



Washington State Energy Facility Site Evaluation Council AGENDA

POTENTIAL ACTION ITEM

MONTHLY MEETING
Wednesday November 15, 2023
1:30 PM

VIRTUAL MEETING ONLY
[Click here to join the meeting](#)
Conference number: (253) 372-2181 ID: 56502492#

1. Call to OrderKathleen Drew, EFSEC Chair
2. Roll CallAndrea Grantham, EFSEC Staff
3. Proposed AgendaKathleen Drew, EFSEC Chair
4. Minutes
Meeting Minutes.....Kathleen Drew, EFSEC Chair
 - October 18, 2023 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.....Jeremy Smith, Chehalis Generation
 - d. Grays Harbor Energy Center
 - Operational Updates.....Chris Sherin, Grays Harbor Energy
 - e. Columbia Solar
 - Operational Updates.....Thomas Cushing, Greenbacker Capital
 - f. Columbia Generating Station
 - Operational Updates.....Felicia Najera-Paxton, Energy Northwest
 - g. WNP – 1/4
 - Non-Operational Updates.....Felicia Najera-Paxton, Energy Northwest
 - h. Goose Prairie Solar
 - Project Updates.....Jacob Christ, Brookfield Renewable
 - i. High Top & Ostrea
 - Project Updates.....Sara Randolph, EFSEC Staff
 - j. Whistling Ridge
 - Project Updates.....Lance Caputo, EFSEC Staff
 - k. Desert Claim
 - SCA Amendment Review.....Amy Moon, EFSEC Staff

The Council may consider taking FINAL ACTION on the SCA Amendment review for the Desert Claim project.
 - l. Badger Mountain
 - Project Updates.....Joanne Snarski, EFSEC Staff
 - m. Wautoma Solar
 - Project Updates.....Lance Caputo, EFSEC Staff
 - n. Hop Hill Solar
 - Project Updates.....John Barnes, EFSEC Staff
 - Land Use Consistency Order.....John Barnes, EFSEC Staff

The Council may consider and take FINAL ACTION on the Land Use Consistency Order for the Hop Hill Solar Project.
 - o. Carriger Solar
 - Project Updates.....Joanne Snarski, EFSEC Staff
 - p. Horse Heaven Wind Farm
 - Project Updates.....Amy Moon, EFSEC Staff
 - FEIS Review.....Sean Greene, EFSEC Staff
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

Energy Facility Site Evaluation Council
October, Monthly Meeting - October 18, 2023

WASHINGTON STATE

ENERGY FACILITY SITE EVALUATION COUNCIL

MONTHLY MEETING

October 18, 2023

Lacey, Washington

Reporter: John M.S. Botelho, CCR, RPR

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<p>1 APPEARANCES</p> <p>2 STATE AGENCY MEMBERS:</p> <p>3 Kathleen Drew, Chair (*)</p> <p>4 Eli Levitt, Department of Ecology (*)</p> <p>5 Mike Livingston, Dept. of Fish and Wildlife</p> <p>6 Lenny Young, Department of Natural Resources</p> <p>7 Stacey Brewster,</p> <p>8 Utilities & Transportation Commission (*)</p> <p>9 LOCAL GOVERNMENT AND OPTIONAL STATE AGENCIES:</p> <p>10 Horse Heaven:</p> <p>11 Derek Sandison, Department of Agriculture</p> <p>12 Ed Brost, Benton County</p> <p>13 Wautoma Solar:</p> <p>14 Dave Sharp, Benton County</p> <p>15 Hop Hill Solar:</p> <p>16 Paul Krupin, Benton County</p> <p>17 Carriger Solar:</p> <p>18 Matt Chiles, Klickitat County</p> <p>19 ASSISTANT ATTORNEY GENERAL:</p> <p>20 Jon Thompson (*)</p> <p>21 Jenna Slocum</p> <p>22 ADMINISTRATIVE LAW JUDGE:</p> <p>23 Adam Torem</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES (Continuing)</p> <p>2 (*) indicates that the participant is attending in</p> <p>3 person in Lacey, Washington. (All other</p> <p>4 participants are attending remotely.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</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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<p>1 APPEARANCES (Continuing)</p> <p>2 COUNCIL STAFF:</p> <p>3 Sonia Bumpus (*) Lance Caputo (*)</p> <p>4 Ami Hafkemeyer (*) John Barnes</p> <p>5 Joan Owens (*) Osta Davis</p> <p>6 Andrea Grantham (*) Joanne Snarski</p> <p>7 Dave Walker Alex Shiley</p> <p>8 Sonja Skavland Ali Smith</p> <p>9 Lisa Masengale Karl Holappa</p> <p>10 Sean Greene</p> <p>11 OPERATIONAL UPDATES:</p> <p>12 Eric Melbardis</p> <p>13 Kittitas Valley Wind, EDP Renewables</p> <p>14 Jennifer Galbraith</p> <p>15 Wild Horse Wind Power Project, Puget Sound Energy</p> <p>16 Chris Sherin</p> <p>17 Grays Harbor Energy Center, Grays Harbor Energy</p> <p>18 Jeremy Smith</p> <p>19 Chehalis Generation Facility, PacifiCorp</p> <p>20 Felicia Najera-Paxton</p> <p>21 Columbia Generating Station & WNP-1/4, Energy</p> <p>22 Northwest</p> <p>23 Thomas Cushing</p> <p>24 Columbia Solar, Tuusso Energy</p> <p>25 Scott Wilson</p> <p>Goose Prairie Solar, Brookfield Renewable</p>	<p>1 MEETING INDEX</p> <p>2 EVENT: PAGE NO.</p> <p>3 Call to order 6</p> <p>4 Roll call 6</p> <p>5 Proposed agenda 11</p> <p>6 Minutes</p> <p>7 9/20/2023 Monthly Meeting 11</p> <p>8 Projects</p> <p>9 Kittitas Valley Wind Project 12</p> <p>10 Wild Horse Wind Power Project 13</p> <p>11 Grays Harbor Energy Center 13</p> <p>12 Chehalis Generation Facility 13</p> <p>13 Columbia Solar 14</p> <p>14 Columbia Generating Station, WNP-1/4 14</p> <p>15 Goose Prairie Solar 15</p> <p>16 High Top and Ostrea 16</p> <p>17 Whistling Ridge 16</p> <p>18 Desert Claim 17</p> <p>19 Horse Heaven Wind Farm 25</p> <p>20 Badger Mountain 52</p> <p>21 Wautoma Solar 53</p> <p>22 Hop Hill Solar 55</p> <p>23 Carriger Solar 56</p> <p>24 2nd Quarter Cost Allocation 58</p> <p>25 Adjournment 59</p>

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<p style="text-align: right;">Page 6</p> <p>1 BE IT REMEMBERED that on Wednesday, 2 October 18, 2023, at 621 Woodland Square Loop 3 Southeast, Lacey, Washington, at 1:30 p.m., the 4 following Monthly Meeting of the Washington State 5 Energy Facility Site Evaluation Council was held, to 6 wit: 7 <<<<<< >>>>>> 8 9 CHAIR DREW: Good afternoon. This 10 is Kathleen Drew, Chair of the Energy Facility Site 11 Evaluation Council, calling this meeting to order. 12 Ms. Grantham, will you call the roll. 13 MS. GRANTHAM: Certainly. 14 Department of Commerce. 15 Department of Ecology. 16 MR. LEVITT: Eli Levitt, present. 17 MS. GRANTHAM: Department of Fish 18 and Wildlife. 19 MR. LIVINGSTON: Mike Livingston, 20 present. 21 MS. GRANTHAM: Department of 22 Natural Resources. 23 MR. YOUNG: Lenny Young, present. 24 MS. GRANTHAM: Utilities & 25 Transportation Commission.</p>	<p style="text-align: right;">Page 8</p> <p>1 MR. THOMPSON: Jon Thompson, 2 present. 3 MS. GRANTHAM: Jenna Slocum. 4 MS. SLOCUM: Jenna Slocum, present. 5 MS. GRANTHAM: And I do remember we 6 do have a new assistant attorney general. Jon 7 Thompson, can you please remind me of his name? I 8 missed his name on the roll call sheet. 9 MR. THOMPSON: It is Zack Packer. 10 MS. GRANTHAM: And is Zack present? 11 Administrative law judges: Adam Torem. 12 JUDGE TOREM: This is Judge Torem. 13 I'm present. 14 MS. GRANTHAM: Laura Bradley. 15 Dan Gerard. 16 Joni Derifield. 17 For Council staff: Sonia Bumpus. 18 MS. BUMPUS: Sonia Bumpus, present. 19 MS. GRANTHAM: Ami Hafkemeyer. 20 MS. HAFKEMEYER: Ami Hafkemeyer, 21 present. 22 MS. GRANTHAM: Amy Moon. 23 Stew Henderson. 24 Joan Owens is present. 25 Dave Walker.</p>
<p style="text-align: right;">Page 7</p> <p>1 MS. BREWSTER: Stacey Brewster, 2 present. 3 MS. GRANTHAM: Local government and 4 optional State agencies: For the Horse Heaven project, 5 Department of Agriculture. 6 MR. SANDISON: Derek Sandison, 7 present. 8 MS. GRANTHAM: Benton County, Ed 9 Brost. 10 I do see Mr. Brost is present. 11 For the Badger Mountain project: For Douglas 12 County, Jordyn Guilio. 13 For the Wautoma Solar Project: For Benton County, 14 Dave Sharp. 15 MR. SHARP: Dave Sharp, present. 16 MS. GRANTHAM: Washington State 17 Department of Transportation, Paul Gonseth. 18 For the Hop Hill Solar Project: For Benton 19 County, Paul Krupin. 20 MR. KRUPIN: Paul Krupin, present. 21 MS. GRANTHAM: For Carriger Solar: 22 Klickitat County, Matt Chiles. 23 MR. CHILES: Matt Chiles, present. 24 MS. GRANTHAM: Assistant attorney 25 generals: Jon Thompson.</p>	<p style="text-align: right;">Page 9</p> <p>1 Sonja Skavland. 2 MS. SKAVLAND: Sonja Skavland, 3 present. 4 MS. GRANTHAM: Lisa Masengale. 5 MS. MASENGALE: Present. 6 MS. GRANTHAM: Sara Randolph. 7 Sean Greene. 8 MS. REYNEVELD: Sarah Reyneveld, 9 present. 10 MS. GRANTHAM: Was that 11 Ms. Reyneveld? 12 MS. REYNEVELD: That's correct. 13 Thank you. 14 MS. GRANTHAM: Okay. Thank you. 15 You said "present" a little early, but I'll mark you 16 down for counsel for the environment. 17 Sean Greene for Council staff. 18 MR. GREENE: Sean Greene, present. 19 MS. GRANTHAM: Lance Caputo. 20 MR. CAPUTO: Lance Caputo, present. 21 MS. GRANTHAM: John Barnes. 22 MR. BARNES: Present. 23 MS. GRANTHAM: Osta Davis. 24 MS. DAVIS: Present. 25 MS. GRANTHAM: Joanne Snarski.</p>

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<p>Page 10</p> <p>1 MS. SNARSKI: Joanne Snarski, 2 present. 3 MS. GRANTHAM: Alex Shiley. 4 Ali Smith. 5 MS. SMITH: Ali Smith, present. 6 MS. GRANTHAM: Karl Holappa. 7 MR. HOLAPPA: Holappa, present. 8 MS. GRANTHAM: And for operational 9 updates: Kittitas Valley wind project. 10 MR. MELBARDIS: Eric Melbardis, 11 present. 12 MS. GRANTHAM: Wild Horse wind power 13 project. 14 MS. GALBRAITH: Jennifer Galbraith, 15 present. 16 MS. GRANTHAM: Grays Harbor Energy 17 Center. 18 MR. SHERIN: Bruce Sherin, present. 19 MS. GRANTHAM: Chehalis Generation 20 Facility. 21 MR. SMITH: Jeremy Smith, present. 22 MS. GRANTHAM: Columbia Generating 23 Station. 24 Columbia Solar. 25 MR. CUSHING: Thomas Cushing,</p>	<p>Page 12</p> <p>1 CHAIR DREW: Second? 2 MR. LIVINGSTON: Mike Livingston. 3 Second. 4 CHAIR DREW: Thanks. 5 I have no corrections. 6 Does anyone else have any edits or corrections? 7 Hearing none. 8 All those in favor of approving the minutes, 9 please say "aye." 10 MULTIPLE SPEAKERS: Aye. 11 CHAIR DREW: Opposed? 12 Motion is adopted. 13 Moving on to our operational updates. 14 Kittitas Valley wind project. Mr. Melbardis. 15 MS. GRANTHAM: Mr. Melbardis, you 16 are muted, if you're trying to speak. Just a heads-up. 17 I see that you're still in here, so hopefully. 18 MR. MELBARDIS: Sorry about that. 19 New -- new headset. 20 MS. GRANTHAM: No worries. 21 MR. MELBARDIS: This is Eric Mel- -- 22 Eric Melbardis with EDP Renewables for the Kittitas 23 Valley wind power project. 24 And we had nothing nonroutine to report for the 25 period.</p>
<p>Page 11</p> <p>1 present. 2 MS. GRANTHAM: Goose Prairie Solar. 3 MR. WILSON: Scott Wilson, present. 4 MS. GRANTHAM: Chair, there is a 5 quorum for the regular Council and all of the other 6 councils. Thank you. 7 CHAIR DREW: Thank you. 8 Now taking up the proposed agenda in front of you. 9 Council members, there's an echo. I think we're 10 okay now. 11 So the proposed agenda is in front of you. 12 Is there a motion to adopt the proposed agenda? 13 MR. YOUNG: Lenny Young. So moved. 14 MR. LEVITT: Eli Levitt. Second. 15 CHAIR DREW: Thank you. 16 All those in favor, say "aye." 17 MULTIPLE SPEAKERS: Aye. 18 CHAIR DREW: Opposed? 19 Motion is adopted. 20 Moving on to the meeting minutes from September 21 20th, 2023. 22 Is there a motion to approve the meeting minutes? 23 MS. BREWSTER: Stacey Brewster. 24 Motion to approve the September 20th, 2023, meeting 25 minutes.</p>	<p>Page 13</p> <p>1 CHAIR DREW: Thank you. 2 Moving on to the Wild Horse wind power project. 3 Ms. Galbraith. 4 MS. GALBRAITH: Yes. Thank you, 5 Chair Drew, Council members, and staff. This is 6 Jennifer Galbraith representing Puget Sound Energy for 7 the Wild Horse wind facility. 8 For the month of September, I have no nonroutine 9 updates. 10 CHAIR DREW: Thank you. 11 For Grays Harbor Energy Center, Mr. Sherin. 12 MR. SHERIN: Good afternoon, Chair 13 Drew, Council members, and staff. This is Chris 14 Sherin, a plant manager from Grays Harbor Energy 15 Center. 16 For the month of September, we have no nonroutine 17 items to report. 18 We did submit our RATA results to EFSEC staff and 19 ORCAA. 20 CHAIR DREW: Thank you. 21 And apparently I took you out of order, so I will 22 go back to Chehalis Generation Facility, Mr. Smith. 23 MR. SMITH: Good afternoon, Chair 24 Drew, EFSEC Council, and staff. This is Jeremy Smith, 25 maintenance manager, representing Chehalis Generation</p>

<p style="text-align: right;">Page 14</p> <p>1 Facility.</p> <p>2 I have one nonroutine item to report, and it's</p> <p>3 Stefano Schnitger has assumed the plant manager</p> <p>4 position effective September 6th.</p> <p>5 Are there any questions?</p> <p>6 CHAIR DREW: Great.</p> <p>7 No. Thank you. Thank you for that update.</p> <p>8 And moving on to the Columbia Solar project.</p> <p>9 Mr. Cushing.</p> <p>10 MR. CUSHING: Good -- hold on one</p> <p>11 second. There's background noise.</p> <p>12 Good afternoon, Chair Drew, Council members, and</p> <p>13 staff. This is Thomas Cushing, asset manager for the</p> <p>14 Columbia Solar projects.</p> <p>15 For the month of September, we have no nonroutine</p> <p>16 updates.</p> <p>17 CHAIR DREW: Thank you.</p> <p>18 For the Columbia Generating Station and WNP-1</p> <p>19 and -4, Felicia Najera-Paxton.</p> <p>20 MS. NAJERA-PAXTON: Hi: Good</p> <p>21 afternoon, Chairman Drew. Thanks for letting me join</p> <p>22 kind of late. I apologize for that.</p> <p>23 For this month, Columbia Generating Station has no</p> <p>24 nonroutine items to report.</p> <p>25 We did have a Washington State fire marshal</p>	<p style="text-align: right;">Page 16</p> <p>1 weekly. They have found nothing really to report.</p> <p>2 As far as public outreach, we are -- that's -- us</p> <p>3 and PCL are -- are getting together. We're going to</p> <p>4 donate some AEDs to the Moxee Police Department. It's</p> <p>5 going to be -- November 1st, we're going to have a</p> <p>6 little -- little get-together with them and present the</p> <p>7 AEDs.</p> <p>8 And that is just a quick down-and-dirty for Goose</p> <p>9 Prairie.</p> <p>10 CHAIR DREW: Thank you. Thank you</p> <p>11 very much.</p> <p>12 Moving on to the High Top and Ostrea project.</p> <p>13 Ms. Hafkemeyer.</p> <p>14 MS. HAFKEMEYER: Thank you. Good</p> <p>15 afternoon, Chair Drew and Council.</p> <p>16 For the High Top and Ostrea project, staff</p> <p>17 continue to work with the developer on pre-</p> <p>18 construction requirements and plans.</p> <p>19 We have no other updates at this time.</p> <p>20 CHAIR DREW: Thank you.</p> <p>21 For Whistling Ridge, Mr. Caputo, project update.</p> <p>22 MR. CAPUTO: Thank you, Chair Drew</p> <p>23 and Council members.</p> <p>24 The applicants for the Whistling Ridge energy</p> <p>25 project submitted an extension request as well as a</p>
<p style="text-align: right;">Page 15</p> <p>1 conduct inspection of the IDC and CGS buildings on</p> <p>2 October 2nd through the 4th with no major findings</p> <p>3 communicated following the inspection.</p> <p>4 CHAIR DREW: Thank you.</p> <p>5 MS. NAJERA-PAXTON: Thank you.</p> <p>6 CHAIR DREW: For Goose Prairie</p> <p>7 Solar, Mr. Wilson.</p> <p>8 MR. WILSON: Yeah, there is no</p> <p>9 nonroutine updates to report.</p> <p>10 As far as construction report, our project is on</p> <p>11 schedule. All our -- excuse me. All our laydown yards</p> <p>12 have been completed. The substation grading and</p> <p>13 foundations are complete. Control house was delivered</p> <p>14 and set at the site.</p> <p>15 We just did get one of our main power transformers</p> <p>16 today and got that set. The second one is scheduled to</p> <p>17 come early November.</p> <p>18 All our roads are in, interior and exterior roads.</p> <p>19 The PV array mainline roads, like I said, are complete.</p> <p>20 The feeders are complete. PV panels are starting to</p> <p>21 arrive. We've got some panels starting to show up</p> <p>22 tomorrow.</p> <p>23 As far as SWPPP, it's being modified. We're going</p> <p>24 to try to submit it to EFSEC within the next few weeks.</p> <p>25 We do have monitoring through WSP. They're here</p>	<p style="text-align: right;">Page 17</p> <p>1 petition to amend their site certification agreement.</p> <p>2 Staff are looking at available dates to schedule the</p> <p>3 meetings for the Council.</p> <p>4 May I answer any questions?</p> <p>5 CHAIR DREW: Are there any</p> <p>6 questions?</p> <p>7 Thank you for the update.</p> <p>8 Desert Claim. Ms. Hafkemeyer.</p> <p>9 MS. HAFKEMEYER: Thank you.</p> <p>10 Again, for the record, this is Ami Hafkemeyer</p> <p>11 providing a project update on Desert Claim.</p> <p>12 At the last Council meeting on September 20th,</p> <p>13 staff updated the Council on the proposed amendment to</p> <p>14 the Desert Claim site certification agreement, or SCA,</p> <p>15 in which the certificate holder, EDF Renewables,</p> <p>16 submitted a request to amend the Desert Claim SCA. EDF</p> <p>17 Renewables requested an extension of the substantial</p> <p>18 completion date from November 13th, 2023, to November</p> <p>19 13th, 2028.</p> <p>20 As presented last month, the State Environmental</p> <p>21 Policy Act, or SEPA, review was limited to the changes</p> <p>22 proposed by the amendment request. Staff recommended</p> <p>23 provisions for inclusion in the SCA amendment to</p> <p>24 account for current conditions in the project area,</p> <p>25 industry, or agency practices that have evolved since</p>

