

From: [Marc Santos](#)
To: [Russell Guerry](#)
Cc: [Kyle Dodd](#); [Peter Harrison](#)
Subject: Request for additional information re: LANDUSE 23-0122 on 352713002000 March 28, 2024
Date: Thursday, March 28, 2024 8:53:00 AM
Attachments: [LANDUSE-23-0122 Third party CA review comments.pdf](#)
[image003.png](#)

Hello Russell,

I'm following up on the review of LANDUSE-23-0122 on 352713002000, proposal for solar microgrid and battery installation. Below are updates regarding review status and a revised request for additional information based on comments and information available to date.

Review status updates:

- Request for review (per SJCC 18.80.020(D)(7))- Initial comment period ended March 12, 2024; comments received by the following departments & agencies:
 - SJC Dept. of Public Works
 - SJC Noxious Weed Board
 - SJC Agricultural Resource Committee
 - These comments may be downloaded here: [LANDUSE-23-0122- Comments re Request for Review.pdf](#)
- DCD's standard third party review comments for the provided critical area reports were received as of today, March 18, 2024 (see attached)
- NOA & Public Comment period:
 - Opened March 13 (physical papers available 3/12/2024)
 - Comments made to DCD through 3/25/2024 (142 so far) are numbered and available here: [LANDUSE-23-0122- PUBLIC COMMENT PERIOD- March 13-April3 of 2024.pdf](#)
 - Closes April 3, 2024
 - These comments are still being collected
- SEPA Review: The following are issues that must be addressed prior to any permits being issued:
 1. It appears much of the site may be a seasonally saturated PHS listed wetland with a permanent ponding area that may sustain adverse environmental impacts. While the pond and associated drainage channels are likely to have been modified, they occur in an area of extensive wetland (data from the geotechnical report affirms hydrology site wide) and all naturally occurring wetlands and ponds, modified or not, are regulated by SJC and may be further regulated by ecology.
 2. There is potential for unmitigated losses to AG Resource Land.
 3. There appear to be unmitigated impacts to the rural aesthetic and the visual quality of the national scenic byway on Bailer Hill that tree and shrub planting does not alleviate. I am not sure the visual impacts at this location can be mitigated consistent with the comprehensive plan and county code.

Request for Additional Information (Last requested on 2/29/2024; revised 3/18/2024):

→ These requests for additional information are informed by the comments received during the request for review comment period as well as third party review comments, and internal review notes

available as of 3/26/2024

1. **Required information for completeness** (Staff report and SEPA determination cannot be completed without submission and review of the below items)

- a. **Critical area requirements:** Please address comments received through third party critical area review in response to review of the document “Critical Areas Ordinance Exemption” dated April 12, 2023; a wetland report will be required in the absence of a sufficient response and documentation. Review comments copied below in *highlighted italics*: Per SJCC 18.35.085

i. *The original author of this report was Jennifer Thomas of Jacobs Engineering Group Inc. However, it is unclear who the author was for the Environmental Science Associates (ESA) update and if they were a qualified person (SJCC 18.35.105.B).*

ii. *The report does not meet the standards of wetland delineation and needs additional information to evaluate the statements and conclusions made within it (SJCC 18.35.105). The missing information includes but is not limited to wetland data sheets, locations of test pits, onsite photos, and discussion of possible wetlands within 300-ft (SJCC 18.35.105.E, and 18.35.105.F)*

iii. *Historical aerial photographic evidence (SJC Polaris map and Google Earth) indicates large areas outside of the pond that are not farmed or mowed by the farmer, especially in the early summer and spring. This often indicates wetland conditions (Google 1990, 2005, 2006, 2011, 2014, 2015, 2017, 2020, 2023). The same photographs show large areas of green grass in midsummer dry season, which sometimes indicates wetlands (Google Earth July 2007, September 2009, August 2011, July 2014). Additionally, Google Earth March 2014 may show areas of inundation around the center axis of the valley.*

iv. *The area just northwest and southeast of the pond (axis of the valley) in particular should be investigated for signs of wetland.*

- b. **Essential Clarification on Project Narrative:** Per SJCC 18.80.020(C)

i. DCD has recently been made aware of a notification made by OPALCO to the public that the project “includes plans to decommission the solar panels after 25 years and the land can be returned to full agricultural use” ([Bailer Hill Microgrid Update - OPALCO](#)). Please elaborate on the full life expectancy of the development, which previously was not disclosed to have a predetermined end point.

