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April 23, 2024

State of WA Energy Facility Sit Evaluation Council v.

EF-240001

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State of WA Energy Facility Site Evaluation Council
Transcript, Wallula Gap Info Meeting and Land Use Hearing - April 23, 2024

STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

Wallula Gap Solar Project

EFSEC Docket No. EF-240001

Informational Public Hearing and
Land Use Consistency Hearing

April 23, 2024

5:00 p.m.

Reporter (Via Zoom): Christy Sheppard, CCR, RPR

1 APPEARANCES

2 COUNCIL MEMBERS:

3 Chair, Kathleen Drew
4 Mike Livingston
5 Lenny Young
6 Stacey Brewster

7 LOCAL GOVERNMENT AND OPTIONAL STATE AGENCIES:

8 Adam Fyall, Wallula Gap, Benton County

9 ADMINISTRATIVE LAW JUDGE:

10 Travis Dupree

11 COUNCIL STAFF:

12 Ami Hafkemeyer
13 Andrea Grantham
14 Sean Greene
15 John Barnes
16 Alex Shiley

17 COUNSEL FOR THE ENVIRONMENT:

18 Yuriy Korol

19 IN ATTENDANCE:

20 Nathan Stottler, OneEnergy
21 Erin Lynch
22 Tim McMahan
23 Michelle Mercer
24
25

1 CHAIR DREW: Good evening. This is
2 Kathleen Drew, Chair of the Energy Facility Site
3 Evaluation Council calling tonight's meeting to order. I
4 apologize for not being there with you in person. I have
5 a bad cold and cough and didn't think it was wise to
6 share it with others, so I will be with you virtually
7 throughout these two hearings.

8 The first meeting we are having tonight is the
9 informational public hearing for Wallula Gap, this -- as
10 required by RCW 80.50.090 and WAC 463-26-025. At this
11 meeting EFSEC Staff and the Applicant will introduce
12 themselves, as well as the Counsel for the Environment,
13 an Assistant Attorney General appointed by the Washington
14 Attorney General, and will explain their duties.

15 The Applicant and the Staff will both make
16 presentations. Following the presentations the public
17 will be invited to provide comments. We will allow three
18 minutes per person. And Judge Dupree will be managing
19 that part of the meeting with the public comments.

20 This will be followed by the Land Use Consistency
21 Hearing, which will be again at 7:00 p.m. or earlier if
22 the informational public meeting -- public hearing ends
23 before 7:00 p.m.

24 And with that, Ms. Grantham, would you call the
25 roll.

1 MS. GRANTHAM: Certainly. Department
2 of Commerce? Department of Ecology? Department of fish
3 and Wildlife?

4 MR. LIVINGSTON: Mike Livingston here.

5 MS. GRANTHAM: Department of Natural
6 Resources?

7 MR. YOUNG: Lenny Young present.

8 MS. GRANTHAM: Utilities &
9 Transportation Commission?

10 MS. BREWSTER: Stacey Brewster
11 present.

12 MS. GRANTHAM: For Benton County we
13 have Adam Fyall. Adam Fyall is present.

14 Administrative Law Judge Travis Dupree?

15 JUDGE DUPREE: Present.

16 MS. GRANTHAM: And do we have our
17 Assistant Attorney General online, Jon Thompson?

18 I will move on to EFSEC Staff. In person we have
19 Amy Hafkemeyer. Sean Greene?

20 MR. GREENE: Present.

21 MS. GRANTHAM: And John Barnes?

22 MR. BARNES: Present.

23 MS. GRANTHAM: And do we have anyone
24 available for the Counsel for the Environment?

25 MR. KOROL: Yuriy Korol present.

1 CHAIR DREW: Mr. Korol, could you
2 explain to the group what your role is?

3 MR. KOROL: Of course. Well, my --
4 it's statutorily laid out in RCW 80.50.090, and basically
5 it's to represent the public and its interest in
6 protecting the quality of the environment. I'm looking
7 forward to hearing everybody's comments and gathering
8 evidence in support of the protection of the environment
9 with these projects.

10 CHAIR DREW: And would you provide
11 your contact information should people be interested in
12 reaching out to you?

13 MR. KOROL: Yes, of course. I can
14 type that into a message box or --

15 CHAIR DREW: Into Chat?

16 MR. KOROL: Yes.

17 CHAIR DREW: Thank you, very much.

18 MR. KOROL: You're every welcome.

19 CHAIR DREW: Okay. With that, we will
20 move on to the introduction of OneEnergy Renewables, if
21 you would introduce your team and proceed with your
22 project presentation.

23 MR. STOTTLER: Thank you, Chair Drew.
24 My name is Nathan Stottler. I'm an associate director
25 for project development at OneEnergy Renewables. I'm

1 here with my colleague Tanner Gillespie, manager for
2 project development and Erin Lynch, an associate on our
3 project development team.

4 And with that I think we have a slide show and I can
5 start the presentation.

6 MS. GRANTHAM: One moment. We are
7 working with tech to get that up.

8 MR. STOTTLER: All right. Good
9 evening, everybody. As I said, my name is Nathan
10 Stottler an associate director with OneEnergy Renewables.
11 My team and I are here tonight to introduce you to our
12 Wallula Gap solar project which is located right here in
13 Benton County.

14 Quick agenda for this presentation tonight. I am
15 going to start out by taking some time to introduce my
16 team and our company, and then we'll move into
17 introducing the project and discussing the work that's
18 been developing it to date, and take questions and move
19 into public comments.

20 So OneEnergy is a Washington-based developer of
21 solar energy and battery storage projects. We were
22 founded 15 years ago in Seattle, and we have since grown
23 to establish offices in Portland, Boulder, Madison, and
24 Washington DC.

25 In the time we've developed and sold over 1.2

1 gigawatts of solar projects across 120 projects, and of
2 those OneEnergy has built or is currently building 270
3 megawatts across 47 projects.

4 We also currently have over 350 megawatts of solar
5 projects under development in Washington state, and
6 that's spread across nine individual projects.