<p style="text-align: right;">Page 18</p> <p>1 the initial certification and information that has 2 become available since the Desert Claim SCA was last 3 amended in 2018. 4 At the previous meeting, I outlined the conditions 5 that staff recommended to include in an SCA amendment, 6 including: 7 limiting the build window by capping any further 8 SCA extension requests. Any further extension requests 9 would not be allowed unless construction is reasonably 10 underway but may not reach the definition of 11 substantial completion; 12 including a requirement for the aircraft detection 13 lighting system, if approved by the Federal Aviation 14 Administration, to be reviewed for any appropriate 15 additional permit requirements; 16 including a commitment in the Desert Claim waste 17 management plan to recycle project components when 18 possible; 19 and requiring the certificate holder to consider 20 the feasibility during micro-siting to place all 21 turbines more than .5 miles from nonparticipating 22 residences to avoid dominating views from these 23 sensitive viewing locations. 24 One additional recommendation was made during the 25 September 20th Council meeting associated with</p>	<p style="text-align: right;">Page 20</p> <p>1 Okay. You-all have and have received the draft 2 resolution in front of you. 3 Is there a motion to approve the draft resolution 4 as presented, approving the request for amendment for 5 Desert Claim wind power project? 6 MR. YOUNG: Lenny Young. I move the 7 resolution as amended. 8 MR. LEVITT: May I ask a few 9 questions? 10 CHAIR DREW: Oh. Sure. Absolutely. 11 MR. LEVITT: I'm sorry. One is just 12 a details nuance. You said half a mile from any 13 residence, but the letter says 2,500 feet, so that's a 14 little bit different. 15 MR. YOUNG: Chair, point of order. 16 Do we need to have the resolution -- the dra- -- the 17 matter that's in front of us seconded before we begin 18 discussion? 19 CHAIR DREW: Sure. We can have a 20 second. 21 MS. BREWSTER: Stacey Brewster. 22 Second. 23 CHAIR DREW: Thank you. 24 Okay. Please continue, Mr. Levitt. 25 Ms. Hafkemeyer.</p>
<p style="text-align: right;">Page 19</p> <p>1 extending the wildlife monitoring for carcasses. 2 However, after additional evaluation by EFSEC staff, 3 this was determined to already be included in the SCA. 4 Therefore, this recommendation has not been 5 incorporated into the resolution that you have in front 6 of you for consideration. 7 At the September 20th Council meeting, Council 8 directed staff to discuss these recommendations with 9 the developer and prepare a resolution for Council 10 consideration. Staff met with EDF Renewables to 11 confirm concurrence on these provisions. The draft was 12 provided to Council review and made available for 13 public comment. 14 Staff received one public comment speaking against 15 the viability of the project, but that did not result 16 in any suggested changes to the draft resolution. 17 If the Council approves the resolution as drafted, 18 staff will prepare an amended SCA to reflect these 19 changes for review and approval at the November Council 20 meeting. 21 At this time, staff recommend Council deliberate 22 and a vote to approve the draft resolution. 23 Are there any questions? 24 CHAIR DREW: Are there any questions 25 for Ms. Hafkemeyer?</p>	<p style="text-align: right;">Page 21</p> <p>1 MS. HAFKEMEYER: So the proposed 2 resolution -- I'm sorry. I'm not seeing the 2500 feet. 3 I believe the 2500 feet was part of the amendment 4 in 2018, and staff are proposing that it be increased 5 to half a mile, which is a little bit more than 2500 6 feet. I think it's approximately 26- or 2700 feet. 7 MR. LEVITT: Yeah. 8 MS. HAFKEMEYER: The feasibility of 9 that be reviewed. If -- if there's a typo with the 10 draft resolution, certainly we can amend that. 11 MR. LEVITT: 2500 is listed on 12 Page 1, so maybe -- 13 MS. HAFKEMEYER: Page 1. 14 MR. LEVITT: -- it is talking about 15 the old agreement. 16 Bottom of Page 1. 17 CHAIR DREW: Yes. Yes, that would 18 be the background there. And so the resolution, then, 19 if you look to -- well, the -- yes, it's all the 20 resolution, but let's double-check. 21 MR. LEVITT: And then while we're 22 checking that, I have a question about the -- the -- 23 one public comment seemed to indicate that the 24 population in that area has changed. Maybe new 25 housing, new residents.</p>

<p style="text-align: right;">Page 22</p> <p>1 To what degree has the applicant and/or EFSEC been</p> <p>2 able to reach out to people about the ongoing history</p> <p>3 of this project?</p> <p>4 MS. HAFKEMEYER: Staff have not</p> <p>5 conducted outreach outside of noticing for these</p> <p>6 activities. I would have to check with the applicant</p> <p>7 about any additional activities.</p> <p>8 One of the topics of discussion amongst staff and</p> <p>9 the developer was that, in the 2018 amendment, the</p> <p>10 primary visual concern was shadow flicker, and so that</p> <p>11 was the -- the consideration for the setback for the</p> <p>12 2018 amendment. And so the -- the recommendation to</p> <p>13 include -- or to increase that to half a mile would be</p> <p>14 for not only shadow flicker but visual dominance. And</p> <p>15 so at least internally, that discussion has evolved</p> <p>16 somewhat, but we have not had direct input from nearby</p> <p>17 residents.</p> <p>18 We also noticed the existing distribution list</p> <p>19 with updated contacts, so anybody who was previously</p> <p>20 following the Desert Claim project should still have</p> <p>21 received notice for this activity.</p> <p>22 CHAIR DREW: As well as people</p> <p>23 within a certain geographic distance from the project.</p> <p>24 MS. HAFKEMEYER: Yeah. The -- the</p> <p>25 original list would have included the one-mile</p>	<p style="text-align: right;">Page 24</p> <p>1 that that's a reasonable request, a reasonable amount</p> <p>2 of time?</p> <p>3 MS. HAFKEMEYER: It is. We are</p> <p>4 aware that they are actively participating in request</p> <p>5 for proposals to find buyers for this project, and it</p> <p>6 is our understanding that those are sort of an ongoing</p> <p>7 process and that there are multiple RFPs and</p> <p>8 opportunities coming up in the -- the coming years.</p> <p>9 MR. YOUNG: Thank you.</p> <p>10 CHAIR DREW: Any other questions?</p> <p>11 Ms. Brewster?</p> <p>12 MS. BREWSTER: Yeah.</p> <p>13 Regarding the feasibility study of placing the</p> <p>14 turbines outside of a half mile, what's the case if</p> <p>15 they present that that is not feasible? Is there any</p> <p>16 requirements for distance that we can impose?</p> <p>17 MS. HAFKEMEYER: I think that we</p> <p>18 could impose the requirement for half a mile in --</p> <p>19 'cause at this point, it's -- it's a flexibility of, I</p> <p>20 think, approximately 200 feet. When we met with E --</p> <p>21 EDF Renewables, they did request to maintain some of</p> <p>22 that flexibility for engineering purposes.</p> <p>23 CHAIR DREW: Also I believe that if</p> <p>24 it is less than that, the certificate holder would</p> <p>25 submit for the Council's review, prior to micro-siting,</p>
<p style="text-align: right;">Page 23</p> <p>1 landowners.</p> <p>2 CHAIR DREW: One-mile landowners.</p> <p>3 Okay.</p> <p>4 Other questions?</p> <p>5 MR. LEVITT: That's it.</p> <p>6 CHAIR DREW: Thank you.</p> <p>7 Are there --</p> <p>8 MR. YOUNG: Chair. Chair.</p> <p>9 CHAIR DREW: Yes.</p> <p>10 MR. YOUNG: Chair, this -- Chair,</p> <p>11 this is Lenny Young. Could staff --</p> <p>12 CHAIR DREW: Yes.</p> <p>13 MR. YOUNG: -- refresh as to the</p> <p>14 need for a five-year extension as opposed to a one- or</p> <p>15 two-year extension? What information is available to</p> <p>16 the Council as to the length of the extension?</p> <p>17 MS. HAFKEMEYER: It's staff's</p> <p>18 understanding that a five-year extension would allow</p> <p>19 the developer to enter into offtake agreements and</p> <p>20 power -- I think, power purchase agreements as well as</p> <p>21 to begin construction.</p> <p>22 So this extension would also include the</p> <p>23 initiation of construction, not just the power purchase</p> <p>24 agreements and offtake agreements.</p> <p>25 MR. YOUNG: Is it staff's assessment</p>	<p style="text-align: right;">Page 25</p> <p>1 an analysis of the feasibility. So we would have that</p> <p>2 come to us before the final decision, as -- as is</p> <p>3 written in this resolution.</p> <p>4 MS. BREWSTER: Thank you.</p> <p>5 CHAIR DREW: Other questions?</p> <p>6 Hearing none.</p> <p>7 There's a motion on the floor to approve the draft</p> <p>8 resolution as presented, approving the request for</p> <p>9 amendment for Desert Claim.</p> <p>10 All those in favor, please say "aye."</p> <p>11 MULTIPLE SPEAKERS: Aye.</p> <p>12 CHAIR DREW: Opposed?</p> <p>13 The resolution is adopted. Thank you.</p> <p>14 Okay. Moving on to the Horse Heaven project,</p> <p>15 project update. Ms. Hafkemeyer.</p> <p>16 MS. HAFKEMEYER: Thank you, Chair</p> <p>17 Drew.</p> <p>18 EFSEC have received the post-adjudication</p> <p>19 application for site certification from the applicant</p> <p>20 on September 22nd, 2023. This updated ASC included a</p> <p>21 traffic impact analysis, updated surveys and reports,</p> <p>22 turbine and solar reductions, and updated commitments.</p> <p>23 The reduction in proposed turbines is to remove 13</p> <p>24 turbines from Turbine Option 1, for a total of 231</p> <p>25 turbines, and three turbines from Turbine Option 2, for</p>

<p style="text-align: right;">Page 26</p> <p>1 a total of 147 turbines.</p> <p>2 The solar reduction is to reduce energy generation</p> <p>3 at the eastern solar array from 300 megawatts to 100</p> <p>4 megawatts and a reduction in solar array footprint from</p> <p>5 6,570 acres to 5,447 acres.</p> <p>6 Staff have been very busy incorporating the</p> <p>7 updated post-adjudication ASC, which was required</p> <p>8 within 30 days after the conclusion of the hearings per</p> <p>9 Washington Administrative Code 463-60-116.</p> <p>10 EFSEC is currently updating the analysis of</p> <p>11 impacts for the final environmental impact statement,</p> <p>12 or final EIS, and incorporating the traffic impact</p> <p>13 analysis that was received with the post-adjudication</p> <p>14 ASC update.</p> <p>15 Final EIS tasks also include incorporating public</p> <p>16 comments, agency outreach, tribal coordination, and</p> <p>17 fine-tuning mitigation.</p> <p>18 Before I continue, are there any questions?</p> <p>19 CHAIR DREW: Any questions from</p> <p>20 Council members?</p> <p>21 MS. HAFKEMEYER: All right. This</p> <p>22 afternoon, we have Sean Greene available, who will be</p> <p>23 giving a presentation on the final EIS so that Council</p> <p>24 are familiar with the structure and changes as you</p> <p>25 approach your upcoming review. Staff are anticipating</p>	<p style="text-align: right;">Page 28</p> <p>1 between written and verbal comments, we had</p> <p>2 approximately 2500 comments received. 1,217 of those</p> <p>3 were deemed substantive, and that -- in this case, non-</p> <p>4 substantive comments were those that generally</p> <p>5 expressed support or opposition for the project without</p> <p>6 specifically suggesting changes or questions, or</p> <p>7 comments that were otherwise irrelevant to the</p> <p>8 environmental review of the project.</p> <p>9 All comment responses, substantive or not, will</p> <p>10 receive a response as part of this process. And</p> <p>11 revisions are integrated throughout the -- the final</p> <p>12 EIS from those comment responses.</p> <p>13 Next slide, please.</p> <p>14 Since the publication of the draft EIS, we've had</p> <p>15 a series of discussions with other agencies and</p> <p>16 governments in the process of developing the final EIS,</p> <p>17 the most prominent of which was the Yakama Nation, who</p> <p>18 we had begun monthly meetings with between Yakama</p> <p>19 Nation staff and EFSEC staff, following the expressed</p> <p>20 desire for more regular discussion between our staffs</p> <p>21 from Chairman Lewis of the Yakama Nation.</p> <p>22 As part of those discussions, the Yakama Nation</p> <p>23 have shared confidential wildlife and cultural data</p> <p>24 that has been incorporated into the FEIS. All</p> <p>25 references within the publicly available FEIS have been</p>
<p style="text-align: right;">Page 27</p> <p>1 that the final EIS will be issued and available to the</p> <p>2 Council and the public October 31st of this year.</p> <p>3 CHAIR DREW: Thank you.</p> <p>4 Mr. Greene.</p> <p>5 MR. GREENE: Yes. Just watching my</p> <p>6 presentation spin for a minute here.</p> <p>7 Thank you, Chair Drew and Council. My -- my name</p> <p>8 is Sean Greene. I am the SEPA specialist and</p> <p>9 environmental planner for EFSEC.</p> <p>10 And as Ami mentioned, the purpose of this</p> <p>11 presentation is to update the Council on changes taken</p> <p>12 to the Horse Heaven EIS since the publication of the</p> <p>13 draft EIS and brief the Council on what changes that</p> <p>14 they should look for in their review of the upcoming</p> <p>15 final EIS that will be published -- that the target</p> <p>16 publication date is the end of the month.</p> <p>17 If you can go to the next slide.</p> <p>18 So upon publication of the draft EIS, we entered</p> <p>19 into a public comment period. As required by</p> <p>20 Washington Administrative Code, the period was 30 days</p> <p>21 in length plus a additional 15-day extension period per</p> <p>22 request, so 45 days total.</p> <p>23 Upon the culmination of that period, that comment</p> <p>24 period, we had public hearings on February 1st of 2023,</p> <p>25 during which we had 74 speakers. In combination</p>	<p style="text-align: right;">Page 29</p> <p>1 either referenced indirectly or redacted so as to</p> <p>2 protect the confidentiality of the data. But the</p> <p>3 unredacted versions will be included with the FEIS</p> <p>4 under separate cover for the Council during the review.</p> <p>5 We also had a series of discussions with</p> <p>6 Washington State Department of Transportation during</p> <p>7 our coordination on the development of the traffic</p> <p>8 impact analysis and the review of the subsequently</p> <p>9 published analysis that the applicant provided.</p> <p>10 Next slide, please.</p> <p>11 There were a series of data collections taken</p> <p>12 since the draft EIS that had been incorporated into the</p> <p>13 FEIS, the first of which was the traffic impact</p> <p>14 analysis, which included project-generated trips,</p> <p>15 peak-hour traffic volumes, oversized truck haul routes,</p> <p>16 and traffic safety analyses.</p> <p>17 These were developed based on conversations with</p> <p>18 the County and Washington State Department of</p> <p>19 Transportation, and the process of incorporating</p> <p>20 that -- the data collected into the impact assessments</p> <p>21 within the transportation section of the FEIS is</p> <p>22 ongoing.</p> <p>23 Also, there were updated raptor nest surveys that</p> <p>24 were performed following the 2017, 2018, 2019, and 2022</p> <p>25 surveys that were intended to track the status of</p>

<p style="text-align: right;">Page 30</p> <p>1 previously identified nests and identify new nests 2 within the area. 3 And the third primary new source of data was the 4 inclusion of three new key -- key observation points 5 that came about as a result of public comments received 6 following the draft EIS. These -- and new visual 7 simulations were created for these key -- these KOPs, 8 these key observation points, and existing simulations 9 were updated to re- -- to reduce the effect of hazing 10 from atmospheric conditions that were -- that that 11 hazing was included in the original versions of those 12 simulations. 13 These new KOPs were intended to address impacts to 14 motorists, residents, and cultural resources, depending 15 on the individual KOP. 16 Next slide, please. 17 So these next two slides are referencing project 18 reductions that came about due to applicant commitments 19 following the adjudication process. This slide 20 specifically is in reference to the Data Request 9 21 response, which was, I think, more -- more commonly 22 referred to as the Moon memo during the adjudication 23 process for Council reference. 24 A summary of the changes: 25 That the reductions specifically were reducing the</p>	<p style="text-align: right;">Page 32</p> <p>1 accounting for 22 total between the two reductions. 2 And this -- this specific memo, this nine-turbine 3 reduction, is referenced within the FEIS, but it is not 4 included in our impact analysis due to time 5 constraints, but it will be available to the Council 6 for their consideration when reading through the FEIS 7 and, assuming the project is approved, incorporation 8 into these -- the site certification agreement. 9 And the applicant noted that the turbines that 10 were re- -- proposed for removal between Turbine 11 Options 1 and 2 were due to concerns noted in public 12 comments and adjudication and were intended to reduce 13 impacts to several different resources. 14 And as an example, that visual at the bottom of 15 this page is a sim- -- a visual simulation provided by 16 the applicant from a key observation point. And the 17 three closest turbines within that green rectangle are 18 three of the 22 that are proposed for removal from the 19 final project design. 20 Next slide, please. 21 And in -- in concert with the reductions that the 22 applicant has proposed, since the draft EIS, they have 23 proposed a number of additions to the project. This -- 24 all additions were included within that Data Request 9 25 response in August. The first is the addition of an</p>
<p style="text-align: right;">Page 31</p> <p>1 east solar array from approximately 2,000 acres to just 2 over 600 acres, for about a 1400-acre reduction. 3 Shifting three turbines from Turbine Option 1 away 4 from Webber and Sheep Canyons. 5 Removing 13 proposed turbines from Turbine Option 1 6 and three from Turbine Option 2. 7 Removing duplicate transmission lines and 8 substation infrastructure, which included the appro- -- 9 the conversion of approximately four miles of 10 transmission lines to buried collector lines. While 11 that -- and that is a case where it is both a reduction 12 and addition because it is reducing visual impacts, but 13 there is an associated increase in temporary 14 disturbance, which is being incorporated into the FEIS 15 review. 16 And, finally, a reduction of the east battery 17 station to 100 megawatts from 150. There is no 18 associated reduction in footprint associated with this, 19 however. 20 Next slide, please. Thank you. 21 These -- this slide covers reductions that were 22 proposed by the applicant following that Data Request 9 23 response in Sep- -- this was a specific memo on 24 September 26th. It included a -- an additional nine 25 proposed turbines to be removed from Turbine Option 1,</p>	<p style="text-align: right;">Page 33</p> <p>1 off-site laydown yard north of the project. That 2 covers approximately 23 acres. That is outside of the 3 previously surveyed area. This laydown yard would be 4 specifically used for temporary laydown of turbine 5 blades before installation. And staff is currently 6 developing additional mitigation and the necessary data 7 collection for potential use of this laydown yard. 8 In addition, there was the passage of House 9 Bill 1173, which requires all current and future wind 10 turbine projects within the state of Washington to 11 request FAA approval for the use of an aircraft 12 detection lighting system. The applicant has gone 13 through the planning process for how to incorporate 14 this into the project and has come to the -- the point 15 where they believe five radar sensor towers, an example 16 of which can be seen in the bottom right of this page, 17 will be needed to be installed across the project 18 for -- for the implementation of the system. 19 One of these five towers is outside of the 20 previously surveyed area. And altogether, they will 21 require approximately 8,000 feet of new roads and 22 10,000 feet of new electrical infrastructure. 23 Next slide, please. 24 And the final project additions that were 25 incorporated into that Data Request 9 response were</p>

