WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL
TUESDAY, JANUARY 18, 2022
1:31 P.M.

Virtual Special Meeting
Verbatim Transcript of Proceedings

(All participants appearing via videoconference.)

DATE TAKEN: JANUARY 18, 2022
REPORTED BY: CARISA KITSELMAN, RPR, CCR 2018
APPEARANCES

Councilmembers:
KATHLEEN DREW, Chair
ELI LEVITT, Department of Ecology
KATE KELLY, Department of Commerce
STACEY BREWSTER, Utilities and Transportation Commission
LENNY YOUNG, Department of Natural Resources
MIKE LIVINGSTON, Department of Fish & Wildlife

Local Government and Optional State Agencies:
BILL SAURIOL, Goose Prairie
DEREK SANDISON, Horse Heaven
ED BROST, Benton County

Assistant Attorney General:
JON THOMPSON

Administrative Law Judge:
ADAM TOREM
LAURA BRADLEY

Council Staff:
SONIA BUMPUS
AMI HAFKEMEYER
AMY MOON
JOE WOOD
SEAN CHISHOLM
PATTY BETTS
LINDSAY REMFREY
STEW HENDERSON
ANDREA GRANTHAM
JOAN OWENS
ERIC MELBARDIS, Kittitas Valley Wind
JENNIFER GALBRAITH, Wild Horse Wind Power Project
CHRIS SHERIN, Grays Harbor Energy Center
STEFANO SCHNITGER, Chehalis Generation Facility
MARY RAMOS & BRADFORD BARFUSS, Columbia Generating Station
OWEN HURD, TUUSSO Energy
BILL SHERMAN, Counsel for The Environment
MEGAN SALLOMI, Counsel for The Environment

Roxy Borgio, TVW
Tiana Rowland, Douglas County
Jordyn Giulio, Douglas County
January 18, 2022
1:31 P.M.

-00-
MR. SANDISON: Derek Sandison, present.

MS. OWENS: Benton County?

The assistant attorney general?

MR. THOMPSON: This is John Thompson, present.

MS. OWENS: Administrative Law Judge Johnette Sullivan? Adam Torem?

MR. TOREM: This is Judge Torem. I'm on.

MS. OWENS: Laura Bradley?

MS. BRADLEY: This is Judge Bradley. I'm present.

CHAIR DREW: Ms. Owens, can you pause for a minute, please?

MS. OWENS: Yes.

CHAIR DREW: It seems that our court reporter cannot -- is not getting the audio.

MS. OWENS: Yes. I can hear you. Is that Carisa?

CHAIR DREW: We will pause for a moment so that we can see if we can make sure our court reporter is able to hear the meeting.

MS. OWENS: Carisa, can you hear me now?

And I do have a recording that I can share with her after the meeting. Okay. It looks like she has logged off and will come back.

Carisa, can you hear us now? Carisa, are you
there? I saw your video for a moment.

CHAIR DREW: Well, let us continue and we will get the audio to her. Hopefully she can figure out her technical issues. I just see -- and also it may help, Carisa, if you call in over the phone line.

MS. OWENS: Oh, she says she can hear now.

CHAIR DREW: Okay. Resuming. And I did hear you call Mr. Brost. And I see he had joined in the chat.

So I believe he's here.

MS. OWENS: Yes. Benton County, Ed Brost, are you here? Shall I continue with --

MR. BROST: Can you hear me? I am here.

CHAIR DREW: Yes.

MR. BROST: This is Ed Brost. I'm sorry.

MS. OWENS: Thank you.

Okay. Continuing with council staff. Sonia Bumpus?

MS. BUMPUS: Sonia Bumpus is here.

MS. OWENS: Ami Hafkemeyer?

MS. HAFKEMEYER: Present.

MS. OWENS: Amy Moon?

MS. MOON: Amy Moon, present.

MS. OWENS: Kyle Overton?

Joe Wood.

