



Washington State Energy Facility Site Evaluation Council AGENDA

MONTHLY MEETING
Tuesday March 15, 2022
1:30 PM

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

1. Call to Order Kathleen Drew, EFSEC Chair
2. Roll Call Andrea Grantham, EFSEC Staff
3. Proposed Agenda Kathleen Drew, EFSEC Chair
4. Minutes
Meeting Minutes Kathleen Drew, EFSEC Chair
 - February 15, 2022 Monthly 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
 - c. Chehalis Generation Facility
 - Operational Updates Stefano Schnitger, Chehalis Generation
 - 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
 - Adjudicative update Ami Hafkemeyer, EFSEC Staff
 - j. Goose Prairie Solar
 - Project Updates Ami Hafkemeyer, EFSEC Staff
 - k. Badger Mountain
 - Project Updates Sean Chisholm, EFSEC Staff
 - SEPA update Ami Hafkemeyer, EFSEC Staff
 - Land Use Consistency Order Ami Hafkemeyer, EFSEC Staff

The Council may consider and take FINAL ACTION on Land Use Consistency for the Badger Mountain Solar Project.
6. 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
February 15, 2022



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Verbatim Transcript of Monthly Council Meeting - 2/15/2022

<p style="text-align: right;">Page 1</p> <p style="text-align: center;">WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL TUESDAY, FEBRUARY 15, 2022 1:30 P.M.</p> <p style="text-align: center;">Virtual Council Meeting Verbatim Transcript of Proceedings</p> <p style="text-align: center;">DATE TAKEN: FEBRUARY 15, 2022 REPORTED BY: CARISA KITSELMAN, RPR, CCR 2018</p>	<p style="text-align: right;">Page 3</p> <p>1 February 15, 2022 2 1:30 P.M. 3 -oOo- 4 5 6 PROCEEDING 7 8 CHAIR DREW: Good afternoon. This is Kathleen 9 Drew, chair of the Washington State Energy Facility Site 10 Evaluation Council. Calling our February meeting to 11 order. 12 Ms. Galbraith, will you -- sorry. 13 Ms. Grantham, will you please call the roll? 14 MS. GRANTHAM: Yes. No problem. 15 Department of Commerce? 16 MS. KELLY: Kate Kelly, present. 17 MS. GRANTHAM: Department of Ecology? 18 Department of Fish & Wildlife? 19 MR. LIVINGSTON: Mike Livingston, present. 20 MS. GRANTHAM: Department of Natural 21 Resources? 22 CHAIR DREW: Excused. 23 MS. GRANTHAM: Utilities and Transport -- 24 excuse me. 25 Utilities and Transportation Commission? MS. BREWSTER: Stacey Brewster, present. MS. GRANTHAM: Local government and optional</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES 2 Councilmembers: 3 KATHLEEN DREW, Chair 4 ELI LEVITT, Department of Ecology 5 KATE KELLY, Department of Commerce 6 STACEY BREWSTER, Utilities and Transportation Commission 7 MIKE LIVINGSTON, Department of Fish & Wildlife 8 9 Local Government and Optional State Agencies: 10 BRIAN MALLEY 11 ED BROST, Benton County 12 13 Assistant Attorney General: 14 JON THOMPSON 15 Administrative Law Judge: 16 ADAM TOREM 17 18 Council Staff: 19 SONIA BUMPUS 20 AMI HAFKEMEYER 21 AMY MOON 22 JOE WOOD 23 SEAN CHISHOLM 24 LINDSAY REMFREY 25 STEW HENDERSON ANDREA GRANTHAM JOAN OWENS KYLE OVERTON ERIC MELBARDIS, Kittitas Valley Wind JENNIFER GALBRAITH, Wild Horse Wind Power Project CHRIS SHERIN, Grays Harbor Energy Center STEFANO SCHNITGER and STACY LaClair, Chehalis Generation Facility MARY RAMOS, Columbia Generating Station OWEN HURD, TUUSSO Energy BILL SHERMAN, Counsel for The Environment MEGAN SALLOMI, Counsel for The Environment JORDYN GIULIO, Douglas County</p>	<p style="text-align: right;">Page 4</p> <p>1 state agencies for the Horse Heaven Project, Department 2 of Agriculture? 3 CHAIR DREW: Excused. 4 MS. GRANTHAM: Benton County? 5 MR. BROST: Ed Brost is here. 6 MS. GRANTHAM: For the Badger -- 7 MR. MALLEY: Brian Malley is here. 8 MS. GRANTHAM: Oh. Thank you. 9 For the Badger Mountain Project, Douglas County? 10 MS. GIULIO: Jordyn Giulio, present. 11 MS. GRANTHAM: The assistant attorney general? 12 MR. THOMPSON: Jon Thompson, present. 13 MS. GRANTHAM: Administrative Law Judges, 14 Johnette Sullivan? 15 Adam Torem? 16 JUDGE TOREM: This is Judge Torem, present. 17 MS. GRANTHAM: Laura Bradley? 18 For EFSEC Council Staff, Sonia Bumpus? 19 Ami Hafkemeyer? 20 MS. HAFKEMEYER: Ami Hafkemeyer, present. 21 MS. GRANTHAM: Amy Moon? 22 MS. MOON: Amy Moon, present. 23 MS. GRANTHAM: Kyle Overton? 24 MR. OVERTON: Kyle Overton here. 25 MS. GRANTHAM: Joe Wood?</p>