<p style="text-align: right;">Page 34</p> <p>1 the -- the upgrading and extension of the County Well 2 Road transmission line. Approximately four miles will 3 be upgraded from 230 kilovolts to 500 kilovolts, and 4 just over 1,000 feet of that new line and one new 5 support structure will be located outside of the 6 previously surveyed area.</p> <p>7 And that visual on the bottom right, the -- the 8 top image is the existing conditions at that key 9 observation point. The bottom is the original visual 10 simulation. The towers in the blue rectangle, as part 11 of this upgrade, will be more akin in size to the 12 existing towers in the yellow rectangle, so they will 13 be taller.</p> <p>14 And the final addition was that the west battery 15 station will be upgraded from 150 megawatts to 200 16 megawatts, which will increase the footprint of that 17 from six acres to ten acres.</p> <p>18 Next slide, please.</p> <p>19 This image and a similar one for Turbine Option 2 20 will be provided to the Council with the FEIS. This is 21 a visual representation of the reductions, or rather, 22 the project changes that the -- the applicant has 23 proposed.</p> <p>24 And just a few areas to note. The green 25 highlighted area in the bottom right is indicative of</p>	<p style="text-align: right;">Page 36</p> <p>1 the no- -- no-action alternative.</p> <p>2 Chapter 4 is impacts and mitigation measures, 3 direct and indirect, from project actions. Applicant- 4 proposed avoidance and impact reduction commitments are 5 included in this section as well as EFSEC staff- 6 recommended mitigation. And this section also includes 7 the impact ratings for all -- all 15 resources that 8 were assessed.</p> <p>9 Cumulative impacts. Chapter 5 will cover impacts 10 combined -- from the project alone, combined with other 11 past, present, or reasonably foreseeable developments.</p> <p>12 And Chapter 10, which is new for this final EIS, 13 is the summary of public comments received and 14 responses on the draft EIS and will include 15 consolidated responses to public comments received.</p> <p>16 Next slide, please.</p> <p>17 And I won't go through all of these, but this is a 18 representative example of some of the changes that are 19 in Chapter 3 of the final EIS as a result of public 20 comments and are different from the draft EIS.</p> <p>21 A few to note, however, are that we have included 22 viticultural areas and the wine industry as an affected 23 resource under land use due to public comments. And as 24 we noted before, in "Visual," the addition of three key 25 observation points with accompanying visual</p>
<p style="text-align: right;">Page 35</p> <p>1 the reduction. That's that east solar field.</p> <p>2 The -- the green dots along the northern edge of 3 the project are the turbines that are proposed for 4 removal. They are primarily associated with the 5 ridgeline.</p> <p>6 And the green lines on the western part are the 7 transmission lines that have been propo- -- that are no 8 longer proposed as part of the project, whereas the 9 blue one -- blue line is the newly proposed 10 transmission line.</p> <p>11 And next slide, please.</p> <p>12 As for the structure of the FEIS, it is similar to 13 the draft EIS, with the executive summary coming first, 14 Chapter 1 indicating project background, which includes 15 a SEPA review history and defines the purpose of need, 16 both for the project for the applicant and the EIS for 17 EFSEC.</p> <p>18 Chapter 2, which will cover the proposed action 19 alternatives, which encompasses the project description 20 and alternatives that were assessed as part of the EIS, 21 including the no-action alternative.</p> <p>22 Chapter 3 is the affected environment, which 23 covers pre-project conditions for the 14 SEPA 24 environmental resources and socioeconomics and also 25 represents the -- the no- -- the anticipated results of</p>	<p style="text-align: right;">Page 37</p> <p>1 simulations. These were intended to address previously 2 underrepresented or unrepresented viewshed concerns 3 raised during the public comment period.</p> <p>4 And, finally, for "Transportation," we have the 5 removal of State Route 221 from consideration as an 6 oversize and overweight load route, as the applicant- 7 supplied transportation impact assessment indicated 8 that it was not intended to be used for such purpose. 9 Should that change in the future, we would require 10 additional data collection and potentially mitigation.</p> <p>11 Next slide, please.</p> <p>12 And, again, I won't read through all of these.</p> <p>13 This is not intended to be a comprehensive list of all 14 the changes within Chapter 4. There are substantial 15 rewrites throughout. But a few that are more pressing 16 based on the degree of change or the relevancy to the 17 number of public comments received.</p> <p>18 Under "Air," we included an air dispersion 19 modeling analysis that was added for several emissions, 20 which often includes the newly proposed use of an 21 on-site concrete batch plant during construction, as at 22 the applicant's request.</p> <p>23 Under "Vegetation," we added a new mitigation 24 measure, Vegetation-9, that requires that the applicant 25 regularly clear project fencing of any vegetative</p>

<p style="text-align: right;">Page 38</p> <p>1 growth, with the goal of both reducing the visual 2 impact of the fencing and the risk of fire due to the 3 fuel load that the vegetation -- that the vegetation 4 could represent.</p> <p>5 Under "Wildlife," Species-5 mitigation has been 6 expanded. This specifically targets impacts to 7 ferruginous hawk, the ferruginous hawk, and would 8 disallow construction of project components within two 9 miles of documented ferruginous hawk nests, except in 10 cases where the applicant is able to demonstrate that 11 the nest site and foraging habitat is no longer 12 available and that the compensatory habitat would 13 provide a net gain in ferruginous hawk habitat.</p> <p>14 For this mitigation, habitat deemed no longer 15 available would include habitat that has been altered 16 by landscape-scale development to the extent that the 17 territory is no longer viable for that species.</p> <p>18 And the pre-construction technical advisory group 19 and EFSEC are required to approve and concur with that 20 determination of nonviability and would be required -- 21 that would be required for any encroachment on this 22 two-mile buffer. And additional mitigation would be 23 developed as necessary if there is an encroachment on 24 this historic nest that is no longer viable.</p> <p>25 And for "Historic & Cultural," there is one case</p>	<p style="text-align: right;">Page 40</p> <p>1 likelihood of more than a moderate adverse impact on 2 environmental quality or having a severe adverse impact 3 on environmental quality, even if the chance is not 4 considered great.</p> <p>5 And for the EIS, significance is determined after 6 the assumed application of all relevant applicant 7 commitments and EFSEC staff-recommended mitigation 8 being imposed as part of the site certification 9 agreement.</p> <p>10 After all of -- after this analysis and the 11 imposition of those commitments and mitigation, we have 12 determined that there are three SEPA environmental 13 resources with identified significant impacts, those 14 being visual aesthetics, recreation, and historic and 15 cultural.</p> <p>16 Next slide, please.</p> <p>17 For visual, this significant impact is associated 18 with the operation phase, specifically for the 19 comprehensive project due to the -- due to the 20 component of the wind turbines. We have identified 21 several visual mitigation outlined there that we 22 believe will reduce this impact and especially in 23 concert with the -- the turbine reductions that are 24 proposed by the applicant since the draft EIS.</p> <p>25 But as -- as can be seen in more detail within our</p>
<p style="text-align: right;">Page 39</p> <p>1 of the reduction of a determination of significance. 2 For pre-contact archaeological isolates in the draft 3 EIS, they were determined to be -- the impact was 4 determined to be significant even after the imposition 5 of applicant commitments and EFSEC mitigation.</p> <p>6 We have reduced that to a determination of 7 nonsignificance based on the fact that the cultural 8 resource avoidance plan would ensure that the two 9 identified pre-contact isolates found on-site would not 10 be impacted or affected by project actions.</p> <p>11 And, finally, "Visual." We have the removal of 12 the Visual-4 mitigation that was proposed in the draft 13 EIS, which would have required color-treating solar 14 collectors and support structure. Based on our review, 15 we believe that that tech- -- that technology is not 16 practical at this moment.</p> <p>17 And we have included revisions to the Visual-5 18 mitigation, which requires the installation of 19 color-treated opaque fencing within half a mile of KOPs 20 or residences and believe that to be sufficient to 21 address the visual concerns associated with the -- the 22 solar arrays.</p> <p>23 Next slide, please.</p> <p>24 So for the purpose of SEPA and this -- this EIS, 25 we define "significant" as having a reasonable</p>	<p style="text-align: right;">Page 41</p> <p>1 Chapter 4 review of this resource, we believe that post 2 mitigation and applicant commitments, the turbines 3 would still dominate views from many key observation 4 points, and the landscape will appear strongly altered. 5 So we have recommended a -- a finding of significant 6 unavoidable adverse impacts for this resource.</p> <p>7 Next slide, please.</p> <p>8 For recreation, we have identified significant 9 unavoidable adverse impacts for the operation phase of 10 the project on paragliding and hang-gliding safety. 11 The area around the project is used for these 12 activities even though it is not an officially 13 designated use by any state agency.</p> <p>14 We have identified several different mitigation 15 measures that we will recommend as to be incorporated 16 within the SCA, as -- as outlined therein, primarily 17 focused on coordinating with recreation groups and 18 performing outreach on a safety management plan. But 19 we believe that the turbines and solar arrays would 20 still limit recreation availability for paragliding and 21 hang gliding throughout the project area and present a 22 safety risk for those activities.</p> <p>23 Next slide, please.</p> <p>24 And the third resource where we believe that there 25 are significant unavoidable adverse impacts is, for</p>

<p style="text-align: right;">Page 42</p> <p>1 historic and cultural, specifically for traditional 2 cultural properties during the construction, operation, 3 and decommissioning phases of the project. 4 We have recommended mitigation in the form of 5 ongoing engagement with affected tribes in an attempt 6 to identify mitigation measures that they believe would 7 be effective in reducing any -- the -- the anticipated 8 impacts, but we believe that they will -- there -- 9 there is insufficient mitigation that we have been able 10 to identify to reduce these impacts to a level of 11 nonsignificance, and we believe that there will be 12 significant impacts to traditional cultural properties 13 due to ground disturbance, physical alteration, loss of 14 access, and visual interference. 15 And for this resource in particular, the Yakama 16 Nation has provided a map of project components that 17 show which components will be impacted by TCPs and 18 identifies the number of TCPs that will be impacted by 19 each turbine. This map will not be included within the 20 publicly available EIS due to confidentiality concerns 21 but will be provided to the Council for the review 22 packet. 23 Next slide, please. 24 And to reiterate what -- what Ami said at the 25 start, we anticipate that the EIS will be issued by the</p>	<p style="text-align: right;">Page 44</p> <p>1 CHAIR DREW: Thank you very much for 2 a very comprehensive presentation. 3 When you speak about the November 29th meeting, 4 that is a special meeting -- is that not right? -- and 5 not our usual November meeting, Ms. Hafkemeyer? 6 MS. HAFKEMEYER: That is correct. 7 Staff will be noticing a special meeting on November 8 29th specifically for the purposes of answering Council 9 questions on their review of the final EIS and having 10 the subject matter experts available. 11 As Sean mentioned, we -- we have identified some 12 subject matter experts that are already scheduled to be 13 there, but if Council identify questions in their 14 review and they have specific subject matter experts 15 that they would like to get some more information from 16 or ask questions of, that would be helpful for us to -- 17 to include those people. 18 CHAIR DREW: And if I can just go 19 over one more time what our next steps are. Maybe 20 Ms. Bumpus can work with me on this so that we make it 21 clear for the public and for the Council members: That 22 we have deliberation on the adjudication, and that will 23 result in an order of findings and conclusions on the 24 information we gathered through the adjudicative 25 process.</p>
<p style="text-align: right;">Page 43</p> <p>1 end of October and be available to the Council at that 2 point. We will be giving a second presentation at the 3 November 29th Council meeting that will more 4 specifically address Council actions and the next steps 5 in the EFSEC process to follow Council review of the 6 EIS. 7 And Council members are encouraged to ask any 8 questions that they have either now or at the November 9 meeting, once they've had time to look at the EIS, and 10 EFSEC staff will be available to answer any questions 11 that they arrive at during their review of the EIS once 12 it is available to them outside of Council's scheduled 13 meetings. 14 One final note is that the -- the November 29th 15 meeting will include a -- several subject matter expert 16 guests from other agencies as -- to be available for 17 Council questions. And they have requested that, if 18 Council members identify questions that they have for 19 those subject matter experts prior to that November 20 29th meeting, they would appreciate EFSEC staff being 21 available -- or being able to transmit those questions 22 to them so they can more comprehensively answer -- 23 answer those questions. 24 But at this point, I'm available to answer any 25 questions that you have based on this presentation.</p>	<p style="text-align: right;">Page 45</p> <p>1 In the SEPA process, we have the -- the conclusion 2 of the final environmental impact statement which goes 3 through you, Ms. Bumpus, as the SEPA responsible 4 official. 5 What we do with this information as a Council is 6 we take the information from this as well as the 7 adjudication to form our recommendation to the 8 governor. Is that true? 9 MS. BUMPUS: That's correct. 10 CHAIR DREW: Does the Council have 11 questions about that, or is that clear? Okay. 12 Are there questions from Council members at this 13 point in time? I know there's a lot to chew on, so... 14 I would also say that you can also reach out to 15 EFSEC staff -- Ms. Bumpus, Ms. Hafkemeyer, Mr. Greene 16 primarily -- on the FEIS if you have questions you'd 17 like to ask them to clarify. 18 MS. HAFKEMEYER: Ms. Moon is also 19 very knowledgeable about the project and is available 20 for questions, just not this week. 21 CHAIR DREW: Okay. She does deserve 22 a minute or two off. 23 Sure. Go ahead. Mr. Levitt. 24 MR. LEVITT: Yeah, I guess I just 25 want to ask one question based on the presentation. It</p>

<p style="text-align: right;">Page 46</p> <p>1 says, "Ongoing engagement with affected tribes to 2 identify appropriate mitigation measures that could 3 include the demarcation of culturally sensitive areas 4 to be avoided..."</p> <p>5 That one's just interesting to me, 'cause it seems 6 like we've heard from people that tribes would prefer 7 the culturally sensitive areas not be easily 8 identified. So if you demarcate them, then other 9 people can know where they are.</p> <p>10 MR. GREENE: Yeah, that -- that's 11 absolutely a good point. That is why no geographic -- 12 geographical data that we have available for 13 traditional cultural properties is being shared within 14 the publicly available EIS. That mitigation measure is 15 intended to ensure that EFSEC, the applicant, and 16 affected tribes continue coordination throughout the 17 life of the project and prior to construction.</p> <p>18 If the identification of no-go zones is something 19 that the tribes are interested in -- and which, as you 20 point out, would necessarily involve the -- the 21 disclosure of the location of those -- those cultural 22 resources -- that is something that we want to be 23 available for discussion. I don't know if it is 24 practicable, but we are retaining it there as an 25 option.</p>	<p style="text-align: right;">Page 48</p> <p>1 project area. So I don't want to give out any 2 geographical information. But any reduction that was 3 proposed by the applicant would, to some degree or 4 another, benefit or reduce TCP impacts.</p> <p>5 MR. YOUNG: Okay. Thanks.</p> <p>6 And then I'm going to defer to Shona Voelckers, 7 and then I'll -- I'll return with my next two 8 questions.</p> <p>9 CHAIR DREW: We're taking questions 10 only from Council members.</p> <p>11 MR. YOUNG: Okay. Then -- then I'll 12 proceed.</p> <p>13 The next two questions I have are more related to 14 the FEIS.</p> <p>15 In the cumulative impacts assessment, one of the 16 lines of testimony that the Council heard during the 17 adjudicative proceedings was around landscape-level 18 impacts to the way that air flows, velocities and air 19 flow patterns.</p> <p>20 Was any of this taken into account in the final 21 EIS in the terms of cumulative impacts and how 22 development of one particular area could impact the 23 quality and the availability of air and wind in other 24 parts of the landscape?</p> <p>25 MR. GREENE: I don't know that it</p>
<p style="text-align: right;">Page 47</p> <p>1 MR. LEVITT: Okay. Thank you.</p> <p>2 MR. YOUNG: Chair -- Chair Drew, 3 this is Lenny Young.</p> <p>4 If I may, Sean, I've got three questions for you, 5 one that pertains to the post-adjudication changes to 6 the ASC and then two that per- -- pertain to the final 7 EIS.</p> <p>8 As to the first: Were there any post- 9 adjudications to the ASC that expressly addressed 10 traditional cultural property concerns raised by the 11 Yakama Nation?</p> <p>12 MR. GREENE: There was nothing 13 specifically that addressed those concerns. I would 14 note that the reductions that were proposed in the 15 project layout, one of the resources that was discussed 16 as potentially benefitting from those reductions was 17 cultural and historic resources. To this point, I -- I 18 don't believe that the applicant has been made aware of 19 the exact geographical location of TCPs of concern.</p> <p>20 MR. YOUNG: Okay. And so was there 21 any specific correlation between any of the 22 post-adjudication changes and areas in which concern 23 about TCPs had been expressed?</p> <p>24 MR. GREENE: I -- I can say that TCP 25 concerns cover the -- almost the entirety of the</p>	<p style="text-align: right;">Page 49</p> <p>1 has at this point. I know that we are still developing 2 Chapter 5, which is a cumulative impacts chapter, so we 3 can look at incorporating that if it is not already in.</p> <p>4 MR. YOUNG: Great. Thank you.</p> <p>5 And then my -- my last question is: In terms of 6 the -- the new aspect of the analysis around impacts to 7 the wine industry, I wanted to see whether impacts to 8 the wine industry in terms of the growing and the 9 production and manufacturing of wine, were those 10 distinguished from impacts to the wine tourism 11 industry? Because it strikes me that perhaps impacts 12 might be slightly different between or somewhat 13 different between those two -- two specific areas, wine 14 production versus wine tourism.</p> <p>15 MR. GREENE: Yeah, you're -- you are 16 correct. The agricultural lands that are targeted for 17 this project do not, to my knowledge, include any 18 active vineyards. The new analysis that was included 19 within the FEIS was really more focused on the 20 ecotourism industry and the -- and the socioeconomic 21 impacts associated with that.</p> <p>22 MR. YOUNG: Great. I think that 23 might be significant in terms of whether -- whether we 24 consider it more in the realm of socioeconomic impacts 25 versus impacts to the practice of agriculture.</p>

<p style="text-align: right;">Page 50</p> <p>1 And thank you for your responses. I'm done.</p> <p>2 CHAIR DREW: Are there additional</p> <p>3 questions from Council members?</p> <p>4 MR. LIVINGSTON: Yeah. Chair Drew,</p> <p>5 this is Mike Livingston.</p> <p>6 CHAIR DREW: Go ahead.</p> <p>7 MR. LIVINGSTON: I have a question</p> <p>8 for Sean Greene.</p> <p>9 With the two-mile buffer that's being instituted</p> <p>10 around ferruginous hawk nests, do you -- do you have a</p> <p>11 number for me as to how many would be -- that would be</p> <p>12 applied to?</p> <p>13 CHAIR DREW: How many turbines? Is</p> <p>14 that your question, Mr. Livingston? No.</p> <p>15 MR. LIVINGSTON: No.</p> <p>16 CHAIR DREW: How many --</p> <p>17 MR. LIVINGSTON: The -- how many --</p> <p>18 how many nest sites.</p> <p>19 CHAIR DREW: Okay.</p> <p>20 MR. LIVINGSTON: Or territories.</p> <p>21 What -- I -- what is the metric first? I guess that's</p> <p>22 clarification. Is it territories, or is it nest sites?</p> <p>23 And then how many? Thank you.</p> <p>24 MR. GREENE: Sure. So a lot of this</p> <p>25 is outlined in our Chapter 3 and 4 discussion of</p>	<p style="text-align: right;">Page 52</p> <p>1 opportunity to also go into more depth with agency</p> <p>2 experts during the 29th meeting as well.</p> <p>3 So thank you, Council members, for your very good</p> <p>4 questions.</p> <p>5 And at this point in time, we will be moving on</p> <p>6 to -- and thank you, Sean, for your excellent</p> <p>7 presentation.</p> <p>8 And we will be moving on, then, to the Badger</p> <p>9 Mountain project update. Ms. Snarski.</p> <p>10 MS. SNARSKI: Yes. Thank you, Chair</p> <p>11 Drew. And good afternoon, Council members. For the</p> <p>12 record, this is Joanne Snarski, the siting specialist</p> <p>13 for Badger Mountain Solar.</p> <p>14 Progress continues to be made on the development</p> <p>15 of the draft environmental impact statement for the</p> <p>16 proposed Badger Mountain Solar project. At the</p> <p>17 previous Council meeting, staff identified that we</p> <p>18 would be conducting additional cultural resource survey</p> <p>19 work, and we are working with our consultant, WSP, to</p> <p>20 prepare for this activity.</p> <p>21 EFSEC and WSP have finalized a contract for the</p> <p>22 additional survey, and it appears they may be able to</p> <p>23 complete the work before the snow is on the ground. We</p> <p>24 anticipate the findings of the survey will be</p> <p>25 incorporated into the draft environmental impact</p>
<p style="text-align: right;">Page 51</p> <p>1 wildlife. But we have used historical docu- --</p> <p>2 historically documented ferruginous hawk nests as the</p> <p>3 baseline in addition to those nests that were</p> <p>4 identified during the, at this point, I believe five</p> <p>5 years of surveys performed by the applicant. We have</p> <p>6 also included his- -- historic nesting habitat.</p> <p>7 And any -- any -- any location where a nest has</p> <p>8 been documented at any point is considered -- is what</p> <p>9 we are considering a potentially active ferruginous</p> <p>10 hawk nest. So every historically documented nest is</p> <p>11 given that two-mile buffer, which then leads to that --</p> <p>12 that discussion of, if we can come to a understanding</p> <p>13 that the habitat in the area is no longer viable and</p> <p>14 that nest is no longer present, then there could</p> <p>15 potentially be project actions within that buffer with</p> <p>16 additional mitigation. But any -- any place where we</p> <p>17 have ever identified a nest is considered as part of</p> <p>18 that mitigation.</p> <p>19 MR. LIVINGSTON: Thank you.</p> <p>20 MR. GREENE: Oh. And I'm sorry. I</p> <p>21 think you asked for a number. I -- I don't have the</p> <p>22 exact number. I think it's around 60, but somewhere</p> <p>23 around there.</p> <p>24 CHAIR DREW: And we will have that</p> <p>25 information at the end of the month and then the</p>	<p style="text-align: right;">Page 53</p> <p>1 statement.</p> <p>2 That's it. And do you have any questions?</p> <p>3 CHAIR DREW: No. But I'm happy to</p> <p>4 hear that, and we'll keep our fingers crossed that we</p> <p>5 can do that. Thank you, Ms. Snarski.</p> <p>6 MS. SNARSKI: Yeah. Yeah.</p> <p>7 CHAIR DREW: Okay. We are now</p> <p>8 moving on to the Wautoma Solar project. Mr. Caputo.</p> <p>9 MR. CAPUTO: Thank you, Chair Drew</p> <p>10 and Council members. The applicants for the Wautoma</p> <p>11 Solar energy project recently sub- -- I'm sorry? --</p> <p>12 recently submitted the final supplemental cultural</p> <p>13 resource survey requested by EFSEC and the Department</p> <p>14 of Archaeology and Historic Preservation. We are</p> <p>15 presently reviewing the report for compliance in</p> <p>16 coordination with DAHP and the Yakama Nation cultural</p> <p>17 staff. After we have concurrence from DAHP, we will</p> <p>18 prepare a SEPA threshold determination.</p> <p>19 May I answer any questions?</p> <p>20 CHAIR DREW: Are there any questions</p> <p>21 about the project update?</p> <p>22 MR. CAPUTO: And I do have one more</p> <p>23 statement.</p> <p>24 CHAIR DREW: From the -- for the</p> <p>25 extension request.</p>