MR. WOOD: Joe Wood, present.
MS. OWENS: Sean Chisholm?
MR. CHISHOLM: Sean Chisholm, present.
MR. OWENS: Patty Betts?
MS. BETTS: Patty Betts, present.
MS. OWENS: Lindsay Remfrey?
MS. REMFREY: Lindsay Remfrey, present.
MS. OWENS: Stew Henderson.
MS. HENDERSON: Stewart Henderson, present.
MS. OWENS: Andrea Grantham?
MS. GRANTHAM: Andrea Grantham, present.
MS. OWENS: And our court reporter?
The REPORTER: Carisa Kitselman, present.
MS. OWENS: Thank you.
For operational updates, Kittitas Valley Wind?
MR. MELBARDIS: Eric Melbardis, present.
MS. OWENS: Wild Horse Wind Power Project?
MS. GALBRAITH: Jennifer Galbraith, present.
MS. OWENS: Grays Harbor Energy Center?
MR. SHERIN: Chris Sherin, present.
MS. OWENS: Chehalis Generation Facility?
MR. SCHNITGER: Stefano Schnitger, present.
MS. OWENS: Columbia Generating Station?
MR. BARFUSS: Brad Barfuss, present.
MS. OWENS: Columbia Solar?
MR. HURD: Owen Hurd, present.
MS. OWENS: For counsel for the environment, Bill Sherman?

MR. SHERMAN: Bill Sherman, counsel for the environment on Horse Heaven and Goose Prairie, present.

MS. OWENS: Thank you. And is Megan Sallomi with you?

MS. SALLOMI: Yes. I'm also present. This is Megan Sallomi for the Badger Mountain Project.

MS. OWENS: Great. Thank you.

Chair, there is a quorum for the regular counsel. The Goose Prairie and Horse Heaven counsel.

You are on mute.

CHAIR DREW: Thank you.

A couple of notes for the council and members of public as we begin today.

First of all, I wanted to welcome Eli Levitt from the Department of Ecology who is replacing Rob Dengel. Eli is Ecology's information management and communications section manager for hazardous waste and toxics reduction program. And has also worked in water quality and climate policy with the Department of Ecology. And we welcome you as one of our members here today. Thank you for being here.

MR. LEVITT: Thank you, Chair Drew.

CHAIR DREW: You're welcome to say anything
else by introduction, if you wish. But...

MR. LEVITT: I guess I'll just briefly say

I've been at the Department of Ecology for about 13 and a half years. As the Chair mentioned, I work for the climate policy group for three years. And then water quality for about six or seven. And now hazardous waste and toxics reduction for about three years. I'm happy to be here. And Rob Dengel could not make it today. He sends his regrets. So thank you.

CHAIR DREW: Thank you and welcome.

I would also like to say that we are working with the bad -- the Douglas County commissioners for a member of the council. And, as I understand, they were looking at changing their initial appointee and Ms. Giulio, who is the -- oh, here. Let me make sure I get her name. Jordyn Giulio, the County's risk manager, will be participating but we haven't yet received an appointment letter. What I would say, Ms. Giulio, is if as we go towards the Badger Mountain report, and if you would like to participate during the discussion but not vote, I would appreciate that. And then once we get your appointment letter from the County, we will have you as an official member.

Are you on the line?

MS. GUILIO: I am present, yes.
CHAIR DREW: Okay. So feel free to participate at the council member discussion during the Badger Mountain discussion, if you would like.

MS. GIULIO: Thank you.

CHAIR DREW: Yes.

Okay. Now moving on to the agenda in front of us.

Is there a motion to approve the -- excuse me -- adopt the proposed agenda?

MR. LIVINGSTON: This is Mike Livingston.

I'll make a move -- movement to adopt the agenda as proposed.

CHAIR DREW: Thank you. Second?

MR. YOUNG: Lenny Young, second.

CHAIR DREW: Questions? Discussions?

All those in favor signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR DREW: Opposed? The motion carries.

Thank you.

We have three sets of minutes before us today for approval.

First, we have the November 16, 2021, monthly minute meetings.

Is there a motion to approve the November 16th monthly council meeting minutes?
MS. KELLY: Kate Kelly, motion to approve minutes from November 16, 2021.

MS. BREWSTER: Stacey Brewster, second.

CHAIR DREW: Thank you.

Are there any comments or corrections on the monthly meeting minutes from November 16th? Hearing none.

