoa Wenatchee LLC. The Columbia River lies to the north of the site and is partially developed with support facilities for the Rock Island Dam owned and operated by Chelan County PUD.

9.5.1.6. The hearing examiner may impose additional requirements to address issues such as, but not limited to, noise, public health and safety, vehicular access, and odor.

9.5.1.6.1. **Finding of Fact and Conclusion** Conditions of Approval are provided for consideration by the Hearing Examiner. These conditions have been developed based on materials submitted by the applicant in support of both the Conditional Use Permit application and the separate Environmental Review which resulted in a Mitigated Determination of Nonsignificance issued on May 30, 2025.

10. An open record public hearing was held, after legal notice, on October 1, 2025.
11. Appearing and testifying on behalf of the applicant was Tom Bugert. Mr. Bugert testified that he was an agent authorized to appear and speak on behalf of the applicant and property owner. Mr. Bugert stated that he was the director of State and Local Public Affairs for Helion. He indicated that he had reviewed the staff report and the proposed conditions of approval. He had two requested corrections to the proposed conditions of approval, but otherwise had no objections to either the staff report or the proposed Conditions of Approval.
12. Also testifying on behalf of the applicant was Michael Hua. Mr. Hua also stated that he was testifying as an agent of the applicant and property owner. Mr. Hua is the director of Radiation Safety and Nuclear Science for the applicant. His testimony was that the Broad Scope license is more comprehensive than the Industrial Radioactive Materials license, and includes the requirements for a Industrial Radioactive Materials license. The Broad Scope license is the highest level of license.
13. Testifying from the public were the following individuals:
 - 13.1. Betsy Steele: Ms. Steele testified as to her concerns that the technology is untested and requires more study and evaluation. She was concerned that the Decommissioning Plan has not been fully evaluated and did not understand what monitoring pursuant to the Department of Health requirements means.
 - 13.2. McKane Lee: Mr. Lee testified that he agreed with Ms. Steele's testimony. He thinks the Federal Government needs to be involved in this project because the Federal Government should be regulating radioactive waste. He had testimony regarding his questions regarding fast neutron issues and compared this project to a nuclear fusion reactor.
 - 13.3. Ann Congdon: Ms. Congdon testified as to her concerns regarding the lack of redundancy in safeguards and that there needs to be more input from the community.
14. In reply, Mr. Hua, speaking on behalf of the applicant again indicated that the broad scope license is more enhanced than the Industrial Radioactive Materials license. He also stated that the decommissioning plan will be apart of the Radioactive license and must be approved by Department of Health and before all permits are issued by Department of Health. He stated that all atmospheric releases are studied and monitored so that they meet the requirements of the applicable rules and regulations.
15. The following exhibits were admitted into the record:
 - 15.1. Ex. A Site Plan;
 - 15.2. Ex. B Mitigated Determination of Nonsignificance issued May 30, 2025;
 - 15.3. Ex. C File of Record;
 - 15.4. Ex. D Helion Response to Comments;
 - 15.5. Ex. E Staff Report;
 - 15.6. Ex. F Public Comments;

15.7.Ex. G Agency Comments;

15.8.Ex. H Noticing Documents.

16. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
17. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted the authority to render this decision.
2. As conditioned, this application is consistent with the Chelan county Code and Chelan County Comprehensive Plan.
3. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, CUP 2025-201 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All conditions imposed by this decision shall be binding on the applicant, which includes the owner or owners of the properties, heirs, assigns, and successors.

