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May 16, 2023

Energy Facility Site Evaluation Council v.

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ENERGY FACILITY SITE EVALUATION COUNCIL

Carriger Solar Project
Land Use Consistency Hearing

May 16, 2023

Via Teams Video Conferencing

Reported by: STEVEN B. CRANDALL, CER
Certified Electronic Reporter #1198

(Meeting called to order at 5:00 p.m.)

CHAIR DREW: This is Kathleen Drew, Chair of the Washington Energy Facility Site Evaluation Council calling our meeting on the Land Use Hearing for Carriger Solar Project to order. Ms. Grantham will you please call the role for the Carriger council?

STAFF GRANTHAM: Certainly. Department of Commerce.

KATE KELLY: Kate Kelly, present.

STAFF GRANTHAM: Department of Ecology.

ELI LEVITT: Eli Levitt, present.

STAFF GRANTHAM: Department of Fish and Wildlife.

MIKE LIVINGSTON: Mike Livingston, present.

STAFF GRANTHAM: Department of Natural Resources.

LENNY YOUNG: Lenny Young, present.

STAFF GRANTHAM: Utilities and Transportation Commission.

STACEY BREWSTER: Stacey Brewster, present.

STAFF GRANTHAM: For local government and optional state agencies for the Carriger Solar Project.

1 Klickitat County, Matt Chiles.

2 MATT CHILES: Matt Chiles, present.

3 STAFF GRANTHAM: The Assistant Attorney
4 Generals, Jenna Slocum.

5 JENNA SLOCUM: Jenna Slocum, present.

6 STAFF GRANTHAM: Jon Thompson.

7 (No response.)

8 For our Administrative Law Judge, Micah
9 Larippa.

10 JUDGE LARRIPA: Present.

11 STAFF GRANTHAM: For EFSEC Council staff.
12 Sonia Bumpus.

13 SONIA BUMPUS: Present.

14 STAFF GRANTHAM: Ami Hafkemeyer.

15 AMI HAFKEMEYER: Present.

16 STAFF GRANTHAM: Amy Moon.

17 (No response.)

18 Stew Henderson.

19 STEW HENDERSON: Present.

20 STAFF GRANTHAM: Joan Owens.

21 JOAN OWENS: Present.

22 STAFF GRANTHAM: Dave Walker.

23 (No response.)

24 Sonja Skavland.

25 (No response.)

1 Lisa Masengale.

2 LISA MASENGALE: Present.

3 STAFF GRANTHAM: Sara Randolph.

4 (No response.)

5 Sean Greene.

6 (No response.)

7 Lance Caputo.

8 LANCE CAPUTO: Lance Caputo, present.

9 STAFF GRANTHAM: John Barns.

10 JOHN BARNES: John Barnes, present.

11 STAFF GRANTHAM: Osta Davis.

12 (No response.)

13 Joanne Snarski.

14 JOANNE SNARSKI: Joanne Snarski, present.

15 STAFF GRANTHAM: Alex Shiley.

16 ALEX SHILEY: Present.

17 STAFF GRANTHAM: And did we have someone
18 for the Counsel for the Environment.

19 (No response.)

20 Chair, we have a quorum for the regular council
21 and for the Carriger Solar council. Thank you.

22 CHAIR DREW: Thank you very much. With
23 that, I will ask our Judge, Micah Larripa, to preside
24 over this hearing. Judge Larripa.

25 JUDGE LARRIPA: Thank you, Chair Drew, and

1 good evening, ladies and gentlemen. So the time is now
2 5:02 p.m. on May 16, 2023, and this is the Land Use
3 Consistency Hearing in the matter of Carriger Solar
4 Project, EFSEC docket number EF-230001. The purpose of
5 the hearing per Washington Administrative Code
6 463-26-050, is to determine whether at the time of
7 application the proposed facility was consistent and in
8 compliance with land use plans and zoning ordinances.

9 At this hearing, which is required under RCW
10 80.50.090 and Washington Administrative Code 463-26-060,
11 the public will be given an opportunity to provide
12 testimony regarding the proposed project's consistency
13 and compliance with land use plans and zoning
14 ordinances. Land use is the subject matter for today's
15 hearing; it is not general commentary about the project.

16 Argument and testimony. Attorneys for the
17 applicant and the county and any relevant testimony as
18 to whether or not the proposed facility was consistent
19 and in compliance with local land use plans and zoning
20 ordinances at the time of application, was submitted to
21 EFSEC and will be accepted during the Land Use
22 Consistency Hearing.