7 As I mentioned, the team working on the project is
8 all here today, including myself, Tanner and Erin, and
9 the three of us are based out of OneEnergy's Boulder
10 office.

11 OneEnergy prides itself in its strategy for siting
12 solar projects. We select carefully targeted project
13 sites that are both low impact and high benefit for the
14 land, the land owner, and the community.

15 Some of the key factors that we look for in siting
16 projects with this strategy are working in a market that
17 needs renewable energy, such as the Pacific Northwest,
18 finding land that is near transmission infrastructure
19 that has available capacity to take more power, sites
20 that have a buildable topography that access and minimal
21 environmental conflicts, such as wetlands, wildlife, and
22 cultural resources.

23 We also work very diligently to find sites that help
24 us work alongside the agricultural economy to work to not
25 displace ag from high value farming.

1 Wallula Gap is actually OneEnergy's second project
2 that we are working to permit through EFSEC. Our first
3 project was the 80 megawatt Goose Prairie solar project,
4 which had its site certificate signed by the Governor in
5 late 2021, and is now under construction in Yakima
6 County.

7 So with that we can move into talking about our
8 project. Wallula Gap is located in the south central
9 part of Benton County, just north of State Highway 14,
10 between Paterson and Plymouth, on land that OneEnergy is
11 leasing from AgriNorthwest.

12 Some details about the project here. Four miles
13 northwest of Plymouth, between Plymouth and Paterson.
14 The land owners are Farmland Reserve, and the land is
15 managed by AgriNorthwest.

16 The site control is obtained through a long term
17 land lease agreement that we signed on December 1st of
18 2021. The zoning for the land is GMAD. The land use
19 currently is uncultivated pasture and agricultural
20 operations.

21 Utility interconnection will be through both Benton
22 PUD and Bonneville Power Administration. The project
23 size is 60 megawatts AC and solar with an optional 60
24 megawatt four hour or 240 megawatt hour battery storage.

25 System type is single axis tracking ground-mounted

1 solar photovoltaic. It's projected to produce just over
2 137,000 megawatt hours of energy per year, which is
3 enough to power 13,200 average homes. And our projected
4 currently online date would be the end of the year 2026.

5 A couple other things I didn't have on the slide
6 here, the project life span is expected to be about 30 to
7 40 years. And OneEnergy is currently in negotiations to
8 sell the power generated by the project to a public
9 utility district in Washington state, helping to insure
10 the benefits of renewable energy are going to stay in
11 rural Washington.

12 OneEnergy arrived at this piece of land after the
13 robust land siting exercise that I described a few slides
14 ago. It has all the things that we look for in a site.
15 It's flat. It's near some good transmission
16 infrastructure. It's currently uncultivated and
17 unirrigated and has very few neighbors nearby.

18 You can see the orange shapes here. These are the
19 portions of the land that we will be developing for
20 solar. The irregular shapes are a pretty clear indicator
21 of one of the things that we think makes this a great
22 site for solar, which is that the land is not currently
23 being used for crop production. We are working inside
24 the -- or sorry, outside the areas that are currently
25 being irrigated and cultivated.

1 It's land that's been highly disturbed over the
2 years by ag adjacent activities, including a gravel pit
3 and a disused landing strip. The owners have attempted
4 to irrigate and farm the land in the past but found they
5 can get higher crop yield by using their water on other
6 parcels. Since then the land has been vacant and used
7 only for cattle grazing.

8 In addition to this, this site is also not high
9 quality habitat. It's dominated by nonnative plants and
10 noxious weeds. Two small wetlands have been found on the
11 site, and those wetland areas are planned to be avoided
12 by our development.

13 There are three different area definitions that you
14 will find in our permit application, and I wanted to run
15 through them quick just so that we are all very clear on
16 what we are talking about when say these terms.

17 First, the blue outline here are the parcel
18 boundaries. This is just the legal definition of the
19 land that's owned by Farmland Reserve. We approached
20 Farmland Reserve about working with them and they pointed
21 us to these parcels. As you can see by the orange shape
22 which you saw a couple slides ago which is the project
23 area expanse, and we are working very diligently to avoid
24 all of the irrigated land that's on the parcels. So,
25 again, only working on the nonirrigated and noncultivated

1 land.

2 The project area expanse is the area within which
3 the solar project will be built. The project will not
4 cover the full project area extent, but it will fall
5 within that area.

6 And then the third term we had is the facility area,
7 so the full facility area sits within the project area
8 extent. It is slightly smaller than it, but by
9 permitting the full project area extent we are able to do
10 some final micrositing as we ~~warp~~^{wrap} up the final
11 environmental studies and geotechnical work on the parcel
12 to make sure we are using the best possible land.

13 A quick run through the due diligence activities
14 that have been completed on the site so far. I have
15 talked about the condition of the land and why we think
16 it's suitable for solar and this is sort of the full list
17 of due diligence activities and consultations that we
18 have gone through to determine that.

19 So Phase 1 ESA has been completed. Land surveys are
20 completed and we will do a few more as we get down to
21 finalizing our facility ~~are~~^{area}. Wetland delineation has
22 been completed, and consultations with the Department of
23 Ecology are ongoing. A wildlife and habitat survey has
24 been completed. Consultations with WDFW are ongoing. An
25 initial cultural survey has been completed. We are

1 currently consulting with DAHP, EFSEC, and several tribal
2 organizations to conduct a follow-up survey to ensure
3 that we have adequate coverage of the site. Glare
4 analysis has been completed. FAA analysis, DOD
5 consultation, WSDOT, and Benton County Public Works have
6 all ~~bee~~ ^{been} completed. Still working with the Noxious Weed
7 Board and fire marshal to make sure that our very final
8 plans before we go to construction are up to their
9 standards.

10 As I mentioned a bit earlier, OneEnergy is also
11 increasingly working to ensure that its project work
12 alongside and integrate seamlessly into the agricultural
13 economies of the communities that host them.