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<p>1 MR. WOOD: Joe Wood, present.</p> <p>2 MS. GRANTHAM: Sean Chisholm?</p> <p>3 MR. CHISHOLM: Sean Chisholm, present.</p> <p>4 MS. GRANTHAM: Patty Betts.</p> <p>5 Lindsay Hemfrey [sic]?</p> <p>6 MS. REMFREY: Lindsay Remfrey, present.</p> <p>7 MS. GRANTHAM: Sorry. Stew Henderson?</p> <p>8 MR. HENDERSON: Stewart Henderson, present.</p> <p>9 MS. GRANTHAM: Joan Owens?</p> <p>10 MS. OWENS: Joan Owens, present.</p> <p>11 MS. GRANTHAM: And is our court reporter on</p> <p>12 the line?</p> <p>13 THE REPORTER: Carisa Kitselman, present.</p> <p>14 MS. GRANTHAM: Thank you.</p> <p>15 For the operational updates, Kittitas Valley</p> <p>16 Wind Project?</p> <p>17 MR. MELBARDIS: Eric Melbardis, present.</p> <p>18 MS. GRANTHAM: Wild Horse Wind Power Project?</p> <p>19 MS. GALBRAITH: Jennifer Galbraith, present.</p> <p>20 MS. GRANTHAM: Grays Harbor Energy Center?</p> <p>21 MR. SHERIN: Chris Sherin is present for Grays</p> <p>22 Harbor.</p> <p>23 MS. GRANTHAM: Chehalis Generation Facility?</p> <p>24 MR. SCHNITGER: Stefano Schnitger and Stacy</p> <p>25 LaClair present for Chehalis.</p>	<p>1 CHAIR DREW: Opposed?</p> <p>2 The agenda is adopted.</p> <p>3 Moving on to the meeting minutes. We only have</p> <p>4 one set of minutes from this month. It's January 18th,</p> <p>5 regular meeting minutes.</p> <p>6 Is there a motion to approve the minutes from</p> <p>7 January 18th?</p> <p>8 MR. LIVINGSTON: It's Mike Livingston. I'll</p> <p>9 move to approve the meeting minutes from January 18th.</p> <p>10 CHAIR DREW: Thank you. And second?</p> <p>11 MR. LEVITT: Eli Levitt --</p> <p>12 MS. KELLY: Kate Kelly --</p> <p>13 CHAIR DREW: Go ahead, Eli.</p> <p>14 MR. LEVITT: I'll second.</p> <p>15 CHAIR DREW: Thank you.</p> <p>16 I do have a couple of corrections for the</p> <p>17 minutes. On page 26, line 13, the word "determined"</p> <p>18 should be "determine," no D on the end.</p> <p>19 On page 29, line 20, the word weather,</p> <p>20 w-e-a-t-h-e-r, should be whether, w-h-e-t-h-e-r.</p> <p>21 And on page 31, line 10, citing, c-i-t-i-n-g</p> <p>22 should be siting, s-i-t-i-n-g.</p> <p>23 Anyone else have any corrections from the</p> <p>24 January 18th meeting minutes?</p> <p>25 Hearing none. All those in favor of approving</p>
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<p>1 MS. GRANTHAM: Columbia Generating Station?</p> <p>2 MS. RAMOS: Mary Ramos, present.</p> <p>3 MS. GRANTHAM: Columbia Solar?</p> <p>4 MR. HURD: Owen Hurd, present.</p> <p>5 MS. GRANTHAM: For the counsel for the</p> <p>6 Environment, Bill Sherman?</p> <p>7 MR. SHERMAN: Present.</p> <p>8 MS. GRANTHAM: And Megan Sallomi?</p> <p>9 MS. SALLOMI: Present.</p> <p>10 MS. GRANTHAM: Chair, there is a quorum for</p> <p>11 the regular council and for the Horse Heaven and Badger</p> <p>12 Mountain -- Badger Mountain Council.</p> <p>13 CHAIR DREW: Thank you.</p> <p>14 And in the chat, Eli Levitt from Ecology is</p> <p>15 present as well. Thank you.</p> <p>16 Moving on to the proposed agenda. You see it</p> <p>17 before you. Is there a motion to adopt the proposed</p> <p>18 agenda?</p> <p>19 MS. BREWSTER: This is Stacey Brewster. I'll</p> <p>20 move we adopt the proposed agenda.</p> <p>21 CHAIR DREW: Thank you. Second?</p> <p>22 MS. KELLY: Kate Kelly, second.</p> <p>23 CHAIR DREW: Thank you. All those in favor,</p> <p>24 please say "aye."</p> <p>25 COUNCILMEMBERS: Aye.</p>	<p>1 the minutes as amended, please say "aye."</p> <p>2 COUNCILMEMBERS: Aye.</p> <p>3 CHAIR DREW: Opposed?</p> <p>4 Minutes as amended are approved. Thank you.</p> <p>5 Moving on now to our operational updates, our</p> <p>6 projects.</p> <p>7 Kittitas Valley Wind Project, Mr. Melbardis?</p> <p>8 MR. MELBARDIS: Good afternoon, Chair, EFSEC</p> <p>9 Staff. This is Eric Melbardis with EDP Renewables for</p> <p>10 the Kittitas Valley Wind Power Project.</p> <p>11 We had nothing nonroutine to report during the</p> <p>12 period.</p> <p>13 CHAIR DREW: Thank you.</p> <p>14 Wild Horse Wind Power Project, Ms. Galbraith?</p> <p>15 MS. GALBRAITH: Yes. Thank you, Chair Drew,</p> <p>16 Councilmembers, and Staff. This is Jennifer Galbraith</p> <p>17 with Puget Sound Energy for the Wild Horse Wind Facility.</p> <p>18 I have no nonroutine updates for the month of</p> <p>19 January.</p> <p>20 CHAIR DREW: Thank you.</p> <p>21 Chehalis Generation Facility, Mr. Schnitger?</p> <p>22 MR. SCHNITGER: Good afternoon, everyone.</p> <p>23 This is Stefano Schnitger, the operations manager for the</p> <p>24 Chehalis Generation Facility.</p> <p>25 Nothing new to report on environmental</p>

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<p>1 compliance. No issues or updates. 2 Safety, plant is with zero injuries for the 3 reporting period. We're at a total of 2,376 days without 4 a loss time accident. 5 Nothing to report for any current or upcoming 6 projects. 7 We do have a personnel change that occurred in 8 January. Mark Miller, the plant manager, retired on 9 January 21st. 10 And that is all I have to report. 11 CHAIR DREW: Thank you. 12 Moving on to Grays Harbor Energy, Mr. Sherin? 13 MR. SHERIN: Good afternoon, Chair Drew, 14 Councilmembers, and EFSEC Staff. 15 The month of January, Grays Harbor Energy Center 16 does have a couple nonroutine items to report. 17 January 28th, Grays Harbor Energy Center, we 18 received and submitted our winter source compliance 19 testing results. All the emissions were analyzed to be 20 within the permitted limits. However, we requested to 21 EFSEC that the results of the sulfuric acid be invalid 22 and also retest it based on the reasoning that -- the 23 measured values for the sulfuric acid and the resulting 24 sulfuric acid SO₂ ratios, or sulfur dioxide ratios, are 25 higher than what we had expected based on OEM literature</p>	<p>1 So, ultimately, the short answer is we don't 2 believe our test results are accurate and requested to 3 retest. 4 Also on January 13th, Grays Harbor Energy Center 5 submitted follow-up correspondence regarding the high CO 6 emissions during past startups reported in November. We 7 believe we've identified the root cause of this issue and 8 have a solution. The solution is modifying our operating 9 procedures to achieve higher CO catalyst temperature 10 earlier in the startup and increasing our initial load 11 hold. The combination will increase combustion 12 temperature, which will result in a more complete 13 combustion of natural gas and decrease the amount of time 14 before the CO catalyst is heated to an ideal performance 15 temperature for reducing CO emissions. 16 We're currently in the process of verifying 17 these changes will be effective to mitigate the high CO 18 under all operating conditions during startups. 19 And that is all I have unless there's any 20 questions, Chair Drew. 21 UNIDENTIFIED SPEAKER: Chair Drew, I believe 22 you are muted. 23 CHAIR DREW: Thank you. 24 Are there questions for Mr. Sherin? 25 So you said you completed the tests, but do you</p>
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<p>1 and past experience. 2 Retesting will allow us to establish a new 3 sulfuric acid to sulfur dioxide ratio for each unit. 4 And we also requested to continue using the -- 5 the existing sulfuric acid and sulfur dioxide ratios from 6 2016's stack testing, compliance stack testing. Until 7 additional tests can be completed. Then we did complete 8 that retesting for both the sulfur dioxide and the 9 sulfuric acid compliance tests last week. 10 Compliance with the Grays Harbor Energy 11 Center's, PSD, and they're operating permit is dependent 12 upon unit-specific ratios of sulfuric acid to SO₂ -- or 13 sulfuric acid to sulfur dioxide. 14 Based on the past test results and OEM 15 literature, we expect a ratio to be less than one. 16 However, the results in source test reported to equate to 17 ratios of 33.3 for unit -- gas turbine one, or unit one. 18 And 10.7 for gas turbine two, or unit two. 19 Using these ratios to calculate the compliance 20 with the 2.17 pounds of sulfuric acid per hour rolling 21 annual average limit results in gas turbine one exceeding 22 the limit by over 100 pounds of sulfuric acid per hour. 23 And for gas turbine two exceeding the limit by over 24 30 pounds of sulfuric acid per hour, based on recent 25 operations data.</p>	<p>1 have the results yet from those completed? When do you 2 expect to have the results? 3 MR. SHERIN: If I remember right, we have 4 30 days for -- to get the results back and to EFSEC. So 5 we're waiting on the results from the testing company. 6 CHAIR DREW: And are the two related, what you 7 found in terms of looking at how you -- you activate the 8 startup is related to -- or you also said that your -- 9 you don't believe that the test results were accurate. 10 MR. SHERIN: That would be my simplistic 11 answer is, correct, we do not believe the test results 12 were accurate. We -- 13 CHAIR DREW: Okay. 14 MR. SHERIN: To be blunt, I question -- 15 question our original testing process. 16 CHAIR DREW: Okay. So we'll know by next 17 month whether or not those are accurate. 18 And, in addition, you have a procedure to more 19 completely combust on startup; is that correct? 20 MR. SHERIN: Yes. We're -- yes. We're -- 21 essentially, we need to go through a few more iterations, 22 startups under different conditions to verify what 23 we're -- our belief. So far every startup we've 24 conducted since modifying our startup procedure has 25 proven successful.</p>