23 Speaking time at the hearing will be as
24 follows: For the project applicant and the county, each
25 will be afforded 15 minutes to present their argument

1 and testimony. Following that, I will begin opening the
2 floor to public testimony. Each member of the public
3 who wishes to speak regarding land use in this matter
4 will be provided three minutes of time.

5 At the three-minute mark, I will let that
6 person know that their time has expired and give them an
7 opportunity to conclude whatever statement they were
8 ready to complete. So there will be some grace with
9 regard to time, however, if it goes much beyond three
10 minutes and I will need to put a stop to that testimony.

11 As far as the procedures go, or rather, when
12 parties are speaking -- and this will apply to both the
13 applicant and the county as well as any member of the
14 public -- when you begin speaking, I will ask you to
15 please state and spell your name for the court reporter.
16 And also, I'd like to remind you to please speak slowly
17 and clearly to ensure that we have an accurate
18 transcript for tonight's hearing.

19 With that, before we move to the applicant,
20 Chair Drew, do you have anything else that you'd like me
21 to cover?

22 CHAIR DREW: Thank you, no. That covers
23 our meeting for tonight.

24 JUDGE LARRIPA: All right. Thank you,
25 Chair Drew. So with that the applicant, Cypress Creek

1 Renewables, will now have 15 minutes to present it's
2 argument and testimony.

3 LINDA ATKINS: Thank you, Judge Larripa,
4 and good evening, Chair Drew and council members. I am
5 Linda Atkins. That's L-I-N-D-A, A-T, as in Tom,
6 K-I-N-S. I'm an attorney with Davis Wright Tramine,
7 and I'm here this evening representing the applicant,
8 Cypress Creek Renewables, with respect to the Carriger
9 Solar Energy Facility Project.

10 I would also like to introduce a few people
11 from Cypress Creek who are attending this evening, and
12 they will be available to answer questions should the
13 council have any. We have Mr. Tai Wallace. He's the
14 Senior Director of Western Transmission for Cypress
15 Creek. We have John Hanks. He's Associate Director of
16 Development for Cypress Creek. Lauren Altick, the
17 Project Developer for Cypress Creek. And Leslie
18 McClain. She's a consultant and a project manager for
19 Tetra Tech.

20 Next slide, please. One more slide. Thank
21 you.

22 So as Judge Larripa announced in his
23 introduction, the subject of our hearing this evening is
24 whether, under RCW 80.50.090, the proposed site is
25 consistent and in compliance with county land use plans

1 and zoning ordinances on the date of application. And
2 under EFSEC's regulations and past orders, the
3 applicant's task in this type of hearing is to
4 demonstrate that the statutory threshold for land use
5 consistency has been met.

6 Further, under EFSEC's prior precedents and
7 state law, what that tests is whether local land use
8 provisions prohibit a site, expressly or by operation,
9 clearly, convincingly, and unequivocally. If the site
10 can be permitted, either outright or conditionally, it
11 is consistent and in compliance with local land use
12 provisions.

13 Next slide please.

14 So the project --

15 CHAIR DREW: May I pause for just a
16 second?

17 LINDA ATKINS: Of course.

18 CHAIR DREW: I am not seeing the slides.
19 I don't know if anyone else is having that challenge.

20 JUDGE LARRIPA: I'm able to see them Chair
21 Drew.

22 CHAIR DREW: Okay.

23 JUDGE LARRIPA: And -- but during the
24 brief pause, I would like to remind anybody joining us
25 by phone to please go ahead and mute your handset.

1 Thank you.

2 CHAIR DREW: Okay. That's just on my
3 screen. I will figure it out. Thank you.

4 LINDA ATKINS: All right. I will proceed.
5 So the project description was presented at the
6 council's last meeting on this project on April 25th.
7 And I really just want to highlight here that the
8 applicant has submitted a very complete application for
9 site certification. It includes the listed studies that
10 you see on the slide.

11 And the one I really want call to the council's
12 attention this evening is Attachment B. That's the land
13 use consistency review. And that document discusses in
14 a great deal of detail how and why this application is
15 consistent with the land use plans and zoning ordinances
16 of the county.

17 There are extensive site studies. You'll see
18 them listed there. And micro-siting has been applied to
19 the project site to ensure that the smallest footprint
20 possible, that avoids all sensitive areas, has been
21 utilized.

22 Next slide, please.

23 So before I discuss the project consistency
24 with plans and ordinances further, I just want to
25 address at the outset something that I believe that we

1 may hear from the county or the public later this
2 evening, and that is, a moratorium that the Klickitat
3 County Board of Commissioners passed on January 10,
4 2023, and that was to establish a moratorium on the
5 acceptance of applications for large-scale solar
6 projects.