1. Pursuant to CCC Section 11.93.080, the granting of a conditional use permit and the conditions set forth runs with the land; compliance with the conditional use permit is the responsibility of the current owner of the property, whether that is the applicant or a successor.
2. Pursuant to CCC Section 11.93.090, upon final action of the hearing examiner to deny an application for a conditional use permit, the department shall not accept filing of an application for substantially the same matter within one year from the date of the final denial of the application.
3. Pursuant to CCC Section 11.93.180(3), the proposed fusion power generation facility shall be fenced.
 - 3.1. If the required fence exceeds an overall height of 7 ft, a building permit shall be required.
4. Pursuant to CCC Section 11.93.040(10), this Conditional Use Permit shall be in conformance with the submitted application of record, including site plans date stamped July 29, 2025 and all mitigation measures found in the MDNS issued 5/30/2025.
5. Pursuant to the requirements of the International Building Code and International Fire Code, a Chelan County Commercial Building Permit shall be required for the proposed substation and fusion power generation plant.
6. Pursuant to CCC Section 11.88.080, security lights or any exterior lighting shall be low-intensity, non-flashing and designed to project toward the property or shall be shielded to keep light from directly projecting over property lines.
7. Pursuant to the requirement of the Chelan County Public Works:
 - 7.1. The applicant must demonstrate a Legal and Perpetual Access for the proposed project per Title 12.08.020.
 - 7.2. Pursuant to Title 15.30.310, the applicant shall submit a Lot Access Plan so that addresses can be determined for all existing and proposed lots/structures. The Lot Access Plan must show the

driveways/access location for the proposed project. Parking spaces and surface type shall be shown. Emergency vehicle access, turning movements and turnaround shall be shown on access plan.

- 7.3. The design shows a new PUD access road. This road shall be built to the same construction standards as the existing Nixon Rapids Ln. The road sign shall be moved to the new access location.
- 7.4. Pursuant to Chelan County Code Title 15.30, The applicant will be required to show the dimensions and type of material proposed for the construction area on the CUP Site Plan for the proposed project.
- 7.5. Pursuant to Chelan County Code Title 13.18.030(9) a Drainage System is required, show any necessary easements in accordance with the approved drainage plan.
- 7.6. A. Pursuant to Chelan County Code Title 13.18, A Drainage Report & Plan will be required to be submitted to Chelan County Public Works if any new impervious surface of 5,000 square feet is created and must be reviewed and approved. This shall be completed during the submittal of any building permits.
- 7.7. B. If a drainage system is required, or an existing drainage system is in place, this system shall be privately owned and maintained to its originally designed condition by all the property owners having a vested interest. A "Notice to Title" shall be filed with the Chelan County Auditor's office prior to the submittal of a Building Permit, stating:
- 7.8. "The area within this site plan contains a private storm drainage system designed to control runoff originating from this site. This site shall burden and benefit the parties' successors and assigns; that its contents are binding upon the parties' successors in interest and runs with the land. The Drainage Plan for this development was prepared by the engineering firm of _____, dated _____, a copy of which is on file with the Chelan County Public Works Department. It shall be the responsibility of the property owner(s) and/or their successors to thereafter maintain the storm drainage system to the originally designed condition. Chelan County personnel shall have the right of access to the property for purpose of inspection of the storm drainage system. If Chelan County personnel determine that the storm system maintenance is unsatisfactory, and the property owner has had due notice and opportunity to satisfactorily maintain the system, Chelan County personnel and equipment may enter the property to perform the necessary maintenance. Such maintenance shall be at the property owner's expense.

This private storm water drainage system was installed for the owner(s), who hereby agree to waive on behalf of itself and its successors in interest, any and all claims for damages against any governmental authority arising from the inspection, approval of, design of, and construction and/or maintenance of the drainage system.

8. SEPA Mitigation Measures:

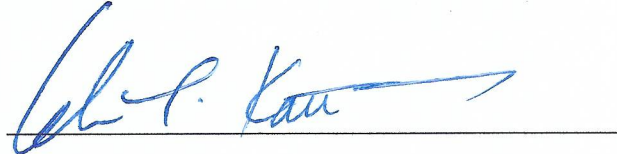
- 8.1. The applicant shall comply with all recommendations contained within the November 1, 2024 Nelson Geotechnical Associates, Inc, Geotechnical Engineering and Infiltration Evaluation, to include site grading and preparation, subgrade compaction, temporary and permanent erosion control measures (BMPs), temporary and permanent slope stabilization, foundation support, structural fill, slab on grade, pavement/impervious surfaces, and site surface and subsurface drainage. Where monitoring and/or consultation is recommended, the applicant shall provide certification from a qualified licensed engineer or engineering geologist.
- 8.2. If required, the applicant shall provide a transportation impact analysis (TIA) for review and approval by Chelan County Public Works. Recommendations for transportation improvements