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<p>1 CHAIR DREW: Okay. Well, we look forward to 2 additional information. 3 Was there something else you wanted to say? 4 MR. SHERIN: No. And I believe you started to 5 ask if the two are related. And, no, they're not. 6 CHAIR DREW: Okay. I did start to ask that. 7 Thank you. Two separate. Okay. I appreciate that. 8 Any other questions from Councilmembers? 9 Okay. Thank you, Mr. Sherin. 10 Moving on to Columbia Generating Station and 11 Washington Nuclear Project 1 and 4. 12 I believe I heard Mary Ramos was on for this 13 report. 14 MS. RAMOS: Good afternoon, Chair Drew, EFSEC 15 Council, and Staff. This is Mary Ramos reporting for 16 Energy Northwest. 17 For the month of January, I have two items to 18 report. 19 The first, Energy Northwest is continuing to 20 address comments that we received from EFSEC and Ecology 21 regarding the annual Columbia Generating Station Air 22 Emissions Source Registration. 23 Energy Northwest has requested an extension for 24 the submittal of the registration. Earlier this month we 25 met with Ecology and discussed our progress on the</p>	<p>1 Councilmembers, and EFSEC Staff. This is Owen Hurd from 2 TUUSO Energy reporting on the Columbia Solar Project. 3 On Penstemon, we're working through final 4 testing procedures prior to substantial completion. And 5 PSE is working through some final communication issues on 6 the interconnection. 7 On Camas, most of the remaining modules have 8 been delivered. We're still waiting on one container. 9 But this was -- these are the containers that we've been 10 waiting on for a while. 11 Module installation has resumed this week. And 12 we're shooting for mechanical completion some time in 13 March. 14 On Urtica, the remaining modules will be 15 delivered in late February. We're still working on pile 16 remediation. And mechanical completion is pushed out to 17 probably late April. 18 Environmental compliance, Golder, and Northwest 19 code inspections are ongoing. No change there. 20 And we're working through specific plant mixes 21 for the mitigation areas. And we have our first TAC 22 meeting scheduled this Friday. 23 CHAIR DREW: Great. 24 Are there any questions for Mr. Hurd? 25 Thank you.</p>
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<p>1 report. And at the meeting, Ecology stated that Energy 2 Northwest's progress and ongoing discussions with Ecology 3 would be sufficient to demonstrate good faith compliance 4 efforts by Energy Northwest. 5 The second item I have to report is regarding an 6 amendment that we're working on on the diesel generator 7 run time report, which is to update information for the 8 last reporting period. The report is required under 9 EFSEC Order 873. 10 Energy Northwest recently discovered that the 11 run time meter for a diesel generator three at Columbia 12 Generating Station was malfunctioning. And we have 13 replaced that run time meter. The new run time meter is 14 working as intended, and Energy Northwest is continuing 15 to monitor its function. 16 That's all I have to report for both Columbia 17 Generating Station and WNP-1/4. 18 Are there any questions for me? 19 CHAIR DREW: Thank you. 20 Councilmembers, are there any questions? 21 Okay. Hearing none, thank you for your report. 22 Moving on to Columbia Solar. Mr. -- 23 MR. HURD: Good afternoon, Chair Drew. 24 CHAIR DREW: -- Hurd. Go ahead. 25 MR. HURD: Hi. Good afternoon, Chair Drew,</p>	<p>1 Desert Claim Wind Power Project, Ms. Moon? 2 MS. MOON: Good afternoon, Council, Chair 3 Drew, and members of the Council. 4 For the record, once again, this is Amy Moon 5 providing the Desert Claim update. 6 EFSEC Staff continued to coordinate with Desert 7 Claim. However, currently there are no project updates. 8 CHAIR DREW: Thank you. 9 And, Ms. Moon, update for Horse Heaven Wind 10 Farm? 11 MS. MOON: So good afternoon, Chair Drew, and 12 Councilmembers. 13 Again, this is Amy Moon providing the update for 14 the Horse Heaven Wind Project. 15 In January, EFSEC Staff continued to work on the 16 preparation of the Draft Environmental Impact Statement, 17 or DEIS. The work has included the review of our 18 contractor Golder's work on drafting the DEIS, as well as 19 coordinating chapter reviews with Washington state 20 agencies, such as the Department of Fish & Wildlife, 21 Department of Agriculture, and the Department of Natural 22 Resources. 23 EFSEC Staff has continued work on wildlife and 24 habitat mitigation in coordination with the Washington 25 Department of Fish & Wildlife and the Horse Heaven</p>