All those in favor of approving the minutes, please say "aye."

COUNCILMEMBERS: Aye.

CHAIR DREW: Opposed?

The meeting -- the meeting minutes are approved.

Moving on to the November 17th Badger Mountain informational meeting minutes.

Is there a motion to approve those minutes?

MS. BREWSTER: This is Stacey Brewster. I'll move that we approve the minutes from the November 17th Badger Mountain informational meeting as well as the land use hearing minutes.

CHAIR DREW: Thank you. Second?

MS. KELLY: Kate Kelly, second.

CHAIR DREW: Thank you.

I do have a couple of quick corrections in the informational meeting minutes.

First of all, on page 2 actually, we have the
administrative law judge named as Adam Torem, which is incorrect. It should be Laura Bradley.

And on page 45, line 16, we have the name Galbraith and it should be Grantham.

So with those two corrections, is -- are there any other corrections for either the public meeting or the land use consistency hearing?

MS. BREWSTER: This is Stacey Brewster.

I did notice one on page 13 of lines 13 and 14, refer to solar PD. I believe that should be PV, photovoltaic.

CHAIR DREW: Okay. Thank you.

With those changes, all those in favor of the minutes as amended, please say "aye."

COUNCILMEMBERS: Aye.

CHAIR DREW: Those opposed? The minutes are approved. Thank you all.

We'll now move to the agenda of the facility updates.

Starting with Kittitas Valley Wind Power Project, Mr. Melbardis.

MR. MELBARDIS: Good afternoon, Chair Drew.

EFSEC staff, Councilmembers.

For the record, this is Eric Melbardis with EDP Renewables for the Kittitas Valley Wind Power Project.
There was nothing nonroutine to report for either period.

CHAIR DREW: Thank you.

Wild Horse Wind Facility, Ms. Galbraith?

MS. GALBRAITH: Yes. Thank you, Chair Drew, Councilmembers, and Staff. This is Jennifer Galbraith with Puget Sound Energy for the Wild Horse Wind facility.

And I also have nothing nonroutine to report for the month of November and December. Wait a minute. There we go. There's December.

CHAIR DREW: Oh, thank you. Yes. Okay. Thank you.

MS. GALBRAITH: Thank you.

CHAIR DREW: For Chehalis Generating station -- generating facility. We have Mr. Schnitger. Before we call on you, is Mr. Miller actually attending this meeting?

MR. SCHNITGER: No. Mr. Miller will not be attending the meeting today.

CHAIR DREW: Well, we would like you to share with him -- and we'll put into the minutes -- how much we appreciate his management and his relationship to EFSEC over a number of years. And I actually don't know how many years he has been with the facility.

But I know all of us here at EFSEC wish him well
in his retirement and we will miss his participation in
our meetings and such a good partner as he has been. And
certainly look forward to working with you in the same
manner.

So please go ahead with your report.

MR. SCHNITGER: I'll pass that on to him.

This is the reporting period for November. I
also sent out a reporting -- report for December.

And for the record, this is Stefano Schnitger
with the Chehalis Generation Facility.

And, Chair Drew, did you want me to report on
November or December?

CHAIR DREW: Both would be good, thank you.

Since we didn't have our December meeting.

MR. SCHNITGER: Okay. So for November,
there's not a whole lot unusual to report. The
Washington State Fire Marshal, he did conduct his site
inspection on November 4th. There were a few identified
deficiencies from that inspection. And if we end up
going to the December report, included in the December
report, we provided the fire marshal with a resolution
plan for those deficiencies. And he has accepted that
plan and sent his approval to EFSEC.

Continuing on here for December, zero injuries
for the recording period. The plant is now at 2,254 days
without a lost time accident.

Our Title V air operating permit renewal has been completed. The new permit will expire on December 29, 2026. Thank you to everybody who helped support that renewal effort.

And as Chair Drew mentioned, Mark Miller, the plant manager, he has submitted his retirement notice. And his last day is officially this Friday, January 21st. That's all for Chehalis.

CHAIR DREW: Thank you. And, again, please give him our congratulations and our appreciation for the partnership he's had with us over the years.

MR. SCHNITGER: Will do.