<p>Page 54</p> <p>1 MR. CAPUTO: Yes.</p> <p>2 In your information packets, you'll find a request</p> <p>3 by the applicants for an extension of their application</p> <p>4 till June 28th, 2024. Staff have coordinated with the</p> <p>5 applicant on the timeline. We did not receive any</p> <p>6 public comments on the extension. Therefore, staff</p> <p>7 recommends the Council approve the applicant's request.</p> <p>8 Thank you.</p> <p>9 CHAIR DREW: Thank you.</p> <p>10 Are there any questions from Council members about</p> <p>11 the extension request? You see that in front of you</p> <p>12 and received it in the information for the meeting. An</p> <p>13 extension request until -- now I'm not finding it --</p> <p>14 June 28th, 2024. Thank you. Okay. First sentence</p> <p>15 there.</p> <p>16 So any questions for Mr. Caputo on that, or any</p> <p>17 comments from Council members?</p> <p>18 Okay. Is there a motion to approve the extension</p> <p>19 request for the Wautoma Solar application to June 28th,</p> <p>20 2024?</p> <p>21 MR. YOUNG: Lenny Young. So moved.</p> <p>22 CHAIR DREW: Thank you.</p> <p>23 Second?</p> <p>24 MS. BREWSTER: Stacey Brewster.</p> <p>25 Second.</p>	<p>Page 56</p> <p>1 for Mr. Barnes?</p> <p>2 You-all did receive the legal advice memo. And</p> <p>3 the motion would be to direct the staff to draft an</p> <p>4 order determining the land use to be inconsistent and</p> <p>5 setting the matter for adjudication.</p> <p>6 Are there any questions either for Mr. Barnes or</p> <p>7 for our AAG?</p> <p>8 Okay. Hearing none.</p> <p>9 Is there a motion to direct the staff to draft an</p> <p>10 order determining land use to be inconsistent and</p> <p>11 setting the matter for adjudication?</p> <p>12 MS. BREWSTER: Stacey Brewster. So</p> <p>13 moved.</p> <p>14 CHAIR DREW: Thank you.</p> <p>15 MR. YOUNG: Lenny Young. Second.</p> <p>16 CHAIR DREW: Thanks.</p> <p>17 Discussion?</p> <p>18 All those in favor, say "aye."</p> <p>19 MULTIPLE SPEAKERS: Aye.</p> <p>20 CHAIR DREW: Opposed?</p> <p>21 Motion carries.</p> <p>22 Carriger Solar update. Ms. Snarski.</p> <p>23 MS. SNARSKI: Hello again. Thank</p> <p>24 you, Chair Drew and Council members. For the record,</p> <p>25 this is Joanne Snarski, the siting specialist for</p>
<p>Page 55</p> <p>1 CHAIR DREW: Thank you.</p> <p>2 Is there any discussion?</p> <p>3 All those in favor, please say "aye."</p> <p>4 MULTIPLE SPEAKERS: Aye.</p> <p>5 CHAIR DREW: Opposed?</p> <p>6 Motion is adopted. Thank you.</p> <p>7 We are now moving on to the Hop Hill Solar Project</p> <p>8 update. Mr. Barnes.</p> <p>9 MR. BARNES: Thank you, Chair Drew</p> <p>10 and Council members. For the record, this is John</p> <p>11 Barnes, EFSEC staff, for the Hop Hill application</p> <p>12 update for September.</p> <p>13 We are continuing to coordinate and review the</p> <p>14 application with our contract and contracted agencies</p> <p>15 and tribal governments. We are anticipating receiving</p> <p>16 supplemental information in the coming weeks.</p> <p>17 A land-use consistency legal advice memo has been</p> <p>18 drafted by our assistant attorney general and has been</p> <p>19 provided for you in the October Council packet. At</p> <p>20 this time, we would like to request the Council to</p> <p>21 direct the staff to prepare an order of inconsistency</p> <p>22 with which the Council would then review and vote on at</p> <p>23 the November meeting.</p> <p>24 Are there any questions?</p> <p>25 CHAIR DREW: Are there any questions</p>	<p>Page 57</p> <p>1 Carriger Solar.</p> <p>2 EFSEC staff continue to work with the Carriger</p> <p>3 Solar applicant to address anticipated visual impacts</p> <p>4 to the proposed project. In accordance with</p> <p>5 RCW 80.50.090, Sub 3, Sub a, the applicant is allowed</p> <p>6 to provide clarification to make changes to the</p> <p>7 proposal to mitigate the anticipated environmental</p> <p>8 impacts.</p> <p>9 We are currently in the process of evaluating the</p> <p>10 needs for supplemental visual simulations to help us</p> <p>11 better understand the potential impacts. These new</p> <p>12 simulations will lead to further potential mitigation</p> <p>13 discussions and will result in a formal written</p> <p>14 response to our initial SEPA determination of</p> <p>15 significance by the applicant.</p> <p>16 I can answer any questions.</p> <p>17 CHAIR DREW: Yes. If you could, the</p> <p>18 visual simulations, are they being conducted by the</p> <p>19 applicant?</p> <p>20 MS. SNARSKI: Correct. Well,</p> <p>21 their -- their consultant. But, yes, we are working --</p> <p>22 CHAIR DREW: Their consultant.</p> <p>23 MS. SNARSKI: Correct. Yeah.</p> <p>24 CHAIR DREW: And then we --</p> <p>25 MS. SNARSKI: But we work --</p>

<p style="text-align: right;">Page 58</p> <p>1 CHAIR DREW: -- reviewed -- right. 2 And then reviewed by our staff. Okay. 3 MS. SNARSKI: Correct. Yes. 4 CHAIR DREW: And our consultants as 5 well. 6 MS. SNARSKI: Yes. 7 CHAIR DREW: And -- thank you. Just 8 to clarify that I heard that correctly. 9 Any other questions from Council members? 10 Okay. Thank you for your report. 11 We'll move on to the second-quarter cost 12 allocation. Ms. Bumpus. 13 MS. BUMPUS: Thank you. Good 14 afternoon, Chair Drew and Council members. 15 As we do at the beginning of each quarter, I have 16 the second-quarter cost allocations to report to the 17 Council. So I'll just go through and read off these 18 percentages. 19 For Kittitas Valley: We have 4 percent. 20 Wild Horse: 4 percent. 21 Columbia Generating Station: 20 percent. 22 Columbia Solar: 4 percent. 23 WNP-1: 2 percent. 24 Whistling Ridge: 3 percent. 25 Grays Harbor 1 and 2: 6 percent.</p>	<p style="text-align: right;">Page 60</p> <p>1 STATE OF WASHINGTON) I, John M.S. Botelho, CCR, RPR,) ss a certified court reporter 2 County of Pierce) in the State of Washington, do hereby certify: 3 4 5 That the foregoing Monthly Meeting of the Washington State Energy Facility Site Evaluation Council was conducted in my presence and adjourned on October 18, 2023, and 6 thereafter was transcribed under my direction; that the transcript is a full, true and complete transcript of the 7 said meeting, transcribed to the best of my ability; 8 That I am not a relative, employee, attorney or counsel of any party to this matter or relative or employee of any 9 such attorney or counsel and that I am not financially interested in the said matter or the outcome thereof; 10 11 IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of November, 2023. 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <hr/> <p>/s/ John M.S. Botelho, CCR, RPR Certified Court Reporter No. 2976 (Certification expires 5/26/2024.)</p>
<p style="text-align: right;">Page 59</p> <p>1 Chehalis: 6 percent. 2 Desert Claim: 4 percent. 3 Goose Prairie Solar: 4 percent. 4 Horse Heaven Wind Farm: 15 percent. 5 Badger Mountain: 6 percent. 6 Cypress Creek Renewables: 4 percent. 7 Wautoma: 6 percent. 8 Hop Hill: 6 percent. 9 And Carriger: Also 6 percent. 10 CHAIR DREW: Thank you. 11 MS. BUMPUS: And that concludes the 12 update on the cost allocation. 13 CHAIR DREW: Thank you. 14 And with that, our agenda is concluded. Thank 15 you, all, for your participation. 16 The meeting is adjourned. 17 (Meeting adjourned at 18 2:37 p.m.) 19 20 21 22 23 24 25</p>	

EFSEC Monthly Council Meeting – Facility Update Format

Facility Name: Kittitas Valley Wind Power Project

Operator: EDP Renewables

Report Date: November 2, 2023

Reporting Period: October 2023

Site Contact: Eric Melbardis, Sr Operations Manager

Facility SCA Status: Operational

Operations & Maintenance (only applicable for operating facilities)

- Power generated: 11055 MWh
 - Wind speed: 4.4 m/s
 - Capacity Factor: 15%
-

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: November 2, 2023
Report Period: October 2023
Site Contact: Jennifer Galbraith
SCA Status: Operational

Operations & Maintenance

October generation totaled 29,430 MWh for an average capacity factor of 14.51%.

Environmental Compliance

The general elk hunting season began on Oct 28 and runs through Nov 5. In accordance with the Wild Horse Hunting Plan additional security measures have been implemented to help ensure the safety and security of hunter's, the general public, wind project personnel, and wind project facilities.

Safety Compliance

Kittitas County Fire Marshall conducted the annual Fire Life and Safety Inspection on 10/16/23. No violations were identified (see inspection report attached).

Current or Upcoming Projects

Nothing to report.

Other

Nothing to report.



Kittitas County
411. Ruby St., Suite 2, Ellensburg, WA 98926
509-962-7000
www.co.kittitas.wa.us/cds/firemarshal
pat.nicholson@co.kittitas.wa.us

Fire Life Safety Certificate of Compliance

Located at: Wild Horse Wind Facility
25901 Vantage Highway
Ellensburg, WA. 98926

Date Issued: 10/16/2023

This letter certifies that the above business has been inspected by the Fire Marshal's office and is in compliance with Fire, Life, and Safety requirements according to Kittitas County Code and the International Fire Code.

This certification expires one (1) year from the date of issue.

A handwritten signature in red ink, appearing to read "Marvin Douvier".

Marvin Douvier
Deputy Fire Marshal
509-962-7657
marvin.douvier.sh@co.kittitas.wa.us

EFSEC Monthly Council Meeting – Facility Update

Facility Name: Chehalis Generation Facility
Operator: PacifiCorp
Report Date: November 2, 2023
Reporting Period: October 2023
Site Contact: Jeremy Smith, Maintenance 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.

- 274,401 net MW-hrs. generated in the reporting period for a capacity factor of 74.75%

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

Environmental Compliance

-Monthly Water Usage: 4,855,268 gallons

-Monthly Wastewater Returned: 1,527,124 gallons

-Permit status if any changes.

- No changes.

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

- Nothing to report

-Any EFSEC-related inspections that occurred.

- Nothing to report

-Any EFSEC-related complaints or violations that occurred.

- Nothing to report

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

- Quarterly Title V Air Emissions Report
- Quarterly Waste Water Discharge Monitoring Report

Safety Compliance

-Safety training or improvements that relate to SCA conditions.

- Zero injuries this reporting period for a total of 3014 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,



Jeremy Smith
Gas Plant Maintenance Manager
Chehalis Generation Facility

EFSEC Monthly Council Meeting – Facility Update

Facility Name: Grays Harbor Energy Center

Operator: Grays Harbor Energy LLC

Report Date: November 15, 2023

Reporting Period: October 2023

Site Contact: Chris Sherin

Facility SCA Status: Operational

Operations & Maintenance

-GHEC generated 431,391MWh during the month and 3,069,711MWh YTD.

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

Environmental Compliance

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

-Routine monthly, quarterly, and annual reporting to EFSEC Staff.

- Monthly Outfall Discharge Monitor Report (DMR).
- Quarterly Stormwater Discharge Monitor Report (DMR).
- Quarterly Air Emissions Data Report (EDR).

-Submitted revised Annual RATA Results to EFSEC staff and ORCAA.

-Submitted an Initial Site Restoration Plan (ISRP) update to EFSEC staff.

Safety Compliance

- None.

Current or Upcoming Projects

- Application for a Modification to the Air Operating Permit submitted to EFSEC in April 2022.

GHEC is currently authorized to operate under PSD Permit EFSEC/2001-01, Amendment 5 and Federal Operating Permit EFSEC/94-1 AOP Initial.

Other

-None.

EFSEC Monthly Council Meeting Facility Update

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

Operator: Tuusso Energy, LLC

Report Date: November 2, 2023

Reporting Period: 30 days ending October 31, 2023

Site Contact: Thomas Cushing

Facility SCA Status: Construction

Construction Status

- Penstemon
 - Currently operational
 - Total Generation during the month of August was 713 Megawatt hours
 - Camas
 - Currently operational
 - Total Generation during the month of August was 660 Megawatt hours
 - Urtica
 - Currently operational
 - Total Generation during the month of August was 738 Megawatt hours
-

EFSEC Monthly Council Meeting

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

Operator: **Energy Northwest**

Report Date: **November 15, 2023**

Reporting Period: **October 2023**

Site Contact: **Felicia Najera-Paxton**

Facility SCA Status: **Operational**

CGS Net Electrical Generation October 2023: **825,759 Mega Watt-Hours.**

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

Environmental Compliance:

No non-routine items to report.

Safety Compliance

Washington State Fire Marshal has scheduled a follow-up inspection of the Industrial Development Complex and Columbia Generating Station buildings for November 27, 2023.

Current or Upcoming Projects

No update.

Other

No update.

EFSEC Monthly Council Meeting – Facility Update Format

Facility Name: Goose Prairie Solar

Operator: Brookfield Renewable US

Report Date: 11/6/23

Reporting Period: 10/7/23 to 11/6/23

Site Contact: Jacob Crist

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

Construction Status (only applicable for projects under construction)

-On schedule or not. If not, provide additional information/explanation.

1. Project is on schedule.

-Phase/Brief update on status/month in review.

1. Laydown yards have been constructed

2. Substation grading and foundations are complete

3. Control house has been delivered to site and BPA work is nearing completion

4. PV Array mainline roads are complete and feeder roads are now complete

5. PV Panels are arriving at the project

6. One MPT has arrived onsite and the other is scheduled to arrive in mid November for installation

7. Civil grading is complete. SWPPP basins are nearing completion.

8. Pile Driving and predrilling activities have commenced.

-Other?

Operations & Maintenance (only applicable for operating facilities)

-Energy generated for the reporting period.

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

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

Environmental Compliance

-Permit status if any changes.

1. The SWPPP Plan is being modified in anticipation of being submitted to EFSEC within the next few weeks.

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

-Any EFSEC-related inspections that occurred.

1. Frequent Monitoring is occurring through WSP with no findings reported to date.

-Any EFSEC-related complaints or violations that occurred.

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

Safety Compliance

-Safety training or improvements that relate to SCA conditions.

Current or Upcoming Projects

-Planned site improvements.

-Upcoming permit renewals.

-Additional mitigation improvements or milestones.

Other

- Current events of note (e.g., Covid response updates, seasonal concerns due to inclement weather, etc.).
- 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).
- Public outreach of interest (e.g., schools, public, facility outreach).
 1. **PCL donated 6 defib units to the Moxee Police Department and Brookfield donated \$7,000 to the city of Moxee to finish their park lighting project. Donation ceremony was held on Nov first with attendance from EFSEC Chair Kathleen Drew and WSP Lead Jeremy Paris.**

High Top and Ostrea Solar Project

November 2023 project update

[Place holder]

Whistling Ridge Energy Project

November 2023 project update

[Place holder]

Desert Claim Wind Power Project

November 2023 project update

[Place holder]

**SITE CERTIFICATION AGREEMENT BETWEEN
THE STATE OF WASHINGTON AND
DESERT CLAIM WIND POWER LLC**



**For the
DESERT CLAIM WIND POWER PROJECT
KITITAS COUNTY, WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL
OLYMPIA, WASHINGTON**

EXECUTED November XX, 2023

**Amendment No. 2: Resolution No. 353
Date October 18, 2023**

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Attachments

1. Project Legal Description
2. Council Order No. 843, Order Recommending Approval of Site Certification on Condition entered November 16, 2009.
3. Stipulation between Counsel for the Environment and Desert Claim Wind Power LLC, Exhibit 30 in the adjudicative proceeding.
4. Agreement between Washington Department of Fish and Wildlife (WDFW) and Desert Claim Wind Power LLC, Exhibit 20 in the adjudicative proceeding.
5. Council Resolution No. 343, approval of the February 26, 2018 SCA Amendment Request.
6. Council Resolution No. 353, approval of the May 5, 2023 SCA Amendment Request.

SITE CERTIFICATION AGREEMENT
FOR THE DESERT CLAIM WIND POWER PROJECT
between
THE STATE OF WASHINGTON
and
DESERT CLAIM WIND POWER LLC.

This Site Certification Agreement (Agreement) is made pursuant to Revised Code of Washington (RCW) 80.50, by and between the State of Washington, acting by and through the Governor of Washington State, and Desert Claim Wind Power LLC, (Desert Claim or Certificate Holder).

Desert Claim filed, as permitted by law, an application with the Energy Facility Site Evaluation Council (EFSEC or Council) for site certification for the construction and operation of a wind powered generation facility to be located in Kittitas County, Washington. The Council reviewed Application 2006-02, conducted public meetings and adjudicative hearings, and by order recommended approval of the application by the Governor. On February 2, 2010, the Governor approved the Site Certification Agreement (SCA) authorizing Desert Claim to construct and operate the Desert Claim Wind Power Project (Project). A request for Amendment to the SCA was submitted to EFSEC on February 26, 2018 (Amendment Request).¹ On November 13, 2018, the Council approved Amendment No. 1 by resolution No. 343 (Attachment 5). On October 18, 2023, the Council approved Amendment No. 2 by resolution 353.

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

¹ The original Desert Claim proposal was first reviewed by Kittitas County (the County) in 2005, prior to Desert Claim's application to EFSEC. At that time, the County conducted an environmental review that resulted in preparation of a Final Environmental Impact Statement (FEIS). In April 2005, the County denied the project as it had been proposed. In January 2009, the project was reconfigured and Desert Claim submitted a revised application (Revised Application) for Site Certification to EFSEC. On February 2, 2010 the Revised Project was approved. An SCA Amendment request was submitted to EFSEC on February 26, 2018 to further revise the project.

ARTICLE I: SITE CERTIFICATION

A. Site Description

The site on which the Desert Claim Wind Power Project (Project) is to be constructed and operated is located in unincorporated Kittitas County, and is described more particularly in Attachment 1 to this Agreement.

B. Site Certification

The State of Washington hereby authorizes Desert Claim Wind Power LLC (Desert Claim or Certificate Holder), any and all parent companies, and any and all assignees or successors approved by the Council to construct and/or operate the Project, as described in Article I.A. of this Agreement, subject to the terms and conditions set forth in Council Order No. 843, Council Order Recommending Site Certification on Condition (Attachment 2 to this Agreement), Council Resolution No. 353, and this Site Certification Agreement.

The construction and operation authorized in this Agreement shall be located within the areas designated herein and in the Amendment Request.