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<p>1 applicant.</p> <p>2 Habitat and wildlife mitigation discussions have</p> <p>3 included impact analysis, as well as opportunities for</p> <p>4 impact avoidance and minimization of impacts that are</p> <p>5 supporting the application -- or supporting the</p> <p>6 applicant, excuse me there -- in development of an</p> <p>7 updated mitigation plan.</p> <p>8 EFSEC received responses to some recent data</p> <p>9 requests from the applicant regarding water resources and</p> <p>10 transportation. The information received from the data</p> <p>11 request is being used to inform the DEIS preparation.</p> <p>12 Additional noise baseline measurements near</p> <p>13 residential areas have been scheduled for mid-February,</p> <p>14 and that's part of a data request.</p> <p>15 Does the Council have any questions?</p> <p>16 CHAIR DREW: Are there any questions from</p> <p>17 Councilmembers?</p> <p>18 Okay. Thank you, Ms. Moon.</p> <p>19 Our next update is for Goose Prairie Solar,</p> <p>20 Mr. Overton?</p> <p>21 MR. OVERTON: Yes. Thank you.</p> <p>22 This is Kyle Overton, the EFSEC site specialist</p> <p>23 for the Goose Prairie Project.</p> <p>24 No real major updates. Staff continued to</p> <p>25 coordinate with the certificate holder on preparing for</p>	<p>1 forward to an update on that.</p> <p>2 Badger Mountain, Sean Chisholm. Mr. Chisholm?</p> <p>3 MR. CHISHOLM: Thank you. Good afternoon</p> <p>4 Chair Drew -- Council, Chair Drew, and Councilmembers,</p> <p>5 and EFSEC Staff.</p> <p>6 For the record, this is Shawn Chisholm providing</p> <p>7 an update on Badger Mountain Solar Energy Project.</p> <p>8 EFSEC -- EFSEC Staff continues to work on the</p> <p>9 project with the project proponent Avangrid Renewable to</p> <p>10 process the Badger Mountain Solar Energy Project</p> <p>11 application for site certification, or ASC. That was</p> <p>12 received October 7th of 2021.</p> <p>13 EFSEC Staff continues working with the -- with a</p> <p>14 contractor and state agencies reviewing the ASC.</p> <p>15 Today, February 15th, EFSEC Staff received a</p> <p>16 letter from the applicant agreeing to proceed with the --</p> <p>17 with a declaration of significance, or DS. And the</p> <p>18 preparation of an environmental impact statement, or EIS.</p> <p>19 EFSEC Staff will now proceed with the next</p> <p>20 steps, which is to issue the determination and -- and</p> <p>21 scoping and the associated public comment period.</p> <p>22 Staff anticipates that this will happen within</p> <p>23 the next few weeks.</p> <p>24 Staff also coordinate -- are also coordinating</p> <p>25 with the administrative law judge, Judge Bradley, on</p>
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<p>1 construction and reviewing some early preconstruction</p> <p>2 submittals. Ami Hafkemeyer does have an update directly</p> <p>3 after me regarding an SEA transfer that's being proposed</p> <p>4 currently.</p> <p>5 Are there any questions?</p> <p>6 CHAIR DREW: Are there any questions?</p> <p>7 Thank you.</p> <p>8 Ms. Hafkemeyer?</p> <p>9 MS. HAFKEMEYER: Thank you. Good afternoon,</p> <p>10 Chair Drew, and Council.</p> <p>11 For the record, my name is Ami Hafkemeyer. And</p> <p>12 I wanted to alert the Council that the certificate holder</p> <p>13 for Goose Prairie has approached EFSEC with regards to an</p> <p>14 SEA transfer. We have met with the certificate holder to</p> <p>15 talk about what that request should look like and what</p> <p>16 that process would entail. And the certificate holder is</p> <p>17 working on preparing that. We would anticipate seeing a</p> <p>18 request to do an SEA transfer to a new project owner</p> <p>19 sometime in the coming months.</p> <p>20 CHAIR DREW: Thank you. And that's the</p> <p>21 transfer of ownership which is an amendment process and</p> <p>22 then has all the steps associated with that including the</p> <p>23 public meet -- public comment meeting as well, correct?</p> <p>24 MS. HAFKEMEYER: Correct.</p> <p>25 CHAIR DREW: Thank you. Okay. We look</p>	<p>1 drafting an order setting land use consistency for</p> <p>2 adjudication as directed by the Council at the</p> <p>3 January 18th Council meeting. That will be available for</p> <p>4 the Council review at the March 15th Council meeting.</p> <p>5 We're continuing to reach out to Fish &</p> <p>6 Wildlife, or WDFW, Department of Natural Resources, or</p> <p>7 DNR, Colville Confederated tribes, Spokane tribes, and</p> <p>8 Yakima Nation for the interest dealing with this project.</p> <p>9 Does the Council have any questions so far?</p> <p>10 CHAIR DREW: Are there questions from</p> <p>11 Councilmembers?</p> <p>12 No questions. Thank you.</p> <p>13 So if that concludes our reports for today, then</p> <p>14 we have nothing further. And our meeting is adjourned.</p> <p>15 Thank you all.</p> <p>16 (Hearing adjourned at</p> <p>17 1:54 p.m.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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C E R T I F I C A T E

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 on FEBRUARY 15, 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 28th day of February, 2022.



CARISA KITSELMAN, RPR, CCR #2018

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EFSEC Monthly Council Meeting – Facility Update Format

Facility Name: Kittitas Valley Wind Power Project

Operator: EDP Renewables

Report Date: March 2, 2022

Reporting Period: February 2022

Site Contact: Eric Melbardis, Sr Operations Manager

Facility SCA Status: Operational

Operations & Maintenance (only applicable for operating facilities)

- Power generated: 22072 MWh
 - Wind speed: 6.32 m/s
 - Capacity Factor: 32.6%
-

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: March 2, 2022
Report Period: February 2022
Site Contact: Jennifer Galbraith
SCA Status: Operational

Operations & Maintenance

February generation totaled 64,289 MWh for an average capacity factor of 35.09%.

Environmental Compliance

Nothing to report.

Safety Compliance

Nothing to report.

Current or Upcoming Projects

Nothing to report.

Other

Nothing to report.

EFSEC Monthly Council Meeting – Facility Update

Facility Name: Chehalis Generation Facility
Operator: PacifiCorp
Report Date: March 3, 2022
Reporting Period: February 2022
Site Contact: Stefano Schnitger, Operations 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.

- 139,001 net MW-hrs generated in February for a capacity factor of 40.83%.

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.

- Nothing to report.

-Any EFSEC-related complaints or violations that occurred.

- No issues or updates.

-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 for a total of 2,404 days without a Lost Time Accident.

Current or Upcoming Projects

-Planned site improvements.

- No planned changes.



-Upcoming permit renewals.

- Nothing to report.

-Additional mitigation improvements or milestones.

- Nothing to report.

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).

- Nothing to report.

-Public outreach of interest (e.g., schools, public, facility outreach).

- Nothing to report.

Respectfully,

Stefano Schnitger

Stefano Schnitger
Operations Manager
Chehalis Generation Facility

EFSEC Monthly Council Meeting – Facility Update

Facility Name: Grays Harbor Energy Center

Operator: Grays Harbor Energy LLC

Report Date: March 22, 2022

Reporting Period: February 2022

Site Contact: Chris Sherin

Facility SCA Status: Operational

Operations & Maintenance

-GHEC generated 280,203MWh during the month and 607,344MWh YTD.

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, quarterly, and annual reporting to EFSEC

- Monthly Outfall Discharge Monitor Report (DMR).
- Annual Emissions Inventory Report.
- Annual WA Tier II Emergency and Hazardous Chemical Inventory

-Submitted the Test Plan for stack emissions re-testing of sulfuric acid (H₂SO₄) and Sulfur Dioxide (SO₂).

-Stack emissions re-testing was completed February 7-10.

Safety Compliance

-None.

Current or Upcoming Projects

-None.

Other

-None.

EFSEC Monthly Council Meeting – February 2022

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

Operator: **Energy Northwest**

Report Date: **March 3, 2022**

Reporting Period: **February 2022**

Site Contact: **Felicia Najera-Paxton**

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

CGS Net Electrical Generation February 2022: **755,900 MW-Hrs**

Environmental Compliance

Energy Northwest (EN) submitted an amended Diesel Generator Run Time Report to update run time information for Diesel Generator 3. The report is required under EFSEC Order No. 873.

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: March 4, 2022

Reporting Period: 30-days ending March 4, 2022

Site Contact: Owen Hurd

Facility SCA Status: Construction

Construction Status

- Penstemon
 - PSE to resolve communications issues on the interconnection in the next two weeks
 - Testing otherwise complete
 - Camas
 - Module installation complete
 - Mechanical Completion expected in late-March
 - Urtica
 - Still awaiting delivery of remaining modules
 - Pile remediation work still underway
 - Mechanical Completion pushed out to early-May
-

Environmental Compliance

- Golder and NW Code inspections ongoing

Safety Compliance

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

Other

- First TAC meeting held on Feb 18th







Desert Claim Wind Power Project

March 2022 project update

[Place holder]

Horse Heaven Wind Project

March 2022 project update

[Place holder]

Goose Prairie Solar Project

March 2022 project update

[Place holder]



@oneenergyinc

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SUITE 225
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206.922.7072

oneenergy
renewables
.com

February 17, 2022

Kathleen Drew, EFSEC Chair
Energy Facility Site Evaluation Councilmembers, and Sonia Bumpus, EFSEC
Manager
PO Box 43172
Olympia, WA 98504-3172

SUBJECT: SITE CERTIFICATION AGREEMENT TRANSFER REQUEST

DEAR COUNCIL CHAIR DREW AND MEMBERS OF THE ENERGY
FACILITY SITE EVALUATION COUNCIL:

On December 20, 2021, the Council executed a Site Certification Agreement (“SCA”) with OER WA Solar 1, LLC (“OER” or “Certificate Holder”) authorizing the construction and operation of the Goose Prairie Solar Project in Yakima County. Consistent with WAC 463-55-100 and Article VII, Section D.3 of the SCA, OER hereby submits this Request for Amendment and Transfer of the SCA to facilitate the transfer of the Goose Prairie Solar Project from OER to Goose Prairie Solar LLC, a wholly-owned subsidiary of the Brookfield Global Transition Fund, an investment fund focused on the global transition to a net-zero carbon economy managed by Brookfield Asset Management (“Brookfield”).