→ Neither the word “decommission” nor the concept of a 25-year termination point was mentioned in any of the documentation presented to the County at the time of application, nor in the latest responses to requests for additional information; clarification on this significant change is needed to fully understand the proposed application

ii. A complete revised narrative must be provided that includes the scope of development, operation, and decommissioning plan for the life and termination of the development

- c. **Documentation clarifying questions raised in SEPA review** (see notes above)

1. **Information requested for clarification** (Information being requested as a result of department and agency comments received as of March 13, 2024; while not required, the requests below would be very helpful in staff being able to compile a more complete staff

report for hearing examiner review)

- a. **Decommissioning Plan** to provide a decommissioning plan for the development in alignment with best practices determined by US Federal and Washington State guidance- The question of what will happen after the development is decommissioned has been raised as well as what assurances there will be that the land will be decommissioned (and restored) appropriately

i. Best Practices Guidance:

1. National Renewable Energy Laboratory (NREL): [Best Practices at the End of the Photovoltaic System Performance Period \(nrel.gov\)](https://www.nrel.gov/best-practices-at-the-end-of-the-photovoltaic-system-performance-period/)

→ more useful regarding decommissioning plans development

2. Washington State Dept. of Ecology: [Clean Energy Coordinated Permit Process - Washington State Department of Ecology](https://www.ecy.wa.gov/Programs/Permits/CleanEnergy/Process/)

ii. Decommissioning Plan should contain:

1. Contact information for all parties (landowner; solar developer; authorities having jurisdiction; and known sources of services, such as recycling programs and emergency service providers)
2. Any warranted recycling of PV modules or other components that were provisioned as part of the original procurement; any bonds to take back PV modules or other equipment
3. Conditions that trigger the decommissioning (date certain, end of lease, system inoperative for 12 months, any other)
4. Time period within which the decommissioning must be completed (e.g., 6 months)
5. Scope of work for the decommissioning, which often includes removing all equipment, grading to restore water runoff characteristics, restoring ground cover (seed), or otherwise restoring the land to its original condition
6. Roles and responsibilities of the landowner, solar developer, and any other parties clearly delineated
7. Minimum goal of restoring on site conditions to the same or better than conditions documented in the Farm Evaluation and Assessment completed by Bruce Gregory, SJICD on Nov. 2023

- a. **Flexible Farm Site Plan** to provide or modify an existing site plan page to delineate what areas livestock operators will be able to manage their livestock- The viability of continued agricultural use during development, operation, and closure of the project has been raised

→ This plan should be an easily navigable map for any member of the public to reference when operating (if they are authorized) or considering to operate on site

i. Site plan should indicate the following:

1. Livestock shall not have access to the required landscape buffers to ensure landscape buffers are maintained properly by the property owner for the life of the development
2. The site plan shall clearly indicate where on the parcel temporary or permanent livestock fencing may be installed to control herd (in any location that is indicated as accessible, there shall not be any permanent obstruction that would prohibit or render dangerous installation of temporary fencing)

3. The plan shall clearly indicate where a permanent water fixture will be made available for supplying livestock
4. The plan shall clearly state the minimum head room under all solar panel structures that livestock will have access to grazing underneath
5. The plan shall clearly indicate any necessary safety precautions and reference any contact information, guidance, or plans in case of an emergency or accident
6. The plan should indicate electrical outlets where livestock equipment may be connected to
- ii. Assurance that all areas indicated as accessible to livestock will have at least 12 inches of arable soil except in where a solar array support structure footing is located, in which case it shall be the smallest footprint required for applicable engineering requirements
- iii. The site plan should be clearly legible and allow for flexible management of livestock, soils, and vegetation

- c. **Field Documentation of flagged FWHCAs (and possible mitigation)**- A number of Priority Habitat Species (PHSs) were flagged in the farm assessment documents and the question of potential impacts and mitigation was raised

In the likely event that the required items cannot be provided and determined sufficient by April 3rd, DCD is looking into available scenarios that would permit a HEX meeting to still occur on April 24th to keep the process predictable for public engagement despite the potential inability to complete a staff report and SEPA review.

In light of the above, would OPALCO agree to continue the hearing at a date to be determined at a later time (i.e. TBD) in addition to keeping the HEX meeting scheduled for April 24th, 2024 knowing that the staff report and SEPA determination will not be able to be finished until the requisite items are sufficiently addressed?

