



# Washington State Energy Facility Site Evaluation Council AGENDA

**MONTHLY MEETING**  
Tuesday October 19, 2021  
**1:30 PM**

**CONFERENCE CALL ONLY**  
Conference number: (253) 372-2181 ID: 662593855#

1. Call to Order ..... Kathleen Drew, EFSEC Chair
2. Roll Call ..... Joan Owens, EFSEC Staff
3. Proposed Agenda ..... Kathleen Drew, EFSEC Chair
4. Minutes  
**Meeting Minutes** ..... Kathleen Drew, EFSEC Chair
  - September 21, 2021 Monthly Meeting Minutes
  - September 27, 2021 Goose Prairie Public Comment Meeting Minutes
5. Projects
  - a. Kittitas Valley Wind Project
    - Operational Updates ..... Eric Melbardis, EDP Renewables
  - b. Wild Horse Wind Power Project
    - Operational Updates ..... Jennifer Galbraith, Puget Sound Energy
    - TAC update ..... Kyle Overton, EFSEC Staff

*The Council may consider and take final action on the Wild Horse TAC recommendation for Sage Grouse mitigation.*
  - c. Chehalis Generation Facility
    - Operational Updates ..... Mark Miller, Chehalis Generation
    - Title V AOP renewal update ..... Kyle Overton, EFSEC Staff
  - d. Grays Harbor Energy Center
    - Operational Updates ..... Chris Sherin, Grays Harbor Energy
  - e. Columbia Generating Station
    - Operational Updates ..... Marshall Schmitt, Energy Northwest
  - f. WNP – 1/4
    - Non-Operational Updates ..... Marshall Schmitt, Energy Northwest
  - g. Columbia Solar
    - Project Updates ..... Owen Hurd, Tuusso Energy
  - h. Desert Claim
    - Project Updates ..... Amy Moon, EFSEC Staff
  - i. Horse Heaven Wind Farm
    - SEPA update ..... Amy Moon, EFSEC Staff
  - j. Goose Prairie Solar
    - Project Updates ..... Kyle Overton, EFSEC Staff
    - Staff recommendation ..... Kyle Overton, EFSEC Staff

*EFSEC staff will present information and make a recommendation to the Council as to approval or rejection of the Project's application for site certification. The Council may take Final Action on their recommendation to the Governor.*
6. Other
  - Badger Mountain ..... Sean Chisholm, EFSEC Staff
  - 2nd Quarter Cost allocation ..... Sonia Bumpus, EFSEC Staff
7. Adjourn ..... Kathleen Drew, EFSEC Chair

**Note: "FINAL ACTION"** means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance. RCW 42.30.020

**Verbatim Transcript of Monthly Council Meeting**  
**Washington State Energy Facility Site Evaluation Council**  
**September 21, 2021**



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## Verbatim Transcript of Monthly Council Meeting - 9/21/2021

<p style="text-align: right;">Page 1</p> <hr/> <p style="text-align: center;">WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL September 21, 2021 1:30 p.m.</p> <hr/> <p style="text-align: center;">Virtual Monthly Meeting Verbatim Transcript of Proceedings</p> <p>DATE TAKEN: SEPTEMBER 21, 2021 REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358</p>	<p style="text-align: right;">Page 3</p> <p>1 LACEY, WASHINGTON; SEPTEMBER 21, 2021 2 1:30 P.M. 3 --o0o-- 4 P R O C E E D I N G S 5 6 CHAIR DREW: Good afternoon. This is 7 Kathleen Drew, Chair of the Washington State Energy 8 Facility Site Evaluation Council, and I'm calling our 9 monthly meeting for September 21st, 2021, to order. 10 Ms. Bumpus, will you call the roll? 11 MS. BUMPUS: Yes. Department of Commerce? 12 CHAIR DREW: Excused. 13 MS. BUMPUS: Department of Ecology? 14 MR. DENGEL: Rob Dengel, present. 15 MS. BUMPUS: Fish and Wildlife? 16 MR. LIVINGSTON: Mike Livingston, present. 17 MS. BUMPUS: Department of Natural 18 Resources? 19 MR. YOUNG: Lenny Young, present. 20 MS. BUMPUS: And Utilities and 21 Transportation Commission? 22 CHAIR DREW: Excused. 23 MS. BUMPUS: Okay. Department of 24 Transportation? 25 MR. SAURIOL: Bill Sauriol, present.</p>
<p style="text-align: right;">Page 2</p> <p>1 A P P E A R A N C E S 2 Councilmembers: 3 KATHLEEN DREW, Chair 4 ROB DENGEL, Department of Ecology 5 LENNY YOUNG, Department of Natural Resources 6 MIKE LIVINGSTON, Fish and Wildlife 7 8 Assistant Attorney General: 9 10 JON THOMPSON 11 12 Local Government and Optional State Agencies for the 13 Goose Prairie Project, Department of Transportation: 14 BILL SAURIOL 15 EFSEC Staff: 16 JOAN OWENS 17 SONIA BUMPUS 18 KYLE OVERTON 19 AMY MOON 20 JOE WOOD 21 SEAN CHISHOLM 22 PATTY BETTS 23 ANDREA GRANTHAM 24 25 Also in Attendance: JENNIFER GALBRAITH, PSE Wild Horse MARK MILLER, Chehalis Generating Facility CHRIS SHERIN, Grays Harbor Energy MARY RAMOS, Energy Northwest OWEN HURD, TUUSSO Energy BILL SHERMAN, Counsel for The Environment</p>	<p style="text-align: right;">Page 4</p> <p>1 MS. BUMPUS: Department of Agriculture? 2 Benton County? 3 Assistant Attorney General, Jon Thompson? 4 MR. THOMPSON: Present. 5 MS. BUMPUS: Judge Sullivan? 6 Judge Torem? 7 Ami Hafkemeyer is excused for Council Staff. 8 Amy Moon? 9 MS. MOON: Amy Moon, present. 10 MS. BUMPUS: Kyle Overton? 11 MR. OVERTON: Kyle Overton, here. 12 MS. BUMPUS: Joe Wood? 13 MR. WOOD: Joe Wood, present. 14 MS. BUMPUS: Sean Chisholm? 15 MR. CHISHOLM: Sean Chisholm, present. 16 MS. BUMPUS: Patty Betts? 17 MS. BETTS: Patty Betts, present. 18 MS. BUMPUS: Stew Henderson? 19 Stephen Posner? 20 Joan Owens? 21 MS. OWENS: Present. 22 MS. BUMPUS: Andrea Grantham? 23 MS. GRANTHAM: Present. 24 MS. BUMPUS: Okay. For our operational 25 updates for our facilities, Kittitas Valley?</p>

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<p>1 CHAIR DREW: Not here.</p> <p>2 MS. BUMPUS: Wild Horse Wind Power Project?</p> <p>3 MS. GALBRAITH: Jennifer Galbraith, present.</p> <p>4 MS. BUMPUS: For Grays Harbor?</p> <p>5 CHAIR DREW: Not present.</p> <p>6 MR. SHERIN: Chair Drew, this is Chris</p> <p>7 Sherin, I am present. I made it.</p> <p>8 CHAIR DREW: Oh, okay. Great. Thank you.</p> <p>9 MS. BUMPUS: Chehalis Generation Facility?</p> <p>10 MR. MILLER: This is Mark Miller for the</p> <p>11 PacifiCorp Chehalis Facility.</p> <p>12 MS. BUMPUS: Thank you.</p> <p>13 Columbia Generating Station?</p> <p>14 MS. RAMOS: Mary Ramos and Marshall Schmitt,</p> <p>15 present.</p> <p>16 MS. BUMPUS: And Columbia Solar?</p> <p>17 MR. HURD: Owen Hurd, present.</p> <p>18 MS. BUMPUS: All right. Thank you.</p> <p>19 And counsel for the environment?</p> <p>20 MR. SHERMAN: Bill Sherman and Megan Sallomi</p> <p>21 for the Environmental Protection Division at the AG's</p> <p>22 Office, present.</p> <p>23 MS. BUMPUS: Thank you.</p> <p>24 Chair Drew, that -- and we have Chair Drew</p> <p>25 present as well. That completes roll call.</p>	<p>1 August was a busy month. So first, let's take up the</p> <p>2 August 6th, 2021, special meeting minutes for approval.</p> <p>3 The draft minutes are in front of you and were in your</p> <p>4 packets. Is there a motion to approve the August</p> <p>5 6th -- you're on August 17th there. Moving back to the</p> <p>6 August 6th. Thank you -- special meeting for the August</p> <p>7 6th meeting?</p> <p>8 MR. LIVINGSTON: This is Mike Livingston. I</p> <p>9 move to approve those minutes as presented.</p> <p>10 CHAIR DREW: Thank you.</p> <p>11 Are there any edits or changes or</p> <p>12 discussion? Hearing none, all those in favor of</p> <p>13 approving the minutes, say aye.</p> <p>14 COUNCILMEMBERS: Aye.</p> <p>15 CHAIR DREW: All those opposed? Minutes</p> <p>16 from August 6th special meeting are approved.</p> <p>17 Moving on to the August 17th, 2021, monthly</p> <p>18 meeting minutes. You have them before you as drafted.</p> <p>19 Is there a motion to approve the August 17th monthly</p> <p>20 meeting minutes?</p> <p>21 MR. YOUNG: Lenny Young, I move to approve</p> <p>22 the August 17th meeting minutes.</p> <p>23 CHAIR DREW: Thank you.</p> <p>24 Are there any edits or changes or</p> <p>25 discussion?</p>
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<p>1 CHAIR DREW: So, Miss Bumpus, I believe,</p> <p>2 then, we have a quorum for the regular Council and a</p> <p>3 quorum for the Goose Prairie Council. But unless we</p> <p>4 have either Mr. Brost or Mr. Sandison, we do not have a</p> <p>5 quorum for Horse Heave, but we also do not have any</p> <p>6 actions planned.</p> <p>7 MS. BUMPUS: Correct.</p> <p>8 CHAIR DREW: Is that correct?</p> <p>9 MS. BUMPUS: Yes.</p> <p>10 CHAIR DREW: Okay. So let's now move on to</p> <p>11 the proposed agenda. You have in your packets and see</p> <p>12 on your screen the revised, proposed revised agenda for</p> <p>13 our meeting today. Is there a motion to adopt the</p> <p>14 revised agenda?</p> <p>15 MR. DENGEL: Rob Dengel, motion to adopt the</p> <p>16 agenda.</p> <p>17 CHAIR DREW: Second?</p> <p>18 MR. YOUNG: Lenny Young, second.</p> <p>19 CHAIR DREW: Thank you.</p> <p>20 All those in favor?</p> <p>21 COUNCILMEMBERS: Aye.</p> <p>22 CHAIR DREW: Opposed? The agenda is</p> <p>23 adopted.</p> <p>24 Moving on to the monthly -- excuse me, the</p> <p>25 meeting minutes, which we have three before us today.</p>	<p>1 Hearing none, all those in favor of</p> <p>2 approving the August 17th monthly meeting minutes, say</p> <p>3 aye.</p> <p>4 COUNCILMEMBERS: Aye.</p> <p>5 CHAIR DREW: All those opposed? The meeting</p> <p>6 minutes are approved.</p> <p>7 Moving on to the August 17th public</p> <p>8 informational meeting minutes, and this was for the</p> <p>9 Columbia Solar amendment. There we are, public</p> <p>10 informational meeting. The draft minutes are in front</p> <p>11 of you and in your packets. Is there a motion to</p> <p>12 approve the Columbia Solar public informational meeting</p> <p>13 minutes?</p> <p>14 MR. YOUNG: Lenny Young, I move to approve</p> <p>15 the Columbia Solar public informational meeting</p> <p>16 August 17th, 2021 minutes.</p> <p>17 CHAIR DREW: Thank you.</p> <p>18 Is there a second?</p> <p>19 MR. LIVINGSTON: Mike Livingston, second.</p> <p>20 CHAIR DREW: Thank you.</p> <p>21 I have one change in this meeting minutes.</p> <p>22 On page 22, line 4 in the portion that actually was the</p> <p>23 EFSEC informational presentation. There it says on line</p> <p>24 4, "forest haven" instead of Horse Heaven as the map of</p> <p>25 current facilities and projects under review. And so I</p>

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<p>1 would like to amend the minutes so it reads Horse Heaven 2 instead of forest haven. 3 With that, all those in favor of approving 4 the minutes as amended, please say aye. 5 COUNCILMEMBERS: Aye. 6 CHAIR DREW: Opposed? 7 The minutes are approved as amended. 8 Okay. Now we will move on to our 9 operational updates starting with Kittitas Valley Wind 10 Project, Mr. Overton. 11 MR. OVERTON: Yes, thank you. This is Kyle 12 Overton, the EFSEC site specialist for the Kittitas 13 Valley project. For the month of August, there were no 14 nonroutine items to report. 15 CHAIR DREW: Thank you. 16 Moving on to the Wild Horse Wind Facility, 17 Ms. Galbraith. 18 MS. GALBRAITH: Yes, thank you, Chair Drew, 19 Councilmembers, and Staff. This is Jennifer Galbraith 20 with Puget Sound Energy reporting for the Wild Horse 21 Wind project. For the month of August, I only have one 22 nonroutine update. 23 In accordance with the site certificate 24 agreement, the Operations Spill Prevention, Control and 25 Countermeasures Plan was updated and submitted to EFSEC</p>	<p>1 flows returned to above 165 cubic feet per second on 2 September 19th at 9:00 a.m. 3 So we appreciate the Council's attention and 4 support, and we will meet the requirements of Resolution 5 350 as approved by the Council. 6 Are there any questions? 7 CHAIR DREW: Thank you. 8 Are there any questions from Councilmembers? 9 Thank you, Mr. Miller. 10 The Title V Air Operating Permit, then, 11 Mr. Overton. 12 MR. OVERTON: Yes, thank you again. This is 13 Kyle Overton, the site specialist for the Chehalis 14 Facility. EFSEC Staff have provided a draft Title V Air 15 Operating Permit, or AOP, and associated basis statement 16 for the Council to review and consideration. This 17 permit is required of the facility per WACs 463-78 and 18 173-401 and Title V of the Federal Clean Air Act. 19 This permit is required to be renewed every 20 five years and was initially issued to the facility in 21 2006. On December 23rd, 2020, EFSEC received an 22 application from the facility to renew their AOP, and 23 their application deemed complete on January 28th of 24 2021. 25 EFSEC's Southwest Clean Air Agency, or</p>
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<p>1 Staff on August 17th. There was only a few minor 2 administrative changes. And that's all I have. Thank 3 you. 4 CHAIR DREW: Thank you. 5 Moving on to Chehalis Generation Facility, 6 Mr. Miller? 7 MR. MILLER: Good afternoon, Chair Drew, 8 EFSEC Council, and Staff. This is Mark Miller, plant 9 manager, representing the PacifiCorp Chehalis Generation 10 Facility. I have one nonroutine note that was submitted 11 during the month of August. 12 As mentioned in the July and August reports, 13 the Chehalis plant had been restricted on water 14 purchases from the City of Chehalis due to low flow of 15 the Chehalis River that's measured at the USGS Grand 16 Mound metering station. That restriction began on 17 July 8th, 2021. And this is a note of 18 September 14th, 2021, during the special meeting, the 19 Council approved PacifiCorp's request to buy water for 20 the City of Chehalis with commitment to fund certain 21 conservation measures. 22 Following receipt of the approved 23 resolution, the Chehalis Facility did begin taking water 24 during the low flow period on September 15th. And our 25 good fortune, it rained the next day, and the river</p>	<p>1 SWCAA, contractor developed the draft permit basis 2 statement in conjunction with EFSEC and facility staff. 3 No substantial changes or changes to emissions limits 4 were -- are being proposed in this permit renewal. 5 At this stage of the EFSEC process, EFSEC 6 is -- EFSEC Staff is requesting the Council to authorize 7 the release of the permit documents for a 30-day public 8 comment period and a 45-day EPA comment period, which 9 are required per regulation. The public comment period 10 would run from September 22nd through October 22nd, and 11 the EPA comment period would start the same day and 12 conclude on November 6th. 13 If the Council chooses, they may 14 conditionally approve these documents pending the 15 results of these comment periods, and if no substantial 16 comments are received, EFSEC would then issue the permit 17 at the conclusion of the comment periods. But if any 18 substantial comments are received, EFSEC Staff would be 19 provided -- would provide the comments to the Council 20 for their consideration and determination for next 21 steps. 22 Are there any questions? 23 CHAIR DREW: Are there any questions from 24 the Councilmembers for Mr. Overton? 25 I think we're familiar with the air permits</p>

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<p>1 and the, if you will, preliminarily determining approval 2 and then allowing the public comment period to take 3 place, and if there are no substantial comments, then 4 the permits will be approved. That's the process we've 5 used in the past. 6 Are -- for this specific permit, are there 7 any questions about that? 8 Okay. Hearing none, is there a motion for 9 the Council to make a preliminary determination to 10 approve the draft Title V Air Operating Permit for 11 Chehalis Generating Facility which will allow EFSEC 12 Staff to begin the public comment period on the draft 13 permit documents? 14 MR. DENGEL: Rob Dengel, a motion to approve 15 the preliminary Title V Air Permit -- Operating Permit 16 for the Chehalis Generation Facility for the purposes of 17 going out to comment. 18 CHAIR DREW: Thank you. 19 Is there a second? 20 MR. LIVINGSTON: Mike Livingston, a second. 21 CHAIR DREW: Thank you. 22 Is there discussion about this? From the -- 23 MR. DENGEL: This is Rob -- 24 CHAIR DREW: Go ahead, Rob. 25 MR. DENGEL: Oh, this is Rob Dengel. I'll</p>	<p>1 front of you on the screen although it wasn't in the 2 packet. 3 MR. SHERIN: Excellent. Thank you. 4 CHAIR DREW: Thank you. 5 Moving on to Columbia Generating Station, 6 Ms. Ramos. 7 MS. RAMOS: Thank you. Good afternoon, 8 Chair Drew, Councilmembers, and Staff. This is Mary 9 Ramos reporting for Energy Northwest. So for the month 10 of August, I have one nonroutine update to report for 11 Columbia Generating Station. 12 On August 22nd, Columbia Generating Station 13 determined that no more than approximately 8 gallons of 14 silicone oil was inadvertently released into a plant 15 service water system. And this was due to a failed heat 16 exchanger on a plant-installed air compressor. The 17 plant service water system provides cooling to 18 nonradioactive equipment in the plant and returns to the 19 circulating water basin, which contains at a minimum of 20 300,000 gallons of water. Circulating water basins 21 serves as the water source for noncontact cooling water, 22 plant service water, and fire protection water. 23 At the time of the release, the circulating 24 water system was estimated to contain approximately six 25 and a half million gallons. The circulating water basin</p>
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<p>1 just mention that these are pretty routine permit 2 updates, and my understanding, talking to the engineer 3 who helped put this together, is that there have been no 4 significant changes at the facility between these two 5 permit -- permit periods. 6 CHAIR DREW: Thank you. 7 All those in favor of approving the 8 preliminary determination on the Air Operating Permit 9 and allowing the Staff to move forward with the public 10 comments, please say aye. 11 COUNCILMEMBERS: Aye. 12 CHAIR DREW: Opposed? The motion is 13 adopted. Thank you. 14 We will move on to the Grays Harbor Energy 15 Center, Mr. Sherin. 16 MR. SHERIN: Good afternoon, Chair Drew, 17 Councilmembers, and EFSEC Staff. This is Chris Sherin, 18 the plant manager from Grays Harbor Energy Center. For 19 the month of August, I have no nonroutine items to 20 report. I will mention, though, that I sent in a 21 revision to what you probably have in front of you. I 22 did add that we completed our Relative Accuracy Test 23 Audit, or RATA, August 10th through 12th. 24 CHAIR DREW: Thank you, Mr. Sherin. The 25 marvelous Ms. Owens caught that on the fly and it's in</p>	<p>1 is connected to the Columbia River via blowdown line. 2 Although not confirmed, it is suspected that an unknown 3 quantity of silicone oil may have been released into the 4 Columbia River. The release was stopped when the air 5 compressor was removed from service. 6 Energy Northwest conducted a visual 7 inspection of the circulating water basin and did not 8 identify any oil sheen or film. Energy Northwest 9 determined that the potential oil -- oil release did not 10 pose a threat to health or the environment. However, 11 since there could have been a discharge of an unknown 12 quantity of silicone oil into the Columbia River, Energy 13 Northwest immediately notified the U.S. Coast Guard 14 National Response Center and Division of Emergency 15 Management in accordance with Revised Code of Washington 16 90.56.280. 17 In addition, Energy Northwest provided a 18 courtesy notification to our EFSEC siting specialist, 19 Ms. Amy Moon. 20 Per EFSEC's request, Energy Northwest also 21 submitted a written report, and this was in accordance 22 with the Columbia Generating Station's National 23 Pollutant Discharge Elimination Permit, specifically 24 section S3.E.c of our permit. This report is often 25 referred to as a five-day report, and the report was</p>



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<p>1 submitted to EFSEC and Ecology on September 14th via 2 email and Ecology's web portal. 3 Are there any questions? 4 CHAIR DREW: Are there any questions from 5 Councilmembers? 6 MR. YOUNG: Yeah, this is Lenny Young. Is 7 any aspect of this still open? Is there any follow-up 8 that's underway or any regulatory oversight actions that 9 are still pending? To what extent is this concluded 10 or -- or still ongoing? 11 MS. RAMOS: So the spill has -- or the 12 potential source of the leak has been stopped when we 13 placed that equipment out of service. And then as far 14 as actions for Energy Northwest, after that written 15 five-day report was submitted, we're now waiting for 16 input from EFSEC and Ecology. 17 Does that answer your question? 18 MR. YOUNG: Yes, it does. 19 CHAIR DREW: Thank you. 20 MS. RAMOS: Thank you. 21 CHAIR DREW: Any other questions? 22 Thanks. So this will be an issue we'll hear 23 conclusions about in the future as well. Thank you. 24 MS. RAMOS: Thank you, and I don't -- I do 25 not have any updates for August for WNP-1/4.</p>	<p>1 of the application on March 29th, 2021, a determination 2 of significance scoping notice was issued on May 11th. 3 The scoping notice announced a 30-day public comment 4 period, which ended on June 10th of 2021. 5 EFSEC Staff and their consultant worked on 6 tracking and reviewing the comments, which included 361 7 public comments. In addition, EFSEC received 8 approximately 17 comment letters from agencies and 9 tribes. 10 During that same timeframe, EFSEC's 11 consultant was also preparing several data requests for 12 the applicant. The 134 data requests covered a wide 13 number of topical areas including habitats, wildlife, 14 vegetation, air, noise, recreation, water supply, land 15 and shoreline use, cultural historic, esthetic, earth, 16 service water and wetlands, energy and natural 17 resources, light and glare, environmental health, heat 18 dissipation, transportation, stormwater, and finally 19 wastewater. 20 These requests were provided to the 21 applicant in three packages between May 27th and July 22 22nd of 2021. The applicant subsequently provided 23 responses beginning July 1st, and the most recent 24 response was received yesterday on September 20th. 25 The applicant is still preparing a few</p>
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<p>1 CHAIR DREW: Okay. Thank you. 2 Our next item on the agenda is the Desert 3 Claim Wind Power Project, Ms. Moon. Ms. Moon, Desert 4 Claim Wind Power Project. 5 MS. MOON: Oh. Gosh, Chair Drew, I'm so 6 sorry. I read it to you with my mic muted. 7 CHAIR DREW: Go ahead. Let's try again. 8 MS. MOON: Now I need to open it again. 9 Okay. Good afternoon, Council Chair Drew and 10 Councilmembers. For the record, this is Amy Moon 11 providing an update on the Desert Claim Project. 12 Currently there are no updates to the project, but we 13 continue to work with Desert Claim. 14 CHAIR DREW: Thank you. 15 And next for our update, Horse Heaven Wind 16 Project, Ms. Moon? 17 MS. MOON: Again, good afternoon, Council 18 Chair Drew and Councilmembers. For the record, this is 19 Amy Moon providing an update on the Horse Heaven Wind 20 Project. EFSEC wants to provide you, the Council, with 21 the status on the Draft Environmental Impact Statement 22 or the DEIS. We want to provide an update on that 23 preparation effort. 24 As you know, following the applicant's 25 withdrawal of their request for the expedited processing</p>	<p>1 remaining responses associated with cultural resources 2 and visual simulations, which falls into esthetics. 3 Between April 4th, 2021, and now, EFSEC has 4 also been working with our consultant to define the 5 parameters providing the draft EIS. Those parameters 6 that we're working on now defining are the final scope 7 of elements of the environment that will be examined 8 in the draft EIS, the alternatives that will be examined, 9 how impacts will be analyzed using an impact rating 10 system, identification of reasonably foreseeable 11 projects for the cumulative effects analysis, the 12 overall organization of the draft EIS, the draft EIS 13 document review period, and an overall timeline. 14 Most of these decisions are interconnected 15 to some degree or another. For example, the scope of 16 the elements of the environment and determination of 17 alternatives could not be made until public scoping was 18 completed and all comments were considered. As 19 indicated, the timeline is affected by all these 20 preliminary pieces that are important steps to 21 completing the SEPA process. 22 EFSEC Staff continue to coordinate with the 23 applicant on responses to data requests and 24 clarifications regarding the application for site 25 certification. This coordination and completion of</p>

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<p>1 these interim tasks are important in producing an 2 informative DEIS for the Council and the public. 3 In the meantime, we are working to identify 4 the timeframe of major milestones so we can keep the 5 Council and applicant apprised of these as work 6 progresses. 7 Does the Council have any questions? 8 CHAIR DREW: Are there questions from 9 Councilmembers? 10 MR. LIVINGSTON: Chair Drew, this is Mike 11 Livingston. I'm curious, so as scoping comments and the 12 responses from the applicant are put together, when -- 13 when would you anticipate us, as Councilmembers, being 14 able to view some of these draft documents? Or are they 15 available today and I just haven't seen them yet? 16 MS. MOON: So I guess I'm misunderstanding. 17 What draft documents? Do you mean the full draft EIS or 18 do you mean comments that public and agency -- 19 MR. LIVINGSTON: Yeah, the -- the -- yeah, 20 the scoping comments that came in from the public as 21 well as the responses from the applicant. 22 MS. MOON: So the responses we have from the 23 applicant are from data requests. So we asked them for 24 additional information, and those are posted on the 25 public EFSEC website. And then comments are also posted</p>	<p>1 immediately thereafter. 2 For Camas, a majority of pile driving is 3 complete. Inverters have been delivered and are 4 currently being installed as are the torque tubes. 5 We've gotten a portion of them and are still expecting 6 some. 7 On Urtica, pile driving is now underway. 8 We're seeing a higher refusal rate than the other sites, 9 but that was to be expected. 10 Module deliveries have recently been delayed 11 due to port congestion, which affects all these projects 12 and we don't have a real clear view of how long that 13 will be. Weeks, but seems like it will be two to six 14 weeks. 15 Environmental compliance, all BMPS are in 16 place. Golder and Northwest Code continue to do their 17 routine inspections. The main issue we have is 18 construction dust on Penstemon, between the combination 19 of bare dirt, high winds, and water trucks being in 20 short supply due to wildfires. The dirt piles have been 21 removed/placed back in trenches, filled up with 22 hydroseed during construction, and then talking with the 23 water district about using water on-site to minimize 24 dust. 25 In terms of safety, daily safety tailgate</p>
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<p>1 on that public website. I don't -- I don't know that 2 they have been posted to a Council share point site for 3 review, but they are on the public Horse Heaven website. 4 MR. LIVINGSTON: Okay. That's -- that's 5 what I was asking for, Amy. Thank you. 6 MS. MOON: You're welcome. 7 CHAIR DREW: Thank you. 8 Are there other questions from 9 Councilmembers? 10 Thank you, Ms. Moon. And it's a complex 11 process with a lot of information, work, and gathering 12 and -- going on. And I know that we will have more 13 information yet at the next monthly meeting. So thank 14 you for your report. 15 Moving on to the Columbia Solar Project. 16 First of all, let's have a facility update by Mr. Owen 17 Hurd. 18 MR. HURD: Good afternoon, Chair Drew, 19 Councilmembers, and EFSEC Staff. This is Owen Hurd for 20 TUUSSO Energy reporting on the Columbia Solar Projects. 21 Regarding construction status, Penstemon 22 pile driving is complete. 23 Puget Sound Energy's interconnection work 24 and inverter installation is underway. Torque tubes are 25 expected shortly and then installation will begin</p>	<p>1 meetings have continued, and we're continuing to work on 2 the planting plans with seed mixes. 3 CHAIR DREW: So, Mr. Hurd, in terms of the 4 recent weather event, I know what kind of rain I got in 5 Olympia, but has any of that helped the dust situation 6 on-site? 7 MR. HURD: It has helped, yeah, it has 8 gotten a little bit -- it has helped for sure. But 9 we're -- 10 CHAIR DREW: Long dry period. 11 MR. HURD: Yeah, yeah, yeah, that's right. 12 So we hope it keeps up, but it's hard to -- hard to 13 predict. 14 CHAIR DREW: Okay. Councilmembers, do you 15 have any questions for Mr. Hurd? 16 Okay. Hearing none, then we will move on to 17 the action item. Potential action item, I will say. So 18 before us, are -- as you remember, one of the meetings 19 we had in August -- there's somebody who needs to mute 20 their phone, please, because I can hear you as 21 background noise. So please make sure your phone is 22 muted. Thank you. 23 So for today, as I was saying, we heard the 24 amendment application by Columbia Solar, and we have in 25 the packet the site certification agreements. And I</p>