7 So the nature of this moratorium under EFSEC's
8 existing precedents and state case law is that this does
9 not regulate how land is used and it does not meet the
10 definition of a land use plan or regulation under RCW
11 80.50.020, which is the set of definitions that EFSEC
12 applies in its proceedings. So given that, this
13 moratorium is not relevant to the proceeding this
14 evening and it doesn't affect the council's
15 determination of land use consistency.

16 Next slide, please.

17 So EFSEC follows the rule that land use plans
18 are guides and not mandates, and that also is consistent
19 with general state land use law. And the primary
20 question, then, under the Klickitat County comprehensive
21 plan is whether the land use element of the plan
22 contemplates the proposed use. Comprehensive plan
23 elements that don't meet that type of a definition are
24 not strictly relevant for land use consistency purposes.

25 So this site for the project is designated

1 agricultural forest under the general land use plan.
2 That's the use designation, and that is a designation
3 that allows as a conditional use any non-agricultural or
4 non-forest use when that use is not in conflict with
5 agricultural or forest practices and does not take out
6 of production more land than is reasonable necessary for
7 the proposed use.

8 So, again, I would refer to the way in which
9 this project has been micro-sited to ensure that it is
10 using the smallest possible footprint within the project
11 study area for the actual solar panels and the
12 associated infrastructure. It's been designed to avoid
13 all sensitive areas. The participating landowners will
14 be able to continue to conduct agricultural uses on
15 portions of their property that are not being used for
16 the project.

17 There's no high-value or high-production
18 agricultural lands that are within the project maximum
19 extent. So that's the area in which the panels and the
20 infrastructure will be placed. There is only a very
21 small amount of irrigated land within that project
22 maximum extent, and there's no forest land affected by
23 the project. There'll be no trees removed or affected.

24 And, as I will discuss in a bit more detail
25 later in the presentation, the zoning classifications

1 that the county has adopted within this agricultural
2 forest general land use plan designation, extensive
3 agriculture and rural zoning districts, are districts
4 that also allow the use.

5 Next slide, please.

6 So as I said, while the comprehensive plan is a
7 guide and not a mandate, there are a number of county
8 goals and policies that are expressed in the
9 comprehensive plan that the project has been designed to
10 respond to and to incorporate mitigation measures and
11 avoid having impacts on these values.

12 And a few of them that I want to highlight are,
13 first of all, that the county policies do support our
14 state-wide goals for renewable energy development. It's
15 not. We all know that our state has placed a very high
16 priority on moving to renewable energy sources for our
17 electrical infrastructure, and this project is
18 consistent and supports that goal.

19 The utilities element of the comprehensive plan
20 also encourages energy production in Klickitat County,
21 and this project relies on existing utility corridors as
22 encouraged by the comprehensive plan goals. And the
23 project incorporates, as I have been saying, many design
24 features and mitigation measures to ensure that it will
25 be responding to the various policies and goal focuses

1 that you can see on the slide here.

2 Next slide.

3 So I just -- this slide just continues the
4 public services response part of the project. There are
5 a set of best management practices that the project is
6 employing to address the various aspects of the
7 operation and the construction that could impact those
8 goals and policies. And I would, in particular,
9 highlight the stormwater management best management
10 practices. So these include things like spacing the
11 panels and revegetating the surface under the panels to
12 allow natural infiltration of rainwater and designing
13 the project so that it responds to all of Ecologies
14 requirements to manage stormwater onsite.

15 And the project does incorporate a number of
16 measures that are designed to ensure fire safety. There
17 is battery energy storage as a part of the project, and
18 that storage uses state-of-the-art fire prevention and
19 suppression systems. And there will be an emergency
20 response plan provided to the fire protection district
21 in the county.

22 Next slide, please.

23 So part of the goals and policies, the
24 comprehensive plan, are that a project be made
25 compatible with its environment. And this slide shows

1 two of the photo simulations that have been prepared for
2 the project. These are part of the much more extensive
3 visual assessment report that the applicant has
4 submitted in support of the project. And you can see in
5 these simulations that the project will not block any of
6 the vistas and views to the mountains or the other
7 scenic resources of the county and will generally be
8 consistent with other manmade elements that appear in
9 the environment. For example, fence lines, power poles,
10 and transmission lines.

11 Next slide.

12 So this slide is the map from the county zoning
13 ordinance, which shows the zoning classification and the
14 Energy Overlay Zone, which overlays the zoning
15 classification. So the project site you can see is
16 outlined in the purple. And you can see from this slide
17 how the project is laid out so that it provides
18 corridors for wildlife and responds to the need to keep
19 the project infrastructure away from sensitive areas
20 such as streams and wetlands.