14 One of the biggest ways in which we are doing this
15 is by implementing sheep grazing underneath our solar
16 projects. As you can see in this photo from OneEnergy's
17 Stromland solar project in Western Wisconsin. Sheep
18 grazing is a means of ensuring that the land remains in
19 direct agricultural use also adding the use of solar
20 energy generation.

21 OneEnergy has been consulting with a local sheep
22 rancher that is interested in grazing the Wallula Gap
23 project. Partnerships like these ensure that even more
24 of the money and jobs from the project are going to stay
25 in the local community, while also making sure that the

1 land stays healthy.

2 An additional alternative means of dual use solar
3 instead of grazing would be planting native grasses and
4 pollinator habitat underneath the panels. While this
5 doesn't produce a direct agriculture product from the
6 land, it has been shown to have a multitude of other
7 benefits for surrounding agricultural operations,
8 including increased property of greater numbers of
9 pollinators that are supported on the land. It also
10 creates higher quality wildlife habitat, increases runoff
11 infiltration, reduces soil erosion and restores the soil.
12 So between these two options, one or both of them
13 OneEnergy is aiming to make sure our project really does
14 take care of the land and the people that work on it.

15 So a quick timeline for the project here. We are
16 planning for permitting and development of the project to
17 be finalized by end of the year 2025, with the project
18 entering construction in early 2026, and wrapping up
19 construction and entering into service by the end of
20 2026, with the operations and maintenance period starting
21 in 2027.

22 And finally we have here a rendering of what the
23 project is expected to look like for passersby on State
24 Highway 14, which runs just south of the south border of
25 the project.

1 **That concludes my part of the presentation. Now I**
2 **will take questions or turn it over for public comment.**

3 CHAIR DREW: Are there any questions
4 from Council members before we go to public comment? Oh,
5 actually the EFSEC presentation is next. Council
6 members?

7 MS. GRANTHAM: Chair Drew, can you
8 please repeat yourself. We didn't hear you coming in in
9 for the first half of that.

10 CHAIR DREW: I'm sorry. Okay. Are
11 there questions from Council members? Okay. Seeing
12 none, we will now move to -- thank you very much for your
13 presentation, and we will now move to Ms. Hafkemeyer, I
14 believe, who is doing the presentation on EFSEC's
15 process.

16 MS. HAFKEMEYER: Thank you, Chair
17 Drew. Actually, Staff member John Barnes will be giving
18 the presentation, so I am going to hand the floor over to
19 him.

20 CHAIR DREW: Okay. Thank you. Mr.
21 Barnes.

22 MR. BARNES: Welcome, everybody.
23 Thank you all for coming to participate this evening. I
24 My name is John Barnes, I am the siting specialist for
25 EFSEC and I will be giving a short presentation on the

1 EFSEC process for those who are unfamiliar with our
2 agency.

3 A little bit of the history of the EFSEC agency.
4 EFSEC was created in 1970 for the siting of thermal power
5 plants. The intent was to create a one-stop permitting
6 agency for large energy facilities.

7 EFSEC is comprised (sic) of state and local
8 members who are review each application before voting to
9 make Council recommendation to the Governor.

10 If recommending approval, the package to the
11 Governor includes a draft site certification agreement,
12 SCA, which defines all pre-construction, construction,
13 and operation plans. If approved by the Governor, the
14 decision preempts other state or local regulations.

15 EFSEC is comprised (sic) of members from several
16 different state agencies. The chairperson is appointed
17 by the Governor, and there are standing members from five
18 other agencies appointed by those agencies to the site to
19 sit on the Council.

20 The current Council is made up of Chairwoman
21 Kathleen Drew, Eli Levitt from Department of Ecology,
22 Mike Livingston from the Department of Fish and Wildlife,
23 Elizabeth Osborne from the Department of Commerce, Lenny
24 Young from the Department of Natural Resources, and Stacy
25 Brewster from the Utilities & Transportation Commission.

1 There are additional agencies that may elect to
2 appoint a Council member during the review of a new
3 application. These agencies are the Department of
4 Agriculture, the Department of Transportation, the
5 Department of Health, and the military department.

6 The local county shall also appoint a Council member
7 for the review of the new application. Benton County
8 appointed Council member is Adam Fyall. If a proposal is
9 located at a port, the port may appoint a non-voting
10 member.

11 Multiple energy generation facilities fall under
12 EFSEC's jurisdiction. Some projects, thermal power
13 plants that are less than 350 megawatts, and nuclear
14 generation for the purpose of generating electricity are
15 required to be sited through EFSEC while others, such as
16 wind, solar, green hydrogen, storage, or clean energy
17 manufacturing can opt in at any sites.

18 Transmission lines greater than 115 kilovolts can
19 also opt in while lines greater than 500 kilovolts are
20 required and thresholds for pipeline and refineries that
21 may be sited through EFSEC are found in the Revised Code
22 of Washington or RCW 80.50.060.

23 Here's the map of facilities that are certified or
24 have applied for certification under EFSEC's
25 jurisdiction. You can see marked in green there are six

1 operating facilities, including two natural gas
2 facilities, one nuclear facility, one solar facility, and
3 two wind facilities. The blue marks indicate that four
4 additional facilities that are approved but are not yet
5 constructed.

6 The clear circle is one facility in the process of
7 being decommissioned. EFSEC is currently reviewing seven
8 projects marked by yellow, including the Wallula Gap
9 solar application proposal, which brings us here this
10 evening.

11 Here's a flowchart showing the general process an
12 applicant will go through when they submit an application
13 to EFSEC. There are green arrows on the chart to
14 indicate a milestone in the process where the Council and
15 Staff seek input.

16 You can see there are multiple processes that happen
17 concurrently when EFSEC is reviewing an application.
18 There is a land use hearing and an adjudicative process
19 outlined on the far left, a state environmental policy
20 for SEPA process outlined in the middle, and the third
21 process on the right involves identifying and preparing
22 applicable environmental permits. All these processes
23 ultimately feed into the Council's recommendations made
24 to the Governor.