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<p>1 will now ask Mr. Kyle Overton to give us the report on 2 the status.</p> <p>3 MR. OVERTON: Thank you. Yes, this is -- 4 again, this is Kyle Overton, the site specialist for the 5 Columbia Solar Project. For this SCA amendment, just a 6 brief history here. On July 28th, 2021, EFSEC received 7 a formal request for SCA amendment for the five 8 Columbia Solar sites from TUUSSO Energy, the current SCA 9 holder, in accordance with WAC 463-60-020 and 100.</p> <p>10 This request was for the termination of the 11 Typha and Fumaria sites' SCAs and the transfer of 12 ownership of the Camas, Pestemon, and Urtica SCAs to 13 site-specific entities, which are TE Camas, TE 14 Penstemon, and TE Urtica respectively. Overall control 15 of these three site-specific entities would then be 16 transferred to Greenbacker Renewable Energy Corporation.</p> <p>17 As part of the review process for the 18 request, WAC 463-60-030 calls for a public hearing 19 session, and this meeting was held, as Chair Drew 20 mentioned, on August 17th, 2021. No comments were 21 received during this meeting.</p> <p>22 So when considering the request for 23 amendment, WAC 463-66-040 requires the Council to 24 consider four items.</p> <p>25 Item one, the original intention of the SCA.</p>	<p>1 agreements, and that's because in this project of the 2 close but not adjacent sites, we have different site 3 certifications for each one of the sites. But then 4 we're doing -- we're -- the amendment request to amend 5 those and to -- I'm looking for it on my screen here -- 6 the resolution.</p> <p>7 Have Councilmembers had a chance to review 8 the resolution, the Draft Order 880? I could have 9 Mr. Thompson walk through it for us if you'd like.</p> <p>10 Mr. Thompson?</p> <p>11 MR. THOMPSON: Yes, Chair Drew. So as 12 Mr. Overton mentioned, essentially the order just goes 13 through -- there's -- there's three components of the 14 request. The first is to terminate the Typha and 15 Fumaria project SCAs, and that's based on the 16 information presented by the -- by TUUSSO Energy that 17 basically it's become apparent that due to the high 18 costs of paying for transmission facilities, that it's 19 not practicable to construct those facilities, so they 20 request a termination of those two SCAs.</p> <p>21 Then the -- in order to facilitate the -- 22 the acquisition of the SCAs or control over the SCAs for 23 the remaining three projects by Greenbacker Energy, 24 the -- the project SCAs need to be transferred from 25 TUUSSO down to subsidiary companies, so that's the --</p>
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<p>1 Item two is applicable laws and rules.</p> <p>2 Item three is the public health and safety 3 and welfare.</p> <p>4 And finally, item four is compliance with 5 WAC 463-72. WAC 463-72 concerns site restoration.</p> <p>6 After reviewing the application materials, 7 EFSEC Staff believe that the requirements in WAC 8 463-66-040 have been met, and the Council have been 9 provided a draft order for consideration, which contains 10 one conditional approval item.</p> <p>11 In order to meet the conditions, that fourth 12 condition item and maintain compliance with WAC 463-72, 13 restoration funding must be secured from the new SCA 14 owner, Greenbacker, prior to final approval of the SCA 15 transfers.</p> <p>16 Due to the largely administrative nature of 17 the request of SCA amendments, approval or denial can be 18 made by the Council action and is not required to go 19 before the governor per WAC 463-66-070. And that's kind 20 of where we are today. Are there any questions?</p> <p>21 CHAIR DREW: Are there any questions for 22 Mr. Overton?</p> <p>23 So what we have before us, then, also, and 24 Councilmembers have received a draft order, what we have 25 to begin with here are three site certification</p>	<p>1 that's the second request.</p> <p>2 And then the third request is to -- is to 3 basically transfer control over the -- those three SCAs, 4 which would now be held by the three project companies 5 over to ownership by -- of those entities by a 6 subsidiary, Greenbacker. And so that -- that requires a 7 third approval, which is the transfer of control over 8 those SCAs as a result of a transfer of the companies 9 themselves that hold them.</p> <p>10 So and as Mr. Overton mentioned, the real -- 11 the chief concern here is -- is really -- because the 12 project themselves are not being changed. The -- the 13 holders of the certificates are still required to comply 14 with the -- the terms of how the projects are -- are 15 described and all of the various requirements that apply 16 to them. So it's really just that they'll be -- the 17 SCAs will be in different corporate hands.</p> <p>18 And then -- and the chief concern is just 19 that there not be a lapse in the financial assurance 20 that's provided to make sure that if the projects are 21 abandoned or at the end of their useful life, that they 22 will be -- you know, there will be money available to 23 restore them if the certificate holder isn't able to do 24 so.</p> <p>25 So -- so that -- the order goes through that</p>

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<p>1 analysis. And as Mr. Overton said, as the one condition 2 that the transfer not be approved until proof is 3 provided by Greenbacker of their ability to provide -- 4 or their provision of financial assurance to replace the 5 financial assurance with TUUSSO is currently providing 6 through its bank. So...</p> <p>7 CHAIR DREW: And there will be continuity -- 8 so the proposal is for continuity, so TUUSSO holds onto 9 that financial security until an appropriate instrument 10 from Greenbacker, which has done this in other locations 11 around the country, provides that -- that financial 12 security, and then we will finally approve the transfer. 13 So the only reason we have that mechanism is to make 14 sure there isn't a lapse; is that correct?</p> <p>15 MR. THOMPSON: That's absolutely correct, 16 right. So there is no moment at which there is no 17 financial assurance in place. So if -- once the 18 evidence of that financial assurance is received, then 19 the -- the -- at a later Council meeting, the Council 20 can adopt a resolution indicating that final approval 21 is -- is -- is granted.</p> <p>22 CHAIR DREW: Okay. Thank you. 23 Mr. Overton, have there been any public 24 comments with any concerns about this transfer of 25 ownership?</p>	<p>1 No. 880 regarding the Columbia Solar Project to 2 terminate the Typha and Fumaria site certification 3 agreements, for those are the two that can't continue; 4 approve the transfer of the Penstemon, Camas, and Urtica 5 agreements from TUUSSO Energy LLC to separate project 6 companies; and approve the transfer of control of the 7 agreements to Greenbacker Renewable Energy Company.</p> <p>8 MR. LIVINGSTON: This is Mike Livingston. I 9 will so move to approve what you just repeated -- or 10 just stated, Council Chair.</p> <p>11 CHAIR DREW: Thank you. 12 Is there a second?</p> <p>13 MR. DENGEL: Rob Dengel -- 14 MR. YOUNG: Lenny Young, second. 15 CHAIR DREW: Okay. Rob Dengel second. 16 Are there further comments or discussions?</p> <p>17 I am happy to see this partnership relationship between 18 TUUSSO and Greenbacker. I think it bodes well for the 19 financial security and the future of this solar 20 facility. So I appreciate all the work that's been put 21 in to make this become a reality.</p> <p>22 So all those in favor of this resolution -- 23 you know, I think what I'm going to do, I'm going to ask 24 for the roll call because this is a resolution on an 25 amendment, an SCA amendment order.</p>
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<p>1 MR. OVERTON: No. We haven't -- we haven't 2 received any comments on this proposal.</p> <p>3 CHAIR DREW: And I know all of the 4 Councilmembers who are here right now participated in 5 the hearing and asked questions. In the informational 6 hearing, we had quite a robust conversation. What is 7 your view at this point in time, Councilmembers, in 8 terms of this amendment, which is administrative, but no 9 doubt very important administrative in the terms of the 10 transfer of the ownership? Are Councilmembers inclined 11 to approve the resolution or want more time to review 12 it?</p> <p>13 MR. LIVINGSTON: This is Mike Livingston. 14 I've -- I've read this enough and the explanation from 15 Mr. Thompson makes me comfortable with approval of the 16 resolution as it's presented today.</p> <p>17 MR. YOUNG: This is Lenny Young, I concur. 18 CHAIR DREW: Okay. So let's -- then the 19 motion I would suggest is to move that the Council 20 approve Order No. 880 regarding the Columbia Solar 21 Project to -- and I think once I read it, if somebody 22 wants to say "so moved," that would be sufficient. 23 I move that -- unless you want to change it, 24 I would add. 25 I move that the Council approve Order</p>	<p>1 So, Ms. Bumpus, will you call the roll? 2 MS. BUMPUS: Yes, Chair Drew. 3 Okay. Calling roll, Chair Drew? 4 CHAIR DREW: Aye. 5 MS. BUMPUS: Commerce is excused. 6 Ecology? 7 MR. DENGEL: Rob Dengel, aye. 8 MS. BUMPUS: Department of Fish and 9 Wildlife? 10 MR. LIVINGSTON: Mike Livingston, aye. 11 MS. BUMPUS: Department of Natural 12 Resources? 13 MR. YOUNG: Lenny Young, aye. 14 MS. BUMPUS: And the member for the 15 Utilities and Transportation Commission is excused. 16 Chair, the motion passes. 17 CHAIR DREW: Thank you. Thank you all for 18 your work on this and as I said, the excellent questions 19 and discussion we had in the public informational 20 meeting. 21 Our next item on the agenda is Goose Prairie 22 Solar Project. For a project update, Mr. Overton, 23 who -- this is your day. 24 MR. OVERTON: Yes, thank you. This is my 25 day and I think this is my last one. So this is Kyle</p>

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<p>1 Overton, the site specialist for the Goose Prairie 2 Project. So for a -- the biggest thing to update for -- 3 for this month is about the public comment period 4 currently going on. Here's some background on that. 5 On August 6th, 2021, the EFSEC Council 6 approved Order 879 granting expedited processing for the 7 Goose Prairie application for site certification. This 8 order required EFSEC Staff to develop a means to receive 9 information akin to what Yakima County would receive 10 during a conditional use hearing as the site-specific 11 conditions and criteria. 12 To that end, a public comment period started 13 on September 13th and will run through September 27th. 14 And then on September 27th, the public comment meeting 15 will be held at 5:00 p.m. to provide additional 16 opportunity to receive comment from the public on 17 conditional use criteria for the project. 18 As of today, no comments have been received. 19 And then I believe the EFSEC manager will have some info 20 on a project extension request -- review extension 21 request that we received but for that public comment 22 info. 23 Is there any questions? 24 CHAIR DREW: Are there any questions about 25 the public comment period and meeting we have coming up</p>	<p>1 project to the Council after the conclusion of the 2 public comment period and before our October meeting? 3 MS. BUMPUS: That is what we plan to do, 4 Chair Drew, is to bring a Staff recommendation for the 5 Council at the October Council meeting where the Council 6 can discuss all of the information up to this point as 7 well as ask questions of the Staff and applicant with 8 respect to the Staff recommendation. 9 CHAIR DREW: Okay. Thank you. 10 Are there other questions from 11 Councilmembers? 12 Okay. Then let's move to -- may be the 13 simplest motion today -- to approve One Energy 14 Renewable's request to extend the timeline for EFSEC to 15 transmit a recommendation to the governor for the Goose 16 Prairie Solar Project until October 31st, 2021. Is 17 there a motion -- 18 MR. YOUNG: This is Lenny -- this is Lenny 19 Young. I move that the Council approves EFSEC -- or One 20 Energy's request for extension of the timeline for EFSEC 21 to transmit a recommendation to the governor for the 22 Goose Prairie Solar Project to October 31, 2021. 23 CHAIR DREW: Thank you. 24 Is there a second? 25 MR. DENGEL: Rob Dengel, second.</p>
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<p>1 next Monday evening? 2 Okay. Then, Ms. Bumpus, on the project 3 extension. 4 MS. BUMPUS: Thank you. For the record, 5 this is Sonia Bumpus. Good afternoon, Chair Drew and 6 Councilmembers. On September 17th, 2021, EFSEC received 7 a request from One Energy Renewables, a written request 8 from One Energy Renewables, requesting an extension on 9 the timeline for the decision on the Goose Prairie Solar 10 Project that was under review before the Council. 11 The letter requests an extension to October 12 31st, 2021. EFSEC Staff discussed this with the 13 applicant and internally and believe this is important 14 to ensure that EFSEC has enough time to complete our -- 15 our review process, which includes the public comment 16 period and public comment meeting that Mr. Overton has 17 already discussed. 18 And with that, we'd like to ask the Council 19 to approve this request for extension to 20 October 31, 2021. 21 CHAIR DREW: So in that time period 22 between -- so it's a short extension, just to the end of 23 next month. To extend the timeline to transmit a 24 recommendation to the governor, will the Staff be 25 prepared to bring forward a draft recommendation on this</p>	<p>1 CHAIR DREW: Thank you. 2 Discussion? 3 Okay. All those in favor, say aye. 4 COUNCILMEMBERS: Aye. 5 CHAIR DREW: All those opposed? Motion is 6 adopted. 7 Thank you, everybody, all the 8 Councilmembers. There were a few items. I appreciate 9 your work on all of that. I'm going to look back at my 10 agenda. This is the end of our agenda. I do want to do 11 one item for the good of the order and that is to 12 introduce a new EFSEC Staff member. 13 Her name is Andrea Grantham, and she's a -- 14 has joined us as an administrative assistant and has 15 lived in the state, both Eastern and Western Washington, 16 and we're happy to have her on our staff. 17 So, Andrea, would you just like to say hello 18 to the Council? 19 MS. GRANTHAM: Yeah, hello. I'm so happy to 20 be here. 21 CHAIR DREW: Thank you. We're happy to have 22 you. 23 So she's a new member of our Staff, and I 24 know that Joan is very happy to have her on board to 25 support on the administrative side as well as we all</p>

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1 are.

2 So with that, our meeting is adjourned.

3 Thank you.

4 (Adjourned at 2:21 p.m.)

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1 CERTIFICATE

2  
3 STATE OF WASHINGTON  
4 COUNTY OF THURSTON

5  
6 I, Tayler Garlinghouse, a Certified Shorthand  
7 Reporter in and for the State of Washington, do hereby  
8 certify that the foregoing transcript is true and  
9 accurate to the best of my knowledge, skill and ability.

10  
11  
12  
13  
14   
Tayler Garlinghouse, CCR 3358



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## **OneEnergy Renewables-Goose Prairie Solar Project**

**September 27, 2021**



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<p style="text-align: right;">Page 1</p> <hr/> <p style="text-align: center;">WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL Lacey, Washington Monday, September 27, 2021 5:00 p.m.</p> <hr/> <p style="text-align: center;">Videoconference EFSEC Goose Prairie Photovoltaic Project Public Comment Meeting Verbatim Transcript of Proceedings</p> <hr/> <p style="text-align: center;">(All participants appeared virtually.)</p> <p>REPORTED BY: CRYSTAL R. McAULIFFE, RPR, CCR 2121</p>	<p style="text-align: right;">Page 3</p> <p>1 MONDAY, SEPTEMBER 27, 2021 2 5:00 P.M. 3 -o0o- 4 MS. DREW: Good afternoon, everyone. This 5 is Kathleen Drew, Chair of the Washington State Energy 6 Facility Site Evaluation Council, and we begin our 7 public informational meeting -- public -- excuse me, our 8 public comment meeting on the Goose Prairie Solar 9 Photovoltaic Project. And the proposed project location 10 is in Yakima County near the city of Moxee and will have 11 a maximum generating capacity of 80 megawatts. 12 If you are on the phone, would you please 13 mute your phones unless you were going to speak, since 14 it is giving us a little feedback. 15 So this comment meeting is in order to 16 receive verbal comments on conditions to be included in 17 a draft Site Certification Agreement for the proposed 18 project, and we will begin with calling the roll for the 19 EFSEC Council. 20 Ms. Owens, will you call the roll. 21 MS. OWENS: Department of Commerce. 22 MS. KELLY: Kate Kelly, present. 23 MS. OWENS: Department of Ecology. 24 Department of Fish and Wildlife. 25 MS. DREW: Excused.</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES 2 Council Members: 3 KATHLEEN DREW, Chair 4 KATE KELLY, Department of Commerce 5 MIKE LIVINGSTON, Department of Fish and Wildlife 6 LENNY YOUNG, Department of Natural Resources 7 ROB DENGEL, Department of Ecology 8 STACEY BREWSTER, Utilities and Transportation Commission 9 10 UTC Staff: 11 12 KYLE OVERTON 13 ANDREA GRANTHAM 14 Local Government and Optional State Agencies: 15 WILLIAM SAURIOL, Department of Transportation 16 BYRON GUMZ, Yakima County 17 18 EFSEC Staff: 19 20 JOAN OWENS 21 SONIA BUMPUS 22 Also present: 23 BLAKE BJORNSSON, OneEnergy 24 TIMOTHY MCMAHAN, Stoel Rives 25 BILL SHERMAN, AGO for the Environment ED LISOWSKI STEWART HENDERSON TOM SIEH KAYNE SEGURA SHANNON TURNER LINNEA FOSSUM MARK SCANLAN RICHARD STETLER JULIAN ELLISON JESSICA WADSWORTH JASON EARLES</p>	<p style="text-align: right;">Page 4</p> <p>1 MS. OWENS: Thank you. Department of Fish 2 and Wildlife -- sorry. 3 Department of Natural Resources. 4 MR. YOUNG: Lenny Young, present. 5 MS. OWENS: Utilities and Transportation 6 Commission. 7 MS. BREWSTER: Stacey Brewster, present. 8 MS. OWENS: For the Goose Prairie Project, 9 Department of Transportation. 10 MR. SAURIOL: Bill Sauriol, present. 11 MS. OWENS: Thank you. Chair, there is a 12 quorum for the Council. 13 MS. DREW: Thank you. 14 MS. OWENS: And for Council staff, Sonia 15 Bumpus. 16 MS. DREW: Here is Mr. Dengel. Thank you. 17 MS. OWENS: For Council staff, Sonia Bumpus. 18 MS. BUMPUS: Sonya Bumpus is present. 19 MS. OWENS: Kyle Overton. 20 MR. OVERTON: Kyle Overton here. 21 MS. OWENS: Thank you. 22 MS. DREW: We also have joining us counsel 23 for the environment. 24 MR. SHERMAN: Thank you, Chair Drew. Bill 25 Sherman for the Attorney General's Office as counsel for</p>

1 (Pages 1 to 4)

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<p>1 the environment.</p> <p>2 MS. DREW: Thank you. Our agenda tonight</p> <p>3 is -- if you have the screen in front of you, is on the</p> <p>4 screen. And we will start with the EFSEC staff with an</p> <p>5 explanation of the review process and then we will go on</p> <p>6 to a presentation by OneEnergy Renewables and then we</p> <p>7 will have public comments.</p> <p>8 We do have five people signed up to comment</p> <p>9 at this point in time. And we will allow 3 minutes a</p> <p>10 piece, and then we will move on to people who haven't</p> <p>11 signed in who maybe want to make a comment at that</p> <p>12 point.</p> <p>13 So we will begin with Mr. Kyle Overton.</p> <p>14 MR. OVERTON: Yes. Thank you.</p> <p>15 This is Kyle Overton, the EFSEC site</p> <p>16 specialist that is working with the Goose Prairie</p> <p>17 project. I'll be providing a brief talk here, as Chair</p> <p>18 Drew said, kind of go over the history of our review</p> <p>19 here and our process and a little bit of why we're</p> <p>20 meeting here tonight.</p> <p>21 EFSEC reviews applications for the siting of</p> <p>22 energy facilities and prepares a recommendation to the</p> <p>23 governor on whether to approve or reject the</p> <p>24 application.</p> <p>25 If EFSEC recommends approval, it prepares a</p>	<p>1 County which certified that the project: (A) is defined</p> <p>2 as a power-generating facility under Yakima County Code,</p> <p>3 Title 19, the Unified Land Development Code; (B) is</p> <p>4 proposed to be within the agricultural zoning district</p> <p>5 within which power-generating facilities are a Type 3</p> <p>6 use pursuant to Table 19.14-1 allowable land uses; and</p> <p>7 (C) is consistent with Title 19 and would be eligible</p> <p>8 for review and permitting under Yakima County processes.</p> <p>9 Yakima County Code, Title 19.14.010(2)</p> <p>10 states: Type 3 uses are uses which may be authorized</p> <p>11 subject to the approval of the conditional use permit as</p> <p>12 set forth in Section 19.30.030. Type 3 conditional uses</p> <p>13 are not generally appropriate through the zoning</p> <p>14 district. Type 3 uses require hearings and review of</p> <p>15 applications subject to a Type 3 review and under</p> <p>16 procedures in 19.30.100 and Yakima County subsection</p> <p>17 16B.03.030(1)(c).</p> <p>18 So in review of the expedited processing</p> <p>19 application, EFSEC issued a mitigated determination of</p> <p>20 nonsignificance under the State Environmental Policy Act</p> <p>21 on July 30th, 2021. Based on this determination and on</p> <p>22 EFSEC's finding that the project is consistent and in</p> <p>23 compliance with local land use plans and zoning</p> <p>24 ordinances, EFSEC granted the applicant's request for</p> <p>25 expedited processing on August 6th, 2021, with</p>
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<p>1 draft site certification agreement, or SCA, that must</p> <p>2 include conditions to protect state or local</p> <p>3 governmental or community interests affected by the</p> <p>4 construction or operation of the energy facility.</p> <p>5 The draft agreement must also include</p> <p>6 conditions designed to recognize the purpose of</p> <p>7 applicable state and local laws and ordinances which are</p> <p>8 preempted to the extent that they regulate the location,</p> <p>9 construction, and operation of energy facilities under</p> <p>10 EFSEC's jurisdiction. If signed by the governor and the</p> <p>11 applicant, the site certification agreement is binding.</p> <p>12 So the applicant requested that EFSEC review</p> <p>13 its application for site certification, or ASC, under</p> <p>14 expedited processing. And if that expedited processing</p> <p>15 is granted, EFSEC does not conduct an adjudicated</p> <p>16 hearing on the application before preparing its</p> <p>17 recommendation to the Governor.</p> <p>18 To be eligible for expedited processing the</p> <p>19 environmental impacts of the proposed energy facility</p> <p>20 must not be significant or must be mitigated to a</p> <p>21 nonsignificant level and must also be found consistent</p> <p>22 and in compliance with local land use plans and zoning</p> <p>23 ordinances.</p> <p>24 Under WAC 463, and that is 26-090, the</p> <p>25 applicant provided a certification letter from Yakima</p>	<p>1 Order 879.</p> <p>2 However, EFSEC stipulated it would hold a</p> <p>3 hearing akin to the County's conditional use permit</p> <p>4 hearing to receive comment on whether any additional</p> <p>5 conditions should be required to meet the purposes of</p> <p>6 Yakima County's conditional use criteria.</p> <p>7 During EFSEC's staff's review of the</p> <p>8 application for site certification, EFSEC contracted</p> <p>9 with Yakima County to conduct a review of the ASC</p> <p>10 materials, as they relate to Yakima County land use</p> <p>11 plans and development ordinances.</p> <p>12 The Yakima County Planning Division reviewed</p> <p>13 OneEnergy's ASC, including the land use consistency</p> <p>14 analysis mentioned earlier in regard to the land use</p> <p>15 provided by OneEnergy, and their Attachment A to its</p> <p>16 application for site certification. And provided EFSEC</p> <p>17 with a review summary. That summary, which is dated</p> <p>18 March 15th, 2021, and is posted on our website,</p> <p>19 identified the additional requirements Yakima County</p> <p>20 staff would recommend be imposed upon the project if the</p> <p>21 project were to go through the County's conditional use</p> <p>22 permit process.</p> <p>23 These items were: One, a statement that the</p> <p>24 project is within the agricultural zoning district; that</p> <p>25 Yakima County is a right to farm county, codified in the</p>

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<p>1 Yakima County Code 6.22, declaring that a farm or farm 2 operation shall not be found to be a public or private 3 nuisance if the farm operation existed before the change 4 in land use or occupancy by an adjacent land use, and 5 that the project may be subject to impacts, such as dust 6 from surrounding areas; and the second condition was the 7 source of water for Washington solar panels shall have a 8 legal and physical availability of water; and, three, 9 the habitat management and mitigation plans shall be 10 implemented prior to development of the site.</p> <p>11 EFSEC staff are currently drafting a site 12 certification agreement that, if approved, would require 13 OneEnergy to adhere to all the commitments made in the 14 revised ASC and associated documents and to all 15 identified mitigation measures in the revised MDNS 16 mentioned previously.</p> <p>17 The MDNS includes 19 mitigation measures to 18 address potential impacts related to wind erosion, 19 wildlife habitat, water needs, noise and visual impacts, 20 any cultural and archeological resources.</p> <p>21 The additional recommendations recommended 22 by the County Planning Division in the review summary 23 will be implemented via commitments made in the revised 24 ASC, mitigation measures identified in the revised MDNS 25 or be incorporated in the draft SCA, if it's approved.</p>	<p>1 EFSEC and Yakima County officials to ensure all 2 construction and grating activities meets standards for 3 sediment and erosion control. And part of this 4 commitment will entail the development of a sediment and 5 erosion control plan which will be -- which will require 6 approval by EFSEC prior to construction and that 7 commitment is made in their ASC.</p> <p>8 Additionally, in the -- in their ASC, 9 the applications also commits to consulting with DAHP 10 and affected tribes regarding cultural resource 11 management, and there's further impositions on that 12 consultation in Mitigation Items 18 and 19.</p> <p>13 So the public comment period, which started 14 September 13th and concludes today, September 27th, and 15 this meeting are being held to fulfill that requirement 16 in Order 879 to obtain public comment on conditional use 17 criteria.</p> <p>18 When considering conditional use criteria, 19 Yakima County Code 19.30.100(2) allows a hearings 20 examiner to impose additional requirements as conditions 21 of approval of a Type 3 conditional use to: (A) comply 22 with the development standard or criteria for approval 23 set forth in the Yakima County code; (B) mitigation 24 material impacts of the development; (C) ensure 25 capability of the development with existing neighboring</p>
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<p>1 Specifically, areas where the County's recommendations 2 in their review summary are currently being addressed.</p> <p>3 EFSEC staff plans to include an 4 acknowledgement of Item 1 in the draft SCA that we plan 5 to present to the Council for its consideration at 6 that -- potentially, yeah, present to the Council for 7 its consideration.</p> <p>8 Item 2 is currently addressed in mitigation 9 Item 4 in the revised MDNS. This mitigation item calls 10 for a certification of water availability for the 11 construction operational needs by EFSEC prior to 12 approval for construction.</p> <p>13 And Item 3 is currently addressed in 14 Sections 2.8.5, 2.8.6, and 4.9.D in the revised ASC. 15 These sections require the revised -- these sections of 16 the revised ASC require that the habitat management and 17 mitigation plans are approved by EFSEC prior to 18 authorizing the start of construction.</p> <p>19 The County's review summary also recommends 20 in the body of the document the creation of a dust 21 control plan. Additionally, a recommendation is made 22 that consultation with the Department of Archeology and 23 Historic Preservation, or DAHP, and the Yakima Nation on 24 cultural resources plans and permits be required.</p> <p>25 The applicant has committed to working with</p>	<p>1 land uses and ensure consistency with the intent and 2 character of the zoning district involved; and (D) 3 ensure that the certificates -- the structures and areas 4 proposed are surfaced, arranged, and screened in such a 5 manner that they are compatible with and not detrimental 6 to existing or reasonable expected future development of 7 the neighborhood or resource uses consist with 8 the comprehensive plan; and (E) achieve and further the 9 intent, goals, objectives, and policies of the 10 comprehensive plan and this title, Title 19.</p> <p>11 Any comments received during this period and 12 this meeting will be taken into consideration when 13 proceeding with EFSEC's review of the ASC and 14 development of the recommendation of the governor under 15 WAC 463-43, and at the end of this presentation -- the 16 presentations by myself and the applicant tonight, the 17 members of the public who wish to speak may make 18 comment.</p> <p>19 Are there any questions? That was a lot of 20 info --</p> <p>21 MS. DREW: Okay. Thank you, Mr. Overton. 22 The court reporter has asked if you can 23 provide your written comments as well. 24 And this I will say to the speakers 25 continuing on tonight, if we can speak just a little bit</p>

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<p>1 more slowly so she can catch it for the transcripts, 2 that would be terrific.</p> <p>3 MR. OVERTON: Yes, my apologies. I will get 4 that to her.</p> <p>5 MS. DREW: Thank you. 6 Are there questions from Council members? 7 Okay. Thank you for that explanation of the 8 project and its review to date.</p> <p>9 We will now move on to OneEnergy solar 10 presentation.</p> <p>11 And Mr. Bjornsen, I would ask you to 12 introduce yourself and I think Mr. McMahan, who are the 13 speakers tonight.</p> <p>14 MR. BJORNSEN: Yes. Thank you. 15 Can you see and hear me.</p> <p>16 MS. DREW: I can.</p> <p>17 MR. BJORNSEN: Great. And also can you see 18 my screen with the outline?</p> <p>19 MS. DREW: Yes.</p> <p>20 MR. BJORNSEN: Awesome. Okay. Good 21 evening, Chair Drew, EFSEC Council, and members of the 22 public. Glad to be here. My name is Blake Bjornsen. 23 I'm an Associate Director with OneEnergy. And as Chair 24 Drew mentioned, we have Tim McMahan here as well who is 25 from Stoel Rives and is representing the project.</p>	<p>1 document that was released by the Department of Commerce 2 states that significant quantities of new clean energy 3 generation be required to meet the future energy 4 requirements of Washington's businesses and households.</p> <p>5 And, again, just want to highlight that this 6 is a project that will help the State meet those goals.</p> <p>7 It's also great because it's compatible with 8 agriculture. This is going to provide supplemental 9 income to our land owners that are -- that desire this 10 project to be on their properties. There's no impact on 11 common local farming practices. It's a nonpermanent 12 use. We can restore the land at the end of the project 13 life so that it can be returned to agricultural use.</p> <p>14 And just a last note, just, you know, solar 15 in general, not an intensive use of water; no fuel price 16 risk. Once we have the project built, the sun does the 17 rest for us for free.</p> <p>18 Talking a little bit more specifically about 19 the area. We think about some of the benefits in these 20 four categories. Of course, we have property taxes -- 21 taxes in general, property taxes being the main one 22 through the life of the project, there's also sales 23 taxes and -- and so throughout the life of the project 24 that funding will provide, you know, really important 25 funding for the county, for Yakima County.</p>
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<p>1 So tonight I'm just going to do a very quick 2 background on OneEnergy and the project. As I know, you 3 know, many have learned about the project before. I'm 4 going to hand it over to Tim to discuss conditional use 5 consistency and then I'll wrap it up with a quick note 6 on project status.</p> <p>7 So just a quick note about OneEnergy. We 8 are headquartered here in the state of Washington. We 9 have had success developing projects throughout the west 10 and throughout the country now. We're about -- we're 11 just over 10 years old as a company. And this project 12 that we're talking about today, Goose Prairie, being in 13 the state of Washington is one that we, as a team, are 14 very excited about being in our home state here.</p> <p>15 I want to touch just two slides on why -- 16 why solar is a great -- great for the state of 17 Washington and also for the local area.</p> <p>18 Starting with the state of Washington, of 19 course, we all know about the Clean Energy 20 Transformation Act, CETA, 100 percent greenhouse gas 21 neutral electricity supply by 2030, 100 percent clean 22 energy by 2045. This project is -- is one that will 23 help the State achieve that goal.</p> <p>24 And, you know, I just wanted to highlight in 25 the recent -- recently released 2021 Energy Strategy</p>	<p>1 Recurring annual expenditures in the form of 2 lease payments to the land owners each year and also the 3 operations and maintenance that goes on through the 4 project.</p> <p>5 Local spending -- start with jobs and labor. 6 We -- we estimate that there will be up to 300 jobs 7 during the construction phase of the project and some -- 8 some of the local spending, both direct and indirect, 9 that will happen with that construction in terms of, you 10 know, any purchasing of -- of products whether that 11 be -- sorry, gas -- gas stations and equipment rentals 12 and hardware stores, building suppliers, all those type 13 of things that see some indirect spending.</p> <p>14 Okay. Just to talk a little bit about 15 project in particular. This is a photo of the site. 16 You can actually see the Bonneville Power Administration 17 line on the right there that we'll be connecting to. So 18 this is a panorama from one of the corners of the 19 project site.</p> <p>20 Some of you saw this slide before. This is 21 some of the stakeholders that we've engaged with through 22 the development of this project since 2017. Kyle just 23 mentioned a lot of the information that relates to some 24 of these groups that we've developed over the last four 25 years, and we look forward to continuing to work with</p>