CHAIR DREW: Okay. Moving on to Grays Harbor Energy, Mr. Sherin.

MR. SHERIN: Good afternoon, Chair Drew. Councilmembers, EFSEC staff. This is Chris Sherin, plant manager from Grays Harbor Energy Center.

So over the reporting period of November, we did submit startup and shutdown permit deviation to EFSEC. We're working to rectify that. It's essentially -- to sum it up, it's a result of the AOP upgrade and a change in the controls. So we're working with O&M to -- we've identified some -- the worst places to sit as far as combustion during our startup process. And we're --
we've identified some better options in our holds. So
we're working through that. And the last couple startups
have been successful but that's a pending issue.

CHAIR DREW: Thank you. And you'll --

MR. SHERIN: Also --

CHAIR DREW: -- continue to keep us updated on

that, of course.

MR. SHERIN: Yes, we will, Chair Drew.

CHAIR DREW: Okay. Go ahead.

MR. SHERIN: We still owe you some more

feedback in the future.

CHAIR DREW: Okay.

MR. SHERIN: Also in November the state fire

marshal's office inspection was conducted. And we -- in

response to that, we submitted a plan to correct a few

minor violations.

And then the only nonroutine item I have for the

month of December is to follow up with that. That the

office of the state fire marshal reinspection report was

received. And noted that all the prior items that we

were deficient on have been corrected in December.

Are there any questions?

CHAIR DREW: Are there any questions? Thank

you.

Columbia Generating Station and Washington
Nuclear Project 1 and 4 (WNP-1/4).

I heard -- who is -- who is on the line to report on those facilities for us?

MR. BARFUSS: Yes. Good afternoon. Chair Drew, EFSEC council and staff. This is Brad Barfuss.

I'm the environmental and regulatory programs manager for Energy Northwest.

CHAIR DREW: Thank you.

MR. BARFUSS: And I have an update for Columbia Generating Station.

On December 6, 2021, Columbia Generating Station disconnected from the northwest grid for a planned maintenance outage. And workers installed balance weights on each end of a 34-foot, 133-ton low-pressure turbine that was replaced as part of Columbia's life cycle maintenance during the station's spring refueling outage.

And workers successfully completed this. And in addition, maintenance tasks were also completed during the week to ensure Columbia continues to produce reliable, carbon-free power for the region.

And on December 13th, 2021, Columbia Generating Station reconnected to the grid.

CHAIR DREW: Thank you. Are there --

MR. BARFUSS: And --
CHAIR DREW: Go ahead.

MR. BARFUSS: And I have no updates for Washington Nuclear Project 1 and 4.

CHAIR DREW: Thank you.

Are there any questions? Okay. Moving on to Columbia Solar Projects, Mr. Hurd.

MR. HURD: Okay. Good afternoon, Chair Drew, Councilmembers, and EFSEC staff. This is Owen Hurd from TUUSSO Energy reporting on the Columbia Solar Projects.

The update on construction is for Penstemon. We achieved mechanical completion in late December. And so now we're completing final testing before commercial operation will happen. PSE is also working on some final issues on communications with their inner connection hardware.

On Camas, we're still awaiting for the final delivery of modules that have been stuck in various ports and customs office and are now being kind of reshipped. Racking is complete in terms of the installation of -- the installation of all of the racking is complete so we're just waiting on modules, and mechanical completion is expected probably sometime in March.

Urtica is also awaiting delivery of modules that have been held up by shipping delays. But we're also working on pile driving and racking installation. So I
would expect mechanical completion to trail Camas by probably another month. So put us into April.

Environmental compliance, inspections have been ongoing. But we had to skip last week due to weather.

Safety compliance, daily safety tailgate meetings continue to happen.

On the kind of other items, we closed the transaction with Greenbacker early in December. As described in our public information meeting, TUUSSO will remain involved in its current capacity until three projects are completed. So not much will change from a day-to-day perspective.

The current site restoration financial assurance will remain in place until it's replaced by Greenbacker which should be soon. And we'll be scheduling our initial tag meeting some time this next month.

Lastly just on weather, we got several feet of snow in the past few weeks which -- most of which is still on the ground. This will have the biggest impact on Urtica where we're still driving piles and doing on-site work.