This Site Certification Agreement authorizes the Certificate Holder to construct the Project such that Substantial Completion is achieved no later than November 13, 2028; provided, however, that such construction is not delayed by a force majeure event, and that the construction schedule that the Certificate Holder submits pursuant to Article IV.K of this Agreement demonstrates its intention and good faith basis to believe that construction shall be completed within eighteen (18) months of beginning Construction.

The Certificate Holder may begin Commercial Operation of some wind turbine generators prior to completing construction of all wind turbine generators and other Project components, provided all necessary Project elements are in place for safe operation of the completed wind turbine generators and their operation will not adversely affect any obligations under this Agreement.

C. Project Description

The Desert Claim Wind Power Project will consist of: wind turbine generators (WTGs); permanent meteorological towers; access roadways; electrical collection/interconnection and communication systems and their respective corridors and rights of way; electrical step-up and interconnection substations; an operations and maintenance (O&M) facility; temporary construction-related facilities; other related Project facilities as described in the Amendment Request.

The location of Project facilities including, but not limited to, the turbines, roadways, electrical collection and distribution system, operations and maintenance facility, electrical substations, electrical feeder lines and other related Project facilities, is generally described in the Amendment Request. The final location of the WTGs and other project facilities within the Project Area may vary from the locations shown on the conceptual drawings in the Amendment

Request, but shall be consistent with the conditions of this Agreement and in accordance with the final construction plans approved by EFSEC pursuant to Article IV. L.

1. Wind Turbine Generators (WTGs). The Project shall consist of a maximum of thirty-one (31), 3-bladed wind turbines on tubular steel towers, not to exceed a maximum height (hub height plus blade tip height) of 150 meters (492 feet), with a capacity ranging from 2.0 to 4.2 megawatts (MW). The total capacity for the project will not exceed 100 MW. The WTGs will be equipped with turbine control, safety and braking systems, and will be interconnected to a central Supervisory Control and Data Acquisition (SCADA) system.
2. Meteorological Towers. The Project will include up to four (4) free-standing (non-guyed) permanent meteorological towers. The height of the meteorological towers shall not exceed the hub height of the WTGs selected.
3. Internal Access Roads. The Project will include approximately twenty (20) miles of internal roads for access to the WTGs and other Project facilities.
4. Electrical Collection/Interconnection and Communication Systems.
 - a) Collector System. The electrical output of the WTGs will be collected and transmitted to the Project Substation via a system of underground and overhead electric cables. Fiber optic or copper communication wires will also link the individual WTGs to a central computer monitoring system.
 - b) Project Step-Up Substation(s). Power from the Project will be collected and fed to the Puget Sound Energy (PSE) or the Bonneville Power Administration (BPA) high voltage transmission lines through a Project step-up substation. The step-up substation would connect to the respective PSE or BPA interconnect.
 - c) Interconnecting Transmission Systems. The Project will interconnect with the BPA and/or PSE transmission systems on or adjacent to the Project site.
5. Operations and Maintenance Facility.
 - a) The Operations and Maintenance (O&M) facility will include a main building with offices, restrooms, reception area, outdoor parking facilities, turn-around area, laydown area, outdoor lighting and gated access. The O&M facility building will have a foundation footprint of approximately 5,000 sq. ft. and will be placed on a site of approximately four (4) acres.
 - b) The O&M facility will include a permit-exempt well (withdrawing less than 5,000 gallons of water per day) for water supply. Sanitary wastewater from the maintenance facility will be discharged to an on-site septic system.
6. Turbine Setbacks.

Turbines shall meet the following setback requirements:

- Setback from occupied residences = 2,500 feet
- Setback from external Project Area boundaries = 1.25 x tip height
- Setback from road and transmission line rights of way = 1.25 x tip height
- Setback from barns and buildings = tip height

For purposes of this Article, “residence” means the primary physical structure on a residential lot utilized as a single family home; the term includes the entire structure within the main walls and the eaves of the roof, but does not include uncovered decks, uncovered patios, or outbuildings.

Distance shall be measured horizontally from the centerline of the turbine tower to the outermost envelope of the residence considered, or to the outermost edge of the road or other feature considered.

ARTICLE II: DEFINITIONS

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

1. “Amendment Request” means the request for amendment submitted by Desert Claim Wind Power on February 26, 2018.
2. “Amendment No. 1” means this formal written agreement, as amended and approved by Council Resolution No. 343.
3. “Application” means the *Application for Site Certification: Desert Claim Wind Power Project*, designated No. 2006-02, submitted November 6, 2006, as supplemented in the Revised Application filed in February 2009.
4. “Approval” (by EFSEC) means an affirmative action by EFSEC or its authorized agents regarding documents, plans, designs, programs, or other similar requirements submitted pursuant to this Agreement.
5. “Begin Commercial Operation” or “Beginning of Commercial Operation” means the time when the Project begins generating and delivering electricity to the electric power grid, other than electricity that may delivered as a part of testing and startup of the Project.
6. “BMPs” means Best Management Practices.
7. “Bonneville” or “BPA” means Bonneville Power Administration.
8. “Certificate Holder” means Desert Claim Wind Power LLC, any and all parent company(ies), or an assignee or successor in interest authorized by the Council.
9. “CFE” means the Counsel for the Environment serving by appointment pursuant to RCW 80.50.080.

10. “Construction” means any of the following activities: any foundation construction including hole excavation, form work, rebar, excavation and pouring of concrete for the WTGs, the operations and maintenance facility building, or the substations and erection of any permanent, above-ground structures including any transmission line poles, substation poles, meteorological towers, or turbine towers.
11. “County” means Kittitas County, Washington.
12. “DAHP” means the Washington State Department of Archeology and Historic Preservation.
13. “Desert Claim Wind Power Project” or “Project” means: wind turbine generators (WTGs) and their construction areas; permanent meteorological towers; access roadways; electrical collection/interconnection and communication systems and their respective corridors and rights-of-way; electrical step-up and interconnection substations; an operations and maintenance facility; temporary construction-related facilities; other related Project facilities as described in the Revised Application. The specific components of the Project are identified in Article I.0.
14. “DNR” means the Washington State Department of Natural Resources.
15. “Ecology” means the Washington State Department of Ecology.
16. “EFSEC” or “Council” means the State of Washington Energy Facility Site Evaluation Council, or such other agency or agencies of the State of Washington as may hereafter succeed to the powers of EFSEC for the purposes of this Agreement.
17. “EFSEC Costs” means any and all reasonable costs, both direct and indirect, associated with EFSEC activities with respect to this Site Certification Agreement (SCA), including but not limited to monitoring, staffing and SCA maintenance.
18. “EIS” or “Final EIS” means the Desert Claim Wind Power Project Final Environmental Impact Statement (August 2004) issued by Kittitas County pursuant to the requirements of the State Environmental Policy Act, and adopted by EFSEC.
19. “End of Construction” means the time when all Project facilities have been substantially constructed and are in operation.
20. “FAA” means the Federal Aviation Administration.
21. “Force Majeure Event” means any event beyond the control of the Party affected that directly prevents or delays the performance by that Party of any obligation arising under this Agreement, including an event that is within one or more of the following categories: condemnation; expropriation; invasion; plague; drought; landslide; tornado; hurricane; tsunami; flood; lightning; earthquake; fire; explosion; epidemic; quarantine; war (declared or undeclared), terrorism or other armed conflict; material physical damage to the Project caused by third parties; riot or similar civil disturbance or commotion; other

acts of God; acts of the public enemy; blockade; insurrection, riot or revolution; sabotage or vandalism; embargoes; and, actions of a governmental authority other than EFSEC.

22. “IBC” means the International Building Code.
23. “Micro-siting” means the final technical and engineering process by which the Certificate Holder shall determine the final location of each wind turbine generator.
24. “NPDES permit” means National Pollutant Discharge Elimination System permit.
25. “PSE” means Puget Sound Energy.
26. “RCW” means the Revised Code of Washington.
27. “Revised Application” means the Desert Claim Wind Power Revised Application for Site Certification submitted on February 6, 2009.
28. “SEIS” or “FSEIS” (also “Supplemental EIS or “Final Supplemental EIS”) means the Desert Claim Wind Power Project Final Supplemental Environmental Impact Statement issued on November 6, 2009 by EFSEC pursuant to the requirements of the State Environmental Policy Act.
29. “SEPA Addendum” Means the Final Addendum to the Final Supplemental EIS issued on November 1, 2018 by EFSEC, pursuant to the requirements of the State Environmental Policy Act (SEPA).
30. “Site,” “Project Site” or “Project Area” means the approximately 4,400 acre property identified in Attachment 1, located in Kittitas County, on which the Project is to be constructed and operated.
31. “Site Certification Agreement,” “SCA” or “Agreement” means this formal written agreement between the Certificate Holder and the State of Washington, including all attachments hereto and exhibits, modifications, amendments, and documents incorporated herein.
32. “Site Preparation” means any of the following activities: Project Site clearing, grading, earth moving, cutting or filling, excavation, and preparation of roads and/or laydown areas.
33. “State” or “state” means the state of Washington.
34. “Substantial Completion” means the Project is generating and delivering energy to the electric power grid.
35. “TAC” means Technical Advisory Committee as described in Article IV.E.8.
36. “UBC” means the Uniform Building Code of 2015.
37. “WAC” means the Washington Administrative Code.

38. “WDFW” means the Washington Department of Fish and Wildlife.
39. “WSDOT” means the Washington State Department of Transportation.
40. “WTG” means wind turbine generator.

ARTICLE III: GENERAL CONDITIONS

A. Legal Relationship

1. This Agreement shall bind the Certificate Holder, and its successors in interest, and the State and any of its departments, agencies, divisions, bureaus, commissions, boards, and its political subdivisions, subject to all the terms and conditions set forth herein, as to the approval of, and all activities undertaken with respect to, the Project or the Site. The Certificate Holder shall ensure that any activities undertaken with respect to the Project or the Site by its agents (including affiliates), contractors, and subcontractors comply with this Agreement. The term “affiliates” includes any other person or entity controlling, controlled by, or under common control of or with the Certificate Holder.
2. This Agreement, which includes those commitments made by the Certificate Holder in the Revised Application, the Amendment Request, and in the testimony and exhibits in the Applicant’s direct case, the Certificate Holder’s Stipulation with Counsel for the Environment and its Agreement with the Washington Department of Fish and Wildlife (the Revised Application, the Stipulation and the Agreement are hereby incorporated by reference), constitutes the whole and complete agreement between the State of Washington and the Certificate Holder, and supersedes any other negotiations, representations, or agreements, either written or oral.

B. Enforcement

1. This Agreement may be enforced by resort to all remedies available at law or in equity.
2. This Agreement may be suspended or revoked by EFSEC pursuant to RCW 34.05 and RCW 80.50, for failure by the Certificate Holder to comply with the terms and conditions of this Agreement, for violations of RCW 80.50 and the rules promulgated thereunder or for violation of any applicable resolutions or orders of EFSEC.
3. When any action of the Council is required by or authorized in this Site Certification Agreement, the Council may, but shall not be legally obligated to, conduct a hearing pursuant to RCW 34.05.

C. Notices and Filings

Filing of any documents or notices required by this Agreement with EFSEC shall be deemed to have been duly made when delivery is made to EFSEC’s offices in Thurston County, by hand-delivery, first class mail, or by e-mail.

Notices to be served by EFSEC on the Certificate Holder shall be deemed to have been duly made when deposited in first class mail, postage prepaid, addressed to the Certificate Holder at General Counsel, 15445 Innovation Drive, San Diego, California 92128, with a copy to Perkins Coie LLP, Attention: Karen McGaffey, 1201 Third Avenue, Suite 4800, Seattle, Washington 98101.

D. Rights of Inspection

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

E. Retention of Records

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

F. Consolidation of Plans and Submittal to EFSEC

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

G. Site Certification Agreement Compliance Monitoring and Costs

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

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

H. Site Restoration

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

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

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

I. EFSEC Liaison

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

J. Changes in Project Management Personnel

The Certificate Holder shall notify EFSEC of any change in the primary management personnel, or scope of responsibilities of such personnel, for the Project.

K. Amendment of Site Certification Agreement

1. This Agreement may be amended pursuant to EFSEC rules and procedures applicable at the time of the request for amendment. Any requests by the Certificate Holder for amendments to this Agreement shall be made in writing.
2. No change in ownership or control of the Project shall be effective without prior Council approval pursuant to EFSEC rules and procedures.
3. Unless otherwise required by EFSEC, any change in the terms or conditions of the following Sections or Attachments to this Agreement shall not require amendment of this Site Certification Agreement in the manner prescribed in Section K.1 above: Attachment 1, Project legal description, provided the change does not result in a material alteration of the size or location of the Project.
4. Repair, maintenance and replacement of Project Facilities
 - a) The Certificate Holder is permitted, without any further amendment to this agreement, to repair and maintain Project Facilities described in Article I.C, including the WTGs, consistent with the terms of this Agreement.
 - b) The Certificate Holder is permitted to replace the WTGs without amendment to this Agreement provided the replacement meets the following conditions:

- (i) the WTG is being replaced with the same make and model WTG originally used in the Project (“Replacement Turbine”); or the WTG is being replaced with a wind turbine that is within the size limits and general configuration defined in Article I.C, Project Description (“Comparable Turbine”);
 - (ii) the Replacement Turbine or Comparable Turbine is located in the same location as the WTG being replaced; and
 - (iii) the Replacement Turbine or Comparable Turbine meets all other conditions set out in this Agreement.
 - c) The Certificate Holder shall notify EFSEC of the replacement of a WTG no later than thirty (30) days prior to the replacement occurring.
5. In circumstances where the Project causes a significant adverse impact on the environment not previously analyzed or anticipated by this Agreement, including wildlife impacts that significantly exceed projections anticipated in the Amendment Request, the Final EIS or Final SEIS, or where such impacts are imminent, EFSEC shall take all steps it deems reasonably necessary, including imposition of specific conditions or requirements on the Certificate Holder as a consequence of such a situation in addition to the terms and conditions of this Agreement. Such additional conditions or requirements initially shall be effective for not more than ninety (90) days, and may be extended once for an additional ninety (90) day period if deemed necessary by EFSEC to pursue ongoing, or continuing temporary, arrangements under other authority, including but not limited to RCW 34.05, RCW 80.50 RCW or Title 463 WAC.

L. Order of Precedence

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

- 1. Applicable federal and State of Washington statutes and regulations;
- 2. The body of this Site Certification Agreement, including any other provision, term or material incorporated herein by reference or otherwise attached to, or incorporated in, this Site Certification Agreement;
- 3. Representations in Applicant’s testimony and exhibits in the adjudicative proceeding in this matter;
- 4. The application of common sense to effect a result consistent with law and the principles effected in this document.

M. Review and Approval Process; Exceptions

- 1. Except for the Initial & Final Site Restoration Plans, prior to any site work, the Council may delegate to the EFSEC Manager authority to approve or deny the construction and

operational plans required by this Agreement. The EFSEC Manager shall ensure the construction and operational plans have been sufficiently reviewed prior to approval.

2. The Council Manager may allow temporary exceptions from plan requirements or provisions of the SCA when such exceptions are not contrary to the purposes of the SCA, provided that a record is kept and Council members are immediately notified. Any Council member may within seven days of the notice put the item on a Council meeting agenda for review.

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

A. Notice of Federal Permit Approvals

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

B. Mitigation Measures

During construction, operation, decommissioning, and site restoration of this Project, the Certificate Holder shall implement the mitigation measures set forth in this Agreement, including those presented in the Revised Application, the Amendment Request or identified in the final SEIS and SEPA Addendum as commitments made by Desert Claim.

No later than sixty (60) days prior to the beginning of Site Preparation, the Certificate Holder shall file with EFSEC a comprehensive list of these mitigation measures. For each of these mitigation measures, the Certificate Holder shall in the same filing further identify the construction plan and/or operation plan addressing the methodology for its achievement.

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

C. Construction Stormwater Plans

1. Notice of Intent. No later than sixty (60) days prior to the beginning of Site Preparation the Certificate Holder shall file with EFSEC a Notice of Intent to be covered by a General National Pollutant Discharge Elimination System (NPDES) Permit for Stormwater Discharges Associated with Construction Activities.
2. Construction Stormwater Pollution Prevention Plan. No later than sixty (60) days prior to the beginning of Site Preparation, the Certificate Holder shall submit to EFSEC a Construction Stormwater Pollution Prevention Plan (Construction SWPPP), and provide a copy to WDFW for comment. The Construction SWPPP shall meet the requirements of the Ecology stormwater pollution prevention program (WAC 173- 230), and the

objectives and requirements in Special Condition S.9. of the *National Pollutant Discharge Elimination System and State Waste Discharge General Permit for Stormwater Discharges Associated with Construction Activities* issued by the Department of Ecology on November 16, 2005 or as revised. The Certificate Holder shall not begin Site Preparation prior to obtaining Council approval of the Construction SWPPP.

The Construction SWPPP shall identify a regular inspection and maintenance schedule for all erosion control structures. The schedule shall include inspections after significant rainfall events. Any damaged structures shall be addressed immediately. Inspections, and subsequent erosion control structure corrections, shall be documented in writing and available for EFSEC's review on request.

3. Temporary Erosion and Sediment Control Plan. The Certificate Holder shall develop a Temporary Erosion and Sediment Control (TESC) Plan. No later than sixty (60) days prior to the beginning of Site Preparation, the Certificate Holder shall submit the TESC Plan to the Council for approval and provide a copy to WDFW for comment. The Certificate Holder shall not begin Site Preparation prior to obtaining Council approval of the TESC Plan. As an alternative to submitting a separate TESC Plan, the Certificate Holder may include measures for temporary erosion and sedimentation control in the Construction SWPPP required in Article IV, Section C.2, above.
4. Construction Spill Prevention, Control and Countermeasures Plan. The Certificate Holder shall develop a Construction Spill Prevention, Control, and Countermeasures Plan (Construction SPCCP), consistent with the requirements of 40 CFR Part 112. The Construction SPCCP shall include the Site, feeder line corridors, and all access roads. The Certificate Holder shall require all contractors working on the facility to have a spill prevention and countermeasure program consistent with 40 CFR Part 112. No later than sixty (60) days prior to the beginning of Site Preparation, the Certificate Holder shall submit the Construction SPCCP to the Council for approval and provide a copy to WDFW and Ecology for comment. The Certificate Holder shall not begin Site Preparation prior to obtaining Council approval of the Construction SPCCP. All applicable elements of the Construction SPCCP shall be implemented prior to the beginning of Site Preparation.

D. Initial Site Restoration Plan

The Certificate Holder is responsible for Project decommissioning and site restoration pursuant to Council rules. The Certificate Holder shall develop an Initial Site Restoration Plan, pursuant to the requirements of WAC 463-72-040 in effect on the date of Application, in consultation with WDFW. The Certificate Holder shall submit the Initial Site Restoration Plan to the Council for review at least sixty (90) days prior to the beginning of Site Preparation. The Certificate Holder shall not begin Site Preparation prior to obtaining approval of the Initial Site Restoration Plan from the Council.

The Initial Site Restoration Plan shall be prepared in sufficient detail to identify, evaluate, and resolve all major environmental and public health and safety issues reasonably anticipated by the Certificate Holder on the date the Plan is submitted to EFSEC. The Initial Site Restoration Plan

shall describe the process used to evaluate the options and select the measures that will be taken to restore or preserve the Project site or otherwise protect the public against risks or danger resulting from the Project. The Initial Site Restoration Plan shall include a discussion of economic factors regarding the costs and benefits of various restoration options versus the relative public risk, and shall address provisions for funding or bonding arrangements to meet the Project site restoration or management costs. The Initial Site Restoration Plan shall be prepared in detail commensurate with the time until site restoration is to begin. The scope of proposed monitoring shall be addressed in the Initial Site Restoration Plan.

The objective of the Plan shall be to restore the site to approximate pre-Project condition or better. The Plan shall require removal of the wind turbine nacelles, blades, towers, foundations, cables and other facilities to a depth of four feet below grade, regrading of areas around the Project facilities and final restoration of disturbed land. Among other things, the Plan will address timing and intensity of grazing to ensure successful revegetation.

The Plan shall include the following elements:

1. Decommissioning Timing and Scope, as required by Article VIII.C. of this Agreement.
2. Decommissioning Funding and Surety, as required by Article VIII.D. of this Agreement.
3. Mitigation measures described in the Revised Application, the Amendment Request, Final EIS, Final SEIS, and SEPA Addendum that will be implemented for decommissioning of the Project.
4. An Initial Site Restoration Plan, which shall address both the possibility that site restoration will occur prior to, or at the end of, the useful life of the Project and also the possibility of the Project being suspended or terminated during construction.
5. A description of the assumptions underlying the plan. For example, the plan should explain the anticipated useful life of the Project, the anticipated time frame of site restoration, and the anticipated future use of the site.
6. An initial plan for demolishing facilities, salvaging equipment, and disposing of waste materials.
7. Performing an on-site audit, and preparing an initial plan for disposing of hazardous materials (if any) present on the site and remediation of hazardous contamination (if any) at the site.
8. An initial plan for restoring the site, including the removal of structures and foundations to four feet below grade and the regrading of the site.
9. Provisions for preservation or removal of Project facilities if the Project is suspended or terminated during construction.