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<p>1 them as we get into construction and operation.  2 I'm not going to spend a lot of time on  3 this. This is the preliminary site plan just to kind  4 of -- just as a reminder for folks. And this layout  5 does incorporate all of the applicable elements of the  6 Yakima County plan; some of which we're discussing  7 tonight in terms of land use consistency and things like  8 that. So offsets from property boundaries, distance  9 from the streams, all those types of things have been  10 incorporated. And as we get into a little bit more, we  11 provided an attachment that goes line by line through  12 that Yakima County code to show how we're complying with  13 that.  14 So with that, I'm going to hand it over to  15 Tim to talk about Yakima County CUP code consistency.  16 MR. MCMAHAN: Thank you, Blake.  17 Chair Drew, Members of the Council, thank  18 you for being here this evening. Blake and I are really  19 excited about the stage of this project and kind of  20 getting to this point.  21 Can you hear me and see me okay?  22 All right. I'm going to go through a few  23 slides. I'm going to do them relatively quickly. And  24 the reason that I think we can do this relatively  25 quickly is, as Kyle indicated and Blake also punctuated,</p>	<p>1 a very important guiding objective of the siting Council  2 as we consider these projects, which are of great  3 importance to the state of Washington in our view.  4 Next slide, Blake.  5 As I indicated, the application for site  6 certification and the Yakima County March 11th  7 submittal, the reports to the Council does walk through  8 these criteria in great detail. And so we've submitted  9 Attachment A, which is in the large notebooks, and  10 again, you have in front of you, hopefully, or Council  11 staff can provide you Yakima County's review of our  12 Attachment A land use in that March 15th letter.  13 Next slide.  14 All right. Just, really, a few of the key  15 criteria here that is evaluated through the conditional  16 use permit process and would be evaluated if we were  17 planning locally for these permits.  18 Conditional use permits are intended to  19 allow the approval of permissible uses through the  20 implementation of conditions that mitigate the impacts  21 of those uses. That's fundamentally what CUPs are about  22 and how they are generally implemented at the local  23 level.  24 One of the key questions and issues that  25 are -- that is asked in the -- in the conditional use</p>
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<p>1 we have filed a very detained analysis of compliance  2 with the local condition of use permit code for Yakima  3 County. And the County as a contractor to EFSEC and  4 EFSEC staff walked through that submittal, our  5 application for site certification -- I better slow  6 down. Okay. I'm going to slow down. I looked at that  7 frown from the Chair.  8 We walked through the code quite -- quite  9 deeply, and the County took our evaluation and --  10 and did a review to ensure that we had addressed the  11 code as concisely and appropriately as we could, and the  12 County did make that recommendation to the Council as a  13 contractor to EFSEC. So I hope that's clear.  14 I do want to punctuate something that Blake  15 said. And that is really the importance of EFSEC's  16 involvement in these proceedings and the implementation  17 of CETA.  18 In the Tesoro Savage Vancouver Energy  19 Terminal Project, this is language that you have in  20 front of you that we lifted from the report to the  21 governor recommending denial of that project for its  22 failure to implement some very key goals and policies  23 and objectives here, which EFSEC has adopted in order to  24 implement state policy and laws. And so I think it is  25 important really at every turn to remember that this is</p>	<p>1 permit processes at the local level is whether there is  2 any impact to or would require the need for extension of  3 utility services or other urban services of the kind  4 that one -- one would usually expect with a significant  5 amount of development of rural residential or just  6 residential areas outside of -- of urban growth areas.  7 Solar facilities do not and this project in  8 particular does not require the extension of urban  9 utility or other urban services. Does not require the  10 extension of water, wastewater, and it is, therefore,  11 benign in terms of fiscal impacts on the county to  12 implement a use that has, again, a very high value in  13 implementing state policy.  14 So that is really a key concern in the CUP  15 process that is not a problem for this facility as a  16 solar facility.  17 Touching on what Blake indicated, this  18 project will provide a new clean renewable energy source  19 supporting Washington policy. The project supports the  20 community's present and future needs for sustainable  21 energy generation and allows for short- and long-term  22 economic impacts, including a peak level of around 300  23 or so workers during the construction process. Those  24 are family-wage jobs that this project provides during  25 the construction phase.</p>

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<p>1 Next slide, Blake.</p> <p>2 This is really, I think, the key thing I</p> <p>3 want to expand a bit on. The key requirement in a local</p> <p>4 conditional use permit review and local hearing is to</p> <p>5 demonstrate whether or not a project is compatible with</p> <p>6 or would any way undermine existing here agricultural</p> <p>7 uses.</p> <p>8 So compatibility. The compatibility test is</p> <p>9 a very fundamental requirement for the issuance of</p> <p>10 conditional use permits. And when we talk about</p> <p>11 compatibility, it is with the existing active</p> <p>12 agricultural activities in the rural area. This project</p> <p>13 would not in any way impair or be incompatible with</p> <p>14 ongoing farming on the surrounding properties and</p> <p>15 surrounding sites; in fact, it provides some additional</p> <p>16 financial incentives and abilities for agricultural land</p> <p>17 owners to continue agricultural operations with a new,</p> <p>18 fresh steady stream of income provided by this project.</p> <p>19 So the use is consistent with the</p> <p>20 agricultural zoning district. That is the most</p> <p>21 important factor. There will not be disruption of those</p> <p>22 uses.</p> <p>23 The County has -- as Blake indicated and as</p> <p>24 Kyle indicated, the County has chosen to allow renewable</p> <p>25 energy generation as a conditional use. The lands here</p>	<p>1 This -- this provision -- 19.30.100 -- is kind of the</p> <p>2 end of the County's conditional use code and authorizes</p> <p>3 and directs conditions of approval for Type 3</p> <p>4 applications. And we -- OneEnergy, I should say, does</p> <p>5 concur with conditions that have been recommended by</p> <p>6 Yakima County. And we're certainly interested in making</p> <p>7 sure this project does in -- you know, any other way</p> <p>8 reasonable provide for conditioning so that there are no</p> <p>9 detrimental or deleterious consequences of the project</p> <p>10 that would undermine existing rural land uses.</p> <p>11 So just walking through these very quickly,</p> <p>12 the project that the counsel has authorized to provide</p> <p>13 mitigation measures under the code. And I've got kind</p> <p>14 of A through E here, as they are set up by the code.</p> <p>15 Compliance with any development standard or</p> <p>16 criteria set forth in the development code.</p> <p>17 Again, all the development standards are</p> <p>18 specifically addressed in the application for site</p> <p>19 certification with concurrence of Yakima County.</p> <p>20 Secondly, mitigating material impacts of the</p> <p>21 development, whether environmental or otherwise.</p> <p>22 The development standards are specifically</p> <p>23 addressed in the ASC. And as the Council is well aware,</p> <p>24 and as Kyle mentioned, the Council has issued a SEPA</p> <p>25 determination of nonsignificance responding with</p>
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<p>1 generally meet the criteria, particularly the County</p> <p>2 code does allow for pockets, quote/unquote, of</p> <p>3 nonagricultural land uses. And we consider this use to</p> <p>4 be pursuant to that code provision -- or excuse me, the</p> <p>5 comprehensive plan provision. And the application</p> <p>6 evaluates in detail compatibility and analyzes any</p> <p>7 disruption of existing agricultural uses. And really, I</p> <p>8 think what that boils down to is at least several key</p> <p>9 things, which is this project will not increase any</p> <p>10 costs of farming activities.</p> <p>11 The project will not interfere with any</p> <p>12 agricultural practices, things like impairing</p> <p>13 farm-to-market transportation. Especially during</p> <p>14 harvest season, this project will not interfere with</p> <p>15 those uses. This project will not force conversions of</p> <p>16 agricultural uses to other uses. We find conversion,</p> <p>17 you know, as a land use matter when, for example, a</p> <p>18 significant amount of residential development shows up</p> <p>19 in agricultural areas and starts pressuring agricultural</p> <p>20 uses to abandon those uses because it is just too</p> <p>21 difficult to continue farming sometimes. So that's kind</p> <p>22 of a key concept involved in that factor.</p> <p>23 Thank you, Blake. Yeah, you were right to</p> <p>24 hit that one.</p> <p>25 Again, we have concurrence with the County.</p>	<p>1 mitigation measures that are, again, very much echoing</p> <p>2 Yakima County's concerns and requests to the siting</p> <p>3 council.</p> <p>4 Next, as a conditionally allowed use, the</p> <p>5 County allows solar energy facilities in agricultural</p> <p>6 areas. Compatibility measures are, again, addressed in</p> <p>7 detail in the ASC. And the Council does, of course,</p> <p>8 retain and possess authority under these provisions and</p> <p>9 under its own statute to address impacts on surrounding</p> <p>10 agricultural land uses to the extent those impacts</p> <p>11 exist.</p> <p>12 The neighborhood in the context of</p> <p>13 subsection D is dominated by agricultural land uses and</p> <p>14 future development is limited by the uses allowed in the</p> <p>15 zoning code. So this project is not expected, again, to</p> <p>16 interfere with existing or future agricultural</p> <p>17 practices. And, again -- I'll say it again, Yakima</p> <p>18 County does concur with that finding.</p> <p>19 And finally the project achieves and</p> <p>20 furthers intents, goals, objectives and policies of the</p> <p>21 plan, the comprehensive plan in the UDC, and we've</p> <p>22 chosen not to spend many, many, many minutes summarizing</p> <p>23 all those provisions because they are found in the</p> <p>24 document itself, in the ASC document itself.</p> <p>25 So I will be very happy to answer any</p>

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<p>1 questions that you might have at the end of the 2 presentation. And I'm going to hand this back to Blake. 3 MR. BJORNSEN: Yeah. Thank you, Tim. 4 Okay. Yeah. I'm going to close up with one 5 final note on the project status and just focus on the 6 final two here. 7 I think when we spoke last to the EFSEC 8 Council in March, at that time we were in negotiations 9 on -- on energy sales and just wanted to -- cannot speak 10 to any of the specifics, but we are moving closer and 11 closer to finalizing that and also look forward to this 12 EFSEC process wrapping up, hopefully, by the end of the 13 year is what I think we're looking at here based on -- I 14 know we discussed during the last EFSEC meeting the 15 extension of the recommendation to the Governor to 16 October 31st; so looking forward to the next month and a 17 half of working through that and then finalizing that at 18 the end of the year. 19 So with that, I think I have on here 20 questions and discussion, but I think we're actually 21 going to turn back to Kyle and then go from there after 22 that. So thank you for listening. 23 MS. DREW: Thank you. 24 Mr. Overton, you have something further? 25 MR. OVERTON: This is Kyle Overton, Counsel</p>	<p>1 MS. DREW: Yes, I can. 2 MR. SEGURA: Thank you for allowing me the 3 opportunity to speak to you all this evening. My name 4 is Kayne Segura and I am the business manager of Labor 5 Local 348 in Richland. I represent over a thousand 6 hardworking men and women in the Central Washington 7 area, including Yakima County. 8 I am here this evening on behalf of the 9 membership, their families, and the potential jobs 10 available for this project. I can't discuss this 11 project without discussing the importance of local hire 12 and ability trades. We look forward to seeing how 13 OneEnergy and whoever constructs the project plans to 14 utilize local hire and the requirements under CETA 15 standards for the Goose Prairie Solar Project. 16 Our members are trained and skilled not only 17 in heavy highway construction and building construction, 18 but also in all renewable energy construction as well. 19 And we have worked on numerous projects throughout the 20 Central Washington area where we have provided skilled, 21 trained, and reliable workers to do the job from start 22 to finish, and we look forward to the opportunity to 23 continue building these projects for the community. For 24 these reasons and more, we thank you for your time. 25 Thank you.</p>
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<p>1 Specialist. I do not. I believe the agenda got changed 2 a little bit, so I had the one presentation. 3 MS. DREW: Okay. Thank you. 4 Are there any questions from Council 5 Members? 6 Hearing none, we'll proceed to the comment 7 period. 8 I had an echo. There. 9 Okay. Ms. Owens, will you call the first 10 couple of speakers' names so they know that they are up 11 next. 12 MS. OWENS: Yes. So apologies in advance if 13 I mispronounce anything. 14 We currently have five speakers, and I will 15 call the first three so that they know who they are. 16 Kayne Segura, Gunther Liddell, and Jessica Bosse 17 Wadsworth. 18 So if we could please start with Kayne 19 Segura. 20 MS. DREW: You have three minutes as soon as 21 you begin. 22 MR. SEGURA: I am here. 23 Thank you, Chair Drew and the entire 24 Council. 25 Can everybody hear me okay? All right.</p>	<p>1 MS. DREW: Thank you very much. 2 Gunther Liddell. 3 MR. LIDDELL: Good evening, Councilmen or 4 women. I would just like to say I support this project 5 a hundred percent. I've been a laborer with the 6 Local 348 for 25 years. And I've worked in -- I believe 7 in all the above energy policies that rely on a mix of 8 fuel to create good jobs and to ensure that our nation 9 has abundant, affordable energy now and in the future. 10 I would just like to say I think this is a 11 great project for the community, for all the jobs and 12 for the money going back into the community from these 13 jobs. Thank you very much. Have a great night. 14 MS. DREW: Thank you. 15 Jessica Bosse Wadsworth. 16 MS. BOSSE WADSWORTH: Thank you so much for 17 this opportunity to speak to you. My name is Jessica 18 Bosse Wadsworth, and I live in Benton City. I joined 19 the Laborers Union Leadership Program in 2007. This has 20 given me a lifelong career making family-wage income. I 21 know brothers and sisters that have personally 22 benefitted from green energy construction projects. We 23 are experienced construction craft laborers. We build 24 roads, bridges, tunnels, transit, water, and energy 25 systems. Our members rely on a diverse set of skills</p>

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<p>1 performed on a variety of different jobs. I fully 2 support this project. Thank you so much. 3 MS. DREW: Thank you. 4 Ms. Owens. 5 MS. OWENS: We have two left on the list at 6 this point, they are Rich Stetler and Aubrey Newton. 7 So Rich Stetler. 8 MR. STETLER: Can you hear me? 9 MS. DREW: Yes, I can. 10 MR. STETLER: Hi. My name is Richard 11 Stetler, and I'm also a member of LIUNA and resident of 12 Yakima. I just wanted to say that -- excuse me. I just 13 wanted to say that the members valued good energy jobs 14 because they offer family-supporting careers and 15 straighten our country. Thank you. 16 MS. DREW: Thank you. 17 Our last speaker, Aubrey Newton. 18 MS. NEWTON: Good afternoon. And thank you, 19 Chair Drew. 20 Can everybody hear me okay. 21 MS. DREW: We can. Thank you. 22 MS. NEWTON: As reference, my name is Aubrey 23 Newton. I work with the Laborers out of the regional 24 office. And I am from the Central Washington area, born 25 and raised. I am here this evening to speak on behalf</p>	<p>1 jobs for our members. LIUNA works with its employers to 2 make sure that the workers on the job are 3 skilled/trained/reliable; we get the job done ahead of 4 schedule and go home safely at the end of the day. It 5 is for these reasons and many more that we support this 6 project. Thank you for your time this evening. 7 MS. DREW: Thank you. 8 Is there anyone else who would like to speak 9 during this public comment period? 10 Again, is there anyone else who would like 11 to speak during this public comment meeting? It looks 12 like someone is trying to speak. I see -- can you see 13 that, Ms. Owens? 14 MS. OWENS: Somebody just might have their 15 microphone on. 16 MS. DREW: Okay. And I will ask for a final 17 time. Is there anyone else who would like to speak at 18 this public comment meeting? 19 If you would like to submit a written 20 comment -- is our comment database going to remain open, 21 Ms. Owens? 22 MS. OWENS: I believe it closes at 23 seven o'clock tonight. 24 MS. DREW: Okay. So you have until 25 seven o'clock tonight to submit a written comment to</p>
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<p>1 of the OneEnergy Solar Project and the Goose Prairie 2 Solar Project for the record. 3 As a few of my former colleagues have 4 referenced, the Laborers' International Union of North 5 America performs on renewable energy projects throughout 6 not only our northwest region but right here in the 7 Central Washington area. 8 These scopes that we work from start to 9 finish on these projects can be referenced on any letter 10 of assignment, any project labor agreement, community 11 benefits agreement, memorandum of understanding, or 12 similar agreements with the local laborers' union and 13 the general contractor that would be working on this 14 project. 15 I'm here speaking on behalf of the members, 16 as my colleagues also mentioned. And again just wanting 17 to reference and appreciate the time that OneEnergy has 18 taken to speak with us at this moment in time, and we 19 look forward to the continued work that they will be 20 doing to put forth this project in front of the 21 community. 22 The members, as referenced, that we work 23 with are trained, skilled, and qualified workers ready 24 to work on these projects. We have a robust recruitment 25 system that reaches statewide and focuses on good-paying</p>	<p>1 <a href="https://comments.efsec.wa.gov">https://comments.efsec.wa.gov</a>. 2 Final call. Is there anyone else who would 3 like to make a verbal comment at this meeting? 4 Okay. Thank you all for joining us this 5 evening. Thank you for your comments and presentations. 6 And this meeting and public comment meeting is now 7 adjourned. Good night. 8 9 (Hearing adjourned at 5:41 p.m.) 10 11 12 -o0o- 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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## CERTIFICATE

STATE OF WASHINGTON )  
 ) ss.

COUNTY OF KITSAP )

I, CRYSTAL R. McAULIFFE, a Certified Court  
Reporter in and for the State of Washington, do hereby  
certify that the foregoing transcript of the  
videoconference public comment hearing on SEPTEMBER 27,  
2021, is true and accurate to the best of my knowledge,  
skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand  
and seal this 5th day of October, 2021.

  
CRYSTAL R. McAULIFFE, RPR, CCR #2121



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## EFSEC Monthly Council Meeting – Facility Update Format

Facility Name: Kittitas Valley Wind Power Project

Operator: EDP Renewables

Report Date: October 1

Reporting Period: September 2021

Site Contact: Eric Melbardis, Sr Operations Manager

Facility SCA Status: Operational

### Operations & Maintenance (only applicable for operating facilities)

- Power generated: 21,188 MWh
  - Wind speed: 6.6 m/s
  - Capacity Factor: 29.19%
- 

### Environmental Compliance

- No incidents

### Safety Compliance

- Nothing to report

### Current or Upcoming Projects

- Nothing to report

### Other

- No sound complaints
- No shadow flicker complaints



## EFSEC Monthly Council Meeting – Facility Update

**Facility Name:** Wild Horse Wind Facility  
**Operator:** Puget Sound Energy  
**Report Date:** October 12, 2021  
**Report Period:** September 2021  
**Site Contact:** Jennifer Galbraith  
**SCA Status:** Operational

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### Operations & Maintenance

September generation totaled 52,935 MWh for an average capacity factor of 26.97%.

### Environmental Compliance

The Wild Horse Technical Advisory Committee met via conference call on September 28<sup>th</sup> for the annual meeting. The TAC reviewed the results of five years of monitoring sage-grouse habitat restoration efforts and voted on a motion that the Alternative Sage-Grouse Conservation Measures have been achieved and no additional action and/or mitigation is recommended at this time. Kyle Overton will present the full Motion and the TAC recommendation for the Council's consideration.

### Safety Compliance

Nothing to report.

### Current or Upcoming Projects

Nothing to report.

### Other

Nothing to report.

# Wild Horse Wind Facility

## Technical Advisory Committee (TAC)

September 28, 2021  
10:00am-12:00pm

Conference Call

### Agenda

Item		Item Description	Presenter(s)
1.		Welcome & Introductions	Kyle Overton, EFSEC
2.	Informational Item	TAC Rules of Procedures Update	Jennifer Galbraith, PSE
3.	Final Action Item <sup>1</sup>	Sage-Grouse Conservation Measures <ul style="list-style-type: none"><li>• 2020 Habitat Monitoring Results</li><li>• WDFW/USFWS Joint Recommendation</li></ul>	Haley Olson, PSE
4.	Informational Item	Eagle Conservation Plan & Permit Update	Haley Olson, PSE
5.	Informational Item	WDFW Horned Lark Conservation Project	Gary Slater, Ecostudies
6.		Meeting Recap	Kyle Overton, EFSEC

<sup>1</sup> Action Items require a quorum of voting TAC members

**Wild Horse Wind Power Project  
Technical Advisory Committee  
Conference Call  
September 28, 2021, 10:00am  
Meeting Minutes**

**Attendance:**

Jennifer Galbraith* (formerly Diaz)	PSE	Robert Kruse*	FWWP
Scott Lichtenberg	PSE	Bill Essman*	KCF&SC
Shelley Miller	PSE	Tip Hudson*	WSU Extension
Andrea Nesbitt	PSE	Marc Eylar*	KC Noxious Weeds
Haley Olson	PSE	Norm Peck*	Kittitas Audubon
Gary Slater	Ecostudies	Gregg Kurz*	USFWS
Kyle Overton	EFSEC	Mike Ritter*	WDFW
		Mike Schroeder	WDFW

Regrets: Chad Unland\* (DNR)

\*Denotes a voting member of the TAC

**1. Welcome and Introductions: Kyle Overton, EFSEC**

TAC members and guests introduced themselves and the organization they represent. A quorum of voting TAC members was present. Member updates:

- Janet Nelson retired from the TAC as the primary representative for Kittitas Audubon. Norm Peck (formerly alternative representative) is now the primary representative for Kittitas Audubon.
- Stephen Lewis has stepped down from the TAC as the primary representative for USFWS. Gregg Kurz is now the primary representative for USFWS. Gregg was the primary representative on the TAC for several years.
- Sherry Luke has retired from the TAC.

**2. TAC Rules of Procedure Update: Jennifer Galbraith, PSE**

Jennifer presented redlined updates to the TAC Rules of Procedures, which included changes to TAC member agency/organization representatives as described above. These minor changes were administrative and did not require a vote from TAC members.

**3. Sage-Grouse Conservation Measures: Haley Olson, PSE**

Haley Olson provided a presentation on the background of the Alternative Sage-Grouse Conservation Measures as unanimously recommended by the TAC and approved by EFSEC in lieu of installing perch deterrents on transmission structures at Wild Horse. These measures included:

1. Identify and remove all unnecessary fences/wire within the project boundary to reduce potential collision hazards for sage-grouse and other wildlife
2. Mark necessary fences to increase visibility for sage-grouse and where practicable use temporary fences and lay-down fences to reduce potential for collisions
3. Remove inactive raven nests from PSE structures within the project boundary in accordance with the MBTA
4. In cooperation with WDFW, identify appropriate locations and measures for the improvement of habitat suitable for sage-grouse nesting and brood-rearing

Haley shared results from the 5<sup>th</sup> year (2020) sage-grouse habitat monitoring, overall habitat monitoring results/photo documentation (2015-2020), and the WDFW Progress Report/Update on the population of sage-grouse in Washington State.

#### 5<sup>th</sup> Year Monitoring Results (2020)

- Upland Spring Breeding Habitat: 4% sagebrush cover; 44cm average sagebrush height, 92% perennial grass canopy cover; 18% perennial forb canopy cover; 10 preferred forb species present
- Upland Summer Brood-Rearing Habitat: 10% sagebrush cover; 31cm average sagebrush height; 92% perennial grass canopy cover; 18% perennial forb canopy cover; 8 preferred forb species present
- Riparian Summer Brood-Rearing Habitat: 98% perennial grass canopy cover; 18% perennial forb canopy cover; 5 preferred forb species present; suitability is Proper Functioning Condition (PFC); sagebrush cover is <90m from transect

#### Overall Monitoring Results (2015-2020)

- Upland habitat site suitability improved from marginal to suitable for both breeding and brood-rearing
- Riparian habitat site suitability improved from marginal/functional at risk (FAR) to proper functioning condition (PFC)
- All habitat indicators improved since 2015
- 2019 showed the most improvement overall
- Nonnative/invasive species occurrence remained low
- Perennial grasses and forbs increased in size and abundance
- Sagebrush increased in both size and cover
- Riparian stability and function improved
- Moderate to severe drought conditions have had an impact on conditions year-to-year
- One female sage-grouse was observed on two separate occasions during the winter of 2017/18 approximately 100 feet from turbine D31. These observations were confirmed by Mike Schroeder (WDFW).

#### TAC Member Questions:

**Robert Kruse:** Requested the list of native plant species be shared with TAC members.

**Haley Olson:** PSE will forward that list to TAC members.

**Marc Eylar:** Have you seen a difference in impacts from elk? It seems the elk have changed their patterns and are much less active at Wild Horse in the summer.

**Jennifer Galbraith:** PSE has also seen a change in elk patterns at Wild Horse. We don't see them as much in the summer. This change may have had an impact on the success of restoration in The Pines but excluding cattle has had a more significant impact.

#### WDFW Progress Report: WA State Sage-Grouse Population Update

- 2020 overall statewide population = 775 birds
- 2021 overall statewide population = 699 birds
- Populations were affected by wildfires in core areas
- WDFW estimates that recent wildfires may reduce the number of sage-grouse by up to 50%
- Potential for wildfires on suitable sage-grouse habitat is the greatest ongoing threat in WA state
- Declining populations and distribution have resulted in serious concerns for the long-term conservation status

Haley shared that WDFW indicated that the most important contributions Wild Horse can make to sage-grouse conservation are weed management, grazing management, and fire prevention/suppression. PSE has implemented a grazing management plan in accordance with the Wild Horse Coordinated Resource Management group and implemented the following fire suppression/prevention measures:

- Signed agreement with Kittitas County Fire District No. 1
- Fire prevention/suppression plans
- Turbine access roads act as firebreaks
- 125,000 gallon water tank on-site to suppress wildland fires
- Weed management plan, including cheatgrass suppression

#### WDFW/USFWS Joint Recommendation

Mike Schroeder (WDFW), Mike Ritter (WDFW), and Gregg Kurz (USFWS) drafted a joint recommendation regarding the fulfillment of sage-grouse alternative conservation actions at Wild Horse. This joint recommendation was submitted to the TAC prior to this meeting on September 17, 2021. (See recommendation attached)

Based on this joint recommendation PSE drafted the following motion for consideration/vote by the TAC:

*PSE will continue to support conservation of sage-grouse habitat at Wild Horse by maintaining the following sage-grouse conservation measures for the life of the project:*

- *Control the spread of noxious weeds;*
- *Maintain high-visibility fence markers;*
- *Maintain fencing to exclude cattle grazing in the sage-grouse restoration area;*
- *Remove inactive raven nests from PSE structures within the project boundary;*
- *Report any sage-grouse observations to WDFW;*
- *Participate in WA State Sage-Grouse Working Group;*
- *Prevent and suppress fires in the project area; and*
- *Coordinate with the TAC in the future, if site conditions or sage-grouse status warrant additional measures*

*PSE has fulfilled its commitment to monitor the restoration area for five years. Based on the habitat restoration results, overall sage-grouse population trends in Washington State, PSE's completion of the alternative sage-grouse conservation measures, and the ongoing conservation measures listed above, the TAC agrees that the objectives of the Alternative Sage-Grouse Conservation Measures as recommended by the TAC and approved by EFSEC have been achieved and no additional action and/or mitigation is recommended at this time.*

Motion was seconded by: Gregg Kurz

#### Discussion:

**Mike Schroeder:** The reason The Pines was chosen as a focal area was because of the long-term history of observations in that area. To examine any impacts to sage-grouse would be challenging due to low sage-grouse populations in WA State and specifically the Yakima Training Center (YTC). WH is on the periphery of the YTC population, which has plummeted over the last 20 years - it's never been lower than it currently is - down to 3 leks and estimated total of ~30 male birds. Because of that, the chances of seeing birds at Wild Horse is slim to none. Based on the restoration effort in The Pines area, if there were sage-grouse in the project area, they would likely use that area since it's improved quite a bit.

**Robert Kruse:** FWFP objected to the notion that restoration of The Pines was going to benefit sage-grouse, contrary to what Mike Schroeder just said. Our belief is that it is not suitable habitat for sage-grouse due to three reasons: 1) sage-grouse are extremely unlikely to occupy areas with roads, humans, and elevated structures. The Pines area has all three in significant quantities and in line of sight of roads, turbines, and humans. Based on the science, there is nothing that indicates that sage-grouse would occupy the area. We applaud the effort, time, and money that has gone into the restoration of the area. Any restoration is good and good for many other species. Because the science says that sage-grouse won't occupy those areas we



can't deem the restoration effort as contributing to maintaining compliance with the 4th conservation measure that was agreed to for mitigation for the area. Robert read from previous TAC minutes regarding discussion and consideration of off-site mitigation. He believes the conservation work does not meet the requirement of item #4 of the conservation measures agreed to, that restoration will occur in an area that will foster brood-rearing and nesting. It's unlikely that will occur in that area and he would prefer off-site mitigation, perhaps in the YTC. Is propagation a viable consideration for sage-grouse?