So we're currently working through the timing implications. But I'll keep you posted once we have a better idea of what this looks like.

CHAIR DREW: Okay. Thank you.
Congratulations on the work with Greenbacker.
And also on the -- on the progress on the construction.
Tough time of year and tough weather situation
definitely.
When do you think that Penstemon will begin
commercial operation?

MR. HURD: I -- I would expect it to be in the
next couple weeks. There were just a handful of things
to kind of tie up. So we're working with PSE on kind of
the sequencing of whether or not to -- we got permission
to operate from Puget Sound Energy, although they are
still working on these final communications items. So
there's been some discussion about whether we should just
let them complete their work and then -- and then turn it
on. Or if we want to complete our kind of final testing,
turn it on and then turn it back off while they wrap up
their communication stuff. So I -- the next few weeks.

CHAIR DREW: Okay. Great. Thank you.

MR. HURD: Yeah. Thank you.

CHAIR DREW: Are there any other questions
from Councilmembers?

Okay. Desert Claim Wind Power Project,
Ms. Moon?

MS. MOON: Good afternoon, Council, Chair
Drew, and members of the council.
For the record, this is Amy Moon providing the Desert Claim update. EFSEC staff continued to coordinate with Desert Claim. However, currently there are no project updates.

CHAIR DREW: Thank you.

And while I have you here, report on Horse Heaven Wind power -- Wind Project, please.

MS. MOON: Okay. For the record, this is Amy Moon providing an update on the Horse Heaven Wind Project.

EFSEC staff continue to work on the preparation of the draft environmental impact statement, otherwise known as a DEIS. We were working on that in both November and December as well as today.

The work has included review of our contractor holders work on drafting the DEIS, as well as continued coordination regarding wildlife and habitat mitigation with the Washington Department of Fish & Wildlife and the Horse Heaven applicant.

The discussions have included impact analysis as well as opportunities for impact avoidance and minimization of impacts that will support the applicant in developing an updated mitigation plan.

EFSEC received responses to data requests regarding habitat, noise, service water, vegetation, and
wildlife. And these data requests were to the applicant. The information received from the data request is being used to inform the DEIS preparation as well as the habitat and wildlife mitigation discussions.

Additional noise baseline measurements near residential areas were included in a data request. And the applicant have been actively pursuing the additional measurements.

Does the Council have any questions?

CHAIR DREW: Are there any questions from Councilmembers? Okay. Thank you.

MS. MOON: Okay. And then we've also received a letter from the applicant regarding an extension of their application review period. Ami Hafkemeyer has more information on that.


MS. HAFKEMEYER: Thank you, Ms. Moon. Good afternoon, Chair Drew and Council. For the record, this is Ami Hafkemeyer.

On January 10, 2022, EFSEC Staff received a letter from Scout Clean Energy, the applicant, requesting that the review of the application for site certification, or ASE, be extended ten months to December 8, 2022. This letter is available in the council packet for your review.
EFSEC statute states in the Revised Code of Washington, or RCW 80.50.100, that the council shall report to the governor its recommendations as to the approval or rejection of an application for certification within 12 months of receipt of the council -- by the council of such an application or such later time as is mutually agreed by the council and the applicant.

EFSEC received the application for the Horse Heaven Wind Farm on February 8, 2021. And the 12-month time frame would conclude -- would conclude on February 7, 2022, unless an extension is agreed upon by the council and the applicant.

As mentioned in the update from Ms. Moon, the work for the EIS is heavily underway. And staff are also continuing to coordinate with the administrative law judge, Judge Torem, to schedule the adjudicative proceedings. Staff and the applicant have coordinated on what we feel is an appropriate time frame for such an extension and recommend that the council approve the request.

Are there any questions from Councilmembers?

CHAIR DREW: Are there questions from Councilmembers?

MR. BROST: This is the Ed Brost. What is the extension request, for how long? Did you say ten --
MS. HAFKEMEYER: It would extend the review period for an additional ten months to December 8, 2022.

MR. BROST: Thank you.

CHAIR DREW: Any other questions?