Background. On January 19, 2021, OER applied to EFSEC for a site certification agreement to construct and operate the Goose Prairie Solar Project. On October 19, 2021 EFSEC issued a report recommending that Governor Inslee approve the application and execute a site certification agreement. On December 20, 2021, Governor Inslee approved the application and executed the SCA, authorizing OER to construct and operate the Goose Prairie Solar Project subject to the terms and conditions set forth in the SCA.

OER has agreed to sell the project to Goose Prairie Solar LLC, subject to approval from EFSEC. Accordingly, the enclosed analysis provides the information necessary for the Council to determine that Goose Prairie Solar LLC and Brookfield meet, or can be expected to meet, the requirements of WAC 463-55-100.

Summary of Request. Through this Request for Transfer, Certificate Holder seeks Council of the following two actions:

- The transfer of the SCA from OER to Goose Prairie Solar LLC, and corresponding amendment of the SCA to reflect Goose Prairie Solar LLC as the

new certificate holder.

- The upstream indirect transfer of control of the SCA to Brookfield.

Please find attached to this letter separate documentation supporting compliance with the Council standards applicable to transfer requests. We look forward to presenting these materials to the Council and understand that the Council will hold an informational hearing prior to issuing a decision on the request for amendment and transfer of the SCA.

Sincerely,

A handwritten signature in blue ink, appearing to read "Blake Bjornson", with a long horizontal flourish extending to the right.

BLAKE BJORNSON
ASSOCIATE DIRECTOR, PROJECT DEVELOPMENT
206.900.9931 | **DIRECT**
Blake@OneEnergyRenewables.com

**Application to Transfer Site Certification Agreement for the
Goose Prairie Solar Project to Goose Prairie Solar LLC, and Indirectly Transfer
Control of Site Certification Agreement to the Brookfield Global Transition Fund**

WAC 463-66-100

OER WA Solar 1, LLC (“OER”), together with Goose Prairie Solar LLC and the Brookfield Global Transition Fund, an investment fund focused on the global transition to a net-zero carbon economy managed by Brookfield Asset Management (“Brookfield”), submits this request for transfer seeking approval of a direct transfer of the Site Certification Agreement dated December 20, 2021 (“SCA”) for the Goose Prairie Solar Project to Goose Prairie Solar LLC and an indirect transfer of control of the SCA to Brookfield.

WAC 463-66-100 Transfer of a site certification agreement.

No site certification agreement, any portion of a site certification agreement, nor any legal or equitable interest in such an agreement issued under this chapter shall be transferred, assigned, or in any manner disposed of (including abandonment), either voluntarily or involuntarily, directly or indirectly, through transfer of control of the certification agreement or the site certification agreement owner or project sponsor without express council approval of such action. In the event a site certification agreement is to be acquired via a merger, leveraged buy-out, or other change in corporate or partnership ownership, the successor in interest must file a formal petition under the terms of this section to continue operation or other activities at the certificated site.

(1) A certification holder seeking to transfer or otherwise dispose of a site certification agreement must file a formal application with the council including information about the new owner required by WAC 463-60-015 and 463-60-075 that demonstrate the transferee's organizational, financial, managerial, and technical capability to comply with the terms and conditions of the original site certification agreement including council approved plans for termination of the plant and site restoration. The council may place conditions on the transfer of the certification agreement including provisions that reserve liability for the site in the original certification holder.

RESPONSE: This request for transfer details how the “new owner” has the financial, managerial, and technical capability to comply with the terms and conditions of the SCA and construct, operate, and retire the Project.

Summary of Application for Transfer. On January 19, 2021, OER applied to EFSEC for a site certification agreement to construct and operate the Goose Prairie Solar Project. On October 19, 2021 EFSEC issued a report recommending that Governor Inslee approve the application and execute a site certification agreement. On December 20, 2021, Governor Inslee approved the application and executed the SCA, authorizing OER to construct and operate the Goose Prairie Solar Project subject to the terms and conditions set forth in the SCA.

OER has agreed to sell the project to Goose Prairie Solar LLC, subject to approval from EFSEC. Accordingly, the enclosed analysis provides the information necessary for the Council to determine that Goose Prairie Solar LLC and Brookfield meet, or can be expected to meet, the requirements of WAC 463-66-100.

Information About the New Owner.

Goose Prairie Solar LLC, a Delaware limited liability company, is a subsidiary of the Brookfield Global Transition Fund, an investment fund focused on the global transition to a net-zero carbon economy and managed by Brookfield Asset Management (“BAM”), one of the leading global alternative asset managers with over US\$600 billion of assets under management across real estate, infrastructure, renewable power, private equity and credit. BAM’s renewable energy business is Toronto-based Brookfield Renewable Partners L.P. (“Brookfield Renewable”) (NYSE: BEP; TSX: BEP.UN), one of the world’s largest publicly traded renewable power platforms. Upon completion of the acquisition, the Goose Prairie Solar Project will become part of Brookfield Renewable U.S.’s energy generating, trading, and marketing business.

Brookfield Renewable U.S., headquartered in New York City, develops, owns, operates, and manages a diversified portfolio of hydropower, wind, solar, and storage facilities across 34 states, totaling approximately 8,000 megawatts of generating capacity. This diversified renewable platform generates approximately 24 million megawatt-hours of clean and renewable power, enough electricity to power approximately 3 million homes annually.

Transferee’s operational, financial, managerial, and technical capability to comply with the terms and conditions of the SCA, including plans for termination and restoration.

With over 120 years of experience in power generation, Brookfield operates its facilities in best-in-class standards, while also leveraging its footprint to extend an array of economic, social, and environmental benefits in surrounding communities. Brookfield employs over eight hundred dedicated professionals in the day-to-day operations of its facilities, business, and project development.

Project portfolio.

Brookfield’s U.S.’s operational solar, wind, hydro and storage assets are shown on the map attached as Exhibit A.

In the Pacific Northwest, Brookfield Renewable U.S. owns and operates the Shepherds Flat Wind Farm in northern Oregon. The Shepherds Flat Wind Farm is comprised of three separate projects totaling 845 megawatts of generating capacity, which deliver significant economic and environmental benefits to the Pacific Northwest. With operations commencing in 2012, Shepherds Flat took its official place as one of the world’s largest wind farms, generating enough clean, renewable energy to power hundreds of thousands of homes.

Financial capability.

The project information above demonstrates the depth and diversity of Brookfield's projects, with over 8,000 megawatts of generating capacity. As of September 30, 2021, Brookfield had approximately \$25 billion of assets on its balance sheet, with total liabilities of approximately \$12 billion.

Management of construction and operation of projects.

Leveraging our in-house technical expertise, Brookfield Renewable U.S. delivers renewable energy projects from conception through development and operation. We oversee planning and construction to ensure projects meet best-in-class quality standards at competitive costs. We have a proven track record in managing large capital projects, with experience working with local agencies, communities and regulators.