- may become mandatory if conditioned as part of the Conditional Use Permit for the fusion generation facility.
- 8.3. The applicant shall submit for review and approval by Chelan County Public Works, a stormwater and drainage plan which will comply with both the Drainage Report dated January 29, 2025 and the latest edition of the Stormwater Management Manual for Eastern Washington.
 - 8.4. The applicant is to provide for the perpetual maintenance of all elements of the stormwater system located on-site.
 - 8.5. A cultural resources report dated March 17, 2025, and an addendum report dated April 14, 2025 were submitted and reviewed by both the Colville Tribe and DAHP. No further archaeological work is recommended. An Inadvertent Discovery Plan has been prepared
 - 8.6. The applicant shall comply with all recommendations, mitigation and mitigation sequencing included within the Shrub-Steppe HMMP dated March 26, 2025, prepared by Landau Associates, with the exception of the negotiated change in mitigation ratio of 2:1 for all on-site and off-site shrub-steppe impacts in lieu of the requested spring survey.
 - 8.7. The applicant shall submit for review and approval:
 - 8.7.1. Landscaping plan pursuant to Chelan County Code 15.50 (Chelan County Community Development)
 - 8.7.2. Fire prevention plan for site and structure safety (Chelan County Fire Marshal and Wenatchee Valley Fire Department)
 - 8.7.3. Parking and lighting plan pursuant to Chelan County Code 11.90 and 11.88.080 (Chelan County Community Development)
 - 8.7.4. Operations plan identifying both the construction and generation phases, including hours of operation, peak traffic hours, number of employees on site, etc.
 - 8.7.5. Engineered grading and drainage plan (Public Works)
 - 8.7.6. Monitoring and Reporting plan for emissions, water and stormwater discharge, materials, waste and service water (Chelan County Community Development)
 - 8.8. The applicant shall apply for, obtain and comply with the following permits:
 - 8.8.1. Building permits for all proposed structures
 - 8.8.2. Construction Stormwater General Permit (Ecology)
 - 8.8.3. Industrial Stormwater General Permit (Ecology)
 - 8.8.4. Large on-site septic system (Chelan Douglas Health District)
 - 8.8.5. Non-transient Non-community Group A Water System (DoH & Chelan Douglas Health District)
 - 8.8.6. Broad Scope License, pursuant to WAC 246-235-090.
 - 8.8.7. X-Ray Registration (DoH)
 - 8.8.8. Radioactive Air Emissions License (DoH)
 - 8.8.9. EPA/State Identification (ID) Number (Ecology)
 - 8.8.10. Low-level Radioactive Waste Site Use Permit (DoH)

- 8.8.11. To include monitoring consistent with Department of Health Permits related in any way to the Decommissioning Plan.
9. Pursuant to Chelan County Code Section 11.93.110, a conditional use permit shall become void if not acted upon, including but not limited to submitting a building permit or the placement of all infrastructure, within three years after approval or such other time period as established by the hearing examiner. The applicant may request a one-year extension, to be reviewed administratively, if the applicant submits a written request with community development thirty days prior to expiration.
10. Pursuant to Chelan County Code Section 11.93.120, action of the Hearing Examiner is final, unless appealed pursuant to the judicial appeal provisions of Title 14 of the Chelan County Code.

Dated this 14 day of October, 2025

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Chelan County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as “(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available” or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) “...the date the decision is entered into the public record.” Anyone considering an appeal of this decision should seek legal advice.

Chelan County Code Section 1.61.130 provides that any aggrieved party or agency may make a written request for reconsideration by the Hearing Examiner within ten (10) days of the filing of the written record of decision. The request for reconsideration shall be submitted to the Community Development Department. Reconsideration of the decision is wholly within the discretion of the Hearing Examiner. If the Hearing Examiner chooses to reconsider, the Hearing Examiner may take such further action deemed proper and may render revised decision within five (5) days after the date of filing of the request for reconsideration. A request for reconsideration is not a prerequisite to filing an appeal under Section 1.61.160.

The complete case file, including findings, conclusions, and conditions of approval (if any) is available for inspection during the open office hours at Chelan County Department of Community Development. Their address is 316 Washington Street, Suite 301, Wenatchee, WA 98801. Their telephone number is (509) 667-6225.