Is there a motion to approve the extension request for ten months?

MR. SANDISON: So move. This is Derek Sandison, so move.

CHAIR DREW: Thank you. Second?

MR. LIVINGSTON: Mike Livingston, I'll second that.

CHAIR DREW: Thank you.

Is there any discussion?

I think we know that there's a lot of work that is going on that's important for our review. And we need to be able to support this extension in order to get that information to the council for our decision-making process.

All those in favor, please say "aye."

COUNCILMEMBERS: Aye.

CHAIR DREW: Opposed? Motion carries. Thank you.

Goose Prairie Solar Project, Ms. Hafkemeyer?

MS. HAFKEMEYER: Thank you, Chair Drew.

Again, for the record, this is Ami Hafkemeyer. A brief
update on the Goose Prairie Solar Project.

On December 20, 2021, the governor agreed with the EFSEC Council's recommendation and signed into approval the site certification agreement that was provided to his office. Staff are currently working to get that SCA finalized with all the appropriate signatures and look forward to beginning work with the certificate holder on preconstruction activity.

Are there any questions?

CHAIR DREW: Are there any questions?

Okay. Thank you. We'll look forward to an update and the start of report as we go through this process towards construction.

Badger Mountain Solar Energy Project,

Mr. Chisholm?

MR. CHISHOLM: Good afternoon, Council, Chair Drew, and Councilmembers. For the record, this is Seam Chisholm providing an update for Badger Mountain Solar Energy Project.

EFSEC staff continues to process the Badger Mountain Solar Project application for site certification, or ASC that was received from Aurora Solar LLC October 7, 2021.

We're working with the project proponent Avangrid Renewables. Public information meeting --
public information -- informational meeting and land use hearing was held November 17, 2021. The public informational meeting provides information to the public about the proposed project and energy facilities site, information on the council review process, and an opportunity for the public to make comments on the project. EFSEC received 17 comments during the public informational meeting. EFSEC staff is currently working with contractors and state agencies reviewing the ASC as well as evaluating the project compared to Douglas County land use criteria.

We are currently reaching out to WDFW, or Fish & Wildlife, DNR, department of -- or also known as Department of National Resources, Colville Confederated tribes, Spokane tribes, and Yakama Nation on their interest dealing with this project.

Does the Council have any questions so far?

CHAIR DREW: Are there any questions from the Council?

Go ahead, Mr. Chisholm.

MR. CHISHOLM: Yeah. The land use hearing was held November 17, 2021, after the public information -- informational meeting and public comment section.

EFSEC received two comments during the land use hearing. Ami Hafkemeyer has some more information on
CHAIR DREW: Ms. Hafkemeyer?

MS. HAFKEMEYER: Thank you, Mr. Chisholm.

Thank you, Chair Drew.

For the record, again, this is Ami Hafkemeyer.

As Mr. Chisholm mentioned, the land use hearing
for Badger Mountain was conducted in the evening on
November 17th. And included in your packet is a legal
briefing prepared by John Thompson with coordination from
the administrative law judge, Judge Bradley.

In this briefing Mr. Thompson reviews the
information received during the hearing and recommends
determine the land use not be in
compliance and set the matter for an adjudicative
proceeding in accordance with RCW 80.50.090.

Are there any questions?

CHAIR DREW: Are -- Mr. Thompson, would you
like to make further comments?

MR. THOMPSON: Certainly, Chair Drew. Would
you like me to just kind of provide a brief summary of
the memorandum?

CHAIR DREW: That would be great. Certainly
for all of the people who have joined us in addition to
the Councilmembers who haven't had the opportunity to
review it at this point. That would be terrific.

As you know, the EFSEC statute, specifically 80.50.090, requires that when there's a new application for site certification, that the council will conduct a public hearing to determine whether or not the proposed site is consistent and in compliance with city, county, or regional land use plans or zoning ordinances. That has to be done within 60 days of the filing of the application.

As Mr. Chisholm said, that -- that hearing was held on November 17th.

You heard from the applicant on the topic of land use consistency, the county didn't -- didn't appear. But -- but the -- you know, the details of the county zoning regulations were in evidence.