Sincerely,



Marc Santos (they/them) | *Planner II*

[San Juan County Department of Community Development](#) | Planning

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Canyon Environmental Group LLC
112 Ohio Street, Suite 115
Bellingham, WA 98225

March 8, 2024

Prepared For:	San Juan County Department of Community Development c/o Brooke Sullivan 135 Rhone Street Friday Harbor, WA 98250
Subject:	Third Party Review of a Critical Area Exemption Report for the Orcas Power and Light Project
County Identifier:	TNP 352713002000
Project Location:	Bailer Hill Road San Juan Island, Washington

Dear Brooke Sullivan,

This memo was prepared by Canyon Environmental Group (Canyon) to summarize our third-party review of a critical area report for compliance with San Juan County (SJC) critical area Code Title 18. This memo included a review of one critical area exemption report, specifically:

- **Document #1:** *"Critical Areas Ordinance Exemption- Bailer Hill Road Project"*, By Jacobs Engineering Group Inc., August 7, 2020, Updated April 12, 2023 by Environmental Science Associates.

This assessment was limited to a review of report methods and code compliance. No confirmation site visit was conducted by Canyon and as such, this memo assumes that the site conditions identified in the above report are accurate.

Summary Document #1

The critical area exemption report (Document #1) does not satisfy the requirements in SJCC 8.35. Additional information, wetland data sheets, and soil pits around the pond and axis of the valley are required to demonstrate that the pond was not excavated in a historic wetland area. We recommend that an additional site visit take place during the wet-growing season (March, April, early May).

Document #1 (Fish & Wildlife Habitat Conservation Area Assessment) Comments

- The original author of this report was Jennifer Thomas of Jacobs Engineering Group Inc. However, it is unclear who the author was for the Environmental Science Associates (ESA) update and if they were a qualified person (SJCC 18.35.105.B).

- The report does not meet the standards of wetland delineation and needs additional information to evaluate the statements and conclusions made within it (SJCC 18.35.105). The missing information includes but is not limited to wetland data sheets, locations of test pits, onsite photos, and discussion of possible wetlands within 300-ft (SJCC 18.35.105.E, and 18.35.105.F)
- Historical aerial photographic evidence (SJC Polaris map and Google Earth) indicates large areas outside of the pond that are not farmed or mowed by the farmer, especially in the early summer and spring. This often indicates wetland conditions (Google 1990, 2005, 2006, 2011, 2014, 2015, 2017, 2020, 2023). The same photographs show large areas of green grass in midsummer dry season, which sometimes indicates wetlands (Google Earth July 2007, September 2009, August 2011, July 2014). Additionally, Google Earth March 2014 may show areas of inundation around the center axis of the valley.
- The area just northwest and southeast of the pond (axis of the valley) in particular should be investigated for signs of wetland.

If you have any questions concerning this report, please contact us at (360) 389-1693 or at jeff@canyonenv.org.

Sincerely,



Jeff Ninnemann, LHG #2767, PWS #1829
Hydrogeologist-Wetland Ecologist- Principal



Canyon Environmental Group LLC
112 Ohio Street, Suite 115
Bellingham, WA 98225

March 18, 2024

Prepared For: San Juan County Department of Community Development
c/o Brooke Sullivan
135 Rhone Street
Friday Harbor, WA 98250

Subject: Third Party Review of a Geotechnical Assessment for a Solar Array Facility

County Identifier: TPN 352713002000

Project Location: Douglas Road and Bailer Hill Road
San Juan Island, Washington

Dear Brooke Sullivan,

This memo was prepared by Canyon Environmental Group (Canyon) to summarize our third-party review of a critical area report for compliance with San Juan County (SJC) critical area Code Title 18. This memo included review of one geotechnical assessment report, specifically:

Document #1: "Geotechnical Engineering Investigation Douglas Road & Bailer Hill Road (Parcel: 352713002000) San Juan Island, Washington", dated March 12, 2021, by GeoTest.

This third-party review was limited to a review of the submitted report, stated methods, and code compliance. No confirmation site visit was conducted by Canyon and as such, this memo assumes that the site conditions identified in the above report are accurate.

Summary

The critical area report (Document #1) was completed to inform geologic hazards and risk for a proposed solar array facility. In our opinion, the study was thorough, clear, and is appropriate for the scale of the project. The proposed development does not occur in Category I or II landslide hazard areas and was determined to not meet the Category II erosion hazard criteria based on mapping and field findings. Best management practice recommendations are provided to minimize the potential for erosion during construction.

Document #1 (Geotechnical Assessment) Comments

It is our opinion that the level of assessment for this specific site and development proposal addresses the general intent of SJC 18.35 and meets professional standards.



If you have any questions concerning this review, please contact us at (360) 389-1693 or at jeff@canyonenv.org.

Sincerely,

A handwritten signature in black ink that reads 'Jeff Ninnemann'.

Jeff Ninnemann, LHG, PWS
Hydrogeologist-Wetland Ecologist- Principal

A handwritten signature in blue ink that reads 'Paul Pittman'.

Paul Pittman, LEG
Geologist