25 Where an adjudication is required following the land

1 use consistency hearing and orders issued to commence
2 proceedings and initiate intervention. Members of the
3 public wishing to participate in the adjudication must
4 identify themselves and their issues. There are
5 pre-hearing conference through which parties are granted
6 intervention status and issues are identified. Exhibits
7 and testimony are prohibited and cross-examination is
8 conducted, after which the Council looks at all the
9 information in the adjudication record and deliberates.

10 Finally, the Council develops an order establishing
11 the findings of fact and conclusion of law from the
12 information provided throughout these proceedings.

13 For every project proposed a SEPA review is
14 performed. When a determination of significance and a
15 decision to prepare an environmental impact statement or
16 EIS is made, public comment are taken on the scope of the
17 EIS.

18 After public comment for scoping the SEPA
19 responsible official determines the scope of the EIS. A
20 draft EIS is prepared and issued with a minimum 30-day
21 public comment period, after which the final EIS is
22 prepared and released. In some instances a determination
23 of nonsignificance, a DNS, or a mitigated determination
24 of nonsignificance, MDNS, is issued.

25 If the SEPA responsible official determines that a

1 project meets the criteria of a DNS or MDNS an EIS is not
2 required.

3 In this process, the determination is noticed to the
4 public and there is a minimum 15-day public comment
5 period on an MDNS, while a DNS requires no comment
6 period.

7 Following the conclusion of these separate avenues
8 of application review, the Council develops its
9 recommendation to the Governor, tying together the
10 information brought forth throughout the application
11 review process.

12 EFSEC is also an issuing agency for any applicable
13 environmental permits a facility may require, including
14 water quality, air quality permits as they may apply.
15 The permits are identified in the final package with the
16 Council's recommendation to the Governor.

17 At the conclusion of the Council's review of an
18 application, a recommendation is made to the Governor to
19 either approve or reject the application. This initiates
20 a 60-day window within which the Governor will either
21 approve the application, reject the application, or
22 remand the application back to the Council for
23 reconsideration. Any application that is rejected by the
24 Governor is a final decision of that application.

25 In an application is approved by the Governor, EFSEC

1 then has oversight over the environmental compliance for
2 the life of the facility through decommissioning. EFSEC
3 has contracts with applicable state agencies that assist
4 in the monitoring and enforcement of conditions, either
5 in the site certification agreement, identified permits,
6 or EIS or MDNS. EFSEC's enforcement authority extends to
7 the issuance of any penalties as they may apply.

8 As previously mentioned, EFSEC oversees facilities
9 under its jurisdiction to decommissioning. Prior to the
10 start of construction of approved projects, an initial
11 site restoration plan is required. Then at the end of
12 the life of the facility, prior to the start of the
13 decommissioning, a detailed site restoration plan is
14 required. This plan must be reviewed and approved by the
15 Council.

16 The project must also provide financial assurance
17 for the decommissioning in the event that the project is
18 no longer able to complete the process. Assuming the
19 project decommissions while still under full control of
20 the developer these costs would be paid by the
21 certificate holder directly.

22 This wraps up my presentation for the evening, but I
23 would like to recommend everyone -- or remind everyone if
24 they would submit comments for the proposal. You may
25 send in written comments to email to

1 comments@efsec.wa.gov. You can also send them by postal
2 mail to our office at 621 Woodland Square Loop, PO box
3 43172, Olympia, Washington 98504-3172, or by phone at
4 360-664-1345.

5 When EFSEC is in an active comment period associated
6 with public milestone comments, comments may also be
7 submitted to our online comment database at
8 <https://comments.efsec.wa.gov>. All comments received,
9 regardless of timing or method of delivery, will be saved
10 with the project records and available to the Council and
11 Staff for review.

12 CHAIR DREW: Thank you, Mr. Barnes.
13 Have you concluded your presentation there?

14 MR. BARNES: I have, Chair Drew.

15 CHAIR DREW: Okay. We will now move
16 to the comment period for our public informational
17 meeting. Judge Dupree will be calling the names of those
18 who are going to testify, and Andrea Grantham, I believe,
19 will be putting up your time on the screen so that you
20 can see how much time remains.

21 MS. GRANTHAM: We will have our tech
22 person put up the time on the screen, but you will be
23 able to see about how much time you have left. Go ahead,
24 Administrative Judge Dupree.

25 JUDGE DUPREE: Okay. Thank you, Ms.

1 Grantham. Let me just briefly introduce myself. My name
2 is Judge Travis Dupree. I'm an administrative law judge
3 with the Office of Administrative Hearings. I have been
4 an administrative law judge for the last 13 years. My
5 role here is to monitor the conversation and make sure
6 that everyone has an opportunity to speak.

7 And we do need to limit comments to three minutes so
8 everyone does have an opportunity to speak tonight. When
9 your time is up I will be interrupting you. And then
10 also if you are unable to say everything in the time
11 limit, or you couldn't provide comments, just please
12 provide them to EFSEC in writing. We will gladly review
13 them.

14 An, then finally, let's just keep our comments
15 respectful and relevant to the issue at the hand. Having
16 said all that, I believe we are ready to begin, Ms.

17 ~~Grantham.~~
18 ~~Grantham.~~

18 MS. SHILEY GRANTHAM: Thank you, Judge. I
19 will be going ahead and calling on people for the public
20 comment section. For this portion, I will call upon
21 those who signed up to speak in order of sign up. If a
22 person signed up to comment in person is not present to
23 do so, I will move on to the next designated speaker. If
24 you are calling in by phone remember you can use star six
25 to mute and unmute yourself. Just one moment. The first

1 I have signed up to speak is Rylan Grimes. Please
2 proceed to the mic in the center aisle.

3 JUDGE DUPREE: This is Judge Dupree.
4 What I am going to have you do, Mr. Grimes, is go ahead
5 and state your first and last name and then spell it so
6 we have it for the record.

7 MR. GRIMES: It's Rylan Grimes,
8 R-Y-L-A-N, G-R-I-M-E-S.

9 JUDGE DUPREE: Thank you. And you can
10 go ahead and proceed.

11 MR. GRIMES: Okay. My name is Rylan
12 Grimes. I'm a representative with IBEW Local 112, which
13 is the electrician union in the area. We represent about
14 1400 electricians, and we support this project for the
15 green energy it will bring the area and the jobs. I'll
16 keep it short and sweet.