21 And you can see the Extensive Agriculture
22 District is in the yellow, and the General Rural
23 District is in the green, and most of the project is
24 within the area that's cross hashed in red. That's the
25 Energy Overlay Zone. So that is a zone that was adopted

1 under Klickitat County zoning ordinances to accommodate
2 renewable energy projects, which include solar energy
3 projects.

4 Next slide.

5 So once again, the zoning classifications, the
6 Extensive Agriculture District, General Rural District
7 and the Energy Overlay Zone. So each of those
8 classifications allows a solar energy facility as a use.
9 And the Energy Overlay Zone, solar energy facilities are
10 actually a permitted use. They're permitted out right.
11 And in the EA zone and the GR zone, this type of a
12 facility is allowed as a conditional use.

13 Next slide.

14 So under the county zoning code, you can see
15 the definition of a conditional use. That's a use that
16 is permitted when it's authorized by the Board of
17 Adjustment and subject to reasonable conditions or
18 restrictions which would render the use compatible with
19 existing and potential uses in the vicinity which are
20 permitted outright.

21 So the essence of a conditional use, and this
22 is as a matter of county code and it's also as a matter
23 of our general land use laws and principals in this
24 state, is a use that is permitted subject to conditions.
25 So in the Klickitat County code, there are not specific

1 conditional use approval standards that are associated
2 with that definition that I read. So from that extent,
3 the project would be -- look to have conditions to make
4 it compatible with environmental analysis under SEPA and
5 any applicable zoning standards within the code.

6 And the ones that I would point the council to
7 would be in the EOZ. There are actually a list of
8 topics that the EOZ calls for both the wind and solar
9 projects to be made consistent with. These are all
10 topics that the project has been designed to accommodate
11 and respond to.

12 Next slide. So very briefly --

13 JUDGE LARRIPA: Just as a brief time
14 check, I just wanted to let you know so you can plan to
15 use the time as you see fit, but there are approximately
16 two-and-a-half to three minutes left.

17 LINDA ATKINS: Okay.

18 JUDGE LARRIPA: Three and half.

19 LINDA ATKINS: Okay. Thank you. So, Ms.
20 Grantham, if you could just move quickly through this
21 slide and the following three slides. So these slides
22 really just highlight the way in which the project is
23 also designed to be consistent with the Klickitat County
24 Critical Area Ordinance. So that is part of the
25 applicant's responsibility under the code to be

1 responsive to that ordinance. And there are many
2 mitigation measures and project features that have been
3 incorporated to respond to those directives.

4 So in conclusion, I want to bring us back to
5 the test, which is whether local land use provisions
6 prohibit a site expressly or by operation, clearly,
7 convincingly, and unequivocally the use is permitted use
8 in the Energy Overlay Zone and it is allowed as a
9 conditional use in both the EA and the GR zone.
10 Therefore, it is consistent and in compliance with local
11 land use provisions as defined by EFSEC.

12 And I would just highlight that the county code
13 actually incorporates this objective, which is
14 highlighted on the slide, County Code 19.02.030, which
15 really calls for a balancing of the uses within the
16 allowed zones and to respond to changing conditions and
17 requirements.

18 And given that both solar energy and
19 agricultural and general rural uses are allowed in the
20 zoning districts that are applied to the project, and
21 the project can be sensitively sited so that it does not
22 become incompatible with those uses, the council should
23 find that this project is consistent with the county's
24 land use plans and zoning ordinances.

25 And that concludes my presentation.

1 JUDGE LARRIPA: All right. Thank you, Ms.
2 Atkins. Now to move over to the county. It is my
3 understanding that there are two speakers appearing on
4 behalf of the county tonight. Would those two speakers
5 please identify yourselves?

6 LORI ZOLLER: Lori Zoller. Oh, go ahead.

7 DAN CHRISTOPHER: Klickitat County
8 Commissioner, Dan Christopher.

9 LORI ZOLLER: And County Commissioner,
10 Lori Zoller.

11 JUDGE LARRIPA: All right. And so, with
12 regard to the county's time, I'll leave it to you to
13 decide which order you'll speak in and also your
14 allocation of the 15 minutes. Have you decided together
15 in advance of this meeting which one of you would like
16 to speak first.

17 DAN CHRISTOPHER: I will go first. She
18 will go second. And I don't think we will need 15
19 minutes. Correct?

20 JUDGE LARRIPA: And please just go ahead
21 and state and spell your name for the record. And then
22 please go ahead and begin with your argument or
23 testimony.