**Mike Schroeder:** Propagation has largely been a failure across North America and Europe. It's very difficult to raise grouse in captivity and if it's done, they don't do very well in the wild because there are a lot of predators that like to eat grouse. They become acclimated to people. WDFW deals with same issues on their own wildlife areas. Sometimes you may or may not be successful even if the management activities are on-target. You can be very successful at achieving management goals and still not be successful at getting the species you want. This may be because the species you want are not doing very well regionally. It may be due to something off-site that you're not seeing. The most effective measures in support of sage-grouse is focusing on the YTC. There are people working on the YTC trying to address issues for sage-grouse but decades of increased fire effects and other management issues have made it difficult. It's almost beyond our reach – there are interstate highways surrounding the YTC, massive power line corridors. Wind turbines are in theory an issue but the power lines are worse extending over vast landscapes.

**Norm Peck:** Off-site mitigation may be a consideration where human activity is probably discouraging sage-grouse at Wild Horse. A positive at Wild Horse is that fire is mitigated at a greater extent than at the YTC where normal activities are inclined to cause fires which has had a major impact on sage-grouse population there. PSE has accomplished what was in the plan. He supports the motion but believes if there is going to be a resurgence of sage-grouse it's going to come from building a population off-site and moving them into areas previously occupied. In the 80s he saw sage-grouse regularly when he was hunting in the vicinity. He supports exploration of off-site mitigation because the improvements at Wild Horse have not resulted in an improvement of sage-grouse presence.

**Haley Olson:** Determining off-site or on-site mitigation depends on type/scope of impact the site has and the type of mitigation appropriate for the species. It's important to remember the context, what PSE is actually mitigating for, what level of impact the project actually has on the landscape, and what is happening with sage-grouse populations in the region when we're considering this motion specifically.

**Jennifer Galbraith:** As a reminder, the implementation of the sage-grouse alternative conservation measures were previously agreed to by the TAC and approved by EFSEC as mitigation for impacts to sage-grouse. These measures were implemented in lieu of installing perch discouragers and therefore satisfies the SCA requirements as stated by Stephen Posner and formalized in a letter. We acknowledge Robert's opinions and concerns but neither the science nor the TAC wildlife agency representatives support his position.

**Mike Schroeder:** Does not recall any statement that management at Wild Horse was going to restore sage-grouse. He was not under any illusions that this was the answer for sage-grouse. The Pines area is relatively small and we acknowledge that perch deterrents were not going to be effective in an area with that much topography and alternate perches. From past experience the Wild Horse area has never been a part of the core population for sage-grouse at least in the last 50 years. We were not going to magically turn Wild Horse into a really nice area for sage-grouse. That is just unrealistic. The roads are not a not a problem there. The traffic, human density, and vertical structures are a problem but we were not going to change that with the management recommendations.

**Tip Hudson:** From a rangeland ecology perspective Wild Horse has some of the highest quality, intact native rangeland anywhere in WA and OR. If we ranked this area based on the 17 indicators of rangeland health, nearly all the area would come out as high as you can get on the rangeland health matrix. What the

data is showing is year to year fluctuations in grass and forbs responding to climate variability, not management. If this was a place that would have sage-grouse, it definitely would.

**Mike Ritter:** What we set out to achieve in this area has been achieved. If sage-grouse were in the area, they would be at Wild Horse because of the great habitat. Wild Horse has fulfilled its commitment and no additional action is recommended at this time. Keep doing what you're doing and continue to be a good partner in shrub-steppe conservation. PSE has mitigated for this project. PSE still wants to be a willing partner in sage-grouse conservation in WA, which is good. PSE has gone above and beyond in restoring and maintaining suitable habitat for sage-grouse beyond The Pines.

The TAC vote on the motion was as follows:

TAC Member	Vote
Bill Essman (Kittitas County Field & Stream Club)	YES
Tip Hudson (WSU Extension)	YES
Marc Eylar (Kittitas County Noxious Weeds)	YES
Norm Peck (Kittitas Audubon)	YES*
Gregg Kurz (USFWS)	YES
Mike Ritter (WDFW)	YES
Jennifer Galbraith (PSE)	YES
Robert Kruse (Friend of Wildlife & Windpower)	NO

\*With a reservation for future exploration of off-site mitigation.

The motion passes with six “yes” votes and one “no” vote. The recommendation will be submitted to the EFSEC Council for consideration at the next Council meeting on October 19<sup>th</sup>.

Following the vote Marc Eylar added that if sage-grouse observations occur he believes the TAC should reconvene and possibly doing something different. Jennifer Galbraith confirmed that all sage-grouse observations are reported to the TAC and to WDFW and will continue to notify the TAC if there are sage-grouse observations in the future. Mark asked if PSE will continue with annual reports. Jennifer said that PSE will continue with annual TAC meetings/updates as has been done in the past.

#### **4. Eagle Conservation Plan & Permit Update: Haley Olson, PSE**

Haley Olson provided a presentation/update on compliance with permit conditions as required by the Eagle Incidental Take Permit (ITP) issued by the USFWS and consistent with the Eagle Conservation Plan.

##### Monitoring

- Year 1 (2020) Monitoring Results: a total of 745 turbine searches were completed; overall searcher efficiency was 70% for scan surveys and 88% for drone surveys; two golden eagle fatalities were discovered; no bald eagle fatalities were discovered
- Year 2 (2021) Monitoring: ongoing; will be completed at the end of December 2021
- Year 3 (2022) Monitoring: 3<sup>rd</sup> party consultant (WEST) will complete year 3 monitoring

##### Mitigation

- 43 high-risk poles in the Yakima Canyon were modified to achieve eagle-safe standards. Twenty-nine poles were reframed and fourteen were retrofitted with cover-ups.

##### Adaptive Management

- The purpose of adaptive management under the Eagle ITP is to ensure that the actual level of take is consistent with the permitted level of take. If the rate of take is higher than anticipated, adaptive management measures will be implemented to help reduce overall eagle fatalities.

#### Permit Amendment

- PSE is coordinating with USFWS to extend the eagle permit tenure from 5 years to 15 years to provide more flexibility for management under the permit, to provide longer term coverage, and to be more consistent with the goal of long term implementation of the measures in the ECP.

TAC Member Questions:

**Gregg Kurz:** We're the two golden eagle fatalities found in 2020 immature or adults?

**Jennifer Galbraith:** D26 fatality was a female adult golden eagle. B1 fatality was a first year juvenile or hatch-year male golden eagle.

#### **5. WDFW Horned Lark Conservation Project: Gary Slater, Ecostudies**

Gary Slater provided a presentation about Evaluating Reintroduction Strategies for the Streaked Horned Lark. Small populations of Streaked horned lark are found in western Washington. It was listed as federally threatened in 2013. Reintroduction was identified as a potential conservation tool but would need to be tested prior to implementing on a separate, more common subspecies of horned lark found in eastern Washington, the Dusky horned lark. Ecostudies received a grant from the WDFW Recovery Program for this project. WDFW approached PSE/Wild Horse about partnering with them as a potential location for testing translocation techniques on the Dusky horned lark located at Wild Horse. WDFW/Ecostudies visited Wild Horse on 9/22 to determine site suitability – they found appropriate habitat, abundant Dusky horned lark populations, low risk of disturbance, flat areas for installation of temporary aviaries required for the 2-year project. Next steps:

- scout potential sites for temporary aviaries at Wild Horse
- evaluate Dusky lark use
- evaluate success criteria
- conduct trials that simulate translocation process
- observe behavior/health

TAC Member Questions:

**Robert Kruse:** Is nearby water required for aviary placement?

**Gary Slater:** No, larks get most their water from food/diet

**Norm Peck:** Are you looking at establishing populations at Wild Horse? Is there any risk of interbreeding between subspecies?

**Gary Slater:** No, were just evaluating techniques on the more common Dusky horned lark located in eastern WA and implementing those techniques on the threatened Streaked horned lark located in western WA.

**Mike Ritter:** What is the trend of the Streaked horned lark population?

**Gary Slater:** All 3 ranges of the Streaked horned lark in western OR/WA occupy airfields which puts them at higher risk of mortality due to aircraft collisions. Airfields are not ideal locations for recovery and we have not seen them colonize restored prairie habitats, which may be due to low populations and/or geographic barriers.

#### **6. Meeting Recap**

**Robert Kruse:** Based on Mike Schroeder's comments it doesn't sound like there's much hope for sage-grouse. Are there any other prospects for recovery or maintaining the populations we currently have?

**Mike Schroeder:** Sorry about the pessimism, it's been a pessimistic year where ½ the sage-grouse range burned up. It's tough to deal with. Wish we could be more positive with the population on the YTC but when you're down to ~60 birds it's not a viable situation. We have translocated ~400 wild sage-grouse over last several years to YTC to reinvigorate the population but that effort has basically failed. I wish I had better news but I don't. The Douglas County population is doing much better due to farm programs (CRP)

but it was hit with a large fire. The recovery in some of the CRP lands have been quick due to deep soil habitats but we're dealing with same pressures, increasing fire risks/people, more traffic.

**Tip Hudson:** Agrees the pessimism has to do with the population regionally, not with PSE's management at Wild Horse, which is the purpose of the meeting. The solution for sage-grouse are at the landscape scale, not at the micro scale. If there was ever a place where sage-grouse could come back it would be at Wild Horse and the surrounding area. Any off-site mitigation would not be PSE's responsibility but worth considering and should focus on reducing fires, which could wipe out any conservation work.

**Robert Kruse:** Hopes that PSE and other wind developers will contribute to off-site mitigation.

## **7. Post-Meeting Deliverables & Action Items**

<b>Responsible Party</b>	<b>Task</b>
Jennifer Galbraith, PSE	Email TAC members copy of updated TAC Rules of Procedures
Jennifer Galbraith, PSE	Email TAC members copy of The Pines native plant species
Jennifer Galbraith, PSE	Email TAC members DRAFT minutes for review/approval
Kyle Overton, EFSEC	Send TAC recommendation to EFSEC Council for consideration at next Council mtg

## EFSEC Monthly Council Meeting

### Wild Horse TAC Recommendation to EFSEC

**Facility Name:** Wild Horse Wind Facility  
**Operator:** Puget Sound Energy  
**Site Contact:** Jennifer Galbraith  
**SCA Status:** Operational

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The Wild Horse Technical Advisory Committee met via conference call on September 28<sup>th</sup> for the annual meeting. During the meeting, TAC members voted on the following motion based on the joint recommendation from WDFW and USFWS (see attached) regarding the Alternative Sage-Grouse Conservation Measures:

*PSE will continue to support conservation of sage-grouse habitat at Wild Horse by maintaining the following sage-grouse conservation measures for the life of the project:*

- *Control the spread of noxious weeds;*
- *Maintain high-visibility fence markers;*
- *Maintain fencing to exclude cattle grazing in the sage-grouse restoration area;*
- *Remove inactive raven nests from PSE structures within the project boundary;*
- *Report any sage-grouse observations to WDFW;*
- *Participate in WA State Sage-Grouse Working Group;*
- *Prevent and suppress fires in the project area; and*
- *Coordinate with the TAC in the future, if site conditions or sage-grouse status warrant additional measures*

*PSE has fulfilled its commitment to monitor the restoration area for five years. Based on the habitat restoration results, overall sage-grouse population trends in Washington State, PSE's completion of the alternative sage-grouse conservation measures, and the ongoing conservation measures listed above, the TAC agrees that the objectives of the Alternative Sage-Grouse Conservation Measures as recommended by the TAC and approved by EFSEC have been achieved and no additional action and/or mitigation is recommended at this time.*

The motion passed with six (6) "yes" votes and one (1) "no" vote as follows:

TAC Member	Vote
Bill Essman (Kittitas County Field & Stream Club)	YES
Tip Hudson (WSU Extension)	YES
Marc Eylar (Kittitas County Noxious Weeds)	YES
Norm Peck (Kittitas Audubon)	YES
Gregg Kurz (USFWS)	YES
Mike Ritter (WDFW)	YES
Jennifer Galbraith (PSE)	YES
Robert Kruse (Friend of Wildlife & Windpower)	NO



**Minority Opinion from Robert Kruse (FWWP):** “From our perspective the conservation work that’s been done at The Pines does not meet the requirements of item number 4 of the Conservation Measures agreed to which states that restoration will occur in an area to foster sage-grouse brood-rearing and nesting. And therein lies the problem. It is very unlikely that sage-grouse brood-rearing and nesting is ever going to occur in that area. Nevertheless we applaud once again the restoration work that’s been done there and in this meeting we wanted to promote future work by the TAC to continue work on restoration efforts for sage-grouse, not necessarily onsite mitigation but more preferably off-site mitigation.”



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## MEMORANDUM

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**TO:** WILD HORSE TECHNICAL ADVISORY COMMITTEE MEMBERS

**FROM:** MICHAEL SCHROEDER (WDFW), MIKE RITTER (WDFW), GREGG KURZ (USFWS)

**SUBJECT:** JOINT RECOMMENDATION REGARDING THE FULFILLMENT OF SAGE-GROUSE ALTERNATIVE CONSERVATION ACTIONS AT THE WILD HORSE WIND FACILITY

**DATE:** 9/16/2021

**CC:** KYLE OVERTON, EFSEC

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### Background

On 07/15/10 the Wild Horse Technical Advisory Committee (TAC) unanimously recommended to EFSEC the adoption of four (4) Alternative Sage-Grouse Conservation Measures in lieu of installing raptor perch discouragers on additional power line poles. Based on the TAC recommendation, EFSEC approved a motion adopting the Alternative Sage-Grouse Conservation Measures, which replace the SCA mitigation measure of installing raptor perching discouragers. These measures include:

1. Identify and remove all unnecessary fences and wire from within the project boundary to reduce the potential of collision hazards for sage-grouse and other wildlife and to minimize perch sites for avian predators.
2. Mark necessary fence lines to increase visibility for sage-grouse and where practicable use temporary electric fences and lay-down fences to reduce the potential for hazardous collisions.
3. Remove inactive raven nests from PSE structures within the project boundary in accordance with the terms of the Migratory Bird Treaty Act (MBTA).
4. In cooperation with WDFW, identify appropriate locations and measures for the improvement of habitat suitable for sage-grouse nesting and brood rearing.

### Implementation of Alternative Sage-Grouse Conservation Measures

PSE completed the Alternative Sage-Grouse Conservation Measures as follows:

1. PSE removed approximately 6 miles of unnecessary fences and wire from within the project boundary.
2. PSE installed high-visibility markers on approximately 20-25 miles of barbed and smooth wire fencing. Fence markers consist of 3" vinyl siding with reflective tape placed every 3-4 feet on the top and second fence wires to increase visibility.
3. No raven nests have been identified on structures within the project boundary to date. PSE will continue to check for raven nests periodically and remove, as needed, in accordance with the MBTA and PSE's US Fish and Wildlife Service Special Purpose Utility Permit.

4. The USFWS, WDFW, BFI Native Seeds, and PSE selected a sage-grouse habitat restoration area within the project boundary and identified measures to improve the habitat quality for sage-grouse breeding, nesting, and brood-rearing. The habitat restoration area is approximately 20-30 acres, and was chosen because of its high restoration potential due to some degradation, historical use by sage-grouse, and riparian channel and upland areas with existing sagebrush. Restoration measures included:
  - a. Planting of native vegetation seedlings/plugs;
  - b. Weed management;
  - c. Installation of erosion control wattles; and
  - d. Installation of fencing to exclude cattle.

PSE began implementing these measures in 2011, then met with USFWS, WDFW, and EFSEC in May 2013 to review the results and effectiveness of the initial actions in the field and determine additional management activities to ensure improvement of the habitat. Based on this meeting, PSE developed a Sage-Grouse Nesting and Brood-Rearing Habitat Restoration and Management Plan to document the measures listed above and describe additional planned management and monitoring activities. These activities included maintenance of the erosion control measures, noxious weed management, fence maintenance, habitat monitoring, and protocols for sage-grouse feather collection and pellet counts within the restoration area.

### **Sage-Grouse Nesting and Brood-Rearing Habitat Restoration Monitoring Results**

The habitat restoration area was monitored at two separate transects, one upland and one riparian, during the spring and summer from 2015-2020. The results of monitoring were provided to the TAC annually and summarize the changes in habitat quality over time. Final monitoring results show that site suitability for the upland habitat improved from marginal to suitable for both breeding and brood-rearing, and the riparian habitat improved from marginal/functional at risk (FAR) to proper functioning condition (PFC). All habitat quality indicators have improved since 2015, with 2019 showing the most improvement overall. Nonnative or invasive species occurrence remained low, while perennial grasses and forbs increased throughout the restoration area. Sagebrush continued to expand in both size and number, and overall riparian stability and function improved.

### **Sage-Grouse State-wide Status**

The overall status of sage-grouse populations in Washington State continues on a downward trend. According to WDFW's recent periodic status review of sage-grouse (Apr 2021), the state-wide sage-grouse spring population estimate for 2020 was 775 across the three isolated populations in Douglas County, the Yakima Training Center, and Lincoln County. Subsequent to the spring 2020 survey, the habitat for all three populations were affected by devastating wildfires in core areas of these sage-grouse populations. The state-wide population estimate for 2021 was 699. WDFW estimates that recent wildfires may eventually reduce the number of sage-grouse by up to 50%. The potential for wildfires on suitable sage-grouse habitat is the greatest ongoing threat to sage-grouse in Washington. Declining populations and distribution have resulted in serious concerns for the long-term conservation status of this species.

### **Joint Recommendation**

We propose that PSE continue to help support conservation of sage-grouse habitat at Wild Horse by maintaining the following sage-grouse conservation measures for the life of the project:

- Control the spread of noxious weeds;
- Maintain high-visibility fence markers;

- Maintain fencing to exclude cattle grazing in the sage-grouse restoration area;
- Remove inactive raven nests from PSE structures within the project boundary;
- Report any sage-grouse observations to WDFW;
- Participate in WA State Sage-Grouse Working Group;
- Prevent and suppress fires in the project area; and
- Coordinate with the TAC in the future, if site conditions or sage-grouse status warrant additional measures.

PSE has fulfilled its commitment to monitor the restoration area for five years. Based on the habitat restoration results, overall sage-grouse population trends in Washington State, PSE's completion of the alternative sage-grouse conservation measures, and the ongoing conservation measures listed above, we agree that the objectives of the Alternative Sage-Grouse Conservations Measures as recommended by the TAC and approved by EFSEC have been achieved and no additional action and/or mitigation is recommended at this time.

## Supporting Documents/Background for TAC Recommendation to EFSEC

### Attachment 1. Joint Recommendation Regarding the Fulfillment of Sage-grouse Alternative Conservation Actions at the Wild Horse Wind Facility (June 17, 2010).

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#### MEMORANDUM

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**TO:** WILD HORSE TECHNICAL ADVISORY COMMITTEE MEMBERS

**FROM:** MICHAEL SCHROEDER (WDFW), BRENT RENFROW (WDFW), TRAVIS NELSON (WDFW), GREGG KURZ (USFWS)

**SUBJECT:** RECOMMENDATIONS FOR INSTALLATION OF ADDITIONAL PERCH DISCOURAGERS ON THE 230KV TRANSMISSION LINE AT THE WILD HORSE WIND FACILITY

**DATE:** 6/17/2010

**CC:** STEPHEN POSNER, EFSEC

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On January 12, 2010 the Washington State Department of Fish & Wildlife (WDFW), the U.S. Fish & Wildlife Service (USFWS), and Puget Sound Energy (PSE), met to review current science and discuss the options/feasibility for additional sage-grouse surveys along the 230kV transmission line at the Wild Horse Wind Facility. During that meeting it was agreed that WDFW staff currently engaged in sage-grouse research and management should perform an on-the-ground assessment of the 230kV transmission line and habitat for sage-grouse along its route to help determine whether additional anti-perching devices should be installed on the pole structures or if additional studies were warranted.

The site assessment was performed on February 1, 2010 by Michael Schroder, WDFW Research Biologist, Mike Atamian, WDFW Wildlife Biologist, Mike Livingston, WDFW Wildlife Biologist, and William Moore, WDFW Wildlife Biologist. Based on their findings WDFW concluded that the installation of additional anti-perching devices would not provide the level of benefit for sage-grouse, or accomplish the desired result, as originally envisioned in the Environmental Impact Statement or the Site Certificate Agreement. It was agreed that, in the long-term, implementing alternative conservation actions in lieu of installation of additional anti-perching devices will provide more positive benefits for the protection of sage-grouse at Wild Horse.

Because the benefit of installing additional anti-perching devices on the 230kV transmission line is uncertain, it is recommended that PSE not install anti-perching devices on any additional poles, but instead implement the following alternative conservation actions for consideration by the Technical Advisory Committee:

1. Identify and remove all unnecessary fences and wire from within the project boundary to reduce the potential of collision hazards for sage-grouse and other wildlife and to minimize perch sites for avian predators.
2. Mark fence lines to increase visibility for sage-grouse and where practicable use temporary electric fences and lay-down fences to reduce the potential for hazardous collisions.
3. Remove inactive raven nests from PSE structures within the project boundary in accordance with the terms of the Migratory Bird Treaty Act (MBTA).
4. In cooperation with WDFW, identify appropriate locations and measures for the improvement of habitat suitable for sage-grouse nesting and brood rearing.



**Attachment 2. EFSEC Approval Letter of Sage-grouse Alternative Conservation Measures (August 13, 2010).**



STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL  
905 Plum Street SE, PO Box 43172 • Olympia, Washington 98504-3172

August 13, 2010

Jennifer Diaz  
Environmental and Communications Manager  
Wild Horse Wind Power Project  
2590 Vantage Hwy  
Ellensburg, Washington 98926

Dear Ms. Diaz:

Subject: Installation of Perch Discouragers at Wild Horse

The subject matter was presented to the EFSEC Council during their monthly meeting on August 10, 2010. Based on a unanimous recommendation from the Wild Horse TAC, the Council unanimously approved a motion adopting alternative conservation measures, described in a memo from WDFW and USFWS dated June 17, 2010.

Implementation of the alternative conservation measures satisfies the mitigation measure related to the installation of perch discouragers.

The motion approved by the Council allows for future installation of perch discouragers if warranted, through an adaptive management process.

Please contact me at (360) 956-2063 if you have any questions concerning this letter.

Sincerely,

A handwritten signature in cursive script that reads "Stephen Posner".

Stephen Posner  
Compliance Manager

cc: TAC Members

**Attachment 3. Memorandum from the Washington Department of Fish and Wildlife (WDFW) and U.S. Fish and Wildlife Service (USFWS) regarding the Sage-grouse nesting and brood-rearing habitat improvement area (August 14, 2013).**

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**MEMORANDUM**

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**DATE:** 8/14/13  
**SUBJECT:** SAGE-GROUSE NESTING AND BROOD REARING HABITAT IMPROVEMENT AREA  
**FROM:** MICHAEL SCHROEDER (WDFW), BRENT RENFROW (WDFW), MIKE RITTER (WDFW), GREGG KURZ (USFWS)

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The purpose of this memorandum is to document, for the record, the joint agreement of the Washington Department of Fish and Wildlife (WDFW) and the U.S. Fish and Wildlife Service (USFWS) that The Pines area is currently the site with the most potential for sage-grouse nesting and brood rearing habitat improvements, and is sufficient to satisfy conservation measurement four as recommended by the TAC and defined below.

**Background**

On 07/15/10 the Wild Horse Technical Advisory Committee (TAC) unanimously recommended to EFSEC the adoption of four (4) Alternative Sage-Grouse Conservation Measures (described below) in lieu of installing raptor perch discouragers on additional transmission poles. Based on the TAC recommendation, EFSEC unanimously approved a motion adopting the Alternative Sage-Grouse Conservation Measures, which satisfies the SCA mitigation measure related to the installation of raptor perch discouragers.

1. Identify and remove all unnecessary fences and wire from within the project boundary to reduce the potential of collision hazards for sage-grouse and other wildlife and to minimize perch sites for avian predators.
2. Mark necessary fence lines to increase visibility for sage-grouse and where practicable use temporary electric fences and lay-down fences to reduce the potential for hazardous collisions.
3. Remove inactive raven nests from PSE structures within the project boundary in accordance with the terms of the Migratory Bird Treaty Act (MBTA).
4. In cooperation with WDFW, identify appropriate locations and measures for the improvement of habitat suitable for sage-grouse nesting and brood rearing.

**Initial Site Visit and Restoration Planning (Summer 2010)**

In response to the fourth conservation measure, WDFW and USFWS met in the field with PSE and BFI Native Seeds during the summer of 2010 and identified a sensitive area (ecologically and culturally) in The Pines suitable for sage-grouse nesting and brood rearing habitat improvements. This area was likely used by sage-grouse historically and consists of a grassy/forbs upland area and a 150 foot channel through a riparian zone, which has been heavily eroded and over-grazed in the past. A site-specific restoration plan was developed and implemented for this area, which included planting native plugs (woods rose, sumac, basin wild rye), weed control, erosion control, and temporary fencing to exclude cattle grazing.

**Agency Meeting, Site Assessment, and Recommendation (May 31, 2013)**

Biologists from WDFW and USFWS met with PSE and EFSEC on 5/31/13 to review PSE's implementation of the alternative sage-grouse conservation measures and to complete a site assessment of The Pines location

in order to review actions taken, identify additional restoration recommendations, and to determine if additional areas and/or off-site mitigation should be considered.

Following the site assessment, WDFW and USFWS concluded that The Pines area is the most suitable location for sage-grouse nesting and brood rearing habitat improvements and that active management of this area is currently a sufficient and equitable trade in lieu of installing additional perch discouragers. The conclusion was based on the following: 1) the actual known level of impacts to sage grouse and their habitat caused by operations of the wind farm, 2) what is known about sage-grouse use in the area, 3) the current status of sage-grouse populations in Washington State, and 4) additional conservation activities implemented by PSE that align with the WDFW Sage-Grouse Recovery Plan. However, this conclusion does not preclude improvements to additional areas, if warranted, through an adaptive management process based on changes in actual habitat impacts to sage-grouse and their habitat from the Wild Horse Wind Facility, and the best available science.

**Attachment 4. WDFW and USFWS Rationale for Selection of The Pines area for habitat improvement to benefit sage-grouse nesting and brood-rearing, and status of habitat improvements as of May 2013 (December 20, 2013).**

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**MEMORANDUM**

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**DATE:** 12/30/2013  
**TO:** TECHNICAL ADVISORY COMMITTEE – WILD HORSE WIND PROJECT  
**SUBJECT:** RATIONALE FOR SELECTION OF THE PINES AREA FOR HABITAT IMPROVEMENT TO BENEFIT SAGE-GROUSE NESTING AND BROOD REARING, AND STATUS OF HABITAT IMPROVEMENTS AS OF MAY 2013  
**FROM:** MICHAEL SCHROEDER (WDFW), BRENT RENFROW (WDFW), MIKE RITTER (WDFW), GREGG KURZ (USFWS)

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In 2010, WDFW and USFWS recommended to the Wild Horse Wind Power Project Technical Advisory Committee (TAC) that one of the mitigation elements of the Site Certification Agreement, the fitting of the 230KV Feeder Line with devices to discourage birds that may prey on sage grouse from perching on the poles and cross-arms, be suspended and an alternative mitigation strategy to benefit sage grouse be pursued (see attached memorandum dated 6/17/2010). The alternative strategy included improving habitat for sage grouse nesting and brood rearing at selected locations. The purpose of this memorandum is to explain the rationale for the selection of a portion of the area known as The Pines for habitat improvement to benefit sage grouse.

**Background**

On 07/15/10 the Wild Horse Technical Advisory Committee (TAC) unanimously recommended to EFSEC the adoption of four (4) Alternative Sage-Grouse Conservation Measures (listed below) in lieu of installing raptor perch discouragers on additional power line poles. Based on the TAC recommendation, EFSEC unanimously approved a motion adopting the Alternative Sage-Grouse Conservation Measures, which replace the SCA mitigation measure of installing raptor perching discouragers. These measures are:

1. Identify and remove all unnecessary fences and wire from within the project boundary to reduce the potential of collision hazards for sage-grouse and other wildlife and to minimize perch sites for avian predators.
2. Mark necessary fence lines to increase visibility for sage-grouse and where practicable use temporary electric fences and lay-down fences to reduce the potential for hazardous collisions.
3. Remove inactive raven nests from PSE structures within the project boundary in accordance with the terms of the Migratory Bird Treaty Act (MBTA).
4. In cooperation with WDFW, identify appropriate locations and measures for the improvement of habitat suitable for sage-grouse nesting and brood rearing.

To address the fourth conservation measure, WDFW and USFWS met in the field with PSE and BFI Native Seeds during the summer of 2010 and identified a strategic site suitable for sage-grouse nesting and brood rearing where habitat improvement would likely be successful. This site is in the area known as The Pines. It includes both riparian and upland plant communities and is culturally as well as ecologically significant.

### **Sage Grouse Habitat Needs for Nesting and Brood-rearing**

High quality nesting habitat for sage grouse typically includes a live sagebrush overstory and an herbaceous understory with sufficient density to conceal the hen and the nest.

High quality early season brood-rearing habitat is typically in the vicinity of the nest, and is used by sage-grouse hens with chicks for up to 3 weeks following hatching. Typical high quality habitat has a sagebrush overstory and a healthy herbaceous understory with flowering plants that support an abundance of insects. Insects are a high protein food critical for young chicks. As the chicks get older, their diet shifts from predominantly insects to predominantly forbs (flowering plants).

High quality summer or late brood-rearing habitats are typically areas which retain soil moisture and green, succulent forbs after the herbaceous vegetation in the surrounding sagebrush uplands has dried out. Examples include riparian areas, wet meadows and springs. Hens and chicks move to these areas in search of desirable forbs. It is common for broods to move up in elevation, following plant phenology, to find moist sites with succulent forbs. High quality brood-rearing areas have a forb canopy cover in the range of 10% to 15% or more.