Brookfield Renewable U.S., a leader in renewable power, is committed building a sustainable energy future that is affordable, reliable, and clean. We recently completed the repower of two wind farms located in western New York. In December 2021, Steel Winds and Cohocton, were repowered to increase their efficiency without extending their footprint. These projects went through an extensive permitting process, most notably Special Use Permits, along with many federal, state, and local permits.

Brookfield Renewable U.S. operates a diversified renewable energy portfolio of hydropower, wind, solar, and storage facilities, drawing from over 120 years of experience and industry-leading innovation to optimize our assets and drive value.

Brookfield Renewable U.S. deploys decades of experience and cutting-edge innovation to maximize the smooth and efficient operation of our extensive portfolio of hydropower, wind, solar, energy storage and distributed energy resources. We find ways to boost energy yield and optimize efficiency across our renewable platform by using advanced digital technology management systems and through proactive plant maintenance by our on-the-ground site managers. To help run our world-class fleet, Brookfield Renewable U.S. boasts a strong team of dedicated professionals and a 24/7 National System Control Center in Marlborough, Massachusetts.

Capability to successfully retire project and restore project site.

Goose Prairie Solar LLC will work with an experienced and certified contractor to decommission the Goose Prairie Solar Project in compliance with the terms and conditions of the SCA. Brookfield Renewable is committed to the responsible and thoughtful development of our renewable assets. Development projects go through extensive environmental review and permitting process. Brookfield Renewable U.S. requires its contractors to follow state and federal guidelines regarding disposal of waste solar panels. We encourage all contractors where possible to recycle solar panels. As this is an evolving field, Brookfield is evaluating the market opportunities and will choose a path consistent with our robust ESG policies. Similar with how

the recycling of wind assets has developed as the technology matures, we expect this to be the same for solar and Brookfield will ensure that the site is decommissioned and recycled in line with the industry standards at the time All decommissioning and restoration activities will adhere to the requirements of the appropriate governing authorities and will be accordance with all applicable federal state and local permits.

In compliance with the Council's financial assurance requirements and Condition D1 and D2 of the SCA, Goose Prairie Solar LLC will provide financial assurance sufficient, based on detailed engineering estimates, for required site restoration costs.

(2) If the certification holder is seeking an alternative disposition of a certificated site, the certification holder must petition the council for an amendment to its site certification agreement pursuant to the provisions of this chapter and gain council approval of its alternative disposition plan. In submitting a request for an alternative disposition of a certificated site, the certification holder must describe the operational and environmental effects of the alternative use of the site on the certified facility. If the proposed alternative use of the site is inconsistent with the terms and conditions of the original site certification agreement the council may reject the application for alternative use of the site.

RESPONSE: Not applicable. Neither OER nor Goose Prairie Solar LLC propose an alternative disposition of the certificated site.

(3) The council shall require any person who submits an application to acquire a site certification agreement under provisions of this section to file a written consent from the current certification holder, or a certified copy of an order or judgment of a court of competent jurisdiction, attesting to the person's right, subject to the provisions of chapter 80.50 RCW et seq. and the rules of this chapter, to possession of the energy facility involved.

RESPONSE: Not applicable. OER is making this request together with Goose Prairie Solar LLC and Brookfield.

(4) After mailing a notice of the pending application for transfer of the site certification agreement to all persons on its mailing list, the council shall hold an informational hearing on the application. Following the hearing the council may approve an application for transfer of the site certification agreement if the council determines that:

(a) The applicant satisfies the provisions of WAC 463-60-015 and 463-60-075;

(b) The applicant is entitled to possession of the energy facility described in the certification agreement; and

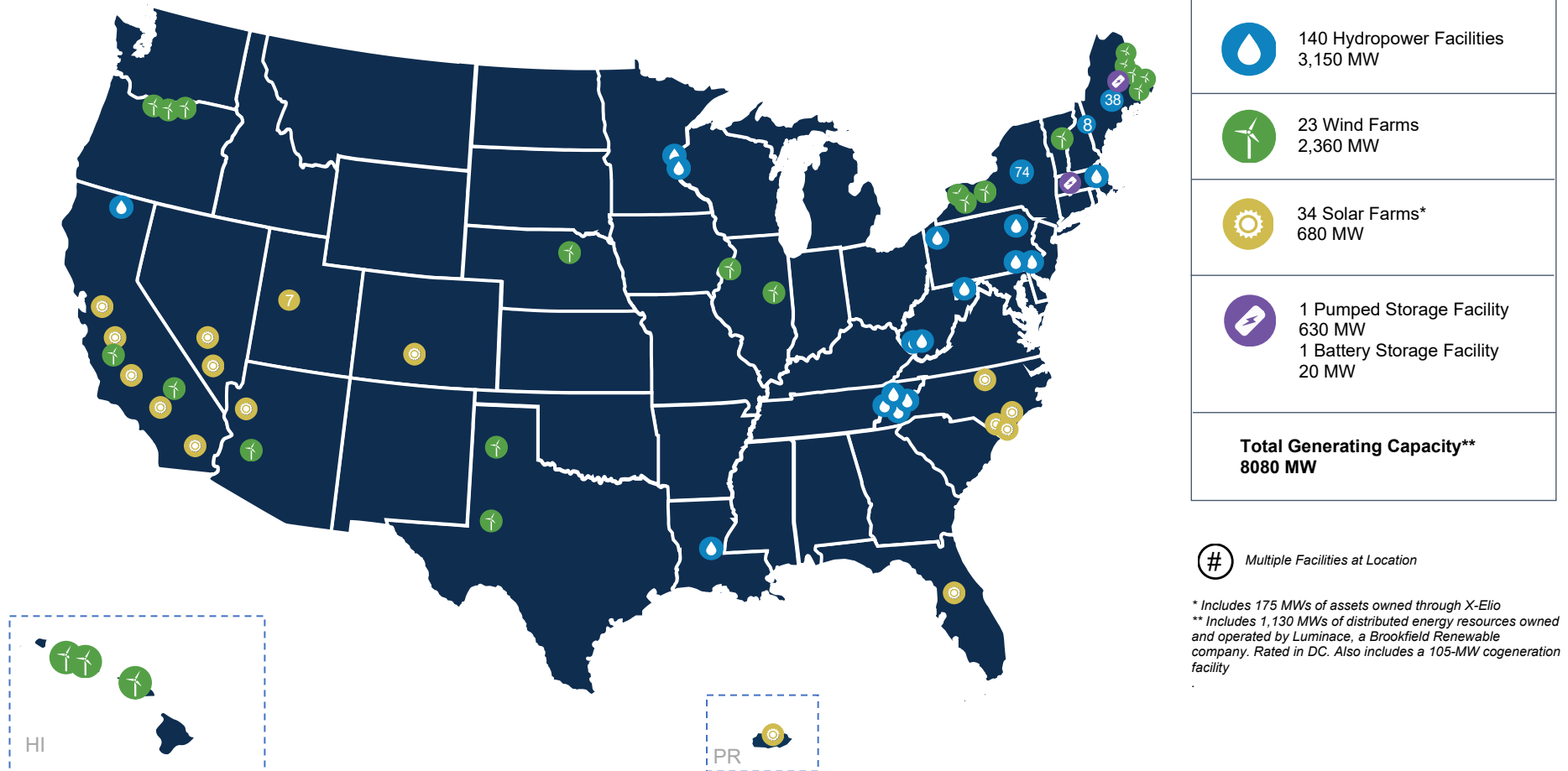
(c) The applicant agrees to abide by all of the terms and conditions of the site certification agreement to be transferred and has demonstrated it has the organizational, financial, managerial, and technical capability and is willing and able to comply with the terms and conditions of the certification agreement being transferred.