17 JUDGE DUPREE: Thank you.

18 ~~GRANTHAM~~ SHILEY MS. GRANTHAM: Our next speaker is
19 Andrew Waddell.

20 JUDGE DUPREE: And I will have you
21 state your first and last name and spell it.

22 MR. WADDELL: MY name is Andrew
23 Waddell, A-N-D-R-E-W, W-A-D-D-E-L-L. I'm also going to
24 keep it short and sweet. I'm an apprentice at IBEW 112.
25 I've worked on a couple solar projects in the area, and

1 I've been a resident of Benton County for 27 years. I
2 know we have always been prideful of the energy
3 generation due to the dams and the nuclear facility in
4 the area. And I would be happy to see more clean energy
5 come to the area, so, yeah, I support this.

6 JUDGE DUPREE: Thank you.

7 MS. ~~GRANTHAM~~ SHILEY: Our next speaker is
8 Russell Walker.

9 JUDGE DUPREE: Mr. Walker, state your
10 first and last name and spell it.

11 MR. WALKER: Okay. My name is Russell
12 Walker, R-U-S-S-E-L-L, W-A-L-K-E-R. I'm going to keep it
13 short also. I speak on behalf of the Operating Engineers
14 of the 302. We support the Wallula Gap solar project,
15 and the good paying jobs it will provide for the local
16 communities. The solar project will also provide an
17 additional source of energy for our local power grid.
18 After completion of construction the solar project will
19 continue to employ a local workforce in a maintenance
20 capacity, once again providing good paying jobs for our
21 local communities. Thank you for your consideration in
22 support of the project. Thank you.

23 JUDGE DUPREE: Thank you.

24 MS. ~~GRANTHAM~~ SHILEY: Our next speaker is
25 Kendel Castner.

1 JUDGE DUPREE: Ms. Castner, just
2 remember to state your name and spell it.

3 MR. CASTNER: Of course. Kendel
4 Castner, K-E-N-D-E-L, C-A-S-T-N-E-R. I'm an apprentice
5 with Local 112 as well. I worked a solar project down in
6 Lexington, Oregon and it was where I got my start, and it
7 provided me with good money to support myself and my
8 family. And I was grateful to be able to be a part of
9 green energy being produced in the Pacific Northwest.
10 There were things I would like to see that could be
11 improved upon. I'm happy to see that making multiuse of
12 the land is in the works, especially when it comes to the
13 mono agriculture we have in our area. It can lead to
14 some negative benefits -- or negative effects on the crop
15 health and land regeneration is -- should be a huge part
16 of our area, and I'm glad to see that's part of it. I
17 hope to be out there. Thank you.

18 MS. ~~GRANTHAM~~ SHILEY: Our next speaker is
19 Jens Rasmussen.

20 JUDGE DUPREE: Mr. Rasmussen, go ahead
21 and state your name and spell it for the record.

22 MR. RASMUSSEN: Jens Rasmussen,
23 J-E-N-S, R-A-S-M-U-S-S-E-N. I'm here on behalf of the
24 land owner and operator Farmland Reserve and
25 AgriNorthwest. We have submitted a letter in support of

1 this project. I won't repeat everything stated in the
2 letter, but just for the purpose of this hearing we have
3 operated the farm area here for a little over 53 years,
4 and many people have grown up on the farm and retired on
5 farm. We are very cautious when we look to partners like
6 OneEnergy for solar. We appreciate that we are first and
7 foremost farm investors and farm operators, and we are
8 very cautious about taking any property out of farm
9 production for any other purpose. And we have looked at
10 this site. A site we have historically attempted to
11 irrigate, and have found a better use for higher quality
12 soils that are in production on other land that we own,
13 and we feel like this is a great fit to be able to be the
14 best use of this piece of property within our farm area,
15 and we are appreciative of OneEnergy's efforts to balance
16 and ensure there's no environmental impact, as well as
17 how well they have been in coordinating with all of the
18 various other entities involved in mitigation of the
19 negative effects, and so we support this project. For
20 more details you can see our letter of support. Thank
21 you.

22 JUDGE DUPREE: Thank you.

23 MS. ~~GRANTHAM~~^{SHILEY}: Our next speaker is
24 Victor Mendoza.

25 JUDGE DUPREE: Mr. Mendoza, just

1 remember to state your name and spell it.

2 MR. MENDOZA: Victor Mendoza,
3 V-I-C-T-O-R, M-E-N-D-O-Z-A. I am a Local 112 apprentice.
4 I fully support this project. I have been living in Tri
5 Cities all my life, and with the amount of green
6 renewable energy we have, I feel like this will be
7 beneficial to the area.

8 JUDGE DUPREE: Thank you.

9 ~~GRANTHAM~~ SHILEY MS. GRANTHAM: Our next speaker is
10 Kris Leistritz.

11 JUDGE DUPREE: Go ahead and state your
12 name and spell it.

13 MR. LEISTRITZ: My name is Kris
14 Leistritz, K-R-I-S, L-E-I-S-T-R-I-T-Z. Lived here for
15 all my life, and I appreciate the efforts to go into and
16 develop these solar projects or renewable energy projects
17 throughout Tri-Cities and the locals around the area. I
18 very much support the working for the clean energy grid
19 and within the area as well and as the surrounding area.
20 Also, I'm really impressed with the idea of being
21 implemented in this project with the battery storage
22 aspect of the project in order to help out with the curb
23 of some of the faults of solar. So really do appreciate
24 the time and energy in thinking about the project and
25 working it out. We are excited to see more renewable

1 energy come to Tri-Cities. Thank you.

2 JUDGE DUPREE: Thank you.

SHILEY

3 MS. ~~GRANTHAM~~: Our next speaker is Jim
4 Atkins.

5 MR. ATKINS: Jim Atkins, J-I-M,
6 A-T-K-I-N-S. My question is regard around the solar
7 panels, the heat projected off of this, you know, how
8 much does that impact the environment from one foot, two
9 foot, three feet, six foot on up, how much does that
10 increase the temperature.