### **Rationale for selecting the site in The Pines for habitat improvement**

The upper Skookumchuck drainage and the adjacent Whiskey Dick drainage have been a relatively common location for greater sage-grouse sightings (Figure 1), especially the area around the Pines and Government springs. This area's attractiveness was further underscored when selected by two radio-marked female greater sage-grouse translocated from Nevada and released on the Yakima Training Center (YTC) in March 2004. Both birds traversed over 25 miles from their release sites on YTC to reside in the upper Skookumchuck area. In 2007 a sage-grouse nest was found just north of The Pines near wind turbine E1.

The site selected in The Pines has suitable nesting and brood-rearing habitat, i.e. sagebrush cover and abundant native bunch grasses and forbs. However, because of damage from years of intense grazing, the site is not in optimal condition and has potential for significant improvement. The riparian area has been degraded, reducing the amount of water that can be retained from winter precipitation. Some areas have been denuded by the intensity of use. The soil moisture available at the site greatly improves the likelihood that habitat improvement measures will be successful.

The Pines is centrally located with respect to the complex of springs and associated riparian areas on the Wild Horse Wind Project (and adjacent lands). The site at The Pines benefits from the presence and proximity of these other areas which also provide habitat for brood-rearing. The aggregate of these sites and The Pines site provides a matrix of dry and mesic plant communities with varying topographic aspects that in turn are expected to extend brood-rearing opportunity due to the variations in plant phenology.

The site selected at The Pines is in the headwaters of the Whiskey Dick Creek watershed. Any improvements to the collection and retention of water (precipitation and snow melt) at this headwaters site will also benefit the riparian area and wetlands further downstream by extending the duration that soil moisture is available through the system.

The central location of The Pines allows the selected site to benefit from other actions/activities on the Wild Horse Wind Project facility that are also expected to maintain and improve habitat for sage grouse. A specific objective of the CRM grazing plan is to meet the guidelines of the Washington State Recovery Plan for the Greater Sage Grouse (Stinson et al. 2004), increase forb cover and/or diversity, and maintain and improve the health of riparian communities. There is also a plan for the protection and restoration of the springs on the Wild Horse Project site.

The Pines area is a natural crossroads for wildlife movement as it is located at the saddle separating the Whiskey Dick and Skookumchuck watersheds to the east (draining to the Columbia River) from the Parke and Caribou creek watersheds to the west (draining to the Yakima River).



### **Initial Site Visit and Restoration Planning (Summer 2010)**

The area selected for improvement is approximately 10 acres and consists of an upland area of grasses and forbs with a riparian area and 1,000 feet of associated channel. The area has been damaged by intense grazing and subsequent erosion. A site-specific restoration plan was developed in November of 2010 and implemented for this area, which included planting plugs of native woods rose, sumac, and basin wild rye. Weed control, erosion control, and temporary fencing to exclude cattle grazing were also included in the plan.

### **Spring 2013 Review - Site Assessment, and Recommendation (May 31, 2013)**

Biologists from WDFW and USFWS met with PSE and EFSEC staff on 5/31/2013 to review PSE's implementation of the alternative sage-grouse conservation measures and to complete a site assessment of The Pines location. Good progress had been achieved on conservation actions 1-3. Conservation action 4, habitat improvement, showed good vegetation expression but had not progressed as well as expected. Cows had repeatedly gotten through the temporary fencing and grazed and trampled the site. (Elk may have added to the grazing pressure.) The Basin wild rye plugs and shrub plantings had poor survival, presumably because of the intensity of grazing. The effort provided an indication of the site's potential for restoration, but permanent fencing is needed to exclude cattle. Additional plantings and erosion control measures were recommended, as well as the installation of a more robust, permanent fence. The concept of a management plan for sage grouse nesting and brood-rearing habitat was discussed and PSE proposed to prepare a draft for review.

### **Sufficiency of The Pines Site, Monitoring and next steps**

An adaptive management approach should be used in assessing whether or not habitat improvement of the site at The Pines is sufficient to meet the objectives of the Alternative Sage Grouse Conservation Measures. The consensus of WDFW and USFWS staff is that the habitat site at The Pines continues to be the best site for habitat improvement work. Additional work should be focused there to restore the habitat to near optimum conditions. We recommend that The Pines site continue to be the focus of habitat improvements, but that does not preclude improvements to additional areas in the future. Treatment of additional areas and/or off-site mitigation is not recommended at this time.

The TAC should continue to monitor the restoration site and review the status of sage grouse use on the Wild Horse site to determine if the conservation measures are effective. Monitoring of the restoration success needs to be adequate to support adaptive management. We recommend the TAC re-evaluate the restoration success and the quality of nesting and brood-rearing habitat restored at The Pines site on a 5-year interval. Because the Pines site was selected in part because of its context within the landscape, the TAC should also consider whether the grazing plan and springs restoration efforts are achieving their goals relative to sage grouse habitat.

Monitoring should consider changes in habitat conditions, new information about impacts to sage-grouse or sage grouse habitat from the Wild Horse Wind Facility project, and the best available science pertaining to sage grouse.

Because of the current west-wide interest in the relationships between sage grouse, habitat and energy development, new and on-going studies are expected to improve our understanding of sage-grouse and wind facilities throughout their range. The TAC should periodically review these study results. New information, both from the Wild Horse Project site and from studies conducted at other facilities, should be taken into account when considering whether the objectives of the alternative Sage Grouse mitigation plan have been achieved or whether additional habitat restoration is needed on or off-site.

## **EFSEC Monthly Council Meeting – Facility Update**

Facility Name: Chehalis Generation Facility  
Operator: PacifiCorp  
Report Date: October 8, 2021  
Reporting Period: September 2021  
Site Contact: Mark A. Miller, Plant Manager  
Facility SCA Status: Operational

### **Operations & Maintenance**

-Relevant energy generation information, such as wind speed, number of windy or sunny days, gas line supply updates, etc.

- 242,403 MW-hrs generated in September for year-to-date generation of 1,791,478 MW-hrs and a YTD capacity factor of 55.93%.
- Water purchase for electric generation purposes from the City of Chehalis was curtailed on July 8, 2021. EFSEC Permit conditions require the Chehalis Generation Facility cease water purchases from the City of Chehalis once the Chehalis River flow has reached less than 165 cubic feet per second (CFS) as measured at the United States Geological Survey (USGS) Grand Mound metering station. (#12027500)
  - EFSEC Resolution 350 was approved on September 14, 2021, pursuant to Article VI.A.7.a, allowing the Chehalis Generation Facility to purchase water from the City of Chehalis during a low flow period in the Chehalis River.
  - The Chehalis Generation Facility began taking water on September 15, 2021 at 11:41. The facility purchased a total of 3.914 acre-feet during the low flow period in the month of September 2021.

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**The following information must be reported to the Council if applicable to the facility:**

### **Environmental Compliance**

-Permit status if any changes.

- No changes.

-Update on progress or completion of any mitigation measures identified.

- No issues or updates.

-Any EFSEC-related inspections that occurred.

- None.

-Any EFSEC-related complaints or violations that occurred.

- EFSEC issued a Deviation Closeout for an emissions event that occurred on May 6, 2021. No further action is required.

-Brief list of reports submitted to EFSEC during the monthly reporting period.

- Nothing to report.

**Safety Compliance**

- Safety training or improvements that relate to SCA conditions.
  - Zero injuries this reporting period and a total of 2,192 days without a Lost Time Accident.

**Current or Upcoming Projects**

- Planned site improvements.
  - No planned changes.
- Upcoming permit renewals.
  - Title V Air Operating Permit Complete Renewal Package submitted on December 23, 2020. Title V AOP expires December 29, 2021.
- Additional mitigation improvements or milestones.
  - As stipulated in EFSEC Resolution 350, the Chehalis Generation Facility will be funding water conservation projects with the City of Chehalis and the Chehalis Basin Partnership. Certification of payment by December 1, 2021 will be provided as required by Resolution 350.

**Other**

- Current events of note (e.g., Covid response updates, seasonal concerns due to inclement weather, etc.).
  - Nothing to report.
- Personnel changes as they may relate to EFSEC facility contacts (e.g., introducing a new staff member who may provide facility updates to the Council).
  - The Environmental Analyst for the Chehalis plant position is open and has been posted for re-fill. We are currently reviewing applications for this position.
- Public outreach of interest (e.g., schools, public, facility outreach).
  - Nothing to report.

Respectfully,



Mark A. Miller P75451  
Manger, Gas Plant  
Chehalis Generation Facility

### EFSEC Monthly Council Meeting – Facility Update

Facility Name: Grays Harbor Energy Center

Operator: Grays Harbor Energy LLC

Report Date: October 19, 2021

Reporting Period: September 2021

Site Contact: Chris Sherin

Facility SCA Status: Operational

#### Operations & Maintenance

-GHEC generated 411,438MWh during the month and 2,366,760MWh YTD.

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**The following information must be reported to the Council if applicable to the facility:**

#### Environmental Compliance

-There were no emission, outfall, or storm water deviations, during the month.

-Routine monthly and quarterly reporting to EFSEC

- Monthly Outfall Discharge Monitor Report (DMR)

-GHEC submitted Relative Accuracy Test Audit (RATA) results.

#### Safety Compliance

-None.

#### Current or Upcoming Projects

-None.

#### Other

-None.

## EFSEC Monthly Council Meeting – September 2021

Facility Name: **Columbia Generating Station and Washington Nuclear Project 1 and 4 (WNP-1/4)**

Operator: **Energy Northwest**

Report Date: **October 6, 2021**

Reporting Period: **September 2021**

Site Contact: **Mary Ramos**

Facility SCA Status: (Pre-construction/Construction/Operational/Decommission): **Operational**

CGS Net Electrical Generation September 2021: **815,383 MW-Hrs**

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### **Environmental Compliance**

As previously reported during the last Council meeting, Energy Northwest (EN) submitted a written report regarding the potential release of silicone oil to the Columbia River. On 9/29/21, EN received a written response from EFSEC concluding that no further reporting is required regarding the event.

### **Current or Upcoming Projects**

N/A

### **Other**

N/A

## EFSEC Monthly Council Meeting Facility Update

Facility Name: Columbia Solar Projects (Penstemon, Camas and Urtica)

Operator: Tuusso Energy, LLC

Report Date: Oct 8, 2021

Reporting Period: 30-days ending Oct 8, 2021

Site Contact: Owen Hurd

Facility SCA Status: Construction

### Construction Status

- Penstemon
    - All modules delivered; installation underway
    - Still awaiting delivery of a portion of the torque tubes; borrowing from Urtica where possible to keep crews moving
    - Interconnection work underway
  - Camas
    - All modules delivered; will begin installations following Penstemon
    - Torque tube installation underway, but still awaiting delivery of some
  - Urtica
    - Working on solutions to pile refusals, which have been higher than expected
    - Site compaction complete
- 

### Environmental Compliance

- Progress on mitigation measures:
  - Partial hydroseeding to begin next week to help with dust control
- Golder and NW Code inspections ongoing
  - Golder was on-site Oct 6 to inspect SWPP compliance

### Safety Compliance

- Daily safety tailgate meetings in progress
- Borrego safety auditing and monitoring occurring daily

### Current or Upcoming Projects

- Meeting with Dept of Ecology and WDFW next week to discuss Planting Plans

# Desert Claim Wind Power Project

October 2021 project update

[Place holder]

# Horse Heaven Wind Project

October 2021 project update

[Place holder]



# Goose Prairie Solar Project

October 2021 project update

[Place holder]

**SITE CERTIFICATION AGREEMENT  
BETWEEN**

**THE STATE OF WASHINGTON**

**AND**

**OER WA SOLAR 1, LLC**



**For the**

**GOOSE PRAIRIE SOLAR PROJECT  
YAKIMA COUNTY, WASHINGTON  
EXECUTED DECEMBER XX, 2021**

**ENERGY FACILITY SITE EVALUATION COUNCIL  
OLYMPIA, WASHINGTON**

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FOR THE GOOSE PRAIRIE SOLAR PROJECT  
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**Attachments**

1. Council Order No. \_\_\_\_\_, Order Recommending Approval of Site Certification entered \_\_\_\_\_, 2021.

**SITE CERTIFICATION AGREEMENT  
FOR THE GOOSE PRAIRIE SOLAR PROJECT**

**between**

**THE STATE OF WASHINGTON**

**and**

**OER WA SOLAR 1, LLC**

This Site Certification Agreement (Agreement or SCA) is made pursuant to Revised Code of Washington (RCW) 80.50 by and between the State of Washington, acting by and through the Governor of Washington State, and OER WA Solar 1, LLC (OER or Certificate Holder).

OER WA Solar 1, LLC filed, as permitted by law, an application with the Energy Facility Site Evaluation Council (EFSEC or Council) for site certification for the construction and operation of a solar powered generation facility, to be located in Yakima County, Washington. The Council reviewed Application EF-210012, conducted public meetings, and by order recommended approval of a revised version of the application and a Site Certification Agreement by the Governor. On \_\_\_\_\_, 2021, the Governor approved the Site Certification Agreement authorizing OER WA Solar 1 LLC, to construct and operate the Goose Prairie Solar Project (Project).

The parties hereby now desire to set forth all terms, conditions, and covenants in relation to such site certification in this Agreement pursuant to RCW 80.50.100(1).

## **ARTICLE I: SITE CERTIFICATION**

### **A. Site Description**

The Certificate Holder plans to construct and operate a solar photovoltaic (PV) project with an optional battery storage system on eight parcels of land within the Agricultural Zoning District in unincorporated Yakima County near the city of Moxee.

The Project will consist of PV panels, inverters, mounting infrastructure, an electrical collection system, an optional operation and maintenance building, access roads, interior roads, security fencing, a collector substation, and electrical interconnection infrastructure. The footprint of the Project will not exceed 625 acres. The Project will have a combined maximum generating capacity of 80 megawatts alternating current (AC).

The Project will interconnect with a new point of interconnection (POI) to Bonneville Power Administration's (BPA) Midway to Moxee 115-kilovolt (kV) transmission line, which bisects the Project. BPA will build, own, and operate the structures which constitute the POI. The Project will be accessed by an existing approach from Washington State Route 24.

### **B. Site Certification**

The State of Washington hereby authorizes OER and any and all parent companies, and any and all assignees or successors approved by the Council to construct and/or operate the Goose Prairie Solar Project as described herein, subject to the terms and conditions set forth in Council Order No. [REDACTED], Council Order Recommending Site Certification (Attachment 1 to this Agreement), and this Agreement.

The construction and operation authorized in this Agreement shall be located within the areas designated herein and in the Revised Application for Site Certification submitted by OER on June 22, 2021 (Revised Application).

This Agreement authorizes the Certificate Holder to construct the Goose Prairie Solar Project such that Substantial Completion is achieved no later than ten (10) years from the effective date of the SCA.

If the Certificate Holder does not begin construction of the Project within five (5) years of the execution of the SCA, then at least ninety days prior to the end of the five year period, the Certificate Holder must report to the Council its intention to continue and will certify that the representations in the Revised Application, environmental conditions, pertinent technology, and regulatory conditions have remained current and applicable, or identify any changes and propose appropriate revisions to the Agreement to address changes. Construction may begin only upon prior Council authorization and approval of such certifications. If the Certificate Holder does not begin construction of the Project within ten (10) years of the effective date of the SCA all rights under this SCA will cease.



## C. Project Description

1. The Goose Prairie Solar Project will consist of:
2. *Solar Modules.* The photovoltaic solar modules, commonly known as solar panels, are electrical devices that convert the energy of light directly into electricity by the photovoltaic effect.
3. *Tracking System.* The panels are mounted together into solar arrays on a steel racking system which utilizes a single-axis tracking system. At maximum tilt, the panels may be up to fourteen feet above the ground.
4. *Posts.* The tracking system is secured to steel posts, also known as piles, which serve as the foundation. The piles are driven or screwed into the ground to a depth of approximately five to nine feet depending on soil conditions.
5. *Cabling.* Throughout the Facility, electric cables transmit the electric current produced by the solar arrays to pad-mounted inverters and transformers. Mitigation item 10 in the Revised MDNS requires all electrical cabling be placed underground to the greatest extent practicable while utilizing the narrowest trench permitted per relevant regulation to minimize disturbance. The cables may be buried at a depth of at least three feet or strung above-ground along the tracking system in cable trays.
6. *Inverters and Transformers.* The electricity produced by the panels is in direct current (DC) form and is converted by inverters into alternating current (AC). Each inverter is coupled with a medium voltage step-up transformer to increase the voltage of the power to a medium voltage of 34.5 kV which minimizes losses for collection of the power to the Facility Substation. The inverters and step-up transformers are mounted on concrete pads throughout the Facility.
7. *Collector Lines.* The transformers will be linked throughout the Facility via 34.5 kV collector lines which transmit the power to the Facility Substation. Mitigation item 10 in the Revised MDNS requires all electrical cabling be placed underground to the greatest extent practicable while utilizing the narrowest trench permitted. The collector lines will be strung overhead or buried at a depth of approximately three feet, pending final design.
8. *Facility Substation.* The Facility Substation consists of the main step-up transformer to increase the voltage to 115 kV for interconnection to the grid and the control house which houses protective equipment including communications equipment, circuit breakers, disconnect switches and relays. The Facility Substation will be situated on approximately 0.5 acres.
9. *Operations and Maintenance Building.* The Facility may include an optional Operations and Maintenance (O&M) building which may consist of a single-story structure with office space, warehousing space, a bathroom, and breakroom facilities.
10. *Civil Infrastructure.* Infrastructure will include access gates, internal access roads,

and security fencing.

11. *Battery Energy Storage System.* The Facility may include an optional battery energy storage system (BESS). The BESS allows for the storing excess solar-generated electricity and supplying it back to the grid or to local loads when needed.

The location of Project facilities including, but not limited to, the solar panels, electrical collection and distribution system, electrical transformers, electrical generation tie lines, roadways, and other related Project facilities, is generally described in the Revised Application, as modified within the Agreement. The final location of the solar panels and other project facilities within the Facility Area may vary from the locations shown on the conceptual drawings provided in the Revised Application, but shall be consistent with the conditions of this Agreement and in accordance with the final construction plans approved by EFSEC pursuant to Article IV S.

## **ARTICLE II: DEFINITIONS**

Where used in this Site Certification Agreement, the following terms shall have the meaning set forth below:

1. “Application” means the *Application for Site Certification*, designated No. EF-210012, submitted on January 19, 2021, as supplemented in the Revised Application filed on June 22, 2021.
2. “Approval” (by EFSEC) means an affirmative action by EFSEC or its authorized agents including those actions and consultations delegated to Council staff regarding documents, plans, designs, programs, or other similar requirements submitted pursuant to this Agreement.
3. “Begin Commercial Operation” or “Beginning of Commercial Operation” means the time when the Project begins generating and delivering electricity to the electric power grid, other than electricity that may be delivered as a part of testing and startup of the Project.
4. “BMPs” means Best Management Practices.
5. “Certificate Holder” means OER WA Solar 1, LLC, any and all parent company(s), or an assignee or successor in interest authorized by the Council.
6. “Goose Prairie Solar Project” or “Project” means those Goose Prairie Solar Project facilities described in the Revised Application, including: solar panels and their construction areas; electrical collection/interconnection and communication systems; electrical step-up and interconnection transformers; optional Battery Energy Storage System; access roadways; temporary construction-related facilities; and other related Project facilities. The specific components of the Project are identified in Article I.C.
7. “Construction” means any of the following activities: Project Site clearing, grading, earth moving, cutting or filling, excavation, preparation of roads and/or laydown areas, foundation construction including hole excavation, form work, rebar, excavation and pouring of concrete for the inverter pads and switchyard, or erection of any permanent, above-ground structures including any solar tracking assemblies, the transformer, transmission line poles, substation poles, or meteorological towers.
8. “County” means Yakima County, Washington.

9. “DAHP” means the Washington State Department of Archaeology and Historic Preservation.
10. “Ecology” means the Washington State Department of Ecology.
11. “EFSEC” or “Council” means the State of Washington Energy Facility Site Evaluation Council, or such other agency or agencies of the State of Washington as may hereafter succeed to the powers of EFSEC for the purposes of this Agreement.
12. “EFSEC Costs” means any and all reasonable costs, both direct and indirect, associated with EFSEC activities with respect to this Site Certification Agreement (SCA), including but not limited to monitoring, staffing, and SCA maintenance.
13. “End of Construction” means the time when all Project facilities have been substantially constructed and are in operation.
14. “Facility Area” means the up to 625 acre site where the facility is planned to be located, as described in greater detail in Section 1.A and 2.A of the Revised Application.
15. “Facility Area Extent” means the 789 acre site where the facility is planned to be located and is the extent of the area considered for micro-siting, as described in greater detail in Section 1.A and 2.A of the Revised Application.
16. “Micro-siting” means the final technical and engineering process by which the Certificate Holder shall recommend to the Council the final location of solar project facilities on the Facility Area.
17. “NPDES Permit” means National Pollutant Discharge Elimination System permit.
18. “RCW” means the Revised Code of Washington.
19. “Revised Application” means the Goose Prairie Solar Project Revised Application for Site Certification submitted on June 22, 2021.
20. “Revised MDNS” means the Revised Mitigated Determination of Non-Significance issued on July 30, 2021 by EFSEC.
21. “Site,” or “Project Site,” means the land identified in the Application on which the Goose Prairie Solar Project is to be constructed and operated, namely, the up to 625-acre Goose Prairie site as described in greater detail in Section 1.A and 2.A of the Revised Application.
22. “Site Certification Agreement,” “SCA” or “Agreement” means this formal written agreement between the Certificate Holder and the State of Washington, including all attachments hereto and exhibits, modifications, amendments, and documents incorporated herein.
23. “State” or “state” means the State of Washington.
24. “Substantial Completion” means the Project is generating and delivering energy to the electric power grid.
25. “WAC” means the Washington Administrative Code.
26. “WDFW” means the Washington Department of Fish and Wildlife.
27. “WSDOT” means the Washington State Department of Transportation.

### **ARTICLE III: GENERAL CONDITIONS**

#### **A. Legal Relationship**

1. This Agreement shall bind the Certificate Holder, and its successors in interest, and the State and any of its departments, agencies, divisions, bureaus, commissions, boards, and

its political subdivisions, subject to all the terms and conditions set forth herein, as to the approval of, and all activities undertaken with respect to the Project or the Site. The Certificate Holder shall ensure that any activities undertaken with respect to the Project or the Facility Area by its agents (including affiliates), contractors, and subcontractors comply with this Agreement and applicable provisions of Title 463 WAC. The term “affiliates” includes any other person or entity controlling, controlled by, or under common control of or with the Certificate Holder.

2. This Agreement, which includes those commitments made by the Certificate Holder in the Revised Application and mitigation requirements included in the July 30, 2021 Revised MDNS, constitutes the whole and complete agreement between the State of Washington and the Certificate Holder, and supersedes any other negotiations, representations, or agreements, either written or oral.

**B. Enforcement**

1. This Agreement may be enforced by resort to all remedies available at law or in equity.

2. This Agreement may be suspended or revoked by EFSEC pursuant to RCW 34.05 and RCW 80.50, for failure by the Certificate Holder to comply with the terms and conditions of this Agreement, for violations of RCW 80.50 and the rules promulgated thereunder, or for violation of any applicable resolutions or orders of EFSEC.

3. When any enforcement action of the Council is required by or authorized in this Site Certification Agreement, the Council may, but shall not be legally obligated to, conduct a hearing pursuant to RCW 34.05.

**C. Notices and Filings**

Filing of any documents or notices required by this Agreement with EFSEC shall be deemed to have been duly made when delivery is made to EFSEC’s offices at Energy Facility Site Evaluation Council, 621 Woodland Square Loop SE, PO Box 43172, Olympia, WA 98504-3172, in Thurston County.

Notices to be served by EFSEC on the Certificate Holder shall be deemed to have been duly made when deposited in first class mail, postage prepaid, addressed to the Certificate Holder at OER WA Solar 1, LLC, 2003 Western Ave, Ste 2225, Seattle WA 9812, Attn: Blake Bjornson, with a copy to Tim McMahan, Stoel Rives LLP, 760 SW Ninth Avenue, Portland, OR 97205.

**D. Rights of Inspection**

Throughout the duration of this Agreement, the Certificate Holder shall provide access to the Site, the Project structures, buildings and facilities, underground and overhead electrical lines, and all records relating to the construction and operation of the Project to designated representatives of EFSEC and EFSEC contractors in the performance of their official duties. Such duties include, but are not limited to, environmental monitoring as provided in this Agreement and monitoring and inspections to verify the Certificate Holder’s compliance with this Agreement. EFSEC personnel or any designated representatives of EFSEC shall follow all worker safety requirements observed and enforced on the Project Site by the Certificate Holder

and its contractors.

**E. Retention of Records**

The Certificate Holder shall retain such records as are necessary to demonstrate the Certificate Holder's compliance with this Agreement.

**F. Consolidation of Plans and Submittals to EFSEC**

Any plans required by this Agreement may be consolidated with other such plans if such consolidation is approved in advance by EFSEC. This Site Certification Agreement includes time periods for the Certificate Holder to provide certain plans and other information to EFSEC or its designees. The intent of these time periods is to provide sufficient time for EFSEC or its designees to review submittals without delay to the Project construction schedule, provided submittals made to EFSEC and/or its designees are complete.

**G. Site Certification Agreement Compliance Monitoring and Costs**

The Certificate Holder shall pay to the Council such reasonable monitoring costs as are actually and necessarily incurred during the construction and operation of the Project to assure compliance with the conditions of this Agreement, as required by RCW 80.50. The amount and manner of payment shall be prescribed by EFSEC pursuant to applicable rules and procedures.

The Certificate Holder shall deposit or otherwise guarantee payment of all EFSEC Costs as defined in Article II.15, for the period commensurate with the activities of this Agreement. EFSEC shall provide the Certificate Holder an annual estimate of such costs. Any instrument guaranteeing payment of EFSEC's costs shall be structured in such a manner as to allow EFSEC to collect from a third party and without approval of the Certificate Holder any such costs which the Certificate Holder fails to pay to EFSEC during any preceding billing period.

**H. Site Restoration**

The Certificate Holder is responsible for site restoration pursuant to the Council's rules, WAC 463-72, in effect at the time of submittal of the Application.

The Certificate Holder shall develop an Initial Site Restoration Plan in accordance with the requirements set out in Article IV.F of this Agreement and submit it to EFSEC for approval. The Certificate Holder may not begin Site Preparation or Construction until the Council has approved the Initial Site Restoration Plan, including the posting of all necessary guarantees, securities, or funds associated therewith.

The Certificate Holder shall submit a detailed site restoration plan to EFSEC for approval prior to decommissioning in accordance with the requirements of Article VIII.A of this Agreement.

**I. EFSEC Liaison**

No later than thirty (30) days from the effective date of this Agreement, the Certificate Holder shall designate a person to act as a liaison between EFSEC and the Certificate Holder.

**J. Changes in Project Management Personnel**

The Certificate Holder shall notify EFSEC of any change in the primary management personnel,

or scope of responsibilities of such personnel, for the Project.

**K. Amendment of Site Certification Agreement**

1. This Agreement may be amended pursuant to EFSEC rules and procedures applicable at the time of the request for amendment. Any requests by the Certificate Holder for amendments to this Agreement shall be made in writing.
2. No change in ownership or control of the Project shall be effective without prior Council approval pursuant to EFSEC rules and procedures.
3. Repair, maintenance, and replacement of Project facilities:
  - a. The Certificate Holder is permitted, without any further amendment to this agreement, to repair and maintain Project Facilities described in Article I.C, consistent with the terms of this Agreement.
  - b. The Certificate Holder shall notify EFSEC of the replacement of any significant portion of the Project Facilities no later than thirty (30) days prior to the replacement occurring.
4. In circumstances where the Project causes a significant adverse impact on the environment not previously analyzed or anticipated by this Agreement, or where such impacts are imminent, EFSEC shall take all steps it deems reasonably necessary, including imposition of specific conditions or requirements on the Certificate Holder as a consequence of such a situation in addition to the terms and conditions of this Agreement. Such additional conditions or requirements initially shall be effective for not more than ninety (90) days and may be extended once for an additional ninety (90) day period if deemed necessary by EFSEC to pursue ongoing, or continuing temporary, arrangements under other authority, including but not limited to RCW 34.05, RCW 80.50 RCW, or Title 463 WAC.

**L. Order of Precedence**

In the event of an inconsistency or apparent ambiguity in this Agreement, the inconsistency or ambiguity shall be resolved by giving precedence in the following order:

1. Applicable Federal statutes and regulations;
2. Applicable State of Washington statutes and regulations;
3. The body of this Site Certification Agreement, including any other provision, term, or material incorporated herein by reference or otherwise attached to, or incorporated in, this Agreement;
4. The application of common sense to affect a result consistent with law and the principles effected in this document.

**M. Review and Approval Process; Exceptions**

1. Except for the Initial and Final Site Restoration Plans, prior to any site work, the Council may delegate to the EFSEC Manager authority to approve or deny the construction and operational plans required by this Agreement. The EFSEC Manager shall ensure that the construction and operational plans have been sufficiently reviewed prior to approval.
2. The EFSEC Manager may allow temporary exceptions from plan requirements or provisions of the SCA when such exceptions are not contrary to the purposes of the SCA, provided that a record is kept, and Council members are immediately notified. Any Council member may within seven (7) days of the notice put the item on a Council meeting agenda for review.

**ARTICLE IV: PLANS, APPROVALS AND ACTIONS  
REQUIRED PRIOR TO CONSTRUCTION**

**A. Plan Submission Requirements**

All identified plans and submissions must adhere to the requirements and obligations set forth in relevant regulation, the agreement, the Revised MDNS, and the Revised Application.

Unless otherwise noted, all plans and submissions required prior to beginning site construction activities are required to be filed with EFSEC ninety (90) days prior the start of Construction. The Certificate Holder shall not begin Construction activities prior to all applicable elements of the required plans or commitments outlined in this agreement, the Revised MDNS, and the Revised Application being in place, and Council approval of required plans and authorization to begin construction has been obtained.