(5) The council shall issue a formal order either approving or denying the application for transfer of the site certification agreement. If the council denies the request, it shall state the reasons for its denial.

RESPONSE: Following the hearing, OER and Goose Prairie Solar LLC anticipate that the Council will find that the Goose Prairie Solar LLC and Brookfield comply with the requirements applicable to this transfer request. Goose Prairie Solar LLC agrees to abide by all of the terms and conditions of the SCA.

EXHIBIT A

PROJECT PORTFOLIO MAP



Badger Mountain Solar Energy Project

March 2022 project update

[Place holder]

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application
No. 2021- [REDACTED]
Docket No. EF-221295

Council Order No. [REDACTED]

Aurora Solar, LLC for Badger
Mountain Solar Energy Project,
Applicant

**ORDER FINDING PROJECT
INCONSISTENT WITH LAND
USE REGULATIONS**

BACKGROUND

Synopsis. *Aurora Solar, LLC, submitted an application to the Energy Facility Site Evaluation Council (EFSEC or Council) on October 7, 2021 for site certification of the proposed Badger Mountain Solar Energy Project site in Douglas County. Prior to October 7, 2021, the Douglas County Board of Commissioners passed an ordinance modifying its zoning regulations. Under the new regulations, the project is in an area where such a project is prohibited because of the new requirements that such facilities not be within seven miles of a city, town or airport boundary (including the outer overlay zone of Pangborn Airport), and not be within seven miles from habitat associated with sensitive, candidate, threatened or endangered plants or wildlife. The Applicant concedes that the project is not consistent with land use regulations. Because the proposed site sits within the seven mile zone from those boundaries, the Council has determined the proposed project was not consistent with current Douglas County land use and zoning regulations at the time the application was filed. RCW 80.50.090(2). The Council will schedule an adjudicative proceeding to consider whether to submit a recommendation to the Governor to preempt the local land use and zoning rules.*

- 1 **Nature of Proceeding.** This matter involves an application for site certification (Application or ASC) filed on October 7, 2021 by Aurora Solar, LLC (the Applicant) to construct and operate Badger Mountain Solar Energy Project (the Facility), a solar photovoltaic (PV) project with an optional battery storage system. The Facility would be located in unincorporated Douglas County approximately 3.5 miles east of the East Wenatchee city limit boundary and south of Badger Mountain Road (the Site). The Facility would have a maximum generating capacity of 200 megawatts (MW) with an optional 200 MW battery energy storage system.

- 2 **Land Use Consistency Hearing.** RCW 80.50.090(2) requires EFSEC to “conduct a public hearing to determine whether or not a proposed site is consistent and in compliance with city, county, or regional land use plans or zoning ordinances.” On October 11, 2021, EFSEC issued a Notice of Informational Public Hearing and Land Use Consistency Hearing and scheduled a virtual hearing by Microsoft Teams or by telephone participation for 5:30 p.m. on Wednesday, November 17, 2021.¹
- 3 On November 17, 2021, the Council conducted a virtual land use consistency hearing, to hear testimony regarding whether the Facility was consistent and in compliance with Douglas County’s local land use provisions. The following EFSEC members were present at the March 16, 2021, hearing: Kate Kelly (Department of Commerce), Mike Livingston (Department of Fish and Wildlife), Leonard “Lenny” Young (Department of Natural Resources), and Stacey Brewster (Utilities and Transportation Commission). Kathleen Drew, EFSEC Chair, presided over the hearing.
- 4 Assistant Attorney General Megan Sallomi, Counsel for the Environment, was present for the land use consistency hearing.
- 5 Timothy McMahan, Stoel Rives Law Firm, represented the Applicant and spoke on the Applicant’s behalf. The Council also heard testimony from: Kirk Bromley, an owner of land within the Facility site; Mickey Fleming of the Chelan-Douglas Land Trust; Will Meehey, a resident of Badger Heights, a development just below the proposed Site; and Pat Doneen, a landowner in Douglas County.
- 6 *Applicant’s Description of Proposed Facility.* Badger Mountain Solar Energy Project, a proposed 200-megawatt solar photovoltaic energy generation facility with an optional 200-megawatt battery energy storage system is to be located in unincorporated Douglas County. The project would be located approximately 3.5 miles east of the East Wenatchee city limit boundary and south of Badger Mountain Road.

According to the application, the proposed solar project would be located partially within the county’s Rural Resource 20 (RR-20) zoning district, and partly within the county’s

1

The Council sent this Notice to all interested persons on the mailing list for the Facility including landowners within one mile, state and county agencies, Washington Tribes, Washington State Attorney General, fisheries, Douglas county commissioners, and organizations concerned about the environment. 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 Columbia Basin Herald, Wenatchee World and Empire Press, the local daily newspapers of general circulation.

Dryland Agriculture (A-D) zoning district. Application for Site Certification, Attachment D: Land Use Consistency Review at Sec. 2.3.1 and Sec. 2.4.1.

- 6 The twenty-three parcels on which the Facility will be located will together constitute the “Facility Parcels.” The owners of the parcels are listed in a table in Part 1, Section A4 of the initial application. The owners are: Bromley Brothers; Kirk Bromley; Noreen Bromley Darling; Jeffrey Dane and Kellen Keane; State of Washington; The Badger Mt. FLP; Donna Marleen Witten; and Marleen Witten. The Applicant has executed or is pursuing options to lease with the landowners for adequate acreage to accommodate the Facility long-term.
- 7 The Board of County Commissioners for Douglas County (Commissioners) adopted Douglas County Ordinance TLS 21-17-47B, which became effective on July 20, 2021 and remains effective for twelve months unless renewed. The Commissioners determined that in light of a number of inquiries relating to the development of solar and wind farms in unincorporated Douglas County that interim controls needed to be in place to protect the health, safety and general welfare of the county’s residents and property. At a public hearing on October 6, 2020, the Commissioners repealed an ordinance placing a moratorium on wind and solar energy farms and replaced it with amended zoning code sections.
- 8 Ordinance TLS-21-17-47B allows energy generation facilities, including solar projects, to be built in zones designated as A-D and RR-20. The ordinance also states, however, that wind and solar energy generation facilities cannot be located within seven miles from an Urban Growth Area boundary, city or town limit boundary, municipal airport boundary, and Pangborn Airport boundary and Pangborn Airport outer overlay zone boundary. In addition, such facilities cannot be located within seven miles of “habitat associated with sensitive, candidate, threatened or endangered plants or wildlife as identified on state and federal lists.”
- 9 The proposed project lies within the 7 mile buffer from the East Wenatchee City limits, the East Wenatchee Urban Growth Area boundary, the Pangborn Airport Boundary and the Pangborn Airport outer overlay zone boundary. See Figure A-7 in Attachment A of the initial application. In addition, the Applicant asserts that all of unincorporated Douglas County lies within 7 miles of habitat as described in the ordinance. As such, the Applicant agrees that the site is not consistent with current land use regulations but would like to proceed with the application and is not seeking an expedited process.