11 And then that increased temperature, how does that
12 affect the airflow above the air currents? How is that
13 affected?

14 Also, I heard rumors where bird deaths occur because
15 they fly over these and because of the heat they die.

16 Fire protection, I know you said you are working
17 with the fire department but will you be providing any
18 fire equipment to circumvent any large fires that come
19 out there because that is a rural area, you know. And do
20 they need more fire trucks? Do they need special
21 equipment to fight a fire?

22 You talk about grazing. How many grazing allotments
23 are there there because nothing is being grazed now
24 maybe, from what I understand. And we hear there's
25 stories about sheep, how much -- how many sheep can be

1 under there? And how much of this is subsidized by the
2 government? And EFSEC oversight of environmental during
3 the construction, is that an individual on site all the
4 time or are you just going to show up every once a month
5 and check the oversight?

6 That's all I have. Thank you.

7 JUDGE DUPREE: Thank you.

8 ~~SHILEY~~

8 MS. ~~GRANTHAM~~: That is the end of our
9 signed up speakers. Judge Dupree, it is at your
10 discretion if you would like to open the floor to those
11 in the room who were not able to sign up or did not
12 initially sign up. The three-minute limit on speaking
13 will still apply. For those attending online you can
14 raise your hand to indicate if you would like to speak
15 if the Judge does elect to do this, and those dialing in
16 can use star five, so Judge Dupree.

17 JUDGE DUPREE: Thank you, Ms.

18 ~~SHILEY~~

18 ~~Grantham~~: And then if there's anybody that hasn't signed
19 up and wishes to speak, now is your opportunity to
20 provide a comment.

21 MR. ATKINS: Jim Atkins. I will step
22 up again. J-I-M, A-T-K-I-N-S. I do not think this
23 meeting was very well advertised that this was going to
24 occur. I only found out about it today, this morning at
25 9:30, and so I don't know how much the community has.

1 And the other thing I will say, in the event that
2 somebody decides they need to talk more than three
3 minutes, why do you -- you know, just because people
4 allow three minutes, other entities, you know, maybe
5 somebody has -- can speak for four minutes and not three
6 and before you pound the gavel and tell them they have to
7 sit down. That's all I have. Thank you.

8 JUDGE DUPREE: Thank you. Was there
9 anybody else that wanted to comment?

10 State your first and last name and spell it for the
11 record.

12 MR. RYKIEL: Edward Rykiel,
13 E-D-W-A-R-D, R-Y-K-I-E-L. Dana Ward is the president of
14 the Lower Columbia Basin Audubon Society and he couldn't
15 be here tonight because this the monthly meeting of the
16 chapter, so he enlisted me to come and represent the
17 Lower Columbia Basin Audubon Society.

18 We have been on the site and we have evaluated it,
19 and we would be submitting a letter after we have a
20 chance to review what WDFW has said about it. From what
21 we seen on the site, we would generally support this
22 project. There is a cow-calf operation on there right
23 now which is serving to feed coyotes, among other animals
24 like ravens, for example. There's not much bird habitat.
25 As I said, lower Columbia Basis Audubon will be

1 submitting a letter generally in support of the project.
2 Thank you.

3 JUDGE DUPREE: Thank you. And then,
4 Ms. ~~Grantham~~ ^{SHILEY}, was there anybody online that wanted or
5 indicated they wanted to speak?

6 MS. ~~GRANTHAM~~ ^{SHILEY}: We have no raised
7 hands.

8 JUDGE DUPREE: Okay. Thank you. Then
9 anybody else that hasn't had an opportunity to speak that
10 would like to make a comment?

11 Okay. I believe that is all of the comment portion
12 then.

13 CHAIR DREW: And since this -- again,
14 this is Chair Drew. Since we have completed this portion
15 of the meeting, of the informational meeting, we will
16 adjourn until 6:30 and then we will start our
17 Environmental Land Use Hearing earlier than the seven
18 o'clock time, as also said in our notice, if this was to
19 be completed before seven o'clock we would start the
20 environmental hearing.

21 So with that, let's take at 15-minute break and
22 perhaps there are people who had questions who can get
23 some of those questions answered in the meantime, and we
24 will come back at 6:30 for the land use hearing. Thank
25 you.

1 (Recess.)

2
3 CHAIR DREW: Once again, good evening.
4 This is Kathleen Drew, Chair of the Energy Facility Site
5 Evaluation Council calling this meeting to order.

6 This is the Land Use Consistency Hearing with
7 Wallula Gap solar project as required by RCW 80.50.090(2)
8 and WAC 463-26-035. We are holding this hearing where
9 the public will be given an opportunity to provide
10 testimony regarding the proposed project's consistency
11 and compliance with land use plans and zoning ordinances.

12 So this is a hearing which topic is limited only to
13 those topics.

14 Ms. Grantham, will you call the roll for the
15 Council?

16 MS. GRANTHAM: Certainly, Chair Drew?
17 Department of commerce? Department of Ecology?
18 Department of Fish and Wildlife?

19 MR. LIVINGSTON: Mike Livingston,
20 present.

21 MS. GRANTHAM: Department of Natural
22 Resources?

23 MR. YOUNG: Lenny Young, present.

24 MS. GRANTHAM: Utilities &
25 Transportation Commission?

1 MS. BREWSTER: Stacy Brewster,
2 present.

3 MS. GRANTHAM: For Benton County, Adam
4 Fyall. Adam Fyall is present. And Administrative Law
5 Judge Travis Dupree?

6 JUDGE DUPREE: Present.

7 MS. GRANTHAM: Chair, we have a
8 quorum. Thank you.

9 CHAIR DREW: Thank you. At this point
10 I will turn the hearing over to Judge Dupree.

11 JUDGE DUPREE: Thank you, Chair Drew.
12 Thank you and good evening everyone. As Chair Drew
13 indicated this is the Land Use Consistency Hearing where
14 Council members will hear testimony, as will I, about the
15 land use consistency. The process will be that the
16 Applicant will be able to present their information and
17 then the County will be given an opportunity to respond,
18 and then after that I will hear from the members of the
19 public who may want to testify. And then, again, the
20 testimony will be limited to land use consistency. We
21 had a meeting just prior to the hearing where people
22 were -- could provide other comments and had an
23 opportunity to provide comments on other matters.