**B. Notice of Federal, State, and Local Permit Approvals**

No later than thirty (30) days after the effective date of this Agreement, the Certificate Holder shall notify the Council of all Federal, State, and Local permits, not delegated to EFSEC, that are required for construction and operation of the Project, if any, and the anticipated date of permit issuance to the Certificate Holder. The Certificate Holder shall notify the Council when all required permits have been obtained, no later than ten (10) business days after the permit has been issued.

**C. Mitigation Measures**

During construction, operation, decommissioning, and site restoration of this Project, the Certificate Holder shall implement the mitigation measures set forth in this Agreement, including, but not limited to, those presented in Section 2.A.5 of the Revised Application, those identified in the SEPA Staff Memo and Supplemental Memo, and those presented in the Revised MDNS. For each of these mitigation measures, the Certificate Holder shall in the same filing further identify the Construction Plan and/or Operation Plan addressing the methodology for its achievement.

The specific plans and submittals listed in the remainder of this Article IV, and Articles V, VI, VII, and VIII, shall incorporate these mitigation measures as applicable.

**D. Construction Stormwater Pollution Prevention Plan**

1. Notice of Intent. The Certificate Holder shall file with EFSEC a Notice of Intent to be covered by a General National Pollutant Discharge Elimination System (NPDES) Permit for Stormwater Discharges Associated with Construction Activities.

2. Construction Stormwater Pollution Prevention Plan. The Certificate Holder shall submit to EFSEC a Construction Stormwater Pollution Prevention Plan (Construction SWPPP) and provide a copy to Ecology for comment. The Construction SWPPP shall meet the requirements of the Ecology stormwater pollution prevention program (WAC 173-230), and the objectives and requirements in Special Condition S.9 of the *National Pollutant Discharge Elimination System and State Waste Discharge General Permit for Stormwater Discharges Associated with Construction Activities* issued by the Department of Ecology on January 1, 2021 or as revised.

3. Temporary Erosion and Sediment Control Plan. The Certificate Holder shall develop a Temporary Erosion and Sediment Control (TESC) Plan in coordination with Yakima County and shall submit the TESC Plan to EFSEC for approval and provide a copy to Ecology for comment. The TESC Plan must consider dust control measures to address dust from construction activities. As an alternative to submitting a separate TESC Plan, the Certificate Holder may include measures for temporary erosion and sedimentation control in the Construction SWPPP required in Article IV, Section C.2, above.

**E. Construction Spill Prevention, Control and Countermeasures Plan**

The Certificate Holder shall develop a Construction Spill Prevention, Control, and Countermeasures Plan (Construction SPCCP) in the event that quantities of materials maintained on site are of sufficient quantity to qualify, consistent with the requirements of 40 CFR Part 112 and shall adhere to requirements identified in this agreement and the Revised Application. The Construction SPCCP shall include the Facility Area, and all access roads. The Certificate Holder shall require all contractors working on the facility to have a spill prevention and countermeasure program consistent with the above requirements. The Certificate Holder shall provide a copy to Ecology for comment.

**F. Initial Site Restoration Plan**

The Certificate Holder is responsible for Project decommissioning and site restoration pursuant to Council rules. The Certificate Holder shall develop an Initial Site Restoration Plan in consultation with EFSEC staff pursuant to the requirements of WAC 463-72-040 in effect on the date of Application. The objective of the Plan shall be to restore the Project Site to approximate pre-Project condition or better.

The Initial Site Restoration Plan shall be prepared in detail commensurate with the time until site restoration is to begin. The scope of proposed monitoring shall be addressed in the Initial Site Restoration Plan.



The Plan shall include the following elements:

1. A detailed engineering estimate of the costs of the Certificate Holder or Transferee hiring a third party to carry out Site Restoration. The estimate may not be reduced for “net present value” or other adjustments.
2. Decommissioning Timing and Scope, as required by Article VIII.C of this Agreement.
3. Decommissioning Funding and Surety, as required by Article VIII.D of this Agreement.
4. Mitigation measures described in the Revised Application and this Agreement.
5. A plan that addresses both the possibility that site restoration will occur prior to, or at the end of, the useful life of the Project and also the possibility of the Project being suspended or terminated during construction.
6. A description of the assumptions underlying the plan. For example, the plan should explain the anticipated useful life of the Project, the anticipated time frame of site restoration, and the anticipated future use of the Project Site.
7. An initial plan for demolishing facilities, salvaging equipment, and disposing of waste materials.
8. Performing an on-site audit and preparing an initial plan for disposing of hazardous materials (if any) present on the site and remediation of hazardous contamination (if any) at the site. In particular, if the Certificate Holder constructs the Project with solar panels incorporating hazardous materials, such as Cadmium Telluride, then the Certificate Holder shall use appropriate precautions during decommissioning and removal of the solar panels to safely dispose of and to avoid, and, if necessary, remediate any soil contamination resulting from the panels’ hazardous materials.
9. An initial plan for restoring the Project Site, including the removal of structures and foundations to four feet below grade and the restoration of disturbed soils.
10. Provisions for preservation or removal of Project facilities if the Project is suspended or terminated during construction.

**G. Habitat Restoration and Mitigation Plan.**

The Certificate Holder shall develop a Habitat Restoration and Mitigation Plan, in consultation with EFSEC staff and WDFW.

1. The Plan shall specify the Certificate Holder’s plan for meeting Compensatory Mitigation Obligations. The Certificate Holder’s Compensatory Mitigation Obligations will be met through the mechanisms identified in the Revised MDNS and associated staff memo.

2. Pre-construction Project layout drawings will show expected permanent and temporary land disturbances.

3. The Plan shall include a process to determine the actual impacts to habitat following the completion of construction. In the event that actual impacts to habitat exceed the expected impacts determined prior to construction, the Habitat Mitigation Plan will include a mechanism for the Certificate Holder to provide supplemental compensatory mitigation (Supplemental Mitigation). In the event of such determination, WDFW shall provide evidence of such exceedance of impacts. Supplemental Mitigation, if any, would be proportional to impacts and may take the form of additional on-site habitat enhancement or the payment of an additional fee equivalent to the value of permanently disturbed project acres to WDFW in lieu of mitigation. Any supplemental mitigation would be established in coordination with WDFW and reviewed and approved by the Council prior to implementation.

#### **H. Vegetation and Weed Management Plan**

The Certificate Holder shall develop a Vegetation and Weed Management Plan, in consultation with EFSEC staff, WDFW, and Ecology.

1. The Plan must address vegetation management activities related to Project construction and operation.

2. The Certificate Holder shall develop the Plan to require all temporarily disturbed areas to be reseeded with an appropriate native seed mix selected in coordination with WDFW.

3. In consultation with WDFW, the Plan shall include a restoration schedule that identifies timing windows during which restoration should take place, and an overall timeline for when all restoration activities will be completed.

4. The Plan shall also include benchmarks and a timeline for revegetation success, and a plan for monitoring revegetation to ensure success.

5. This plan must address the requirements set forth in YCC 16C.11.070 and WAC 463-60-332(3).

6. The Plan must specify methods that will be implemented for effective noxious weed control and revegetation.

7. The plan must identify mowing schedule for vegetation maintenance and must be restricted March 15 to May 15 and limited to the extent practicable from February 1 to March 15 and May 15 to September 30.

8. The Certificate Holder Shall conduct two rare plant surveys and report the findings to EFSEC as specified in mitigation item 6 of the Revised MDNS.

a. The Certificate Holder shall conduct a survey for Hoover's Biscuitroot (*Tauschia*

*hooveri*) between March 15<sup>th</sup> and May 15<sup>th</sup>.

- b. The Certificate Holder shall conduct a survey for Coyote Tobacco (*Nicotiana attenuata*) between June 1<sup>st</sup> and September 30<sup>th</sup>.
- c. The Certificate Holder shall consult with EFSEC and DNR regarding the findings of these surveys to determine appropriate mitigation measures to be integrated in the Vegetation and Weed Management and other associated plans.

**I. Streams**

1. Construction of the stream crossing shall be performed in accordance with relevant regulation, this agreement, the Revised MDNS, and the Revised Application.
2. The Certificate Holder shall consult with Ecology and WDFW during the design and planning of the stream crossing and shall provide the proposed design to EFSEC for final approval.
3. The Certificate Holder shall provide sufficient project construction detail to EFSEC to determine, in consultation with Ecology, the need for obtaining an Administrative Order for discharge to a water of the state in accordance with WAC 173-201A.
4. The 50-foot stream buffer identified in the Revised ASC shall be measured from the Ordinary High Watermark and identified on construction phase plans as appropriate.

**J. Construction Traffic Control Plan**

The Certificate Holder shall develop a Construction Traffic Control Plan, in consultation with EFSEC and WSDOT.

1. The Traffic Control Plan must address traffic management during improvement of highway access.
2. The plan must contain measures to facilitate safe movement of vehicles in the vicinity of the construction zone and be in accordance with 23 CFR Part 655, Subpart F.

**K. Cultural and Archaeological Resources Unanticipated Discovery Plan**

With the assistance of an experienced archaeologist, and in consultation with EFSEC, Department of Archaeology and Historic Preservation (DAHP), and any concerned Tribes, the Certificate Holder shall develop a Cultural and Archaeological Resources Unanticipated Discovery Plan for monitoring construction activities and responding to the discovery of archaeological resources or buried human remains.

1. Prior to construction, the Certificate Holder shall obtain all necessary DAHP permits and perform all necessary archaeological work in order to comply with RCW 27.53.
2. The Certificate Holder shall obtain all necessary DAHP permits and perform all necessary archaeological work in order to comply with RCW 27.53 prior to disturbing

identified sites 45YA01808, 45YA01809, 45YA01811, or any site newly discovered during construction activities.

- a. If ground disturbing activities are to occur in the vicinity of the above identified sites a Cultural and Archaeological Resources Monitoring and Mitigation Plan is required to be developed in accordance with item 4.iv below.
3. The Certificate Holder shall provide copies of the draft Plan for comment to the Yakama Nation and other potentially affected tribes prior to submitting the plan for EFSEC approval.
4. The Plan shall include, but not be limited to, the following:
  - a. A copy of the final construction and micro-siting plans for the Project and shall provide for the avoidance of significant archaeological sites where practical.
  - b. For sites to be avoided, the boundaries of identified cultural resources and buffer zones located within project boundaries shall be staked in the field and flagged as no-disturbance areas to avoid inadvertent disturbance during construction. These site markings will be removed following construction.
  - c. The Plan shall address alternative mitigation measures developed in coordination with DAHP to be implemented if it is not practical to avoid archaeological sites or isolates.
  - d. The Plan shall address the possibility of the unanticipated discovery of archaeological artifacts during construction.
  - e. If any archaeological artifacts, including but not limited to human remains, are observed during construction, then disturbance and/or excavation in that area will cease, and the Certificate Holder shall notify DAHP, EFSEC, and any affected Tribes and, in the case of human remains, the County Coroner or Medical Examiner.
    - i. At that time, appropriate treatment and mitigation measures shall be developed in coordination with the agencies and tribes cited above and implemented following approval by EFSEC.
    - ii. The Certificate Holder Shall develop a Cultural and Archaeological Resources Monitoring and Mitigation Plan in coordination with the Yakama Nation, other effected Tribes and DAHP and submit the plan for EFSEC for final approval.
    - iii. If Project facilities cannot be moved or re-routed to avoid the resources, the Certificate Holder shall contact EFSEC and DAHP for further guidance, which may require the implementation of a treatment

plan. If a treatment plan is required, it shall be developed in consultation with DAHP and any affected Tribes.

**L. Construction Emergency Plan**

The Certificate Holder shall prepare and submit a Construction Emergency Plan

1. The Certificate Holder shall coordinate development and implementation of the Plan with applicable local and state emergency services providers.
2. The Certificate Holder shall retain qualified contractors familiar with the general construction techniques and practices to be used for the Project and its related support facilities.
3. The construction specifications shall require contractors to implement a safety program that includes an Emergency Pan.
4. The Construction Emergency Plan shall include consideration of the items identified in 2.A.6 of the Revised ASC.

**M. Construction Fire Control Plan**

The Certificate Holder shall develop and implement a Construction Fire Control Plan in coordination with state and local agencies to minimize the risk of accidental fire during construction and to ensure effective response to any fire that does occur on the Facility Area at any time. The Certificate Holder shall submit the Fire Control Plan to EFSEC for review and approval at least ninety (90) days prior to Construction and provide a copy to WDFW, and Yakima County Fire District #4. The Certificate Holder shall not begin Construction prior to obtaining EFSEC approval of the Fire Control Plan.

**N. Construction Health and Safety Plan**

The Certificate Holder shall develop and implement a Construction Health and Safety Plan in consultation with local and state organizations providing emergency response services to ensure timely response in the event of an emergency.

**O. Construction Site Security Plan**

The Certificate Holder shall develop and implement a Construction Site Security Plan in consultation with local and state organizations providing emergency response services.

**P. Utilities**

1. The Certificate Holder Shall identify the source of potable water for use during project operations and provide to EFSEC confirmation of availability of water via a drinking well permit or some other agreed upon mechanism for supply of potable water.
2. The Certificate Holder Shall provide certification of water availability for process waters used for site operation and maintenance to include vegetation management and solar panel washing.

**Q. Construction Management Plan**

The Certificate Holder shall, with the assistance of Council staff, develop a detailed Construction Management Plan in consultation with affected state and local agencies.

1. The Plan shall address the Construction phases for the Project and shall be generally based on the mitigation measures contained in this Agreement and the Revised Application.
2. The plan shall identify the construction management protocols used to address the mitigation measures contained in this Agreement and the Revised Application.

**R. Construction Schedule**

No later than thirty (30) days prior to the beginning of Construction, the Certificate Holder shall submit to EFSEC an overall construction schedule. Thereafter, the Certificate Holder shall notify EFSEC of any significant changes in the construction schedule.

**S. Construction Plans and Specifications**

The Certificate Holder shall submit to EFSEC those construction plans, specifications, drawings, and design documents that demonstrate the Project design will be in compliance with the conditions of this Agreement.

1. The Certificate Holder shall also provide copies to WDFW, Ecology, DAHP and other agencies as EFSEC may direct, for comment.
2. The plans shall include the overall Project site plans, equipment and material specifications.
3. The construction plans and specifications shall be in compliance with Yakima County construction and building codes.
4. The plans shall identify any items relevant to the mitigation measures contained in this Agreement and the Revised Application.
5. The Certificate Holder shall consult with emergency services suppliers prior to preparing final road construction plans, to ensure that interior all-weather access roads are sufficient to provide reliable access by emergency vehicles.
6. In its final design for construction, the Certificate Holder shall maximize the use of existing roads and pathways and minimize the construction of new roads as much as reasonable and practical to minimize disturbance of existing habitat. The final design shall be subject to approval by EFSEC as part of the overall construction plans and specifications.

**ARTICLE V: PROJECT CONSTRUCTION**

**A. Environmental Monitoring During Construction**

1. Environmental Monitor (EM). EFSEC shall provide on-site environmental monitoring for the construction phase of the Project, at the Certificate Holder's cost. The EM shall be an independent, qualified engineering firm (or a person) selected by EFSEC and shall report directly to EFSEC.

2. Environmental Compliance Program for Construction Activities. The Certificate Holder shall identify and develop an Environmental Compliance Program in consultation with the EM and other EFSEC designees.

- a. The Environmental Compliance Program shall cover avoidance of sensitive areas during construction, waste handling and storage, stormwater management, spill prevention and control, habitat restoration efforts begun during the construction phase of the Project, and other mitigation measures required by this Agreement.
- b. The Environmental Compliance program shall develop inspection criteria used to ensure relevant mitigation commitments, approved plans, and program avoidance activities are adhered to. Inspection criteria shall include inspection checklist items, “stop work” criteria, and procedures for responding to stop work notices and program deficiencies. The Certificate Holder shall implement the program to ensure that construction activities meet the conditions, limits, and specifications set out in the Site Certification Agreement, all Attachments thereto, and all other applicable state and federal environmental regulations.

1. Copies of Plans and Permits Kept On Site. A copy of the Site Certification Agreement, Plans approved by the Council or its designees, and all applicable construction permits shall be kept at the Project Site. The lead Project construction personnel and construction project managers will be required to read, follow, and be responsible for all required compliance activities.

2. Environmental Monitor Monthly Reports. The EM will provide monthly reports to EFSEC regarding adherence to the BMPs, the implementation of environmental mitigation plans, and environmental problems reported or discovered as well as corrective actions taken by the Certificate Holder to resolve these problems. The EM will provide copies to the Certificate Holder of reports submitted to EFSEC.

3. Environmental Violations and Stop-Work Orders. Upon identification of an environmental noncompliance issue, the EM will work with the responsible subcontractor or direct-hire workers to correct the violation. If non-compliance is not corrected in a reasonable period of time, the EM shall request that EFSEC issue a “stop-work” order for that portion of the work not in compliance with Project environmental requirements. EFSEC will promptly notify the EM of any “stop work” orders that have been issued. Failure to correct a violation at the request of the EM may be considered by EFSEC in exercising its authority under RCW 80.50.155 to issue penalties to persons who violate the SCA or an EFSEC issued permit.

#### **B. Quarterly Construction Reports**

The Certificate Holder shall submit quarterly construction progress reports to EFSEC no later than thirty (30) days after the end of each calendar quarter following the start of construction. Such reports shall describe the status of construction and identify any changes in the construction schedule.

**C. Construction Inspection**

EFSEC shall provide plan review and inspection of construction for all Project structures, underground and overhead electrical lines, and other Project facilities to ensure compliance with this Agreement. Construction shall be in accordance with the approved design and construction plans, and other relevant regulations. EFSEC may contract with Yakima County, another appropriate agency, or an independent firm to provide these services.

**D. As-Built Drawings**

The Certificate Holder shall maintain a complete set of as-built drawings on file for the life of the Project and shall allow the Council or its designated representative access to the drawings on request following reasonable notice.

**E. Habitat, Vegetation, Fish and Wildlife**

The Certificate Holder shall use construction techniques and BMPs to minimize potential impacts to habitat and wildlife. In particular, construction of the Project shall be performed in accordance with mitigation items identified in the Revised MDNS and Section 4.9.D of the Revised Application.

**F. Construction Noise**

The Certificate Holder shall use construction techniques and BMPs to minimize potential impacts of construction related noise. In particular, construction of the Project shall be performed in accordance with mitigation items identified in the Revised MDNS and Section 4.16a.D of the Revised Application.

**G. Construction Safety and Security**

1. Federal and State Safety Regulations. The Certificate Holder shall comply with applicable federal and state safety regulations (including regulations promulgated under the Federal Occupational Safety and Health Act and the Washington Industrial Safety and Health Act), as well as local and state industrial codes and standards (such as the Uniform Fire Code). The Certificate Holder, its general contractor, and all subcontractors shall make every reasonable effort to maximize safety for individuals working at the Project.

2. Visitors Safety. Visitors shall be provided with safety equipment where and when appropriate.

**H. Contaminated Soils**

In the event that contaminated soils are encountered during construction, the Certificate Holder shall notify EFSEC and Ecology as soon as possible. The Certificate Holder shall manage, handle, and dispose of contaminated soils in accordance with applicable local, state, and federal requirements.

**I. Light, Glare, and Aesthetics**

Lighting

1. The Certificate Holder shall implement mitigation measures to minimize light and glare impacts as described in the Revised Application.



2. The Certificate Holder shall minimize outdoor lighting to safety and security requirements. The Certificate Holder shall avoid the use of steady-burning, high intensity lights and utilize downward-directed lighting.

#### Glare

1. Solar panels with an anti-reflective coating shall be utilized.

#### Aesthetics

1. The Certificate Holder must institute the measures identified in the Revised MDNS regarding potential visual and aesthetic impacts once a final project design has been completed.
2. No later than sixty (60) days prior to the beginning of Construction, the Certificate Holder shall submit to EFSEC for their review and approval any additional proposed mitigation measures resulting from the analysis conducted to address mitigation measures 16 and 17 of the Revised MDNS.

#### **J. Construction Wastes and Clean-Up**

The Certificate Holder's waste disposal plans and schedule shall be included in the site construction plans and specifications for review and approval by EFSEC.

1. The Certificate Holder shall dispose of sanitary and other wastes generated during construction at facilities authorized to accept such wastes.
2. The Certificate Holder shall properly dispose of all temporary structures not intended for future use upon completion of construction.
3. The Certificate Holder also shall dispose of used timber, brush, refuse, or flammable materials resulting from the clearing of lands or from construction of the Project.

### **ARTICLE VI: SUBMITTALS REQUIRED PRIOR TO THE BEGINNING OF COMMERCIAL OPERATION**

#### **A. Plan Submission Requirements**

All identified plans and submissions must adhere to the requirements and obligations set forth in relevant regulation, this Agreement the Revised MDNS, and the Revised Application.

Unless otherwise noted all plans and submissions required prior to beginning site operation are required to be filed with EFSEC ninety (90) days prior to the anticipated start of operation date. The Certificate Holder shall not begin operation prior to all applicable elements of the required plans or commitments outlined in this agreement, the Revised MDNS, and the Revised Application are in place and Council approval of required plans and authorization to begin operation has been obtained.

#### **B. Operations Stormwater Pollution Prevention Plan**

The Certificate Holder shall prepare an Operations Stormwater Pollution Prevention Plan

(Operations SWPPP) in consultation with Ecology.

1. The Operations SWPPP shall include an operations manual for permanent BMPs.
2. The Operations SWPPP shall be prepared in accordance with the guidance provided in the Ecology *Stormwater Management Manual for Eastern Washington, September 2019* or as revised.
3. The Certificate Holder shall periodically review the Operations SWPPP against the guidance provided in the applicable *Ecology Stormwater Management Manual*, and make modifications as necessary to the Operations SWPPP to comply with current requirements for BMPs.
4. The Operations SWPPP shall specify that water used for washing of the solar panels is to not contain any solvents or other additives.

**B. Operations Spill Prevention, Control and Countermeasure Plan**

The Certificate Holder shall prepare an Operations Spill Prevention, Control and Countermeasures Plan (Operations SPCCP) in consultation with Ecology.

1. The Operations SPCCP shall be prepared pursuant to the requirements of 40 CFR Part 112, Sections 311 and 402 of the Clean Water Act, Section 402 (a)(1) of the Federal Water Pollution Control Act (FWPCA), and RCW 90.48.080.
2. The Operations SPCCP shall include the Facility Area, all Facility structures and facilities on the Facility Area, and all access roads.
3. The Operations SPCCP shall be implemented within three (3) months of the beginning of Commercial Operation.
4. The Operations SPCCP must be updated and submitted to the Council every two (2) years.

**C. Vegetation and Weed Management Plan**

The Certificate Holder shall develop an updated Vegetation and Weed Management Plan, in consultation with EFSEC staff, WDFW, and Ecology.

1. The updated plan must address any relevant changes to the vegetation or weed management requirements and protocols identified prior to beginning site operation.

**D. Operations Emergency Plan**

The Certificate Holder shall submit for the Council's approval an Operations Emergency Plan for the Project to provide for employee and public safety in the event of emergencies.

1. The Certificate Holder shall coordinate development of the plan with local and state agencies that provide emergency response services in the Facility Area.
2. Periodically, the Certificate Holder shall provide the Council with updated lists of emergency personnel, communication channels, and procedures.
3. The Operations Emergency Plan shall address in detail the procedures to be followed in the event of emergencies listed in Section 2.A.6 of the Revised ASC

**E. Operations Fire Control Plan**

The Certificate Holder shall develop an Operations Fire Control Plan in coordination with state and local agencies to minimize the risk of accidental fire during operation and ensure effective

response to any fire that does occur.

1. The Fire Control Plan must consider and address potential wildfire risk minimization and response.

**F. Operations Health and Safety Plan.**

The Certificate Holder shall develop and, after EFSEC approval, implement an Operations Health and Safety Plan.

1. The Certificate Holder shall consult with local and state organizations providing emergency response services during the development of the plan to ensure timely response in the event of an emergency.

**G. Operations Site Security Plan.**

The Certificate Holder shall develop and implement an Operations Phase Site Security Plan.

1. The Plan shall include, but shall not be limited to, the following elements:
  - a. Controlling access to the site by any visitors, contractors, vendors, or suppliers;
  - b. Installing security lighting and fencing; and securing access to solar panels, pad transformers, pad-mounted switch panels and other outdoor facilities.
2. A copy of the final Security Plan shall be provided to EFSEC and other agencies involved in emergency response.

## **ARTICLE VII: PROJECT OPERATION**

**A. Plan Implementation and Adherence**

The Certificate holder shall adhere to and implement the provisions of the required plans, submittals, permits, the Revised MDNS, the Revised Application, and any relevant regulation during project operation.

**B. Water Discharge**

The Certificate Holder shall ensure that all stormwater control measures and discharges are consistent with the Operations SWPPP, required by Article VI.B and the Ecology *Stormwater Management Manual for Eastern Washington, September 2019* or as revised.

**C. Noise Emissions**

The Certificate Holder shall operate the Project in compliance with applicable Washington State environmental noise regulations WAC 173-60, WAC 463-62-030, WAC 173-58, and RCW 70A.20.

**D. Fugitive Dust Emissions**

The Certificate Holder shall continue to implement dust abatement measures as necessary.

**E. Habitat, Vegetation and Wildlife BMPs**

During Project operations, the Certificate Holder shall implement appropriate operational BMPs to minimize impacts to plants and animals. In addition to those BMPs, the Certificate Holder

shall also take the following steps to minimize impacts:

1. Implementation of the Operations Fire Control Plan developed pursuant to Article VI.F, in coordination with local fire districts, to avoid accidental wildfires and respond effectively to any fire that might occur.
2. Operational BMPs to minimize storm water runoff and soil erosion.
3. Implementation of compensatory mitigation measures identified in the Revised MDNS must be finalized within 6 months of start of project operation.

Implementation of a plan to monitor revegetation and noxious weed control success and erosion caused by wind events. If deficiencies are confirmed, mitigation measures shall be instituted which shall be developed in coordination with WDFW and approved by EFSEC.

#### **F. Safety and Security**

1. Personnel Safety. The safety of operating personnel is governed by regulations promulgated under the Federal Occupational Safety and Health Act and the Washington Industrial Safety and Health Act. The Certificate Holder shall comply with applicable federal and state safety laws and regulations (including regulations under the Federal Occupational Safety and Health Act and the Washington Industrial Safety and Health Act) as well as local and industrial codes and standards (such as the Uniform Fire Code).
2. Visitors Safety. The Certificate Holder shall require visitors to observe the safety plans and shall provide them with safety equipment where and when appropriate.

#### **G. Dangerous or Hazardous Materials**

The Certificate Holder shall handle, treat, store, and dispose of all dangerous or hazardous materials including but not limited to those related to any battery backup power sources or the optional battery energy storage system in accordance with Washington state standards for hazardous and dangerous wastes, WAC 463-74 and WAC 173-303.

Following any abnormal seismic activity, volcanic eruption, severe weather activity, flooding, vandalism, or terrorist attacks the Certificate Holder shall inspect areas where hazardous materials are stored to verify that containment systems are operating as designed.

#### **H. Utilities**

1. The Certificate Holder shall confirm potable water availability for site operation on an annual basis in the event that a drinking water well is not in place.
2. The Certificate Holder Shall provide certification of water availability for process waters used for site operation and maintenance to include vegetation management and solar panel washing on an annual basis.

## **I. Neighboring Land Uses**

Yakima County is a “Right to Farm” County, codified in Yakima County Code 6.22. This project is located within an agricultural area, and will be subject to impacts from nearby pre-existing agricultural practices including, but not limited to: marketed produce at roadside stands or farm markets, noise, odors, dust, fumes, operation of machinery and irrigation pumps, ground and aerial seeding and spraying, the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides and associated drift of such materials; and the employment and use of labor. Impacts resulting from these activities shall not be found to be a public or private nuisance if the farm operation was in existence before the date of this agreement.

## **ARTICLE VIII: PROJECT TERMINATION, DECOMMISSIONING AND SITE RESTORATION**

### **A. Detailed Site Restoration Plan**

The Certificate Holder shall submit a Detailed Site Restoration Plan to EFSEC for approval within ninety (90) days from the time the Council is notified of the termination of the Project. The Detailed Site Restoration Plan shall provide for restoration of the Project Site within the timeframe specified in Article VIII.C, taking into account the Initial Site Restoration Plan and the anticipated future use of the Project Site. The Detailed Site Restoration Plan shall address the elements required to be addressed by WAC 463-72-020, and the requirements of the Council approved Initial Site Restoration Plan pursuant to Article IV.F of this Agreement. The Certificate Holder shall not begin Site Restoration activities without prior approval from the Council. The Certificate Holder shall consult with WDFW, and Ecology in preparation of the Detailed Site Restoration Plan.

### **B. Project Termination**

1. Termination of this Site Certification Agreement, except pursuant to its own terms, is an amendment of this Agreement.
2. The Certificate Holder shall notify EFSEC of its intent to terminate the Project, including by concluding the plant’s operations, or by suspending construction and abandoning the Project.
3. The Council may terminate the SCA through the process described in WAC 463-66-090, and the Council may initiate that process where it has objective evidence that a certificate may be abandoned or when it deems such action to be necessary, including at the conclusion of the plant’s operating life, or in the event the Project is suspended or abandoned during construction or before it has completed its useful operating life.

### **C. Site Restoration Timing and Scope**

Site Restoration shall be conducted in accordance with the commitments made in the Detailed Site Restoration Plan required by Article VIII.A and in accordance with the following measures:

1. Timing. The Certificate Holder shall commence Site Restoration of the Project within twelve (12) months following the termination described in Article VIII.B above.

The period to perform the Site Restoration may be extended if there is a delay caused by conditions beyond the control of the Certificate Holder including, but not limited to, inclement weather conditions, equipment failure, wildlife considerations, or the availability of cranes or equipment to support decommissioning.