E. Habitat, Vegetation, and Fish and Wildlife Mitigation

1. Habitat Mitigation Plan. Prior to the beginning of Site Preparation, the Certificate Holder shall develop a Habitat Mitigation Plan in consultation with WDFW, based upon the compensatory mitigation ratios outlined in the 2009 WDFW Wind Power Guidelines. The Certificate Holder shall submit the Habitat Mitigation Plan to EFSEC for approval at least 60 days prior to the beginning of Site Preparation.
 - a) The Certificate Holder and WDFW will agree upon a map of habitat types found within the Project Area (“Habitat Map”). This Habitat Map will be based upon the Natural Resources Conservation Service (NRCS) maps of soils and ecological sites, and field investigations of the Project Area.
 - b) The Habitat Mitigation Plan will specify the Certificate Holder’s Mitigation Obligation. The Certificate Holder’s Mitigation Obligation will be calculated using the mitigation ratios specified in the 2009 WDFW Wind Power Guidelines. For purposes of calculating the Mitigation Obligation, expected habitat impacts will be determined based upon the pre-construction Project Layout drawings and the habitat types shown on the Habitat Map. Pre-construction Project Layout drawings will show expected permanent and temporary land disturbances.
 - c) The Certificate Holder may satisfy its Mitigation Obligation either by purchasing a mutually acceptable mitigation parcel and deeding it to WDFW or a mutually acceptable third party, by contributing money to a mutually acceptable third-party that owns or will purchase a mitigation parcel, or by paying WDFW a fee of one thousand seven hundred fifty dollars (\$1,750.00) per acre in lieu of mitigation. If the Certificate Holder has not satisfied its Mitigation Obligation prior to commencing Site Preparation, the Certificate Holder will provide a letter of credit to EFSEC in an amount sufficient to provide financial security for the Mitigation Obligation. The Certificate Holder will be required to satisfy its Mitigation Obligation prior to commencing commercial operation of the Project.
 - d) The Habitat Mitigation Plan will include a process to determine the actual impacts to habitat following the completion of construction. In the event that actual impacts to habitat exceed the expected impacts determined prior to construction, the Habitat Mitigation Plan will include a mechanism for the Certificate Holder to provide supplemental compensatory mitigation (Supplemental Mitigation). Supplemental Mitigation, if any, may take the form of an additional mitigation parcel, the contribution of additional funds to a third-party who owns or will purchase an additional mitigation parcel, or the payment of an additional fee of one thousand seven hundred fifty dollars (\$1,750.00) per acre to WDFW lieu of mitigation.
2. Rare Plants. The Certificate Holder shall complete a rare plant survey of the Project Area. If plants of concern are identified on the Project site and significant adverse impacts to such plants are anticipated, then the Certificate Holder shall develop a Plant Conservation

Plan in consultation with the Washington Natural Heritage Program and submit it to EFSEC for approval no later than 60 days prior to the beginning of Site Preparation.

3. Wetlands, Streams and Riparian Areas.

- a) Except as authorized by a Clean Water Act section 404 permit, construction of the Project shall not result in any temporary or permanent disturbance of wetlands or other surface waters considered to be Waters of the United States by the Department of the Army, Corps of Engineers for purposes of the Clean Water Act, 33 U.S.C. § 1301 et seq.
- b) Prior to construction of the site, a final set of wetland buffers, setbacks, and mitigation standards for permanent and temporary impacts shall be determined by EFSEC in consultation with Ecology. Wetland buffers shall be determined in accordance with applicable provisions of the Kittitas County Code for Critical Areas in KCC 17A. Where supported by the following Ecology guidance documents, EFSEC may require buffers of greater width than would be required under KCC 17A: Wetland Mitigation in Washington State - Part 1: Agency Policies and Guidance, Ecology Publication #06-06-011a (March 2006); Wetland Mitigation in Washington State - Part 2: Developing Mitigation Plans, Ecology Publication #06-06-011b (March 2006); Update on Wetland Buffers: The State of the Science, Final Report, Ecology Publication #13-06-11 (October 2013). Based on the final wetlands mitigation requirements from EFSEC, the Certificate Holder shall submit a Wetlands Mitigation Plan to EFSEC for approval at least sixty (60) days prior to the beginning of Site Preparation, which shall summarize how the Site is in compliance with those wetland buffers, setbacks and mitigation standards.

The Certificate Holder will be required to conduct wetland mitigation monitoring for a period of 10 years.

- c) When finalizing construction plans, the Certificate Holder will coordinate with WDFW and Ecology regarding finalizing construction and operating plans, in relation to micro-siting of project facilities and roads, in order to avoid or minimize the facility elements' temporary and permanent impacts on streams and wetlands.
- d) If any unanticipated disturbance of wetlands occurs, the Certificate Holder shall prepare a Wetlands Restoration Plan in consultation with WDFW and submit it to EFSEC for approval.
- e) Prior to any construction work affecting the bed or flow of in waters of the State (including seasonally dry channels), the Certificate Holder will consult with and obtain approval from WDFW, and provide documentation of such approval to EFSEC. At least sixty (60) days prior to beginning any such channel work, the Certificate Holder shall submit construction drawings to EFSEC for review and approval. The drawings shall specify the exact locations of work to be conducted,

buffers that are required, and best management practices and mitigation measures that will be implemented as required by this article.

4. Construction Soil Management and Vegetation Plan. In consultation with WDFW, the Certificate Holder shall develop a Construction Soil Management and Vegetation Plan. No later than sixty (60) days prior to the beginning of Site Preparation, the Construction Soil Management and Vegetation Plan shall be submitted to the Council for review and approval. The Certificate Holder shall not begin Site Preparation prior to obtaining EFSEC approval of the Soil Management and Vegetation Plan.
5. Wet Season Construction. Construction activities are not restricted to particular seasons however the Certificate Holder shall attempt to sequence construction activities in order to minimize temporary earth disturbances during the wet season where practical. In particular, the Certificate Holder shall avoid earth-disturbing activities that result in distinct areas of temporary habitat disturbance (e.g. cross- county trenching to install electric collector system lines) in shrub-steppe areas when soils are saturated (which commonly occurs from mid-November through April) to the greatest extent possible. If such activities are to take place during periods of soil saturation, the Certificate Holder shall consult with WDFW to develop a specific plan incorporating strategies and best management practices to minimize the environmental impacts of the activities and additional restoration measures to ensure successful restoration of the disturbed habitat.
6. Habitat Restoration Plan. In consultation with WDFW, the Certificate Holder shall develop a Habitat Restoration Plan for temporarily disturbed areas.

The Habitat Restoration Plan shall require that all temporarily disturbed areas be reseeded with an appropriate mix of native, locally-adapted plant species in a manner and sequence that will maximize the likelihood of successful restoration of the area and prevent the spread of noxious weeds. Among other things, the Plan shall address the timing and intensity of grazing during revegetation. The Plan shall include a pre-identified reference site or sites that the Certificate Holder, the TAC and WDFW can use to gauge the success of the habitat restoration and revegetation efforts. The Habitat Restoration Plan shall include a restoration schedule that identifies timing windows during which restoration should take place, and an overall timeline for when all restoration activities will be completed. WDFW and the TAC may suggest modifications to the initial Habitat Restoration Plan as new information becomes available.

No later than sixty (60) days prior to the beginning of Site Preparation, the Habitat Restoration Plan shall be submitted to the Council for review and approval. The Certificate Holder shall not begin Site Preparation prior to obtaining EFSEC approval of the Habitat Restoration Plan.

7. Noxious Weed Control Plan. In consultation with WDFW, the Certificate Holder shall develop a Noxious Weed Control Plan. No later than sixty (60) days prior to the beginning of Site Preparation, the Noxious Weed Control Plan shall be submitted to the Council for review and approval.

8. Technical Advisory Committee. The purpose of the Technical Advisory Committee (TAC) is to ensure that monitoring data collected pursuant to the required Avian Monitoring Plan (see Article VI.C), the Bat Monitoring Plan (see Article VI.E.) and other related monitoring data are considered in a forum in which independent and informed parties can collaborate with the Certificate Holder. The TAC will make recommendations to EFSEC if it deems additional studies or mitigation are warranted to address impacts that were either not foreseen in the Revised Application, the Amendment Request, the Final EIS, the Final SEIS and SEPA Addendum, or significantly exceed impacts that were projected. In order to make advisory recommendations to EFSEC, the TAC will review and consider results of Project monitoring studies, including post-construction avian and bat mortality surveys, and new scientific findings made at wind generation facilities with respect to the impacts on habitat and wildlife, as they may relate to the Desert Claim Wind Power Project. The TAC will assess whether the post-construction restoration and mitigation and monitoring programs for wildlife that have been identified and implemented merit further studies or additional mitigation, taking into consideration factors such as the species involved, the nature of the impact, monitoring trends, and new scientific findings.

The TAC, or individual members thereof, will be authorized to consult, exchange information, and collaborate with TACs from other wind turbine projects, including the Kittitas Valley Wind Power Project and the Wild Horse Wind Power Project, for purposes of identifying and monitoring cumulative environmental impacts, and, if necessary, developing mitigation recommendations addressing known or newly identified cumulative impacts related to the construction and operation of wind power projects.

The TAC may include, but need not be limited to, representatives from WDFW, U.S. Fish and Wildlife Service, Audubon Washington or its member chapters, EFSEC, Kittitas County, DNR, and the Certificate Holder. EFSEC, at its discretion, may add additional representatives to the TAC from local interest groups as well as state, local, federal and tribal governments. All TAC members must be approved by EFSEC.

With the exception of DNR, no representative to the TAC may be party to a turbine lease agreement, or any other contractual obligation with the Certificate Holder.

No later than sixty (60) days prior to the beginning of Site Preparation, the Certificate Holder shall contact the agencies and organizations listed above requesting that they designate a representative to the TAC, and that the agencies or organizations notify EFSEC in writing of their TAC representative and of their member's term of representation. No later than sixty (60) days prior to the beginning of Commercial Operation, the Certificate Holder shall convene the first meeting of the TAC.

No later than sixty (60) days after the beginning of Construction, the Certificate Holder shall submit to EFSEC proposed Rules of Procedure describing how the TAC shall operate, including but not limited to a schedule for meetings, a meeting procedure, a process for recording meeting discussions, a process for making and presenting timely TAC recommendations to the Council, and other procedures that will assist the TAC to function properly and efficiently. The Certificate Holder will provide a copy of the

proposed Rules of Procedure at the first TAC meeting for review and comment. The TAC may suggest modifications of the plan; any such modifications must be approved by EFSEC.

The TAC will be convened for the life of the Project, except that EFSEC may terminate the TAC if: the TAC has ceased to meet due to member attrition; or, the TAC determines that all of the pre-permitting, operational and post-operational monitoring has been completed and further monitoring is not necessary; or the TAC members recommend that it be terminated. If the TAC is terminated or dissolved, EFSEC may reconvene and reconstitute the TAC at its discretion.

The ultimate authority to require implementation of additional mitigation measures, including any recommended by the TAC, shall reside with EFSEC.

9. Pre-Construction Raptor Nest Survey. During the nesting season immediately prior to beginning Site Preparation, the Certificate Holder shall conduct a raptor nest survey. The results of the survey shall be submitted to EFSEC and will be used to determine timing restrictions and/or buffer distances to active raptor nests.
10. Pre-Construction Townsends Ground Squirrel Survey. Prior to commencing Site Preparation, the Certificate Holder shall survey the Project site for Townsends Ground Squirrels and/or their burrows, using a protocol developed in consultation with the WDFW. If Townsends Ground Squirrels are found to exist on the Project site, the Certificate Holder shall consult with WDFW to determine whether proposed construction activities are likely to have significant adverse impacts on the Townsends Ground Squirrel population, taking into account the habitat mitigation being provided by the Certificate Holder. If the Certificate Holder and WDFW conclude that significant impacts are likely, the Certificate Holder, in consultation with WDFW, shall develop a plan to implement reasonable and practical mitigation measures during construction. This plan shall be submitted to EFSEC for approval thirty (30) days prior to Site Preparation.

F. Construction Traffic Development Standards

Development Standards: The Certificate Holder shall incorporate the following development standards into the design and construction of the Project.

1. Project Access Roads. Access to the turbines will be achieved via graveled roads branching from Smithson Road.

Access from County roads shall be constructed with the appropriate slopes and culverts in accordance with Kittitas County standards in effect on the date of the Application in this matter. All roads within the site shall be designed in consultation with the fire services provider, pertinent state agencies and emergency suppliers to ensure that fire vehicles can gain safe access to the site as necessary to provide emergency services.
2. Video Monitoring. County roads, including shoulder pavement, shall be video monitored before and after construction of the Project. The Certificate Holder shall repair any damage to County roads, such that the roads meet or exceed Kittitas County standards.

3. Project Site Access. Project roads run across both private and public (DNR) lands. In order to coordinate access to public lands in accordance with DNR land management practices, the Certificate Holder will implement an adaptive management approach in coordination with DNR on the portion of the Project site owned by DNR. Adaptive management allows for changes over time to the level of control and types of activities on DNR lands, as needed. In general, the Certificate Holder will permit controlled access on the DNR lands, as long as it does not interfere with or introduce adverse impacts to Project operations or personnel. The Certificate Holder will have no obligation to provide access on or across private lands.
4. Construction Traffic Management Plan. At least sixty (60) days prior to the beginning of Site Preparation, the Certificate Holder shall submit to EFSEC for review a Construction Traffic Management Plan. The Construction Traffic Management Plan should address increased construction traffic on Smithson Road to limit construction delivery vehicles during peak travel times and to accommodate agricultural road use on Smithson Road. The Certificate Holder shall not begin Site Preparation prior to obtaining Council approval of the Construction Traffic Management Plan. This plan will incorporate those items outlined in Article IV.F.1 through 3, above.
5. Oversize or Overweight Hauls. The Certificate Holder shall notify EFSEC, at the earliest time possible, of any permits or approvals required to conduct oversize or overweight hauls.

G. Federal Aviation Administration Review

1. No later than thirty (30) days prior to the beginning of Construction, the Certificate Holder shall provide to EFSEC copies of the Determination of Non-Hazard certificates issued by the Federal Aviation Administration (FAA).
2. In accordance with RCW 70A.550.020, Laws of 2023, ch. 334, § 2, the project shall apply to the Federal Aviation Administration (FAA) for approval to install an aircraft detection lighting system (ADLS). There is the potential for additional impacts or permitting considerations associated with this installation. If approved by the FAA, EFSEC shall review the proposed ADLS system prior to installation to determine whether any additional permits and conditions are required. Any identified additional permits and conditions would be subject to review and approval by the Council.

H. Cultural and Archeological Resources Plan

With the assistance of an experienced archeologist, and in consultation with the Yakama Nation and the Department of Archeology and Historic Preservation (DAHP), the Certificate Holder shall develop a Cultural Resources Monitoring and Mitigation Plan for monitoring construction activities and responding to the discovery of archeological resources or buried human remains. The development of the Cultural Resources Monitoring and Mitigation Plan must be done in coordination with DAHP and the Yakama Nation and approved by EFSEC. The following must be considered during the plan development:

- Avoidance of the concentrated-resource areas.

- Habitat rehabilitation of impacted-resource areas as a means of mitigation for impacts to the diffuse-resource areas.
- Archaeological sites be provided a minimum 30 meter/100 foot buffer.
- Archaeological isolates should be further studied and be provided a minimum 15 meter/50 foot buffer.
- 51 rock features should be re-evaluated and recorded as archaeological sites.
- Archaeological monitoring during construction when ground-disturbing activity is involved.

The Certificate Holder shall provide copies of the draft Plan for comment to potentially affected tribes, prior to submitting the plan for EFSEC approval. The Certificate Holder shall submit the Plan to EFSEC for review and approval no later than sixty (60) days prior to the start of Site Preparation. The Certificate Holder shall not begin Site Preparation prior to obtaining approval of the Plan from the Council. All applicable elements of the Plan shall be implemented prior to the start of Site Preparation. The Plan shall include, but not be limited to, the following:

1. The Plan shall provide for the avoidance of significant archeological sites where practical. For sites to be avoided, the boundaries of identified cultural resources and buffer zones shall be staked in the field and flagged as no-disturbance areas to avoid inadvertent disturbance during construction. These site markings will be removed following construction. The Plan shall address alternative mitigation measures to be implemented if it is not practical to avoid archeological sites or isolates.
2. The Plan shall address the possibility of the unanticipated discovery of archeological artifacts during construction. If any archaeological artifacts, including but not limited to human remains, are observed during construction, disturbance and/or excavation in that area will cease, and the Certificate Holder shall notify the DAHP, EFSEC, and the affected tribes and in the case of human remains the County Coroner or Medical Examiner. At that time, appropriate treatment and mitigation measures shall be developed in coordination with the agencies and tribes cited above, and implemented following approval by EFSEC. If Project facilities cannot be moved or re-routed to avoid the resources, the Certificate Holder shall contact EFSEC and DAHP for further guidance which may require the implementation of a treatment plan. If a treatment plan is required, it shall be developed in consultation with DAHP and any affected tribes.
3. If a tribe requests to have its representatives present during earth-disturbing construction activities, the Certificate Holder shall accommodate reasonable requests. In all cases the Certificate Holder shall inform EFSEC of each such tribal request.

I. Construction Emergency Plan

1. Construction Emergency Plan. The Certificate Holder shall retain qualified contractors familiar with the general construction techniques and practices to be used for the Project and its related support facilities. The construction specifications shall require contractors to implement a safety program that includes an emergency plan. The Certificate Holder shall prepare and submit a Construction Emergency Plan to EFSEC for review at least sixty (60) days prior to the beginning of Site Preparation. The Certificate Holder shall

coordinate development and implementation of the Plan with applicable local and state emergency services providers. The Certificate Holder shall not begin Site Preparation or Construction prior to obtaining EFSEC approval of the Construction Emergency Plan. The Construction Emergency Plan shall include consideration of:

- a) Medical emergencies;
 - b) Construction emergencies;
 - c) Project Area evacuation;
 - d) Fire protection and prevention;
 - e) Flooding;
 - f) Extreme weather abnormalities;
 - g) Earthquake;
 - h) Volcanic Eruption;
 - i) Facility blackout;
 - j) Hazardous materials spills;
 - k) Blade or tower failure;
 - l) Aircraft impact;
 - m) Terrorism, sabotage, or vandalism;
 - n) Bomb threat.
2. Fire Protection Services. Prior to commencing Site Preparation, the Certificate Holder shall verify continuing protection through DNR for Desert Claim facilities on land leased from that agency and shall execute a fire protection services agreement with a fire services provider such as Kittitas Valley Fire and Rescue for the Project site to ensure that adequate fire protection services are in place during the construction and operations of the Project.
 3. Fire Control Plan. The Certificate Holder shall develop and implement a Fire Control Plan in coordination with state and local agencies to minimize risk of accidental fire during construction and to ensure effective response to any fire that does occur on the Project Site at any time. The Certificate Holder shall submit the Fire Control Plan to EFSEC for review and approval at least sixty (60) days prior to Site Preparation and provide a copy to WDFW, DNR and Ecology for comment. The Certificate Holder shall not begin Site Preparation prior to obtaining Council approval of the Fire Control Plan.

J. Construction Management Plan

The Certificate Holder shall with the assistance of Council Staff develop a detailed Construction Management Plan in consultation with WDFW and other affected State and local agencies. The Plan shall address the primary Site Preparation and Construction phases for the Project, and shall be generally based on the mitigation measures contained in this Agreement and the Revised Application. At least sixty (60) days prior to the start of Site Preparation, the Certificate Holder shall submit the Construction Management Plan to the Council for review and approval. The Certificate Holder shall not begin Site Preparation prior to obtaining Council approval of the Construction Management Plan.

K. Construction Schedule

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

L. Construction Plans and Specifications

1. At least sixty (60) days prior to the beginning of Construction, the Certificate Holder shall submit to EFSEC or its designated representative for approval those construction plans, specifications, drawings and design documents that demonstrate the Project design will be in compliance with the conditions of this Agreement. The Certificate Holder shall also provide copies to WDFW, DNR, Ecology and other agencies as EFSEC may direct, for comment. The plans shall include overall Project site plans, foundation drawings, equipment and material specifications, and vendor guarantees for equipment performance as appropriate. The Certificate Holder shall not begin Construction prior to obtaining Council approval of the construction plans and specifications.