24 I believe I will check and see if there's any other
25 preliminary matters that we need to address before we

1 proceed. I will note that I believe counsel for the
2 Applicant is Tim McMahan. I believe he was approached
3 and indicated that there was a procedural matter, and I
4 will indicate it on the record. That was the extent of
5 our discussion.

6 Having said that, Mr. McMahan, did you want to --
7 was there some sort of procedural matter that you wanted
8 to bring up?

9 MR. MCMAHAN: Thanks, Judge Dupree.
10 Good evening Chair Drew and Council members, and good
11 evening, Judge Dupree. Tim McMahan for the record, and I
12 represent OneEnergy in this project, and I will do a
13 fairly quick presentation on land use consistency. But
14 before I begin, what I did want to request is that the
15 testimony from the Applicant be made a part of this
16 portion of the record for the land use hearing just as a
17 procedural matter on an ongoing basis so that that record
18 is tied together, the public meeting and I'm testifying
19 for the Applicant in the land use hearing discussion.

20 JUDGE DUPREE: And then this is Judge
21 Dupree, any of the other parties object? Then do any of
22 the Council members object?

23 CHAIR DREW: That sounds reasonable.

24 JUDGE DUPREE: Sorry, Chair Drew, did
25 you want to comment or weigh in?

1 CHAIR DREW: I said that sounds
2 reasonable.

3 MR. MCMAHAN: Again, Tim McMahan, for
4 the Applicant. I'm with Stoel Rives Law Firm, and I've
5 been working with OneEnergy for some years, and have been
6 involved with this application for a permit from its
7 inception.

8 Just as an introductory comment, as some of you know
9 who are veterans in this process, this part of the
10 project, or excuse me, this part of the process involves
11 a land use consistency hearing, and there will also be a
12 land use adjudication at a later time in the process
13 given the nature of this particular application.

14 So tonight we are focusing on the land use
15 consistency hearing only. And it is a little bit
16 different from what we expect in an adjudication in the
17 coming months, so just kind of as a piece of background.

18 So I have a presentation that is fairly short and
19 really broken into three separate sections. First, I
20 want to talk about the current status of the land use
21 code in Benton County. In December of 2021, by ordinance
22 number 2021-004 that Benton County Board of County
23 Commissioners repealed a local code that allows for the
24 permitting of large solar facilities in Benton County
25 through a conditional use permit process, and that was

1 for areas that were in agricultural zoning. And I know
2 that the County is here and they can correct how I
3 characterize the zoning, the zoning is GMAD I think it
4 is, but I'm sure Ms. Cook will set me straight on the
5 record.

6 So at the time large scale solar facilities were
7 allowed by the County by a conditional use permit, and
8 projects were capable of previously being approved
9 through a conditional use process.

10 We concur, we understand, the Applicant understands
11 that the proposal or project is not consistent with a
12 zoning code that is now abolished, to state the obvious,
13 so we stipulate and understand that at least from that
14 standpoint, in terms of the County's zoning regulation,
15 that project is not consistent with land use, but the
16 inquiry doesn't stop there.

17 With a local determination that major solar
18 facilities are not supported by the Board of
19 Commissioners, the evidence needed for this hearing is
20 limited this evening, which is why I ask that OneEnergy's
21 testimony be incorporated into this record so that we
22 have some evidentiary foundation.

23 So second, the second part that I want to talk about
24 is how EFSEC proceedings differ somewhat from the
25 consideration at the County level and County permitting.

1 EFSEC proceedings differ from local land use
2 considerations. EFSEC also considers the policy
3 foundations, state and local, of the zoning code and
4 Washington law and policy. Hence, land use consistency
5 concerns do not stop at a question of whether or not a
6 local code is repealed or a local code allows a
7 particular use.

8 EFSEC, as the Council members who are here know,
9 EFSEC is informed by the local comprehensive plan goals
10 and policies documented in the application, which we have
11 submitted into the record. The AFC land use review
12 Chapter 2 has an extensive review and analysis of the
13 local comprehensive plan provisions that are applicable
14 to the project.

15 So we request that as the Council reviews the
16 application for site certification that the Council's
17 review be informed by the County's plans and policies
18 coupled by the broader statewide interest, including
19 climate change policies. We ask that that consideration
20 be seriously considered by the Council as the Council
21 proceeds with reviewing the application.

22 We request careful consideration of the site
23 characteristics described by Nathan, by the Applicant,
24 showing that this site is really quite ideal for solar
25 development purposes, including some creative ideas on

1 how to perpetuate agricultural use on this site.

2 Third, and finally, we acknowledge the main event
3 here. The main event in land use consistency review will
4 occur in the land use adjudication later in this process.
5 And in that -- at that time the Council members will hear
6 testimony then about land use consistency within the
7 adjudication framework, which is essentially a trial. So
8 consideration of the repealed provisions of the County
9 code, including the conditional use permit criteria can
10 help to inform the review. The comprehensive plan
11 provisions can help inform this review. The conditions
12 imposed by other projects also provide guide posts for
13 the Council as they consider this application.

14 Finally, and of great importance, in my view, the
15 adjudication some months from now RCW 80.50.110 and
16 Washington Administrative Code or WAC 463-28-070 will
17 direct EFSEC to include conditions that will consider
18 state and local interests as part of the decisionmaking.

19 That's all I have this evening. Not terribly
20 exciting because as I say we are not arguing about
21 whether or not a zoning code exists or doesn't exist, so
22 unless there are questions I am done with the
23 presentation. Thank you, Judge.

24 JUDGE DUPREE: Thank you. Then I
25 believe -- let me allow -- I believe somebody from -- I

1 believe my understanding is that Michelle Mercer is here
2 on behalf of Benton County. Did you want to respond?