I should mention another reason why land use consistency comes up is because applicants have the option of selecting -- or requesting expedited processing, which means dispensing with the adjudication, essentially. If -- if the impacts of a project are not going to be significant or can be mitigated to -- to a nonsignificant level, and if the project is consistent and in compliance with local land use regulations.

In this case, the applicant Aurora Solar has not
requested expedited processing citing interim controls adopted by Douglas County that -- with which the proposed site for the project is inconsistent.

So the -- the application -- Aurora Solar, the application was filed October 7, 2021. A couple -- two-plus months prior to that on July 20th, 2021, Douglas County had adopted an ordinance that was titled Interim Controls for Placement and Permitting of Alternative Energy specific to wind and solar energy farms.

And in relevant part, that basically -- there's a recounting of what the -- kind of the thinking behind that on Douglas County's part. But the important part is that the county amended its zoning code to include a requirement of seven-mile buffers from various geographic features within which a solar facility such as this cannot be constructed.

So those were -- seven miles from the urban growth area boundary, city or town limits boundary, municipal airport boundary. Specifically Pangborn airport boundary and Pangborn airport outer overlay zone boundary. And also seven miles from habitat associated with sensitive candidate threatened or endangered plants or wildlife.

The applicant concedes that it's proposed location is -- does fall within -- essentially each of
those seven-mile buffers. And so would not be consistent with that zoning provision.

So -- and consequently they have not requested expedited processing.

So in the past, the council has found that where there's just a moratorium in place on a particular type of energy facility but that the -- that the code section, you know, otherwise permits it or that -- in that case that there wouldn't be a -- there could be a finding of consistency, I should say. That's not what the case is here because Douglas County, in fact, amended its zoning code and added these specific prohibitions that I was just describing.

So it's my conclusion and recommendation to you that the council determine that the proposed site is not in compliance with local zoning provisions.

And in that case, the -- the council's procedural rules provide that based on that finding, that the council will set the matter for adjudication as to whether the council should recommend that the local -- the inconsistent local zoning or land use regulations be preempted. And that adjudication can be set separately or together with the -- with the adjudication that's otherwise required.
So in order to, you know, ensure that the
council is able to timely have that adjudication and --
and complete its review within the statutory time period,
my recommendation to you is that you make a -- you direct
the administrative law judge to prepare an order for your
review at the next council meeting, or at a future
council meeting, determining land use inconsistency
and -- and directing that the matter be set for -- for
adjudication as to possible preemption. So --

CHAIR DREW: Thank you. In doing so, we're
not setting a date at this point, correct?

MR. THOMPSON: Right. You needn't do that.
I'm just suggesting that the -- yeah, that the scheduling
be left to either a prehearing conference or some later
determination.

CHAIR DREW: Okay.

MR. THOMPSON: Just simply that you decide to
move forward to adjudicate that question.

CHAIR DREW: And just for a little bit further
discussion. The -- and the discussion around potential
preemption.

In the past is it correct that the council has
looked at -- generally looked at a specific ordinance or
a couple of specific ordinances for preemption and not --
it's not preemption of all local laws; is that correct?
MR. THOMPSON: Right. It would be preemption of the -- the provisions that are inconsistent with the proposed site, essentially.

And then there's also -- this is also described in the -- in the council's rules that in the event that the council does make that recommendation to preempt, that it would include conditions to serve the purposes of the local -- the preempted local ordinances.

So -- so, yeah, right. You -- you would just be looking to -- whether to recommend, you know, the siting of the facility notwithstanding the inconsistent provisions. But still trying to -- to include conditions that would serve the purposes, if that makes sense.

CHAIR DREW: And that would be all discussed in the adjudication.

I wanted to clarify that. Because I think it's -- when people hear the term, some people do take it to be not considering any of the local laws. When, in fact, if there is an inconsistency we may or may not -- I'm not prejudging this matter. I just wanted to have a discussion publicly to clarify. That it would be very -- it would be specific in nature and there would be work to -- to try to actually comply in as many ways as possible with local laws and ordinances. And that's all dependent on future decisions. This is hypothetical. I
also want to make that clear.