The certificate holder shall also submit, for the Council's review and approval prior to micro-siting, an analysis of the feasibility of placing all turbines more than 0.5 miles from non-participating residences to avoid dominating views from these sensitive viewing locations.

2. The Certificate Holder shall consult with WDFW on ways to minimize road construction and other habitat impacts prior to preparing final construction plans. The Certificate Holder shall also consult with emergency services suppliers prior to preparing final road construction plans, to ensure that interior Project roads are sufficient to provide reliable access by emergency vehicles, in its final design for construction, the Certificate Holder, shall maximize the use of existing roads and pathways, and minimize the construction of new roads as much as reasonable and practical, and without disrupting wetlands or other sensitive habitat. The final design shall be subject to approval by EFSEC.
3. The Certificate Holder shall provide a final project layout plan to demonstrate that project structures comply with the setback conditions of Article I.C.6.
4. Project buildings, structures, and associated systems shall be designed and constructed consistent with code requirements, including the seismic standards, of the Uniform

Building Code (UBC) or the International Building Code (IBC), but no less stringent than those found in the UBC 2015.

5. The Certificate Holder shall design, install, operate and maintain the domestic on-site septic system in accordance with Kittitas County requirements.
6. The Certificate Holder shall purchase water only from sources that have been certificated or otherwise authorized by the Department of Ecology. At least thirty (30) days prior to the beginning of Site Preparation, the Certificate Holder shall provide to EFSEC proof of contract for the water supply source it intends to use during Site Preparation, Construction and Operation. The Certificate Holder shall notify EFSEC of any changes in the source of supply no later than fifteen (15) days before the change.
7. Prior to the beginning of Site Preparation, the Certificate Holder shall present to EFSEC copies of the signed and executed lease(s) with DNR.

ARTICLE V: PROJECT CONSTRUCTION

A. Environmental Monitoring During Construction

1. Environmental Monitor (EM). EFSEC will provide full-time on-site environmental monitoring for the construction phase of the Project, at the Certificate Holder's cost. The EM shall be an independent, qualified engineering firm (or a person associated with such firm) selected by EFSEC, and shall report directly to EFSEC.
2. Environmental Compliance Program for Construction Activities. The Certificate Holder shall identify and develop environmental monitoring and "stop-work" criteria in consultation with the EM and other EFSEC designees prior to beginning Site Preparation. EFSEC will review and approve the final stop-work criteria to be implemented for the Project. The Environmental Compliance Program will cover avoidance of sensitive areas during construction, waste handling and storage, stormwater management, spill prevention and control, habitat restoration efforts begun during the construction phase of the project and other mitigation measures required by this Agreement. The Certificate Holder shall implement the program to ensure that construction activities meet the conditions, limits and specifications set out in the Site Certification Agreement, all Attachments thereto, and all other applicable state and federal environmental regulations.
3. Preconstruction Meeting. A preconstruction meeting shall be held between the Environmental Monitor and the construction team to review and clarify construction related plans, special concerns, and construction techniques prior to beginning work.
4. Copies of Plans and Permits Kept On Site. A copy of the Site Certification Agreement, Plans approved by the Council or its designees, and all applicable construction permits will be kept at the Project Site. The lead Project construction personnel and construction project managers will be required to read, follow, and be responsible for all required compliance activities. The EM will be responsible for monitoring that all construction permit requirements are adhered to, and that any deficiencies are promptly reported and that corrective measures are initiated.

5. Environmental Monitor Weekly Reports. The EM will provide weekly reports to EFSEC regarding adherence to BMPs, the implementation of environmental mitigation plans, and environmental problems reported or discovered as well as corrective actions taken by the Certificate Holder to resolve these problems. The EM will provide copies to the Certificate Holder of reports submitted to EFSEC.
6. Environmental Violations and Stop-Work Orders. Upon identification of an environmental noncompliance issue, the EM will work with the responsible subcontractor or direct-hire workers to correct the violation; if non-compliance is not corrected in a reasonable period of time the EM shall request that EFSEC issue a “stop work” order for that portion of the work not in compliance with Project environmental requirements. EFSEC will promptly notify The EM of any “stop work” orders that have been issued.
7. Environmental Monitor Availability. No excavation, filling or re-grading work shall be performed at any time unless the EM is available for full, concurrent and independent environmental monitoring on-site.

B. Quarterly Construction Reports

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

C. Construction Inspection

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

D. As-Built Drawings

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

E. Habitat, Vegetation, Fish and Wildlife

1. The Certificate Holder shall use construction techniques and Best Management Practices (BMPs) to minimize potential impacts to habitat and wildlife;
2. The Certificate Holder shall ensure that the construction team includes a qualified staff person or persons with experience in construction in sensitive arid environments similar to that found in the Project Area.

3. Construction teams shall stake work and clearing limits prior to construction and ground clearing.
4. The Certificate Holder shall avoid the installation of above-ground collector lines where practical. To the extent practical, collector lines shall be installed in or alongside roadways, in areas currently disturbed, in other areas that will be permanently disturbed by Project construction, or by directionally drilling under surface waters. When it is not practical to avoid the installation of above-ground collector lines, the Certificate Holder shall consult with WDFW to determine the most practical alternative with the least adverse environmental impacts. Any above-ground collector lines will be designed to comply with the current Avian Power Line Interaction Committee Guidelines.
5. The Certificate Holder shall post, maintain and enforce driving speed limits of 25 miles per hour within the Project Area to minimize potential collisions with wildlife during construction
6. All permanent meteorological towers shall be free-standing monopoles without guy wires. The Certificate Holder shall use bird markers on all temporary meteorological towers with guy wires.
7. The Certificate Holder, in consultation with its wildlife consultant and WDFW, shall schedule the sequence of construction activities and/or locations across the Project Area in a manner that will minimize risks to Loggerhead Shrike, Sage Thrasher and Long-billed Curlews that may nest in the Project Area during the months of April through June to the extent that it is reasonable, practical and feasible to do so. The Certificate Holder shall not be required to avoid or restrict construction activities during those months.
8. The Certificate Holder shall promptly remove carcasses and livestock afterbirths from the Project Area during construction of the Project. The Certificate Holder shall consult with WDFW in the development and implementation of this removal program.

F. Construction Noise

The Certificate Holder and its contractors and subcontractors shall use industry standard noise attenuation controls during construction to mitigate noise impacts and shall comply with applicable state and local noise emission regulations. The Certificate Holder shall limit blasting and loud construction activities to daytime hours (7 a.m. to 10 p.m.), and shall comply with the applicable requirements of WAC 173-60-040(2) (b) during the hours of 10:00 p.m. and 7:00 a.m.

G. Construction Safety and Security

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

2. Construction Phase Health and Safety Plan. The Certificate Holder shall develop and implement a Construction Phase Health and Safety Plan prior to the beginning of Site Preparation. The Certificate Holder shall consult with local and state organizations providing emergency response services during the development of the plan to ensure timely response in the event of an emergency. The Certificate Holder shall submit the plan to EFSEC for review and approval no later than sixty (60) days prior to Site Preparation.
3. Construction Phase Site Security Plan. The Certificate Holder shall develop and implement a construction phase site security plan to effectively monitor the Project Site. The Certificate Holder shall consult with local and state organizations providing emergency response services during the development of the plan to ensure timely response in the event of an emergency. The Certificate Holder shall submit the plan to EFSEC for review and approval no later than sixty (60) days prior to Site Preparation.

Site access will be controlled and all on-site construction staff and visitors will be required to carry an identification pass. Temporary fencing with a locked gate may be installed at laydown areas for storage of equipment and materials.

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

H. Fugitive Dust

The Certificate Holder shall implement appropriate mitigation measures to control fugitive dust from roads and construction activities. The Certificate Holder shall use water or a water-based, environmentally safe dust palliative such as lignin, for dust control on unpaved roads during Project construction. The Certificate Holder shall not use calcium chloride for dust suppression.

I. Contaminated Soils

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

J. Light, Glare and Aesthetics

The Certificate Holder shall implement mitigation measures to minimize light and glare impacts. Project buildings shall be constructed of local materials and in local building styles to maximize their fit into the local landscape, and shall be landscaped with native shrub-steppe vegetation around buildings and equipment boxes to integrate the structures into the surrounding landscape. Project structures shall be painted with neutral/low reflectivity finishes to the extent feasible. The Certificate holder shall neither place nor allow advertising, logos, cellular antennas, or other clutter on the turbines, nacelles, or buildings of the Project. The O&M facility buildings shall be painted with a low reflectivity earth tone colored finish. The only lighting on the turbines will be the aviation lighting required by FAA and other lighting required by other government agencies. Outdoor lighting at the O&M facility and substation(s) will be minimized to safety and security

requirements, motion sensors will be used to keep lighting turned off when not required, and lighting will be equipped with hoods and directed downward. If compliance with any of these requirements is not feasible, the Certificate Holder may seek a waiver from the Council.

The Certificate Holder shall investigate the application of an Aircraft Detection Lighting System (ADLS) prior to construction and report its findings to EFSEC. The report should include the benefits and feasibility of ADLS for the Desert Claim project.

K. Construction Wastes and Clean-Up

The Certificate Holder shall dispose of sanitary and other wastes generated during construction at facilities authorized to accept such wastes. The certificate holder shall include in its waste management plan a commitment to recycle project components when recycling opportunities are reasonably available for wastes generated during construction.

The Certificate Holder shall properly dispose of all temporary structures not intended for future use upon completion of construction. The Certificate Holder also shall dispose of used timber, brush, refuse or flammable materials resulting from the clearing of lands or from construction of the Project in a manner and schedule approved by EFSEC.

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

A. Operations Stormwater Pollution Prevention Plan

1. Operations Stormwater Pollution Prevention Plan. The Certificate Holder shall prepare an operations stormwater pollution prevention plan (Operations SWPPP) in consultation with WDFW and submit it to EFSEC for approval at least thirty (30) days prior to the beginning of Commercial Operation. The Operations SWPPP shall include an operations manual for permanent BMPs. The Operations SWPPP shall be prepared in accordance with the guidance provided in the Ecology Stormwater Management Manual for Eastern Washington, September 2004. The Certificate Holder shall periodically review the Operations SWPPP against the guidance provided in the applicable Ecology Stormwater Management Manual, and make modifications as necessary to the Operations SWPPP to comply with current requirements for BMPs.
2. Operations Spill Prevention, Control and Countermeasure Plan. The Certificate Holder shall prepare an Operations Spill Prevention, Control and Countermeasures Plan (Operations SPCCP) in consultation with WDFW and submit it to EFSEC for review and approval at least thirty (30) days prior to the beginning of commercial operation. The Operations SPCCP shall be prepared pursuant to the requirements of 40 CFR Part 112, Sections 311 and 402 of the Clean Water Act and Section 402 (a)(1) of the Federal Water Pollution Control Act (FWPCA) and RCW 90.48.080. The Operations SPCCP shall include the Site, all Project structures and facilities on the site, substations(s), feeder line corridors, and all access roads. The Operations SPCCP shall be implemented within three (3) months of the beginning of Commercial Operation. The Operations SPCCP must be updated and submitted to the Council every two (2) years.

B. Emergency Plans

1. Operations Emergency Plan. No later than sixty (60) days prior to the beginning of Commercial Operation, the Certificate Holder shall submit for the Council's approval an Operations Emergency Plan for the Project to provide for employee safety in the event of emergencies, such as those listed below. The Certificate Holder shall coordinate development of the plan with local and state agencies that provide emergency response services in the Project Area. Periodically, the Certificate Holder shall provide the Council with updated lists of emergency personnel, communication channels and procedures. The Emergency Response Plan shall address in detail the procedures to be followed in the event of emergencies listed in Article IV.I.1.
2. Fire Protection Services. The Certificate Holder shall maintain fire protection services agreement(s) pursuant to IV.I.2 of this Agreement for the entire Project, for the life of the Project or until and to the extent that the Project site is annexed into a Fire District or other municipal entity that provides fire protection services.
3. Operations Fire Control Plan. The Certificate Holder shall develop an operations phase Fire Control Plan in consultation with WDFW and WDNR and in coordination with other state and local agencies to minimize risk of accidental fire during operation and ensure effective response to any fire that does occur. No later than sixty (60) days prior to the beginning of Commercial Operation the Certificate Holder shall submit the Plan to EFSEC for review and approval.

C. Post-Construction Avian Monitoring Plan

No later than one hundred twenty (120) days prior to beginning Commercial Operation, the Certificate Holder shall submit to EFSEC for review and approval a Post-Construction Avian Monitoring Plan. The Post-Construction Avian Monitoring Plan shall be developed in consultation with the WDFW. The Avian Monitoring Plan shall be based upon the 2009 WDFW Wind Power Guidelines, although the Certificate Holder and WDFW may agree to depart from the Guidelines if circumstances warrant. The purpose of the plan shall be to quantify impacts to avian species and to assess the adequacy of mitigation measures implemented. Results shall be reported to EFSEC and the TAC. The monitoring plan shall include the following components:

1. The Certificate Holder shall implement an avian casualty/fatality reporting and handling system by Project personnel (operations and maintenance staff) for the life of the Project following a detailed written protocol developed for the Project and similar to that used by other wind projects in the region.
2. The Certificate Holder shall perform a minimum of one breeding season's raptor nest survey of the Project Area, including a 1 mile buffer, to locate and monitor active raptor nests potentially affected by construction and operation of the Project.
3. The Council will commission or review for approval a two-year monitoring study by a third-party consultant to evaluate impacts to avian species. This study will include, at a minimum, standardized casualty searches, searcher efficacy trials and scavenger removal trials.

4. The Post-Construction Avian Monitoring Plan for the Project will follow a detailed written protocol that will document the monitoring measures being conducted.
5. EFSEC shall reconvene the TAC if unanticipated circumstances arise during incidental monitoring.

D. Post-Construction Bald Eagle Study Plan

In consultation with the Counsel for the Environment (CFE) and WDFW, the Certificate Holder shall develop a Bald Eagle Study Plan to study the behavior of bald eagles during calving operations in the first two years of Project operation and submit the Plan to EFSEC for approval no later than 60 days prior to commencing Commercial Operation.

The Certificate Holder shall implement the Plan and present the results of the study to the TAC. The TAC will consider the study results and determine whether the calving operations in the Project Area present an unreasonable risk to bald eagles. If so, the TAC will develop recommendations regarding possible additional mitigation measures that may further reduce the risk to bald eagles. Mitigation measures that may be considered include, but are not limited to, modifying the operation of the wind turbines, modifying or moving the calving operations within the Project Area, or removing the calving operations from the Project Area. The TAC will submit its findings and recommendations for mitigation measures, if any, to EFSEC for EFSEC's consideration. EFSEC will have final authority to decide whether to require the implementation of additional mitigation measures addressing this issue.

In the event that a bald eagle is killed by a turbine during calving operations in the Project Area, the Certificate Holder will report the fatality to EFSEC, the TAC and the United States Fish and Wildlife Service within forty-eight (48) hours. In the TAC Rules of Procedure, the Certificate Holder will propose that, within thirty (30) days, the TAC evaluate the available information and consider whether there are practical additional measures that should be implemented to reduce the risk to bald eagles and report its findings and recommendations, if any, to EFSEC.

E. Pre-Operation Bat Survey and Bat Monitoring Plan

Prior to beginning commercial operation, the Certificate Holder, in consultation with WDFW, shall conduct a bat monitoring survey during the bat migration (late summer and early fall). The survey shall utilize current technology and methodology to document bat use of the site, including which if any species are at risk from site operation. Detectors shall be placed at an appropriate elevation to monitor migrating bats within the rotor sweep zone.

The Certificate Holder shall consult with the CFE and WDFW in developing the protocol for the survey. The Certificate Holder shall present the results of the survey to the TAC. If, based on the survey results, the TAC concludes that the Project presents a significant risk to bats that is substantially greater than the risk described in the Final SEIS; the TAC may recommend to EFSEC that additional mitigation measures be required.

The Certificate Holder shall develop a post-construction Bat Monitoring Plan in consultation with WDFW and submit the plan to EFSEC for approval no later than sixty (60) days prior to commencing Commercial Operation. The plan shall include two years of bat fatality monitoring.

ARTICLE VII: PROJECT OPERATION

A. Water Discharge

The Certificate Holder shall ensure that all stormwater control measures and discharges are consistent with the Operations SWPPP, required by Article VI.A.1. and the Ecology *Stormwater Management Manual for Eastern Washington, September 2004*.

Domestic sewage generated at the O&M facility shall be discharged to an on-site septic system.

B. Noise Emissions

The Certificate Holder shall operate the Project in compliance with applicable Washington State Environmental Noise Levels, WAC 173-60.

The Certificate Holder shall submit a Complaint-Based Noise Monitoring and Response Plan to EFSEC for review and approval prior to operation, to address low frequency noise and aeroacoustic noise.

C. Fugitive Dust Emissions

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

D. Habitat, Vegetation and Wildlife BMPs

During Project operations, the Certificate Holder shall implement appropriate operational BMPs to minimize impacts to plants and animals. In addition to those mitigation measures presented in the Revised Application, these include the following:

1. Implementation of the Operations Fire Control Plan developed pursuant to Article VI.B.3, in coordination with local fire districts, to avoid accidental wildfires and respond effectively to any fire that might occur.
2. Implementation of the Certificate Holder's agreement with a fire services provider such as Kittitas Valley Fire and Rescue to provide fire protection services during the construction and operation of the Project, and in conjunction with DNR, implement protection services on DNR land leased by the Certificate Holder.
3. Operational BMPs to minimize storm water runoff and soil erosion.
4. Implementation of the noxious weed control program, in coordination with WDFW, to control the spread and prevent the introduction of noxious weeds.
5. Cattle ranchers who have leased property for the Project may continue conducting calving operations in fenced areas within the Project Area. The Certificate Holder will not site any turbine within the fenced calving areas or within a buffer area equal to the length of a turbine blade plus one hundred feet from the fence line. The Certificate Holder shall not permit calving operations to take place on the portion of the Project Area

that will be owned by the Certificate Holder or an affiliate of the Certificate Holder. Cattle ranchers who have leased property for the Project may continue conducting calving operations in fenced areas within the Project Area. During calving operations, the Certificate Holder will not operate any turbine within the fenced calving areas or within a buffer area equal to the length of a turbine blade plus one hundred feet from the fence line of the calving operations.

6. The Certificate Holder shall promptly remove carcasses and livestock afterbirths from the Project Area during operation of the Project. The Certificate Holder shall consult with WDFW in the development and implementation of this removal program.
7. The Certificate Holder shall avoid the use of rodenticides to control rodent burrowing around wind turbine towers as much as possible. In the event that the Certificate Holder believes the use of rodenticides is necessary, the Certificate Holder shall consult with WDFW to develop a plan for appropriate application and use, and submit the plan to EFSEC for approval prior to implementation.
8. The Certificate Holder shall cooperate with WDFW in its efforts to manage deer and elk in the Project vicinity. The Certificate Holder shall not prohibit hunting in the Project Area, except when the Certificate Holder determines that hunting would place personnel, property or equipment in jeopardy.

E. Safety and Security

1. Personnel Safety. The safety of operating personnel is governed by regulations promulgated under the Federal Occupational Safety and Health Act and the Washington Industrial Safety and Health Act. The Certificate Holder shall comply with applicable federal and state safety laws and regulations (including regulations promulgated under the Federal Occupational Safety and Health Act and the Washington Industrial Safety and Health Act) as well as local and industrial codes and standards (such as the Uniform Fire Code).
2. Operations Phase Health and Safety Plan. No later than sixty (60) days after the beginning of Commercial Operation, the Certificate Holder shall develop and, after EFSEC approval, implement an Operations Phase Health and Safety Plan. The Certificate Holder shall consult with local and state organizations providing emergency response services during the development of the plan to ensure timely response in the event of an emergency.
3. Operations Phase Site Security Plan. The Certificate Holder shall develop and implement an Operations Phase Site Security Plan. The Certificate Holder shall submit the Plan to EFSEC for review and approval no later than sixty (60) days before the beginning of Commercial Operation. The Plan shall include, but shall not be limited to, the following elements: controlling access to the site by any visitors, contractors, vendors, or suppliers; security lighting of the operation and any visitor's center and maintenance facility buildings; fencing of the substation(s); and securing access to wind turbines, pad transformers, pad-mounted switch panels and other outdoor facilities. A copy of the final

Security Plan shall be provided to EFSEC and other agencies involved in emergency response.

4. Visitors Safety. The Certificate Holder shall require visitors to observe the safety plans and shall provide them with safety equipment where and when appropriate.