3 MS. MERCER: Yes. The County has a
4 statement that they would like to make.

5 Good evening, my name is Michelle Mercer. I'm with
6 the Benton County Planning Division. I would like to
7 take a few minutes to speak about the proposed Wallula
8 Gap solar project's inconsistency and lack of compliance
9 with the Benton County land use plan, zoning ordinance,
10 and the Washington State Growth Management Act.

11 The County's comprehensive plan and zoning ordinance
12 are shaped by the directives of the State's Growth
13 Management Act, which mandates counties to designate and
14 protect agricultural lands of long term commercial
15 significance by prohibiting the inappropriate conversion
16 of agricultural resource lands and ensuring development
17 within these areas are compatible.

18 RCW 36.70A.177 addresses nonagricultural uses and
19 activities that can be allowed on designated agricultural
20 resource lands. The provision allows nonagricultural
21 accessory uses subject to several restrictions including,
22 that the uses must be located in areas already developed
23 with buildings, the uses cannot convert more than one
24 acre of land to nonagricultural use, and that the use
25 must be consistent with the size, scale, and intensity of

1 the existing agricultural uses of the property.

2 This application fails to meet any of these criteria
3 laid out by the state. The project area is designated by
4 the County's comprehensive plan as GMA Agriculture, and
5 proposes to convert 392 acres of agricultural land to an
6 industrial use, which would result in the direct
7 violation of the Growth Management Act and Benton
8 County's Comprehensive Plan as both mandate protection
9 and prevention of the loss of agricultural lands of long
10 term commercial significance.

11 The County's comprehensive plan provides clear
12 guidance through its goals and policies on the importance
13 of the County to protect, maintain, conserve, and enhance
14 agricultural lands while discouraging incompatible uses.

15 One such policy found within the County's
16 comprehensive plan seeks to conserve areas designated GMA
17 Agriculture to the maximum extent possible and to protect
18 these areas from the encroachment of incompatible uses to
19 prevent fragmentation of agricultural land, which would
20 occur if uses like the solar facility were allowed.

21 As such, the application before you tonight is not
22 consistent with the overall goals and polices of Benton
23 County's comprehensive plan as the size, scale, and
24 intensity of a solar facility is a noncompatible
25 industrial use, not an agricultural one.

1 As with the land use designation for this project,
2 the zoning district is known as the AMA Agricultural
3 zone. This zoning district seeks to protect agricultural
4 activities by allowing uses compatible with agriculture
5 and prohibiting those uses which are incompatible.
6 Currently, industrial solar facilities are a prohibited
7 use in the GMA Agricultural zoning district and are not
8 permitted as an allowed, accessory, or conditional use in
9 this zone per the Benton county Zoning Ordinance.

10 The rationale for prohibiting these types of uses in
11 the GMA Agricultural zoning district is developed from,
12 and supported by, the goals and policies of both the
13 Benton County Comprehensive Plan and the State Growth
14 Management Act.

15 The Applicant is requesting that EFSEC preempt the
16 County's local land use plan and zoning ordinance which
17 discourage and prohibit such uses from occurring on
18 agricultural lands. As has been identified, this project
19 does not meet the intent, and is in violation of the
20 Washington Sate Growth Management Act. It is not
21 consistent with the goals and policies of the County's
22 Comprehensive Plan, and it does not comply with the GMA
23 Agricultural zoning district as solar facilities are a
24 prohibited use.

25 In closing, it is Benton County's position that the

1 Washington State Growth Management Act, the local land
2 use policies, and zoning code should be held in effect
3 and should not be superseded.

4 Thank you for your time.

5 JUDGE DUPREE: Okay. And then next I
6 am going to turn to the Council members. Did the Council
7 members have any questions of the Applicant? And I'm not
8 hearing any or any raised hands so next we -- we will go
9 next to if anyone else wants to testify this evening
10 strictly on the land use consistency now is your
11 opportunity to make a comment or testify.

12 And, Ms. ~~Grantham~~ ^{SHILEY}, was there anybody online that
13 indicated they wanted to provide any testimony?

14 MS. ~~GRANTHAM~~ ^{SHILEY}: Just one moment. I am
15 not seeing any raised hands for comment or testimony for
16 the land use hearing portion.

17 JUDGE DUPREE: Okay. And this is
18 Judge Dupree. I will try one more time. Anybody that
19 would like to provide testimony or comments? I'm not
20 seeing any raised hands and then at this point -- hold on
21 just a moment.

22 I believe now the process now is just to conclude
23 the hearing. Was there anything else, Chair Drew, before
24 I wrap up or conclude tonight?

25 CHAIR DREW: No, I don't believe so.

1 JUDGE DUPREE: Okay. Thank you. All
2 right. Well, I want to thank everybody for your
3 participation tonight and your presentations.

4 We will conclude the hearing at this time. I hope
5 that all of our participants and observers have a good
6 rest of your evening and also stay safe out there.

7 The time is now 6:48 p.m. and we stand adjourned.
8 Thank you.

9 CHAIR DREW: This meeting is
10 adjourned.

11 (Meeting adjourned at 6:48 p.m.)
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1 STATE OF WASHINGTON) I, Christy Sheppard, CCR, RPR,
2) ss a certified court reporter
3 County of Pierce) in the State of Washington, do
4 hereby certify:

5 That the foregoing transcript of the EFSEC
6 Informational Public Hearing and Land Use Consistency
7 Hearing re: Wallula Gap Solar Project, was taken before
8 me via Zoom, and completed on April 23, 2024, and
9 thereafter was transcribed under my direction;

10 That I am not a relative, employee, attorney or
11 counsel of any party to this action or relative or
12 employee of any such attorney or counsel and that I am
13 not financially interested in the said action or the
14 outcome thereof;

15 IN WITNESS WHEREOF, I have hereunto set my signature
16 May 5, 2024.

17 _____
18 /s/Christy Sheppard, CCR, RPR
19 Certified Court Reporter No. 1932
20 (Certification expires 05/06/25.)
21
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