DISCUSSION

I. Land Use Consistency Determination

- 10 The purpose of the land use hearing is “to determine whether at the time of application the proposed facility was consistent and in compliance with land use plans and zoning ordinances.”² In this order, the Council will refer to land use plans and zoning ordinances collectively as “land use provisions” and will refer to its decision as pertaining to “land use consistency.”
- 11 The Council’s evaluation of land use consistency is not dispositive of the Application and a determination of land use consistency is neither an endorsement nor an approval of the Project.³ The evaluation pertains only to the general siting of categories of uses, taking into account only the Site (in this case, the Sites) and not the Project’s construction and operational conditions.
- 12 Whether a particular project will actually create on- or off-site impacts (including impacts to the environment) is considered separately through the State Environmental Policy Act (SEPA) process, during the Council’s adjudication (if applicable), through the environmental permitting processes (if applicable), and through other Council processes (if applicable).⁴ The Council’s ultimate recommendation to the Governor will be made after full and thorough consideration of all relevant issues.
- 13 To be eligible for expedited review, EFSEC must find that the project is “consistent and in compliance with city, county, or regional land use plans or zoning ordinances,” RCW 80.50.075(1), as determined at a public land use hearing, RCW 80.50.090(2). A project meets this initial standard so long as it “can be permitted either outright or conditionally.”⁵ Whether applicable conditional use criteria are in fact met is a question for later EFSEC proceedings,⁶ after which EFSEC may recommend and impose conditions of approval in the Site Certification Agreement (SCA).

2 WAC 463-26-050.

3 In re Whistling Ridge Energy Project, Council Order No. 868 at 9 (October 6, 2011) (Whistling Ridge Order). A determination of land use inconsistency simply results in the Council’s further consideration of whether local land use provisions should be preempted. WAC 463-28-060(1), see also RCW 80.50.110(2) and WAC 463-28-020. If they are preempted, the Council will include in any proposed site certification agreement conditions designed to recognize the purpose of the preempted provisions. WAC 463-28-070.

4 RCW 80.50.090(3), RCW 80.50.040(9), (12), WAC 463-30, WAC 463-47, WAC 463-76, WAC 463-78.

5 In re Columbia Solar Project, Docket No. EF-170823, Council Order – Expedited Processing, ¶ 35 (April 17, 2018).

6 Id., ¶ 36.

- 14 The EFSEC process contemplates that the Applicant will coordinate with Douglas County to attempt to determine whether the project would be consistent and compliant with the jurisdiction's land use provisions.⁷ If through these discussions Douglas County had determined the project is indeed consistent and compliant with its land use provisions, it could have provided, and the applicant could have presented to the Council, a certificate attesting to that fact. Such a certificate provides prima facie proof of consistency and compliance with County land use plans and zoning ordinances.⁸
- 15 **Definitions of "Land Use Plan" and "Zoning Ordinances."** The term "land use plan" is defined by statute as a "comprehensive plan or land use element thereof adopted ... pursuant to" one of the listed planning statutes.⁹ EFSEC interprets this definition as referring to the portions of a comprehensive plan that outline proposals for an area's development, typically by assigning general uses (such as housing) to land segments and specifying desired concentrations and design goals.¹⁰ Comprehensive plan elements and provisions that do not meet this definition are outside of the scope of the Council's present land use consistency analysis. The term "zoning ordinance" is defined by statute as an ordinance "regulating the use of land and adopted pursuant to" one of the listed planning statutes.¹¹ EFSEC has interpreted this definition as referring to those ordinances that regulate land use by creating districts and restricting uses in the districts (i.e., number, size, location, type of structures, lot size) to promote compatible uses. Ordinances that do not meet this definition are outside of the scope of the Council's present land use consistency analysis.
- 16 EFSEC has defined the phrase "consistent and in compliance" based on settled principles of land use law: "Zoning ordinances require compliance; they are regulatory provisions that mandate performance. Comprehensive plan provisions, however, are guides rather than mandates and seek consistency."¹²
- 17 **Proof of non-consistency and non-compliance.** EFSEC accepts the Applicant's concession that the project is not consistent or compliant with Douglas County land use provisions.
- 18 Even when a project is non-compliant with local land use provisions, the governor, upon recommendation from the council, may preempt land use plans and zoning

7 WAC 463-26-090.

8 Id.

9 RCW 80.50.020(14).

10 In re Northern Tier Pipeline, Council Order No. 579 (Northern Tier Pipeline Order) at 9 (November 26, 1979).

11 RCW 80.50.020(22).

12 Whistling Ridge Order at 10 n 15.

regulations to authorize the siting of an energy facility.¹³ In such cases, the council will conduct an adjudication to consider whether to recommend that the state preempt local plans or regulations that would prohibit the site.¹⁴

FINDINGS OF FACT

- 19 (1) On October 7, 2021, Aurora Solar LLC submitted an application for site certification to construct and operate Badger Mountain Solar Energy Project (the Facility), a solar photovoltaic project with an optional battery storage system, on 4,399 leased acres in Douglas County, Washington.
- 20 (2) On November 17, 2021, the Council convened a virtual land use consistency hearing, pursuant to due and proper notice. The Council received testimony from the Applicant's attorney. The Council also heard testimony from: Kirk Bromley, an owner of land within the Facility site; Mickey Fleming of the Chelan-Douglas Land Trust; Will Meehey, a resident of Badger Heights, a development just below the proposed Site; and Pat Doneen, a landowner in Douglas County.
- 21 (3) The Site is located in unincorporated Douglas County, Washington. The Site is located within 7 miles of the East Wenatchee City Limits, the East Wenatchee Urban Growth Area boundary, the Pangborn Airport Boundary and the Pangborn Airport outer overlay zone boundary.

CONCLUSIONS OF LAW

- 22 (1) The Council has jurisdiction over the subject matter of this proceeding and the parties to it pursuant to RCW 80.50.075 and WAC chapter 463-43.
- 23 (2) The Council provided adequate notice to interested parties, and the Council has adequate information to render a land use consistency decision.
- 24 (3) Under Douglas County Code (DCC), the Facility meets the definition of an "energy generating facility."
- 25 (4) The Facility Site is on land zoned as A-D or RR-20, meaning it is zoned for dryland agriculture and rural resource uses. Energy facilities as a primary use are permitted outright in the A-D and RR-20 districts or zones, but subject to buffers imposed by DCC Section 18.16.355. DCC Section 18.40.020(T), DCC Section

13 RCW 80.50.110 and *Residents Opposed to Kittitas Turbines v. State Energy Facility Site Evaluation Council and Christine O. Gregoire, Governor of the State of Washington*, 165 Wash.2d 275, 285-86 (2008).

14 WAC 463-29-060

18.31.020(T) (effective July 20, 2021).

- 26 (5) Facilities with energy generation as a primary use must “be located at least 7 miles from an urban growth area boundary, or city/town limits boundary, municipal airport boundary, Pangborn Airport boundary and Pangborn Airport outer overlay zone boundary.” DCC Section 18.16.355(B). In addition, such facilities must “be located 7 miles from habitat associated with sensitive, candidate, threatened or endangered plants or wildlife as identified on state and federal list.” DCC Section 18.16.355(C).
- 27 (6) The site is not in compliance with Douglas County’s applicable zoning ordinances in effect as of the date of the application.
- 28 (7) Pursuant to WAC 463-28-060 and 070, the matter will be scheduled for an adjudication to consider whether the council should recommend to the governor that the state preempt Douglas County’s land use plans, zoning ordinances, or other development regulations for the site or portions of the site for the proposed facility, and if so, to determine conditions to be included in a draft certification agreement that consider local governmental or community interests affected by the construction or operation of the alternative energy resource and the purposes of the ordinances to be preempted pursuant to RCW 80.50.110(2).

ORDER

THE COUNCIL ORDERS:

- 29 (1) Aurora Solar LLC’s application is not consistent with local land use and zoning regulations. The matter shall be set for an adjudication to consider whether to recommend preemption of Douglas County’s land use and zoning regulations. The adjudication may be held concurrent with, or separate from the adjudication related to the state environmental protection act.

DATED at Olympia, Washington, and effective .

WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL

KATHLEEN DREW, Chair