F. Dangerous or Hazardous Materials and General Waste Management

The Certificate Holder shall handle, treat, store, and dispose of all dangerous or hazardous materials in accordance with Washington state standards for hazardous and dangerous wastes, WAC 463-40 and WAC 173-303. Following any abnormal seismic activity, volcanic eruption, severe weather activity, flooding, vandalism or terrorist attacks the Certificate Holder shall inspect areas where hazardous materials are stored to verify that containment systems are operating as designed.

The certificate holder shall include in its waste management plan for general waste, a commitment to recycle project components when recycling opportunities are reasonably available for wastes generated during operations and maintenance.

G. Decommissioning of Individual Wind Turbine Generators

During the lifetime of the project, the Certificate Holder may choose, or be otherwise required to, decommission individual WTGs without the entire project being terminated pursuant to Article VIII of this agreement.

In accordance with Article III, Section K, paragraph 5, of this agreement, individual WTGs found to cause unanticipated significant adverse impact(s) on the environment may have further operating conditions imposed by EFSEC, including permanent shutdown, decommissioning, and removal from the Project Area. In addition, EFSEC retains the authority to order removal of any individual WTG that remains inoperable or is not used for more than six months.

The Certificate Holder will disassemble and remove from the Project Area the WTG being decommissioned within one year of the last date the WTG produced power for sale.

Decommissioning of the WTG does not require removal of the WTG foundation.

The Certificate Holder shall notify EFSEC of its intent to decommission the turbine, and shall provide a schedule for decommissioning activities.

H. Shadow Flicker Mitigation Measures

The Certificate Holder will attempt to avoid, minimize and mitigate shadow flicker at nearby residences. Shadow flicker can usually be addressed by planting trees, shading windows or other mitigation measures. As a last resort the control system of the wind turbine could be programmed to stop the blades during the brief periods when conditions result in perceptible shadow flicker.

The Certificate Holder shall develop a mitigation and complaint monitoring plan to respond to any residential complaints regarding shadow flicker. The mitigation plan will include avoidance, minimization, and mitigation of shadow flicker through turbine shut down, planting trees, shading windows, or other mitigation measures. The complaint monitoring plan will be reviewed and approved by EFSEC prior to operation and, at a minimum, will include:

- Notification of EFSEC within five (5) business days of receipt of any request to mitigate shadow flicker.
- Notification of EFSEC within two (2) weeks of original receipt, of the actions taken in response, and
- EFSEC shall retain authority to review and override the Certificate Holder's denial(s) of any requests or choice of mitigation in this regard.

ARTICLE VIII: PROJECT TERMINATION, DECOMMISSIONING AND SITE RESTORATION

A. Detailed Site Restoration Plan

The Certificate Holder shall submit a Detailed Site Restoration Plan to EFSEC for approval within ninety (90) days from the time the Council is notified of the termination of the Project. The Detailed Site Restoration Plan will provide for restoration of the Site within the timeframe specified in Article VIII.C., taking into account the Initial Site Restoration Plan and the anticipated future use of the Site. The Detailed Site Restoration Plan shall address the elements required to be addressed by WAC 463-72-050 (in effect at the date of submittal of the Application), and the requirements of the Council-approved Initial Site Restoration Plan pursuant to Article IV.D. of this Agreement. The Certificate Holder shall not begin Site Restoration activities without prior approval from the Council. The certificate holder shall include in its decommissioning plan a commitment to recycle project components when recycling opportunities are reasonably available.

B. Project Termination

1. Termination of this Site Certification Agreement, except pursuant to its own terms, is an amendment of this Agreement.
2. The Certificate Holder shall notify EFSEC of its intent to terminate the Project.
3. The Certificate Holder shall terminate the Project if, at the written request of the Council, the Certificate Holder demonstrates that the energy generated by the Project for the past twelve (12) month period is less than 10% of the Historical Energy Production (as defined below) and the following exemptions do not apply: the twelve (12) month reduced energy output period described above is the result of (i) a repair, restoration or improvement to an integral part of the Project that affects the generation of electricity that is being diligently pursued by the Certificate Holder, or (ii) a force majeure event,

including, but not limited to, an extended low wind period. Historical Energy Production means the sum of all energy generated by the Project divided by the number of months since the beginning of Commercial Operation multiplied by twelve, starting twelve months after Commercial Operation commences.

4. The Council may initiate proceedings leading to SCA amendment pursuant to WAC 463-66-090.

C. Decommissioning Timing and Scope

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

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

2. Scope. Decommissioning the Project shall involve removal of the Turbines; removal of foundations to a depth of four (4) feet below grade; regrading the areas around the Project Facilities; removal of Project access roads and overhead cables (except for any roads and/or power cables that Project Area landowners wish to retain); and final reseedling of disturbed lands (all of which shall comprise “Decommissioning”). Decommissioning shall occur in the order of removing the Turbines as the first priority and performing the remaining elements immediately thereafter.
3. Monthly Reports. If requested by EFSEC, the Certificate Holder will provide monthly status reports until this decommissioning work is completed.

D. Decommissioning Funding and Surety

1. Except as provided in Art. VIII.D.3 below, the Certificate Holder or any Transferee, as the case may be, shall provide financial assurance sufficient for Decommissioning costs in the form of a performance bond, guaranty or a letter of credit to ensure the availability of funds for such costs (the “Decommissioning Security”) to EFSEC. The Certificate Holder shall include a detailed engineering estimate of the cost of decommissioning in its Initial Site Restoration Plan submitted to EFSEC.

The Initial Site Restoration Plan shall provide that the Decommissioning costs shall be reevaluated annually during construction of the Project and once every five (5) years thereafter from the date of Substantial Completion to ensure sufficient funds for Decommissioning. If deemed appropriate at that time, the amount of decommissioning funds may be adjusted by EFSEC accordingly.

2. The duty to provide such security shall commence thirty (30) days prior to the beginning of Construction of the Project, and shall be renewed on an annual basis. On or before the date on which financial security must be established, the Certificate Holder shall provide

EFSEC with one of the following security devices that is reasonably acceptable to EFSEC:

Performance Bond. The Certificate Holder or any Transferee, as the case may be, shall provide financial security for the performance of its decommissioning obligations through a Performance Bond issued by a surety registered with the Washington State Insurance Commissioner and which is, at the time of delivery of the bond, on the authorized insurance provider list published by the Insurance Commissioner. The Performance Bond shall be in an amount equal to the Decommissioning costs. The Performance Bond shall be for a term of one (1) year, shall be continuously renewed, extended, or replaced so that it remains in effect for the remaining term of this Agreement or until the secured decommissioning obligations are satisfied, whichever occurs sooner. In order to ensure continuous renewal of the Performance Bond with no lapse, each Performance Bond shall be required to be extended or replaced at least one month in advance of its expiration date. Failure to secure such renewal or extension shall constitute a default of the Applicant under this Agreement and under the Bond provisions; or

Letter of Credit. The Certificate Holder or any Transferee, as the case may be, shall provide financial security for the performance of its decommissioning obligations through a letter of credit issued by a bank whose long-term debt is rated "A" or better by a Rating Service. The letter of credit shall be in an amount equal to the Decommissioning costs. The letter of credit shall be for a term of 1 year and shall be continuously renewed, extended, or replaced so that it remains in effect for the remaining term of this Development Agreement or until the secured decommissioning obligations are satisfied, whichever occurs sooner. The State of Washington, by and through EFSEC or its successor or designees, shall be authorized under the letter of credit to make one or more sight drawings thereon upon certification to the issuing bank of the Applicant's or Transferee's (as the case may be) failure to perform its decommissioning obligations when due; or Guaranty. Applicant or any Transferee, as the case may be, shall provide financial security for the performance of its decommissioning obligations by delivering a payment guaranty guaranteeing its Decommissioning obligations hereunder from an entity (i) having, at the time of delivery of such guaranty, a senior unsecured long term debt rating ("Credit Rating") of (1) if such entity has a Credit Rating from Standard and Poor's but not from Moody's, BBB- or better from Standard and Poor's or (2) if such entity has a Credit Rating from Moody's but not from Standard and Poor's, Baa3 or better from Moody's or (3) if such entity has a Credit Rating from both Standard and Poor's and Moody's, BBB- or better from Standard and Poor's and Baa3 or better from Moody's; or (ii) having audited financial statements, prepared by a nationally-recognized firm of independent auditors and indicating a financial net worth of at least \$75,000,000.

3. If Project ownership is transferred after the effective date of this Agreement pursuant to applicable EFSEC laws and regulations, EFSEC has the right to require, consider and approve other financial instruments and/or assurances that would provide for the

Certificate Holder's performance of its Decommissioning obligations pursuant to Article VIII.C. and VIII.D. of this Amended Site Certification Agreement.

ARTICLE IX: SITE CERTIFICATION AGREEMENT - SIGNATURES

Attachment 1

(Placeholder)

Project Legal Description Pending Survey

Attachment 2

Council Order No. 843, Order Recommending Approval of Site Certification on Condition
entered November 16, 2009

Attachment 3

Stipulation between Counsel for the Environment and Desert Claim Wind Power LLC, Exhibit 30 in the adjudicative proceeding.

November 13, 2018 letter from Bill Sherman, Counsel for the Environment

November 12, 2018 letter from Karen McGaffey, Perkins Coie

Attachment 4

Agreement between Washington Department of Fish and Wildlife (WDFW) and Desert Claim Wind Power LLC, Exhibit 20 in the adjudicative proceeding.

Attachment 5

Council Resolution No. 343, approval of the February 26, 2018 SCA Amendment Request.

Attachment 6

Council Resolution No. 353, approval of the October 18, 2023 SCA Amendment Request.

Badger Mountain Solar Energy Project

November 2023 project update

[Place holder]

Wautoma Solar

November 2023 project update

[Place holder]

Hop Hill Solar Project

November 2023 project update

[Place holder]

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application
 No. 2022- ____
 Docket No. EF-220356

Council Order No. ____

HOHI bn, LLC, for the Hop Hill Solar
 Storage Project, Applicant

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

BACKGROUND

Synopsis. *HOHI bn, LLC, submitted an application to the Energy Facility Site Evaluation Council (EFSEC or Council) on December 22, 2022, for site certification of the proposed Hop Hill Solar Storage Project site in unincorporated Benton County. On December 21, 2021, Benton County Board of County Commissioners adopted Ordinance Amendment (OA) 2021-004, which removed “solar power generator facility, major” from the list of uses allowed with a conditional use permit (CUP) in the Growth Management Act Agricultural District (GMAAD). The project does not comply with land use regulations after the adoption of OA 2021-004. Because the proposed site would be a solar power generator facility, major, within the GMAAD zone, the Council has determined the proposed project was not consistent with current Benton County land use and zoning regulations at the time the application for site certification was filed with EFSEC. Revised Code of Washington (RCW) 80.50.020(3); 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 plans and zoning rules.*

- 1 **Nature of Proceeding.** This matter involves an application for site certification (Application or ASC) filed on December 22, 2022, by HOHI bn, LLC (the Applicant) to construct and operate Hop Hill Solar and Storage Project (the Project), a solar photovoltaic (PV) project with a battery storage system, located in unincorporated Benton County. The Project would be an up-to 500-megawatt (MW) solar photovoltaic (PV) generation facility coupled with an up-to 500-MW battery energy storage system (BESS), as well as related interconnection and ancillary support infrastructure.
- 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 February 10, 2023,

EFSEC issued a Notice of Informational Public Hearing and Land Use Consistency Hearing and scheduled a partially in-person and virtual hearing by Microsoft Teams or by telephone participation for 5:00 p.m. on Thursday, February 23, 2023.¹

- 3 On February 23, 2023, the Council conducted a hybrid in-person/virtual land use consistency hearing, to hear testimony regarding whether the Project was consistent and in compliance with Benton County's local land use provisions. The following EFSEC members were present at the February 23, 2023, hearing: Kate Kelly, (Department of Commerce), Mike Livingston (Department of Fish and Wildlife), Stacey Brewster (Department of Utilities and Transportation Commission), Leonard "Lenny" Young (Department of Natural Resources), Kathleen Drew, EFSEC Chair, presided over the hearing. Also present was Paul Krupin, representing Benton County.
- 4 Tim McMahan, Attorney, represented the Applicant and spoke on the Applicant's behalf. Chris Wissel-Tyson, Vice President, Development with HOHI bn, LLC, also spoke on the Applicant's behalf. The Council also heard testimony from: Michelle Cooke, Benton County Planning Manager, and Russell Walker, Operating Engineers Local 302.
- 5 **Applicant's Description of Proposed Facility - Hop Hill Solar Storage Project.** The Project would be a solar photovoltaic (PV) project with a battery storage system, located in unincorporated Benton County. The Project would be an up-to 500-megawatt (MW) solar photovoltaic (PV) generation facility coupled with an up to 500-MW battery energy storage system (BESS), as well as related interconnection and ancillary support infrastructure. The Siting Area would encompass approximately 22,020 acres within the boundaries of 58 assessor parcels.
- 6 The Project would be located entirely on land within the Benton County GMAAD zone. *Application for Site Certification, Section C: Site Summary, p. 5.*
- 7 The fifty-eight parcels on which the Project will be located will together constitute the Project Siting Area. The owners of the parcels are listed in a table in Attachment B: Parcels and Legal Descriptions of the initial application. The owners are: Elmer C Anderson Inc.; Robert Ranch 5+1 LLC; Sportfisher Partnership, Elmer C Anderson Inc. & Anderson Rattlesnake Farms General Partnership, Zircle Four Feathers Vineyards LLC, Anderson Jr. Henry & Grote et. al., Anderson Family Holdings LLC, Anderson Rattlesnake Farms, and

¹ The Council sent this Notice to all interested persons on the mailing list for the Facility including landowners within one mile and to all subscribers to EFSEC's general minutes and agenda list. Further, the Council posted this Notice in English and Spanish on its public website, distributed the Notice to local libraries, and purchased advertisement in the Tri-City Herald and the Corvallis Gazette Times, the local daily newspapers of general circulation.

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ORDER XX

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Wautoma Energy LLC, The Applicant has executed or is pursuing a Lease or Easement Option Agreements with each identified property owner within the Siting Area. *Application for Site Certification, A,3: Property Owner, p. 1; Application for Site Certification, Attachment B.*

8 The Board of County Commissioners for Benton County (Commissioners) adopted Benton County Ordinance Amendment (OA) 2021-004, on December 21, 2021. OA 2021-004 removed the CUP option for commercial solar power generator facility, major from the GMAAD. The purpose of the removal of the CUP option for commercial solar power generator facility, major was to 1) protect long-term commercially agricultural lands, 2) limit incompatible & non-agricultural uses, 3) conserve critical areas & habitat, 4) protect visual resources, and 5) protect rural character. *Board of Benton County Commissioner's Regular Board Meeting (2021, December 21).*

9 The Applicant is not seeking an expedited process.

10 **DISCUSSION**

11 **Land Use Consistency Determination**

12 Subsequent to the informational public hearing, the council shall conduct a public hearing to determine whether or not the proposed site is consistent and in compliance with city, county, or regional land use plans or zoning ordinances on the date of the application. RCW 80.50.090(2).

13 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.”

14 **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.³ 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.⁴ 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

² WAC 463-26-050(2).

³ RCW 80.50.020(14).

⁴ *In re Northern Tier Pipeline*, Council Order No. 579 (Northern Tier Pipeline Order) at 9 (November 26, 1979).

- statutes.⁵ 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.
- 15 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.”⁶
- 16 The requirements of “consistent and in compliance” in RCW 80.50.090(2) are conjunctive, that is to say that both requirements need to be met. Applicant’s argument that, “RCW 80.50.090 requires consideration of whether the solar facility was in compliance with the zoning code at the time of the application for site certification *or* consistent with and in compliance with the comprehensive plan” is not found within the plain and clear language within the RCW and would artificially broaden the scope of the code. (Emphasis added). *Energy Facility Site Evaluation Council (2023, February 23). Hop Hill Solar Project Land Use Consistency Hearing, p. 7*. This interpretation of RCW 80.50.090 is not found persuasive.
- 17 "Application" means any request for approval of a particular site or sites filed in accordance with the procedures established pursuant to RCW 80.50.020.
- 18 **Proof of non-compliance.** The project is not compliant with Benton County land use provisions as of December 22, 2022, the date it filed its application for site certification with EFSEC. Because the proposed site would be a solar power generator facility, major, within the GMAAD zone, the Council has determined the proposed project was not in compliance with current Benton County zoning regulations at the time the application was filed.
- 19 The application contemplated in RCW 80.50.090(2) is the application with EFSEC, not the CUP application with Benton County.
- 20 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 regulations to authorize the siting of an energy facility.⁷ 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.⁸

⁵ RCW 80.50.020(22).

⁶ *In re Whistling Ridge Energy Project*, Council Order No. 868 at 10 n 15 (October 6, 2011)..

⁷ 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).

⁸ WAC 463-29-060

FINDINGS OF FACT

1. On December 22, 2022, HOHI bn, LLC, submitted an application for site certification to construct and operate Hop Hill Solar Storage Project (the Project), a solar photovoltaic project with an optional battery storage system, on 22,020 leased acres in Benton County, Washington.
2. Project would be an up-to 500-megawatt (MW) solar photovoltaic (PV) generation facility coupled with an up-to 500-MW battery energy storage system (BESS), as well as related interconnection and ancillary support infrastructure.
3. On February 23, 2023, the Council conducted a hybrid in-person/virtual land use consistency hearing, to hear testimony regarding whether the Project was consistent and in compliance with Benton County's local land use provisions.
4. The Project would be located in unincorporated Benton County, Washington. The Project would be located entirely on land within the Benton County Growth Management Act Agricultural District (GMAAD). The primary land use of the parcels of the Project site would be for solar power generators, but also the following supporting components: Project collector substation, overhead 230-kilovolt (kV) / 500-kV generation-tie transmission line (gen-tie line), operations and maintenance (O&M) structure, associated Project access roads, and perimeter fencing.
5. On December 21, 2021, the Board of County Commissioners for Benton County adopted Benton County Ordinance Amendment (OA) 2021-004. OA 2021-004 removed the conditional use permit (CUP) option for commercial solar power generator facility, major, from the GMAAD.

CONCLUSIONS OF LAW

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.
2. The Council provided adequate notice to interested parties, and the Council has adequate information to render a land use consistency decision.
3. "Solar Power Generator Facility, Major" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Major facilities are those that are developed as the primary land use for a parcel on which it is located and does not meet the siting criteria for a minor facility in BCC 11.03.010(168). Benton County Code

(BCC)11.03.010(167).

4. "Solar Power Generator Facility, Minor" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Minor facilities are those that are sited on the power beneficiary's premises, are intended primarily to offset part or all of the beneficiary's requirements for electricity/gas, and are secondary or accessory to the beneficiary's use of the premises. BCC 11.03.010(168).
5. As the primary land use for the Project site would be for solar power generation and not primarily to offset part or all of the Applicant's requirement for electricity, the Project is a solar power generator facility, major, as defined in BCC 11.03.010(167).
6. Effective December 21, 2021, solar power generator facilities, major, may not apply for a conditional use permit for lands contained within the GMAAD. Benton County Ordinance Amendment (OA) 2021-004.
7. As the Applicant filed the application for site certification with EFSEC on December 22, 2022, after the effective date for OA 2021-004 on December 21, 2021, the Project site is not in compliance with Benton County's applicable zoning ordinances.
8. As the application has failed the "in compliance" prong of the conjunctive "consistent and in compliance" requirement in RCW 80.50.090(2), analysis of the "consistent" prong is not ripe at this stage of the proceeding.
9. Applicant's CUP application with Benton County is not before the Council. Benton County's denial of the CUP application is not probative as to whether or not the Project was in compliance with Benton County's applicable zoning ordinances at the time it filed its site certification application with EFSEC in December 2022. It is unclear from the record if that CUP application denial contained independent appeal rights or if those rights were exercised. Notwithstanding if any appeal was or was not pursued, the Council does not have the jurisdiction to determine the appropriateness of Benton County's denial of the Applicant's December 2021 CUP application.
10. 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 Benton 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

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RCW 80.50.110(2).

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ORDER

THE COUNCIL ORDERS:

HOHI bn, LLC's, application is not in compliance with local zoning regulations. The matter shall be set for adjudication, concurrent with the general adjudication required by RCW 80.50.090(4), to consider whether to recommend preemption of Benton County's land use plans and zoning regulations. If the environmental impact of the proposed facility is determined by the EFSEC responsible official to be non-significant or if the facility's impacts will be mitigated to a non-significant level, the Council may limit the topic of the general adjudicative proceeding required by RCW 80.50.090(4) to whether any land use plans or zoning ordinances with which the proposed site is determined to be inconsistent should be preempted.

DATED at Olympia, Washington, and effective _____.

WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL

KATHLEEN DREW, Chair

Carriger Solar

November 2023 project update

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Horse Heaven Wind Project

November 2023 project update

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