But I also -- since none of us on the council have actually participated in -- in this process to date, I think it's -- it's relevant to have discussion as we move forward and to have that discussion publicly for the understanding of -- of everyone who is interested in the project.

Are there other questions from Councilmembers?
And I also would say Ms. Giulio, that if you would like to ask a question, it would be appropriate as well.

Councilmembers?

MS. BREWSTER: This is Stacey Brewster. More of a comment. I just want to thank you and John Thompson for the thorough memo. The information was very helpful, and I do appreciate it.

CHAIR DREW: Thank you.

So the suggested motion has been sent to Councilmembers. Is there somebody who would like to offer that -- offer that or another motion today?

MS. KELLY: Madam Chair, this is Kate Kelly. I -- I, too, want to thank John Thompson.

And with that, I move that the council direct Laura Bradley, EFSEC administrative law judge for the Badger Mountain solar application, to draft an order
determining that the site is not in compliance with local
zoning ordinances in setting the matter of whether to
recommend preemption by the state for adjudication.

CHAIR DREW: Thank you.

Is there a second?

MS. BREWSTER: Stacey Brewster, second.

CHAIR DREW: Thanks. Discussion?

Okay. All those in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR DREW: Opposed?

The motion is adopted. Thank you.

So we will look forward to a draft order coming
to us for review and for consideration some time within
the next month or so.

And we would also look to wait to determine a
time for the adjudication until we have the SEPA
determination for the project.

So we will be able to decide whether the
adjudication on land use goes forward or if it's also in
context with the environmental review.

Okay. Thank you. Moving on to the cost
allocation report.

Ms. Hafkemeyer, is that you today?

MS. HAFKEMEYER: I believe so. I know I heard
Ms. Bumpus on the phone earlier. But I -- I believe I was going to step in for the cost allocation.

CHAIR DREW: Yes. She has been under the weather. So thank you.

MS. BUMPUS: Thank you, Ami.

MS. HAFKEMEYER: Any time. So presented here we have the non-direct cost allocation for the third quarter of fiscal year 2022. The cost allocation is the allocation of non-direct costs incurred by EFSEC to be allocated to the various facilities based on workload and projected upcoming work.

So if there are no questions, I'll get started on the list.

Kittitas wind -- Kittitas Valley Wind Power Project, 5 percent; Wild Horse Wind Power Project, 5 percent; Columbia Generating Station, 25 percent; Columbia Solar, 11 percent; WNP-1, 3 percent; Whistling Ridge Energy Project, 3 percent; Grays Harbor 1 & 2, 9 percent; Chehalis Generation Project, 9 percent; Desert Claim Wind Power Project, 3 percent; Goose Prairie Solar Project, 7 percent; Horse Heaven Wind Farm Project, 12 percent; and Badger Mountain Solar Project, 8 percent.

CHAIR DREW: Thank you.

We have one more item for the good of the order.

And at the beginning of the council meeting you heard a
new name on EFSEC staff. And I would like to introduce
the council to Lindsay Remfrey. And I would ask
Ms. Hafkemeyer to do the introduction.

MS. HAFKEMEYER: Thank you, Chair Drew.

EFSEC welcomes Lindsay Remfrey to our team. She
is our new commerce specialist. Lindsay joins us with
extensive project management experience from a long
history with the U.S. Army Corps of Engineers and the
U.S. Air Force. And we are very excited to have her with
us. She will be handling our contracting work and
invoices and our records management.

CHAIR DREW: Lindsay, if you would like to
show -- say a hello. We don't require anything else.
But just so people can see who you are, that would be
terrific. Ms. Remfrey, I should say.

MS. REMFREY: Hello.

CHAIR DREW: We're happy to have you on board.

Welcome.

MS. REMFREY: Thank you.

CHAIR DREW: With that, thank you, everybody.

Our meeting is adjourned for Tuesday, January 18th.

(Virtual meeting adjourned at
2:23 p.m.)
CERTIFICATE

STATE OF WASHINGTON
COUNTY OF KITSAP

I, Carisa Kitselman, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the virtual meeting on JANUARY 18, 2022, 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 2nd day of February, 2022.

________________________________
CARISA KITSELMAN, RPR, CCR #2018