2. Scope. Site Restoration shall involve removal of the solar panels and mounting structures; removal of foundations or other Project facilities to a depth of four (4) feet below grade; restoration of any disturbed soil to pre-construction condition; and removal of Project access roads and overhead poles and transmission lines (except for any roads and/or overhead infrastructure that Facility Area landowner wishes to retain) (all of which shall comprise “Site Restoration”). Site Restoration shall also include the use of appropriate precautions during decommissioning and removal of any hazardous material to safely dispose of and to avoid, and, if necessary, remediate any soil contamination resulting from the hazardous materials.

3. Monthly Reports. If requested by EFSEC, the Certificate Holder shall provide monthly status reports until this Site Restoration work is completed.

4. Restoration Oversight. At the time of Site Restoration, the Project Site will be evaluated by a qualified biologist to determine the extent of and type of vegetation existing on the site. Success criteria for Site Restoration will be established prior to commencement of decommissioning activities, based on the documented pre-construction conditions, experience gained with re-vegetation during operation and the condition of the Project Site at the time of Site Restoration. The restoration success criteria will be established in the Detailed Site Restoration Plan approved by EFSEC in consultation with the designated biologist. Once restoration of the Project Site is determined to be complete, a final report of restoration activities and results will be submitted to EFSEC in consultation with the designated biologist, for review and approval.

**D. Site Restoration Financial Assurance**

1. Except as provided in Article VIII.D.3 below, the Certificate Holder or any Transferee, as the case may be, shall provide financial assurance sufficient, based on detailed engineering estimates, for required Site Restoration costs in the form of a surety bond, irrevocable letter of credit, or guaranty. The Certificate Holder shall include a detailed engineering estimate of the cost of Site Restoration in its Initial Site Restoration Plan submitted to EFSEC. The estimate must be based on the costs of the Certificate Holder or Transferee hiring a third party to carry out Site Restoration. The estimate may not be reduced for “net present value” or other adjustments. During the active life of the facility, the Certificate Holder or Transferee must adjust the Site Restoration cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument used to provide financial assurance and must increase the financial assurance amount accordingly to ensure sufficient funds for Site Restoration.

2. The duty to provide such financial assurance shall commence sixty (60) days prior to

the beginning of Construction of the Project and shall be continuously maintained through to the completion of Site Restoration. Construction of the Project shall not commence until adequate financial assurance is provided. On or before the date on which financial assurance must be established, the Certificate Holder shall provide EFSEC with one of the following financial assurance mechanisms that is reasonably acceptable to EFSEC:

- a. *Surety Bond*. The Certificate Holder or any Transferee, as the case may be, shall provide financial security for the performance of its Site Restoration obligations through a Surety Bond issued by a surety listed as acceptable in Circular 570 of the U.S. Department of the Treasury. The Performance Bond shall be in an amount equal to the Site Restoration costs. A standby trust fund for Site Restoration shall also be established by the Certificate Holder or Transferee to receive any funds that may be paid by the surety to be used to complete Site Restoration. The surety shall become liable for the bond obligation if the Certificate Holder or Transferee fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least one hundred twenty days after the Certificate Holder or Transferee and EFSEC have received notice of cancellation. If the Certificate Holder or Transferee has not provided alternate financial assurance acceptable under this SCA within ninety days of the cancellation notice, the surety shall pay the amount of the bond into the standby Site Restoration trust; or
- b. *Irrevocable Letter of Credit*. The Certificate Holder or any Transferee, as the case may be, shall provide financial security for the performance of its Site Restoration obligations through an irrevocable letter of credit payable to or at the direction of EFSEC, that is issued by an institution that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or State agency. The letter of credit shall be in an amount equal to the Site Restoration costs. A standby trust fund for Site Restoration shall also be established by Certificate Holder or Transferee to receive any funds deposited by the issuing institution resulting from a draw on the letter of credit. The letter of credit shall be irrevocable and issued for a period of at least one year, and renewed annually, unless the issuing institution notifies the Certificate Holder or Transferee and EFSEC at least one hundred twenty days before the current expiration date. If the Certificate Holder or Transferee fails to perform Site Restoration, or if the Certificate Holder or Transferee fails to provide alternate financial assurance acceptable to EFSEC within ninety days after notification that the letter of credit will not be extended, EFSEC may require that the financial institution provide the funds from the letter of credit to be used to complete Site Restoration; or
- c. *Guaranty*. Certificate Holder or any Transferee, as the case may be, shall provide financial assurance for the performance of its Site Restoration obligations by delivering a guaranty to fund the Certificate Holder or Transferee's Site Restoration obligations hereunder from an entity that meets the following

financial criteria:

- i. A current rating of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;
  - ii. Tangible net worth at least six times the sum of the current Site Restoration cost estimates;
  - iii. Tangible net worth of at least ten million dollars; and
  - iv. Assets in the United States amounting to at least ninety percent of its total assets or at least six times the sum of the current Site Restoration cost estimates.
- d. The guarantor entity's chief financial officer shall provide a corporate guaranty that the corporation passes the financial test at the time the Initial Site Restoration Plan is filed. This corporate guaranty shall be reconfirmed annually ninety days after the end of the corporation's fiscal year by submitting to EFSEC a letter signed by the guaranteeing entity's chief financial officer that:
- i. Provides the information necessary to document that the entity passes the financial test;
  - ii. Guarantees that the funds to finance required Site Restoration activities are available;
  - iii. Guarantees that required Site Restoration activities will be completed;
  - iv. Guarantees that within thirty days if written notification is received from EFSEC that the entity no longer meets the above financial criteria, the entity shall provide an alternative form of financial assurance consistent with the requirements of this section;
  - v. Guarantees that the entity's chief financial officer will notify in writing the Certificate Holder or Transferee and EFSEC within fifteen days any time that the entity no longer meets the above financial criteria or is named as debtor in a voluntary or involuntary proceeding under Title 11 U.S.C., Bankruptcy;
  - vi. Acknowledges that the corporate guaranty is a binding obligation on the corporation and that the chief financial officer has the authority to bind the corporation to the guaranty;
  - vii. Attaches a copy of the independent certified public accountant's report on examination of the entity's financial statements for the latest completed fiscal year; and
  - viii. Attaches a special report from the entity's independent certified public accountant (CPA) stating that the CPA has reviewed the information in the letter from the entity's chief financial officer and has determined that the information is true and accurate.
- e. If the Certificate Holder or any Transferee fails to perform Site Restoration covered by the guaranty in accordance with the approved Initial or Final Site Restoration plan, the guarantor will be required to complete the appropriate activities. The guaranty will remain in force unless the guarantor sends notice of cancellation by certified mail to the Certificate Holder or Transferee and EFSEC.



Cancellation may not occur, however, during the one hundred twenty days beginning on the date of receipt of the notice of cancellation by the Certificate Holder or Transferee and EFSEC. If the Certificate Holder or Transferee fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from EFSEC within ninety days after receipt of a notice of cancellation of the guaranty from the guarantor, the guarantor will provide such alternative financial assurance in the name of the Certificate Holder or Transferee.

3. If the SCA is transferred after its effective date pursuant to applicable EFSEC laws and regulations, EFSEC has the right to require, consider, and approve other financial security that would provide for the Certificate Holder's performance of its Site Restoration obligations pursuant to Articles VIII.C and VIII.D of this Site Certification Agreement.

**ARTICLE IX: SITE CERTIFICATION AGREEMENT - SIGNATURES**

Dated and effective this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

FOR THE STATE OF WASHINGTON

\_\_\_\_\_  
Jay Inslee, Governor

FOR OER WA SOLAR 1, LLC

\_\_\_\_\_  
XXX  
General Counsel and Vice President of Business Development  
OER WA Solar 1, LLC

## **ATTACHMENT 1**

2. Council Order No. \_\_\_\_\_, Order Recommending Approval of Site Certification entered \_\_\_\_\_, 2021.

**BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of  
Application No. 2021-01 of

OER WA Solar 1, LLC- Goose Prairie  
Solar

APPLICATION NO. 2021-01

REPORT TO THE GOVERNOR ON APPLICATION NO. 2021-01

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## **EXECUTIVE SUMMARY**

On January 19, 2021, OER WA Solar 1, LLC (OER or Applicant) filed an application for site certification (Application or ASC) with the Energy Facility Site Evaluation Council (EFSEC or Council) to construct and operate Goose Prairie Solar (Facility). The Facility consists of a solar photovoltaic generating facility and optional battery storage system. The Facility would be located on eight parcels (the Site) in unincorporated Yakima County near the city of Moxee, with a combined maximum generating capacity of 80 megawatts (MW).

RCW 80.50.010 in the Energy Facility Site Locations Act (EFSLA) provides the legal framework for the Council's siting recommendation. The Washington Supreme Court has described EFSLA as seeking to balance the need for the proposed Facility against its impacts on the broad public interest. The Council determines whether the proposed Facility will produce a net benefit justifying a recommendation of project approval. The Applicant bears the burden of proving, by preponderance of the evidence, that the Facility meets this and other requirements of the law.

The Council has carefully considered the record before it, including: the Application and revisions; the record in the land use consistency hearing; the State Environmental Policy Act documentation; the draft Site Certification Agreement; public comments received orally during hearings and received by the Council in writing; and the statutory policies on need for energy at a reasonable cost, need to minimize environmental impacts, and other relevant state energy policies.

The Council concludes that Goose Prairie Solar will provide the state and the region with important alternative energy supply and will not cause significant unmitigated environmental impacts or substantial negative effect on the broad public interest. With the recommended mitigation measures that are required in the proposed site certification agreement (SCA), the proposed Facility meets the requirements of applicable law and comports with the policy and intent of Chapter 80.50 RCW. Therefore, the Council recommends that the Governor approve of the Facility.

## **I. INTRODUCTION**

### **A. The Applicant and the Application for Site Certification**

On January 19, 2021, OER WA Solar 1, LLC<sup>1</sup> (Applicant) filed an Application with the Energy Facility Site Evaluation Council (EFSEC or Council) to construct and operate the Facility. The Applicant seeks to obtain site certification pursuant to RCW 80.50.060(2). The Facility site is an alternative energy facility as defined in RCW 80.50.020(19). Developers of alternative energy facilities have the option of seeking site certification through the EFSLA process or through standard permitting and local land use approval requirements.<sup>2</sup>

The managing member of the Applicant is OneEnergy Renewables, a Seattle based privately held developer of utility-scale and community solar projects across the United States. Founded in 2010, it has developed solar photovoltaic (PV) projects with more than 700 megawatts (MW) in operation. OneEnergy has project development experience to achieve low cost energy, with solar and storage projects totaling over 1 gigawatt (GW) in development. It has experience working with investor-owned utilities, public power, and commercial and industrial customers.

The proposed Facility, which is described in Section II below, will consist of PV modules mounted in rows on single-axis trackers supported on stationary piles. The top of the panels will stand no higher than 14 feet. The Facility will interconnect with a new Point of Interconnection (POI) to Bonneville Power Administration's (BPA) Midway to Moxee 115-kilovolt (kV) transmission line, which bisects the Facility. BPA will build, own and operate the structures which constitute the POI. The Facility's output will be conveyed to a central substation near the POI to the electrical grid. The optional battery energy storage system would not exceed the nominal 80 MW capacity of the Facility.<sup>3</sup>

The Application submitted by OER is for a site consisting of eight parcels leased from two property owners. For purposes of the report, we refer to the eight parcels as the "Site" or "Project site." The Site is in unincorporated Yakima County east of the city of Moxee. Described below as the Meacham Property and the Martinez Property, the Site's total acreage is 1,568. However, the Facility's footprint would not exceed 625 acres. The Applicant has stated that it chose the location based on several suitability factors, including but not limited to the high solar energy resource, the underlying topography and land traits, access to electrical infrastructure, compatible zoning criteria, and low impacts to land use and habitat.<sup>4</sup> On January 21, 2021, OER requested that the application be granted expedited processing.<sup>5</sup>

### **B. The Council and its Processes**

The Council is a Washington State agency, established under RCW 80.50.030 to advise the Governor in deciding whether to approve applications to site certain new energy facilities. The Council must "prepare written reports to the governor" which shall include recommendations on applications to construct proposed energy facilities on a specified site. If the Council

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<sup>1</sup> See OneEnergy Renewables Public Information Meeting PowerPoint presentations, March 16, 2021, at slide 4, and September 27, 2021, at slide 4.

<sup>2</sup> RCW 80.50.060(2); RCW 80.50.110(2); RCW 80.50.100(2); *See Residents Opposed to Kittitas Turbines v. EFSEC*, 165 Wn.2d 275, 285 (2008).

<sup>3</sup> OER WA Solar 1, LLC Application for Site Certification, Revised June 22, 2021, page 14.

<sup>4</sup> *Id.* at 12-13

<sup>5</sup> RCW 80.50.075

recommends approval, it prepares site certification agreements embodying the conditions upon which approval should be granted.<sup>6</sup>

The Council's analysis is guided by RCW 80.50.010, which articulates Washington's policy to recognize the pressing need for additional energy facilities; ensure that the location and operation of such facilities produce minimal environmental effects; and balance the rising demand for energy facilities with the broad interests of the public.

The Council must weigh and balance the need for the proposed facility against its impacts on the broad public interest, including human welfare and environmental stewardship. The Council then determines whether the proposed facility at the particular site selected will produce a net benefit that justifies a recommendation of project approval.<sup>7</sup>

RCW 80.50.110(2) provides that the "state hereby preempts the regulation and certification of the location, construction, and operational conditions of certification" with respect to the energy facilities that are required, or that have the option to receive site certification through the EFSEC process. The inclusion of the word "location" means that local land use plans and zoning ordinances are preempted by EFSLA. However, EFSLA also requires that "[i]f the council recommends approval of an application for certification" to the Governor, it must include in the draft site certification agreement "conditions . . . to implement the provisions of this chapter, including, but not limited to, conditions to protect state or local governmental or community interests affected by the construction or operation of the energy facility, and conditions designed to recognize the purpose of laws or ordinances, or rules or regulations promulgated thereunder, that are preempted or superseded pursuant to RCW 80.50.110."<sup>8</sup>

The Council consists of a chair, appointed by the Governor, and appointees of the Departments of Ecology, Fish and Wildlife, Natural Resources, and Commerce, and the Utilities and Transportation Commission.<sup>9</sup> The county in which the project is to be sited is authorized to appoint a voting member.<sup>10</sup> In addition, the Departments of Agriculture, Transportation, Health, and the Military may elect to sit on the Council for a specific application.<sup>11</sup> For purposes of this Application, the Department of Transportation appointed a member to sit on the Council but Yakima County did not appoint a member.

**The Council Review Process.** In reviewing an Application, the Council and the Governor must complete a number of procedural steps. The steps are summarized below, with a detailed discussion of how the Council accomplished each of its steps for purposes of this Application provided in Section III of this report.

- **Informational Public Hearing.** RCW 80.50.090(1) requires the Council to conduct an informational public hearing in the county of the proposed site no later than 60 days after receipt of the application for site certification.

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<sup>6</sup> RCW 80.50.040(8); RCW 80.50.100(2).

<sup>7</sup> *Columbia RiverKeeper v. Port of Vancouver*, 188 Wn.2d 80, 95, 392 p.3d 1025 (2012).

<sup>8</sup> RCW 80.50.100(2); *Residents Opposed to Kittitas Turbines v. EFSEC*, 165 Wn.2d 275, 285 (2008).

<sup>9</sup> RCW 80.50.030(2), (3).

<sup>10</sup> RCW 80.50.030(4).

<sup>11</sup> RCW 80.50.030(3)(b).



- **Land Use Consistency Hearing.** RCW 80.50.090(2) requires the Council to conduct a public hearing to determine whether the proposed site is (or sites are) consistent and in compliance with city, county, or regional land use plans or zoning ordinances as those terms are defined in EFSLA.
- **State Environmental Policy Act (SEPA).** The Council must comply with SEPA, RCW 43.21C, which requires consideration of probable significant adverse environmental impacts of government action (including approval or denial of an application to site an energy facility) and possible mitigation. If the Council's SEPA responsible official (the EFSEC manager) finds that any adverse environmental impacts can be mitigated to non-significant levels, he may issue a mitigated determination of non-significance.<sup>12</sup>
- **Expedited Processing Decision.** If an applicant requests expedited processing, the Council must decide whether to use the expedited process authorized by RCW 80.50.075 to evaluate the application. An application is eligible for expedited processing when EFSEC finds (1) the environmental impacts of the proposed project are not significant or can be mitigated to non-significant levels and (2) the proposed project is consistent and in compliance with city, county or regional land use plans and zoning ordinances. If an application is granted expedited processing, the Council may proceed to a decision without holding an adjudicative proceeding under chapter 34.05 RCW, and is not required to conduct any further review of an application by an independent consultant.<sup>13</sup>
- **Recommendation to Governor and Site Certification Agreements.** The final step for the Council is to prepare a report to the Governor recommending approval or denial of the application. If the Council recommends approval, the Council will also prepare and provide with the report draft site certification agreements.<sup>14</sup>
- **Governor's action on the Recommendation.** Within sixty days of receipt of the Council's report, the Governor is to either approve the application and execute the draft certification agreements, reject the application, or direct the council to reconsider certain aspects of the draft certification agreements.<sup>15</sup>

• This report is organized as follows. Section II provides a summary description of the proposed Site. Section III details the procedural steps followed by the Council in processing this Application. Section IV discusses the issues and objections raised and the Council's resolution of each. Section V discusses the legal framework to be applied and the Council's application of the RCW 80.05.010 balancing analysis. Section VI contains the findings of fact and conclusions of law. Finally, Section VII states the recommendation of the Council.

## II. DETAILED DESCRIPTION OF THE SITES

The eight parcels on which the Facility will be located will together constitute the "Facility Parcels." The Estate of Willamae G. Meacham owns three of the parcels which together are known as the "Meacham Property." S. Martinez Livestock, Inc. owns the other five parcels which together are known as the "Martinez Property." The Applicant has executed options to lease with the landowners for adequate acreage to accommodate the Facility long-term. Both

<sup>12</sup> WAC 197-11-350, WAC 463-47-080.

<sup>13</sup> RCW 80.50.075(2), WAC 463-43-060.

<sup>14</sup> RCW 80.50.100.

<sup>15</sup> RCW 80.50.100(3).

landowners have provided letters of support for the Facility (Attachment C to the Application for Site Certification (ASC)).

Each row of solar panels will be strung together in a north-south orientation and the panels will tilt on a single-axis (facing east in the morning and tilting toward the west, following the sun, through the course of each day to maximize energy output). Each string of panels will be arranged in rows with approximately eight to twelve feet of space between the rows. The racking system and panels will be supported by steel piles that will be driven to a depth of five to nine feet below grade. The top of the panels will stand no higher than 14 feet.

Throughout the Facility, inverters paired with medium voltage step-up transformers will convert the generated electricity from direct current (DC) to alternating current (AC) and increase the voltage to distribution class to minimize ohmic losses when collecting power circuits. The output will be conveyed to a central substation near the Point of Interconnection (POI) to the electrical grid. The central substation will house a generator step-up transformer, which will convert the power to 115 kilovolts (kV) and will house the controls for the Facility. An operations and maintenance building may be built adjacent to the substation.

The optional battery energy storage system would not exceed the nominal 80 MW capacity of the Facility. Optional battery storage system would be connected to the DC side of the transformer. The battery would store power generated by the Facility and dispatch it to the electrical grid at a later time. The Facility is designed to utilize lithium-ion battery energy technology. However, pending commercial interest, the Facility could be designed to utilize flow battery technology.

The Facility will interconnect with a new POI to Bonneville Power Administration's (BPA) Midway to Moxee 115-kV transmission line, which bisects the Facility. BPA will build, own and operate the structures which constitute the POI. The Facility will be accessed by an existing approach from Washington State Route 24. The Facility will be secured with a fence up to eight feet in height with access gates for authorized personnel. Internal gravel roads built to the applicable fire code will be used to maintain the Facility. During construction, a temporary lay-down area will be utilized for delivery of major equipment. This area will convert to parking during operations.

The optional battery energy storage system would not exceed the nominal 80 MW capacity of the Facility.

The Meacham property is currently in the Conservation Reserve Program (CRP) which is set to expire on September 30, 2022. Consequently, there is no current agricultural use, though a portion of the area was previously used for row crops. The Applicant described the habitat type within the portion that will be utilized for the Facility as mainly CRP with a small component of Pasture Mixed Environs and the vegetation consists primarily of non-native species such as downy brome, crested wheat, Russian thistle, mustard species and others. No existing buildings are present on the Meacham Property.

The Martinez Property has two distinct areas: four of the parcels may be used for solar facilities and one parcel may be utilized for an aerial easement for the interconnection tie-line

depending on the final design of the interconnection with BPA. The area that may be utilized for solar facilities has a historic and current use of grazing and has habitat types that the Applicant categorized as a mix of Eastside Grasslands<sup>16</sup>, Shrub-steppe and Pasture Mixed Environs with predominantly native vegetation including sagebrush and wheatgrass; much of the shrub-steppe area is degraded in its quality due to heavy grazing. The area which may be utilized for an aerial easement is currently planted with an orchard. BPA's Midway-to-Moxee 115 kV transmission line, on which the Facility will directly rely, crosses the Martinez Property. A few agricultural buildings exist on the Martinez Property, but none are within the Facility Area.

The Applicant is in the process of completing a rare plant survey. If the survey identifies special status plants within the Facility Area, the Applicant will work with EFSEC and Department of Natural Resources (DNR) to minimize impacts to these plants and incorporate mitigation measures into the design and construction of the Facility. These measures will be incorporated into the Vegetation and Weed Management Plan.

The Facility Parcels are wholly outside of the 100-year FEMA floodplain and the only surface water features present are ephemeral streams, from which the Facility will maintain a minimum 50-foot buffer on both sides. The Applicant's Revised ASC deleted plans for a stream crossing structure (i.e., bridge or culvert). Instead, a permanent ford stream crossing (also referred to as the "draw crossing") will be designed and constructed to minimize permanent impacts per YCC 16C.06.13, YCC 16.06.17, and WAC 220-660-190(10) and (12). The Facility area generally has a south-facing slope, ideal for solar PV projects, and is mostly under 10% grade, ideal for constructability. A few small areas with grades above 10% may require grading, though none of this will occur in surface waters, wetlands or frequently flooded areas.

The total acreage of the Facility Parcels is 1,568 acres. However, the Facility's footprint would not exceed 625 acres, defined as the Facility Area. The Facility Area would be located wholly within a broader microsite boundary of 789 acres, defined as the Facility Area Extent. The Survey Area is the extent of the acreage that was surveyed for the wildlife, cultural and wetland surveys, which totals 808 acres and wholly encompasses the Facility Area Extent. The Facility Area Extent includes 517 acres of the Meacham Property and up to 272 acres of the Martinez Property. The 272 acres of the Martinez Property includes the Transmission Easement Area which is approximately 17.0 acres.

The Applicant requests that EFSEC allow the Applicant flexibility to microsite the precise location of Facility components within the Facility Area Extent and provide an updated site plan prior to construction. This would give the Applicant the ability to refine the spacing of solar modules, associated access roads, collector lines, staging areas and above-ground

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<sup>16</sup> The Revised ASC filed June 22, 2021, acknowledges that the Washington Department of Fish and Wildlife (WDFW) does not agree with the habitat classification of Eastside Grasslands. The Applicant, following discussions with WDFW and EFSEC, agrees the habitat types identified as "Shrub-steppe -Degraded" and "Eastside Grasslands" will be considered Shrub-steppe for the purposes of compensatory mitigation calculations.

facilities within the Facility Area Extent as design is finalized. The Applicant asserts that the requested flexibility to microsite the final Facility layout within the Facility Area Extent also would allow the Applicant to minimize potential impacts and deliver the most effective and efficient Facility consistent with the landowners' needs. The maximum footprint of the Facility Area would not exceed 625 acres, located wholly within the Facility Area Extent. As shown in the Preliminary Site Plan (Attachment B to the ASC), the Facility would consist of PV panels, inverters, mounting infrastructure, an electrical collection system, operation and maintenance building, access roads, interior roads, security fencing, a new collector substation and electrical interconnection infrastructure.

### **III. PROCEDURAL STEPS – EXPEDITED PROCESS**

#### **A. Informational Public Hearing and Land Use Consistency Hearing**

RCW 80.50.090(1) requires the Council to conduct an informational public hearing in the county of the proposed site no later than 60 days after receipt of the application for site certification. RCW 80.50.090(2) requires the Council to conduct a public hearing to determine whether a proposed site is consistent and in compliance with city, county, or regional land use plans or zoning ordinances as those terms are defined in EFSLA.

On March 2, 2021, EFSEC issued a Notice of Informational Public Hearing and Land Use Consistency Hearing and scheduled a virtual hearing by Skype or by telephone participation for 5:30 p.m. on Tuesday, March 16, 2021.<sup>17</sup>

The Council conducted a virtual public informational hearing, which was followed by a land use consistency hearing. The Council Members present on March 16, 2021, were Kate Kelly (Department of Commerce), Robert Dengel (Department of Ecology), Mike Livingston (Department of Fish and Wildlife), Leonard “Lenny” Young (Department of Natural Resources), Stacey Brewster (Utilities and Transportation Commission), and Bill Sauriol (Department of Transportation). Kathleen Drew, EFSEC Chair, presided over the hearing. Assistant Attorney General Bill Sherman, Counsel for the Environment, was present.<sup>18</sup>

After a presentation by OER describing the Project and a presentation by Council staff describing the Council and its role in the application process, the public was provided an opportunity to provide comment.

At the land use consistency hearing, Tim McMahan, Stoel Rives Law Firm, represented the Applicant and spoke on the Applicant's behalf. No other persons presented testimony at the land use consistency hearing. The Applicant provided the Council a letter dated March 11, 2021, from Thomas Carroll, the Yakima County Planning Official, which included a Certificate of Zoning Compliance (Certificate). According to the Certificate, the Facility is defined as a Power Generating Facility under Yakima County Code (YCC) Title 19, the Unified Land Development Code, and is proposed to be within the Agricultural Zoning

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<sup>17</sup> The Council sent this Notice to all interested persons on the mailing list for the Facility including landowners within one mile and to all subscribers to EFSEC's general minutes and agenda list. Further, the Council posted this Notice in English and Spanish on its public website, distributed the Notice to local libraries, and purchased advertisement in the Yakima Herald Republic and the Tri-City Herald, the local daily newspapers of general circulation.

<sup>18</sup> TR at 3.

District (AG). It is classified as a “Type 3” conditional use in the County’s AG zoning district (YCC Table 19.14-010). Type 3 Uses are “uses which may be authorized subject to the approval of a conditional use permit as set forth in Section 19.30.030. Type 3 conditional uses are not generally appropriate throughout the zoning district. Type 3 uses require Hearing Examiner review of applications subject to a Type 3 review under the procedures of Section 19.30. 100 and YCC Subsection 16B.03.030(1)(c).” (YCC Title 19.19-010(2)). Therefore, for purposes of the Council’s initial determination of land use consistency (which considers only whether the project “can be permitted either outright or conditionally”<sup>19</sup>) the Goose Prairie Solar project is consistent with Title 19 and would be eligible for review and permitting under Yakima County permit processes.

#### **B. State Environmental Policy Act (SEPA)**

SEPA, chapter 43.21C RCW, requires consideration of environmental information about impacts, alternatives, and mitigation before committing to a course of government action (approval or disapproval of the application). The Council’s SEPA rules are found in chapter 463-47 WAC.

EFSEC staff completed a revised SEPA environmental checklist that cross references the parts of the Revised ASC that provide the requested information in the checklist. EFSEC staff also provided a memo of their review for consideration by the SEPA responsible official.

On June 24, 2021, EFSEC’s SEPA responsible official<sup>20</sup> issued a Mitigated Determination of Non-Significance (MDNS) and invited public comment as required by WAC 197-11-340. The public comment period ended on July 8, 2021, during which EFSEC received 16 public comments. All of these comments were reviewed, with a supplemental memo prepared by staff, and the SEPA responsible official added one additional mitigation measure related to Earth (regarding wind erosion), and revised mitigation measure related to Animals and Habitat.

On July 30, 2021, EFSEC issued a Revised MDNS under WAC 197-11-350. The Revised MDNS listed 19 mitigation measures related to Earth, Water, Plants, Animals and Habitat, Noise, Visuals and Aesthetics, and Historic and Cultural Preservation, and Utilities as follows:

Resource	Impact	Mitigation
Earth	Erosion from wind or water	1) Monitoring for erosion, and response measures should erosion occur, would be addressed in the Vegetation and Weed Management Plan prepared prior to construction. Should erosion, including wind-caused erosion occur post construction, the erosion would be remediated and appropriate measures to address the cause of the erosion would be implemented. If measures are implemented for erosion, monitoring would occur post-mitigation to ensure it is successful.
Water Quality –	Water quality impacts from	1) Final construction details for the crossing would be developed in consultation with Washington Department

<sup>19</sup> In re Columbia Solar Project, Docket No. EF-170823, Council Order – Expedited Processing, ¶ 35.

<sup>20</sup> Within EFSEC, the SEPA responsible official is the council manager. WAC 463-47-051.

Wetlands and Surface Waters	draw crossing construction	<p>of Fish and Wildlife (WDFW) and Washington Department of Ecology (WDOE) and approved by EFSEC prior to the start of construction.</p> <p>2) Draw Crossing Water Quality Standards:</p> <p>a) If the draw crossing cannot be constructed while meeting all relevant Washington State water quality regulation an Administrative Order authorizing work in waters of the state would be required.</p> <p>b) If the draw crossing can be constructed while meeting all relevant Washington State water quality regulations, an Administrative Order would not be required; however additional documentation such as the use of appropriate Best Management Practices (BMPs) in an erosion and sediment control plan and water quality protection plan would be needed to ensure all work would be done in accordance with the State's water quality standards.</p>
Water use and Utilities	Availability of water sources	<p>3) Prior to construction, an approved source of water with enough legally available water to supply the needed amount for construction and continued operation would be identified and confirmed via a contract or certificate of availability for the following project water uses:</p> <ul style="list-style-type: none"> <li>• 50,000 gallons for construction (Letter of Availability provided by City of Moxee);</li> <li>• up to 250,000 gallons of water 2-4 times per year during operation for photovoltaic panel washing, site maintenance; and</li> <li>• potentially additional water for domestic use and maintenance activities during operation</li> </ul>
Plants	Ground disturbance from short term laydown areas	<p>4) Short term laydown areas would be located in areas that would also be disturbed for operational project components (e.g., solar arrays, roads, graded/filled areas), not areas that would be otherwise left undisturbed.</p>
	Removal of special status plant species	<p>5) Two surveys for state special status plant species would be conducted in the northern portion (non-Conservation Reserve Program (CRP) habitat) of the project site during the appropriate season for identifying them (April/May and June-September). The information would be used to protect and preserve any identified plants during final design, construction, and operation to the extent practicable. Results of the surveys would be</p>

		provided to EFSEC and Department of Natural Resources (DNR) prior to start of construction.
Animals and Habitats	Impacts to functions and value of draw as a travel corridor	6) Solar array fencing would not reduce the width of undisturbed area around the draw in the vicinity of Den Beste Road to less than 100 meters, except for roads and electrical crossings.
	Habitat impact mitigation ratios	<p>7) The mitigation ratio for project impacts to habitat would be:</p> <ul style="list-style-type: none"> <li>• Permanent impacts to shrub steppe would be mitigated at 2:1 (2 acres of mitigation land for each acre of impacted land)</li> <li>• Altered impacts to shrub steppe would be mitigated at 1.85:1 (1.85 acres of mitigation land for each acre of impacted land.)</li> <li>• Permanent impacts to CRP land would be mitigated at 1:1 (1 acre of mitigation land for each acre of impacted land).</li> <li>• Altered impacts to CRP land would be mitigated at 0.5:1 (0.5 acres of mitigation land for each acre of impacted land).</li> </ul>
	Mitigation options for altered and permanent impacts to Habitat	<p>8) The Applicant would provide compensatory mitigation through one or more actions of land acquisition, onsite, and/or fee-based mitigation. The total acres of compensatory mitigation would be determined using the mitigation ratios outlined above and be based on the final approved project extent. The final composition of the compensatory mitigation would be determined by EFSEC in coordination with WDFW and incorporated into the Habitat Restoration and Mitigation Plan.</p> <ul style="list-style-type: none"> <li>• Calculation of Compensatory Mitigation Acres (CMA)  <math display="block">(acres\ shrub\ steppe\ permanent * 2) + (acres\ shrub\ steppe\ altered * 1.85) + (acres\ CRP\ permanent * 1) + (acres\ CRP\ altered * 0.5) = CMA</math> </li> <li>• <u>Land acquisition.</u> Land, located in Section 23,24,25,26 T13N, R23E, identified by WDFW as the Cold Creek corridor, would be acquired by the applicant at a ratio of 1 acre of Cold Creek land for every 1.4 acres of identified Compensatory Mitigation Acres. Consultation with WDFW would be required to identify the area and orientation of acquired land. This land and a fee of 15% of the</li> </ul>

		<p>negotiated sale price would be transferred to WDFW or a WDFW identified third party for the management of these lands. Any remaining compensatory mitigation requirement would be met via the fee-based option and/or onsite option below.</p> <ul style="list-style-type: none"> <li>• <u>Onsite.</u> Land in the draw and associated shrub steppe habitat in the vicinity of Den Beste Road between the proposed solar arrays would be provided a mitigation ratio of one acre of fenced land for each acre of compensatory mitigation commitment. The applicant would control cattle access to these lands with 4 strand fencing, while allowing wildlife access for use including connectivity and movement. To be viable as mitigation and to provide the intended benefit for habitat connectivity, this option must maintain draw connectivity throughout the mitigated area extent. Additional credit for habitat enhancement activities may be applied in consultation with WDFW and as approved by EFSEC. Any remaining compensatory mitigation requirement would be met via the fee-based option below and/or land acquisition option above.</li> <li>• <u>Fee-based.</u> The applicant would compensate for the permanent and altered impacts by providing money to WDFW or a third party identified by WDFW to purchase other lands suitable as in-kind and/or enhancement mitigation. This per acre fee would be determined by market rates and land sales within the general vicinity of the Facility for lands containing comparable habitat types and quality present within the project area. The per acre fee would be developed by the applicant in consultation with WDFW and approved by EFSEC. The Total Financial Obligation (TFO) would be determined by multiplying the cost per acre by the total Compensatory Mitigation Acres and would include a one-time 15% premium to cover administration and management costs for the purchased lands. The TFO for compensatory mitigation would be determined prior to issuance of the Site Certification Agreement (SCA). If construction has not begun within 12 months of the approval of the SCA the TFO identified in the SCA would expire and be recalculated prior to beginning construction; comparable land sales at the time the TFO is recalculated would be used. <ul style="list-style-type: none"> <li>○ Fee calculation:</li> </ul> </li> </ul>
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		<p><i>(Average Comparable Land Sale Cost per acre) * (CMA</i>  <i>* 1.15 = TFO</i></p>
	Construction – Unnecessary ground disturbance, habitat loss, and revegetation success	<p>9) <u>Site preparation.</u></p> <ul style="list-style-type: none"> <li>• Prior to ground disturbance activities, clearing/grading areas would be staked/flagged and workers informed of their purpose in order to ensure vegetation removal does not extend beyond the area necessary for construction, grading and road improvements.</li> <li>• Two weeks prior to ground disturbing activities, the applicant would notify EFSEC and WDFW, provide the opportunity for onsite review of the final layout of the facility and to discuss any additional micrositeing adjustments that would further avoid or minimize impacts to wildlife habitat.</li> <li>• All electrical cabling would be placed under ground to the greatest extent practicable and utilize the narrowest trench permitted per relevant regulation to minimize disturbance.</li> <li>• Topsoil removed during excavation or grading activities would be retained, segregated, and used for replacement during revegetation.</li> <li>• Reseeding timeframe, watering schedule, and monitoring would be incorporated into vegetation management and habitat management plans in consultation with WDFW and approved by EFSEC.</li> <li>• Where practicable, collector lines would be installed above ground to minimize ground disturbance activities.</li> </ul>
	Construction - Disturbance of nesting birds	<p>10) If construction is planned between March 1 through July 15, a pre-construction raptor nest survey would be conducted in the project area and within a 0.25 mile buffer around project boundaries. Results of these surveys would be made available to WDFW and EFSEC two weeks prior to beginning of construction. Findings would be used in the development of a wildlife and habitat mitigation plan.</p>
	Construction and Operations - Aerial hazards to birds	<p>11) Any new above-ground transmission line or electrical cabling would be constructed in accordance with Avian Power Line Interaction Committee standards.</p>

	Operations –Nest destruction from mowing	12) Mowing would be restricted March 15 to May 15 and limited to the extent practicable from February 1 to March 15 and May 15 to September 30. A native seed mix which minimizes the need for mowing would be chosen in consultation with WDFW, grass height would be maintained as tall as practicable, and battery powered equipment would be used for maintenance activities where practical.
Noise	Construction – loud noise near sensitive receptors	13) Construction laydown, construction equipment maintenance, or assembly areas would be set back a minimum of 1,200 feet from Noise Sensitive Receptor ID 6 and ID 7.
	Operations – loud noise near sensitive receptors	14) If an alternative layout for the inverter/transformer, battery energy storage system, or substation transformer is proposed, these noise sources would not be located in any project area which would result in a greater than 50dBA noise level at the property boundary of any identified sensitive receptor (e.g., ID 6 and ID 7).
Visual and Aesthetics	Additional Key Observation Point (KOP) simulations and Visual screening/surface treatments	<p>15) Following final design, provide additional simulations as requested by EFSEC, for EFSEC review, for current KOPs that do not already have simulations to further support the characterization of visual contrast and to assist with identifying mitigation opportunities. For all KOPs with a moderate contrast rating, provide mitigated scenarios that would be used to assist with determining effectiveness of the mitigation.</p> <p>16) Following review of the additional simulations, mitigation such as visual screening (e.g., vegetation or physical) or surface treatments would be implemented for KOPs: 1) with a moderate rating for contrast and 2) that have specific aspects that contribute to visual contrast that could be mitigated to a less than moderate level by additional BMPs such as visual screening or surface treatments.</p>
Historic and Cultural Preservation	Alteration of historic or cultural sites	17) If any of the 4 sites currently identified as being avoided, are going to be altered during construction or operation, the applicant would consult with Department of Archeology and Historic Preservation (DAHP), any concerned Tribes, and EFSEC. An archaeological excavation permit issued by EFSEC in coordination with DAHP would be required prior to any alteration.

	DAHP approval of Cultural Resources Survey	18) The applicant would submit to EFSEC a Concurrence Letter from DAHP stating approval of the revised Cultural Resources Survey Report.
Utilities	Water sources	See mitigation measure #4

The responsible official determined that the above mitigating conditions included in the MDNS, along with required compliance with applicable county, state and federal regulations and permit requirements, will mitigate all significant adverse impacts to the environment. An environmental impact statement (EIS) therefore is not required under RCW 43.21C.030(2)(c). The responsible official made this determination after a review of the Revised ASC, other information on file with the agency, and existing regulations applicable to the proposal.<sup>21</sup>

### **C. Expedited Processing Decision and Order**

The Applicant requested that EFSEC use the expedited process authorized by RCW 80.50.075 to evaluate the Application. An Application is eligible for expedited processing when EFSEC finds (1) the environmental impacts of the proposed project are not significant or can be mitigated to non-significant levels and (2) the proposed project is consistent and in compliance with city, county or regional land use plans and zoning ordinances.

If an application is granted expedited processing, the Council may make a decision on the Application without holding an adjudicative proceeding under chapter 34.05 RCW and is not required to conduct any further review of an application by an independent consultant.<sup>22</sup>

On August 6, 2021, the Council issued an order concluding that expedited process should be granted, finding land use consistency and that a revised MDNS had reasonably been issued by the SEPA responsible official. In so doing, the Council directed EFSEC Staff to develop a means for the Council to receive information akin to what the County would receive during a conditional use hearing as to site-specific conditions and criteria.<sup>23</sup> The Council's conclusion that the Project is consistent and in compliance with land use provisions, within the meaning of EFSLA, is set forth in the Council's August 6, 2021, Order Granting Expedited Processing at pp. 7-9.

## **IV. PUBLIC MEETING TO RECEIVE COMMENT ON YAKIMA COUNTY CONDITIONAL USE CRITERIA**

The Council's August 6, 2021, Order Granting Expedited Processing instructed EFSEC Staff to develop a means to receive information akin to what the County would receive during a conditional use hearing as to site-specific conditions and criteria.

<sup>21</sup> The Revised MDNS, environmental checklist, environmental review and staff recommendation, and the Revised ASC are available for review at the EFSEC office. For convenience, the documents are available online at <https://www.efsec.wa.gov/energy-facilities/goose-prairie-solar>

<sup>22</sup> RCW 80.50.075; WAC 463-43-060.

<sup>23</sup> Order on Expedited Processing (Order) at 13, 23.

Yakima County Code 19.30.100(2) allows the County hearing examiner to impose additional requirements as conditions of approval of Type 3 conditional uses (including Power Generating Facilities proposed in the Agricultural Zoning District), to:

- a. Comply with any development standard or criteria for approval set forth in Yakima County Code
- b. Mitigate material impacts of the development
- c. Ensure compatibility of the development with existing neighboring land uses; assure consistency with the intent and character of the zoning district involved
- d. Ensure that the structures and areas proposed are surfaced, arranged and screened in such a manner that they are compatible with and not detrimental to existing or reasonable expected future development of the neighborhood, or resources uses, consistent with the Comprehensive Plan and
- e. Achieve and further the intent, goals, objectives, and policies of the Comprehensive Plan and this Title (Title 19)

On September 10, 2021, the Council issued a Notice of a Public Meeting and Request for Public Comment and invited public comment regarding whether additional requirements should be imposed in consideration of the goals of YCC 19.30.100(2). The Applicant and EFSEC Staff made presentations at the virtual meeting convened on September 27, 2021.

Blake Bjornson and attorney Tim McMahan presented on behalf of the Applicant, summarizing the information and analysis presented in Attachment A to the Application, which concerns the applicability of County comprehensive plan and development code provisions to the project.

EFSEC Staff member Kyle Overton explained that EFSEC contracted with Yakima County to conduct a review of the ASC materials as they relate to Yakima County land use plans and development ordinances.

Yakima County Planning Division reviewed OER's Application, including the land use analysis included as Attachment A, and provided EFSEC with a review summary.<sup>24</sup> The summary identified the additional requirements Yakima County staff would recommend be imposed upon the project if the project was going through the County's conditional use permit process. These additional items were:

1. A statement that the project is within the Agriculture Zoning District, that Yakima County is a "Right to Farm" county, codified in YCC 6.22 (declaring that a farm or farm operation shall not be found to be a public or private nuisance if the farm operation existed before the change in land use or occupancy by an adjacent land use), and that the project may be subject to impacts, such as dust, from surrounding areas.
2. The source of water for washing solar panels shall have legal and physical availability of water.
3. The Habitat Management and Mitigation Plans shall be implemented prior to development of the site.

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<sup>24</sup> The summary, which is dated March 15, 2021, is posted on EFSEC's public website under the title Yakima County Land Use Consistency letter.

Mr. Overton explained that requirements had either already been included in the Revised MDNS or would be included in the draft Site Certification Agreement to address Yakama County's recommendations.

EFSEC received comments from seven parties during the public comment period regarding conditional use criteria.

Five of these comments were given during the public comment meeting by five representatives of a local laborer's union expressing support of the project and the local jobs it would create.

A written comment was received from the Yakima County Fire District #4 requesting consultation in the planning processes related to the project's use of emergency services and further requesting a meeting prior to the start of construction of the proposed project to coordinate emergency service efforts. The Fire District's comments were similar to comments it provided during the SEPA public comment period. To address the Fire District's comments, the Revised Application for Site Certification (ASC) commits OER to coordinating with the local emergency services providers in the development of required fire control plans, emergency services and safety plans, and in developing necessary project infrastructure for emergency services such as road and facility access. All of these plans are required to be approved by EFSEC prior to the start of construction.

Lastly, written comments were received from the Yakima County Farm Bureau (YCFB). The comments touched upon several topics and were generally not in favor of the project. YCFB had submitted similar, but more abbreviated comments during the SEPA public comment period. Certain of YCFB's concerns, such as those pertaining to stormwater and fire/emergency services impacts, were addressed in the EFSEC staff memos and through mitigation measures included in the Revised MDNS.<sup>25</sup>

YCFB proposes a requirement that the facility be designed to allow grazing by domestic animals, in part to improve vegetation management, reduce stormwater impacts, and stabilize soils. While EFSEC encourages multi-use projects such as solar and agriculture, there has been no demonstration that livestock grazing would reduce or otherwise mitigate impacts relating to stormwater, vegetation management, and soil stabilization to an equal or greater extent than requirements included in the Revised ASC and mitigation measures in the Revised MDNS.

YCFB objects to review and approval authority of this project by EFSEC and the Governor, preferring review and approval be conducted by local jurisdictional authorities with input provided by local community members. Further, the YCFB argues that an Environmental Impact Statement, conducted at a local level, is appropriate for the review of this project. The Applicant has the option, and exercised the option, to have their project considered by EFSEC under RCW 80.50. During the EFSEC review process EFSEC contracted with Yakima County staff to conduct a thorough review of the proposal as it relates to local regulations and ordinances. Additionally, members of the public have been invited to comment on this project proposal

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<sup>25</sup> The Revised MDNS, environmental checklist, environmental review and staff recommendation are available online at <https://www.efsec.wa.gov/energy-facilities/goose-prairie-solar>

during several stages of the review including, land use consistency analysis, SEPA review, and conditional use consideration.

YCFB expresses concern regarding the conversion of agricultural land to other land uses such as solar generation facilities. As noted previously, the proposed Facility is a conditionally allowable use in Yakima County's AG zoning district. Yakima County planning staff found the project to be consistent with surrounding agricultural uses. Additionally, EFSEC rules, the proposed SCA, and the Revised ASC require the facility be returned to pre-project condition upon termination of the facility's operation and must allow for a return to agricultural use.

Lastly the YCFB expresses concern that solar facilities require more land area than do wind facilities of similar generating capacity. EFSEC agrees with the YCFB that wind and solar generation facilities have differing impacts, but considering the relative impacts and merits of a wind power generation facility versus a solar facility is outside the scope of EFSEC's review of this project proposal.

## **V. LEGAL FRAMEWORK AND ANALYSIS UNDER RCW 80.50.010**

### **A. Legal Framework**

RCW 80.50.010, the EFSLA, provides the central legal framework for the Council's siting recommendation:

The legislature finds that the present and predicted growth in energy demands in the state of Washington requires the development of a procedure for the selection and utilization of sites for energy facilities and the identification of a state position with respect to each proposed site. The legislature recognizes that the selection of sites will have a significant impact upon the welfare of the population, the location and growth of industry and the use of the natural resources of the state.

It is the policy of the state of Washington to recognize the pressing need for increased energy facilities, and to ensure through available and reasonable methods, that the location and operation of such facilities will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.

It is the intent to seek courses of action that will balance the increasing demands for energy facility location and operation in conjunction with the broad interests of the public. Such action will be based on these premises:

- (1) To assure Washington state citizens that, where applicable, operational safeguards are at least as stringent as the criteria established by the federal government and are technically sufficient for their welfare and protection.
- (2) To preserve and protect the quality of the environment; to enhance the public's opportunity to enjoy the esthetic and recreational benefits of the air, water and land resources; to promote air cleanliness; and to pursue beneficial changes in the environment.
- (3) To provide abundant energy at reasonable cost.

(4) To avoid costs of complete site restoration and demolition of improvements and infrastructure at unfinished nuclear energy sites, and to use unfinished nuclear energy facilities for public uses, including economic development, under the regulatory and management control of local governments and port districts.

(5) To avoid costly duplication in the siting process and ensure that decisions are made timely and without unnecessary delay.

Citing RCW 80.50.010, the Washington Supreme Court has described EFSLA as seeking to “balance the increasing demands for energy facility location and operation in conjunction with the broad interests of the public.”<sup>26</sup> The Council applies RCW 80.50.010 by weighing and balancing the need for the proposed facility against its impacts on the broad public interest, including human welfare and environmental stewardship. The Council then determines whether a proposed facility at a particular site will produce a net benefit justifying a recommendation of project approval. The Council has referred to this balancing as determining “need and consistency.”<sup>27</sup>

## **B. Analysis**

This Recommendation draws from the Revised Application and informational meeting presentations, information provided by consultant agencies, information provided at the land use consistency hearing, SEPA documentation and comments, and information received at the meeting to receive comment on the County’s conditional use criteria.

On matters where there is a divergence of views, the Council makes the necessary findings based on the record assembled.

Regarding need for the facility, the Council has considered the policy of the State of Washington to support the development of facilities that produce electricity from renewable resources, including solar energy facilities. RCW 19.285, RCW 19.405. The Facility will produce electrical energy without generating greenhouse gas emissions.

Regarding the off and onsite impacts to the broad public interest, the Facility will meet federal, state and local regulatory requirements and the Applicant has agreed to appropriate environmental mitigation requirements as indicated in the sections discussed above. As a whole, the mitigation package preserves and protects the quality of the environment.

After reviewing all available information on the record in this decision, the Council finds that:

- a. The Facility will contribute to the availability of abundant energy at reasonable cost.
- b. The required mitigation will preserve and protect the quality of the environment and the broad public interest in terms of off and onsite impacts.
- c. The Facility will contribute to the diversification and reliability of the state’s electrical generation capacity.

The Council concludes that the proposed Facility will produce a net benefit justifying a recommendation of project approval.

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<sup>26</sup> *Columbia Riverkeeper v. Port of Vancouver*, 188 Wn.2d 80, 95, 392 P.3d 1025 (2017) (citing RCW 80.50.010).

<sup>27</sup> Council Order No. 753, at 12, *In re Chehalis Generating Facility* (Feb. 12, 2001).

## **VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Council includes conclusions of law with its findings of fact for the convenience of the reader. Any finding in the nature of a conclusion of law should be interpreted as a conclusion, and any conclusion in the nature of a finding should be interpreted as a finding of fact.

### **Nature of Proceedings**

1. This matter involves Application No. 2021-01 to EFSEC for site certification to construct and operate the Goose Prairie Solar (the Facility) on a site located in unincorporated Yakima County, Washington, near the city of Moxee. The Facility consists of a solar photovoltaic (PV) project with an optional battery storage system with a combined generating capacity of 80 MW.
2. The Washington State Energy Facility Site Evaluation Council has jurisdiction over the persons and the subject matter of Application No. 2021-01, pursuant to Chapter 80.50 RCW.

### **The Applicant and the Application**

3. The Applicant, OER WA Solar 1, LLC, is a privately owned, Seattle based utility-scale solar developer that has previously developed solar sites across the United States.
4. The Applicant submitted its Application for Site Certification on January 19, 2021, seeking certification pursuant to 80.50.060(3)(a)(iii) and requesting expedited processing of the Application.
5. The Applicant and the Council mutually agreed to extend the one hundred twenty-day timeline for the Council to issue an order on the expedited request. The Applicant submitted an Revised Application on June 22, 2021.

### **Site Characteristics**

6. The proposed Facility will consist of PV modules mounted on single-axis trackers supported on stationary piles no higher than 14 feet. The Facility will interconnect with a new Point of Interconnection (POI) to Bonneville Power Administration's (BPA) Midway to Moxee 115-kilovolt (kV) transmission line, which bisects the Facility. BPA will build, own and operate the structures which constitute the POI. The Facility's output will be conveyed to a central substation near the POI to the electrical grid. The optional battery energy storage system would not exceed the nominal 80 MW capacity
7. The Meacham property is currently in the Conservation Reserve Program (CRP) which is set to expire on September 30, 2022, with no current agricultural use. A portion of the area was previously used for row crops. No existing buildings are present on the Meacham Property. The Martinez Property has two distinct areas: four of the parcels may be used for solar facilities and one parcel may be utilized for an aerial easement for the interconnection tie-line depending on the final design of the interconnection with BPA. The area that may be utilized for solar facilities has a historic and current use of grazing and has habitat types that the Applicant categorized as a mix of Eastside Grasslands<sup>28</sup>, Shrub-steppe and Pasture Mixed

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<sup>28</sup> The Revised ASC filed June 22, 2021, acknowledges that the Washington Department of Fish and Wildlife (WDFW) does not agree with the habitat classification of Eastside Grasslands. The Applicant, following discussions with WDFW and EFSEC, agrees the habitat types identified as "Shrub-steppe -



Environs with predominantly native vegetation The Applicant, following discussions with WDFW and EFSEC, agrees the habitat types identified as “Shrub-steppe -Degraded” and “Eastside Grasslands” will be considered Shrub-steppe for the purposes of compensatory mitigation calculations. The area which may be utilized for an aerial easement is currently planted with an orchard. BPA’s Midway-to-Moxee 115 kV transmission line, on which the Facility will directly rely, crosses the Martinez Property. A few agricultural buildings exist on the Martinez Property, but none are within the Facility Area

### **Informational Public Meeting**

8. The Council held a virtual public informational meeting on March 16, 2021, after receipt of the Application. The Council considered the written comments received prior to the meeting from Yakima County and the Yakama Nation.
9. The Council concludes that it has complied with the applicable procedural law and regulation, including RCW 80.50.090(1), in conducting an informational public hearing in the county of the proposed site not later than 60 days after receipt of the application for site certification.

### **Land Use Consistency Hearing**

10. On March 2, 2021, the Council issued a Notice of Land Use Consistency Hearing.
11. On March 16, 2021, the Council conducted a virtual Land Use Consistency Hearing under RCW 80.50.090 and WAC 463-26-050.
12. The Council heard from an attorney for the Applicant, but no others offered testimony at the hearing.
13. The Council concludes it has complied with the applicable procedural law and regulation, including RCW 80.50.090(2), in conducting a land use consistency hearing in the county of the proposed site not later than 60 days after receipt of the application for site certification.

### **Compliance with the State Environmental Policy Act (SEPA)**

14. EFSEC is the lead agency for environmental review of project proposals within its jurisdiction under the State Environmental Policy Act (SEPA), RCW 43.21C.
15. The Council Manager is the SEPA responsible official. WAC 463-47-051.
16. EFSEC’s SEPA responsible official issued a Mitigated Determination of Non-Significance (MDNS) on June 24, 2021, under WAC 197-11-350.
17. Also on June 24, 2021, the Council issued a notice inviting the public and agencies to comment on the MDNS by submitting written comments no later than July 8, 2021.
18. EFSEC’s SEPA responsible official considered the public comments received and revised the MDNS to address the comments.
19. EFSEC’s SEPA responsible official issued the revised MDNS on July 30, 2021.
20. The Council concludes that it has complied with SEPA and its implementing regulations including Chapter 80.50 RCW and WAC 463-47.

### **Expedited Process**

21. The Applicant requested expedited processing of the Application on January 21, 2021.

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Degraded” and “Eastside Grasslands” will be considered Shrub-steppe for the purposes of compensatory mitigation calculations.

22. By mutual agreement, the Applicant and the Council set a later time of August 6, 2021, for the Council to issue an order on the request for expedited process.
23. On August 6, 2021, EFSEC issued an Order Granting Expedited Processing consistent with the requirements of RCW 80.50.075 and WAC chapter 463-43.
24. In the order, EFSEC concluded that the Applicant had met its burden of proof of demonstrating that the sites were consistent and in compliance with Yakima County's Comprehensive Plan and applicable zoning ordinances as required by RCW 80.50.075(1). EFSEC also concluded the environmental impact of the proposed Site would be mitigated to a nonsignificant level under RCW 43.21C.031, as required by RCW 80.50.075(1).
25. The Order also directed Council staff to develop a means to receive information akin to what the County would receive during a conditional use hearing as to site-specific conditions and criteria.
26. The Council concludes that the Order granting expedited process complied with applicable statutes and regulations.
27. The Applicant requested an extension for the decision on the Application to October 31, 2021, which was granted.

#### **Conditional Use Meeting**

28. The EFSEC Staff reviewed the Revised Application and contracted with Yakima County to conduct a review of the ASC materials as they relate to Yakima County land use plans and development and ordinances. They considered the items identified by Yakima County in its March 15, 2021, letter regarding OER's proposed Facility.
29. The Council concludes that the SCA includes conditions to protect local governmental or community interests affected by the construction or operation of the energy facility, and conditions designed to recognize the purpose of Yakima County land use plans and development ordinances as required by RCW 80.50.100(2).

#### **Site Certification Agreement**

30. The holder of the Site Certification Agreement (SCA) would be required to comply with all mitigation measures provided for in the Revised Application, all mitigation required by the revised MDNS, and the requirements of EFSEC rules and the SCA, such as site restoration and financial assurances.

#### **Balancing Need against Public Interest**

31. It is the policy of the State of Washington to support the development of facilities that produce electricity from renewable resources, including solar energy facilities. RCW 19.285, RCW 19.405. The Facility will produce electrical energy without generating greenhouse gas emissions.
32. Council finds that the project will contribute to the availability of abundant energy at reasonable cost.
33. The Council concludes that OER met its burden of proof demonstrating that the Site would comply with applicable land use provisions and should be approved as a conditional use.
34. The Site as conditioned in the SCA has no significant unmitigated impacts to the environment.

35. Finding no significant public interest impacts and finding significant evidence of need, the Council concludes that the project will produce a net benefit that would support a recommendation of approval.
36. The Council concludes that it should recommend that the Governor approve the updated Application with the mitigation measures outlined in SCA.

#### **VII. RECOMMENDATION**

The Counsel recommends that the Governor of the State of Washington approve OER WA Solar 1, LLC's Application dated January 19, 2021, and Revised June 22, 2021, for site certification to construct and operate the Goose Prairie Solar Project.

#### **VIII. RECONSIDERATION OR OTHER ADMINISTRATIVE RELIEF**

There is no opportunity for petitions for reconsideration of this Report. WAC 463-30-335, which allows parties to petition the Council for reconsideration of its recommendation to the Governor, is codified in WAC 463-30, the purpose of which is to set forth procedures by which adjudicative proceedings are to be conducted before the Council. Because the Council used the expedited process under RCW 80.50.075, it did not hold an adjudicative proceeding, and WAC 463-30-335 does not apply.

Pursuant to RCW 80.50.140, the Governor's final decision pursuant to RCW 80.50.100 on an application for certification shall be subject to judicial review pursuant to provisions of chapter 34.05 RCW and RCW 80.50. Any petitions for review of such a decision must be filed in the Thurston County superior court. RCW 80.50.140.

DATED at Olympia, Washington, and effective October XX, 2021.

Washington Energy Facility Site Evaluation Council

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Kathleen Drew, EFSEC Chair

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Kate Kelly,  
Department of Commerce

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Robert Dengel,  
Department of Ecology

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Mike Livingston,  
Department of Fish and Wildlife

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Leonard "Lenny" Young,  
Department of Natural  
Resources

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Stacey Brewster,  
Utilities and Transportation  
Commission

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Bill Sauriol,  
Department of  
Transportation

# Energy Facility Site Evaluation Council

## Non-Direct Cost Allocation for 2<sup>nd</sup> Quarter FY 2022

October 1, 2021 – December 31, 2021

The EFSEC Cost Allocation Plan (Plan) was approved by the Energy Facility Site Evaluation Council in September 2004. The Plan directed review of the past quarter's percentage of EFSEC technical staff's average FTE's, charged to EFSEC projects. This along with anticipated work for the quarter is used as the basis for determining the non-direct cost percentage charge, for each EFSEC project.

Using the procedures for developing cost allocation, and allowance for new projects, the following percentages shall be used to allocate EFSEC's non direct costs for the 2<sup>nd</sup> quarter of FY 2022

Kittitas Valley Wind Power Project	5%
Wild Horse Wind Power Project	5%
Columbia Generating Station	26%
Columbia Solar	11%
WNP-1	3%
Whistling Ridge Energy Project	3%
Grays Harbor 1&2	9%
Chehalis Generation Project	10%
Desert Claim Wind Power Project	3%
Goose Prairie Solar Project	7%
Horse Heaven Wind Farm Project	12%
Badger Mountain	6%



Sonia E. Bumpus, EFSEC Manager

Date: 10/12/2021