24 DAN CHRISTOPHER: My name is Dan
25 Christopher, D-A-N, C-H-R-I-S-T-O-P-H-E-R. My testimony

1 is -- thank you, Chair and members of the board. I am
2 Klickitat County commissioner, Dan Christopher. I want
3 to remind this board that Klickitat County has clearly
4 demonstrated that it is pro green energy as long as the
5 projects are sensibly sited.

6 Under RCW 35A.63.220, Klickitat County has
7 created Resolution 00823 for a moratorium that states,
8 and I quote that, "all applicants for large scale solar
9 projects over one acre in size," dot dot dot for time,
10 "will not be accepted for at least 6 months." This was
11 passed before the Carriger Solar Project submitted its
12 application.

13 EFSEC Resolution 04323, created after the
14 public hearing on the moratorium, goes even farther and
15 states, "no land use applications associated with large
16 scale solar projects over one acre in size," dot dot dot
17 which are the townships in range, "shall be accepted as
18 either consistent or complete."

19 With that, I understand the opinion by some
20 that a moratorium is not a land use decision. What it
21 is is a pause button. Klickitat County hit the pause
22 button. Just like the Governor has hit the moratorium
23 pause button many times over the last few years with
24 things like eviction moratoriums. So I question if the
25 State is going to honor our moratorium like it insists

1 the County honors theirs?

2 Now, yes, Klickitat County could have, and
3 still can, enact emergency zoning ordinances that
4 clearly, convincing, and unequivocally ban all solar
5 development in the county. We're trying not to do that.
6 We're trying to sensitively site projects, but we may
7 have to change if we feel that EFSEC is going to
8 undermine the local decision-making process on where we
9 feel projects can or can't be sensitively sited.

10 Under Klickitat County code, all projects
11 located outside the Energy Overlay Zone will go through
12 a Conditional Use Permit process. This allows our
13 citizens, that sit on that board, to judge if a project
14 is too large or not sensitively sited or in any way not
15 consistent with Klickitat County's customs and cultures.

16 This public hearing today, that we are mere
17 spectators in, is not a consistency hearing presided
18 over by Klickitat County residents, and it is a hearing
19 of which we have one voting representative that will
20 preserve our customs and cultures. With that Klickitat
21 County has also submitted a packet for review providing
22 the evidence that we can obtain on a limited,
23 incomplete, and inaccurate data submitted by the
24 Carriger application so far. With that, I'm going to
25 freestyle a little bit and I'm going to certainly hope

1 that you all don't take the testimony given by the
2 attorneys for the applicants as true and factual as they
3 probably never been to this land either.

4 I would certainly hope that the people on this
5 board would care enough for this community to at least
6 come out and drive the project and then look at the
7 application that was presented to you and look at the
8 legal blah blah that was just given and be able to call
9 BS.

10 Oh, you can't see this project from Goldendale.
11 I can see it from the Goldendale Community Services
12 building. I can see it from the courthouse. You can
13 see it from the freeway. You can see it from so many
14 places all over that valley. And they show two pictures
15 that I don't even know where they're taken. They found
16 some boring road with no houses on it and said, see,
17 this is what it looks like in Klickitat County. It's
18 absolutely misleading.

19 We at Klickitat County site our projects, of
20 which we have solar projects, we have windmills, we're
21 going to have pump storage, we're going to have more
22 solar, but we do it in a sensitive way. We put the
23 solar panels, that are going to affect people, in the
24 sage brush where there's no houses around. Nobody's got
25 to look at them. Nobody's got to a ruin your viewshed.

1 Because that's all we have going for us in this
2 valley is our viewshed. That's why people move here, is
3 our viewshed. And for them to say that nobody's going
4 to see the view. I'm sorry. This is going to
5 absolutely destroy the view of this community.

6 It's going to cause economic disparity in this
7 community because these jobs are not going to be our
8 locals. The unions testify but they've also told us
9 that there's only 15 union laborers in Klickitat County.
10 So yes, we're providing jobs to, you know, Clark County
11 but it doesn't help us. And what you're going to do is,
12 you're going to cause people to not want to move here
13 anymore because of the destruction of the viewshed.

14 So, we know how to do green energy projects.
15 We've been a partner with the state of Washington for
16 decades to put in green energy projects but we've been
17 smart enough to site them sensibly where it doesn't
18 affect our residents. And our residents are fine with
19 that. This project absolutely affects a third of the
20 population of this county and you're putting it right
21 next to the only poor and impoverished community in our
22 county.

23 And what you do today on this one sets a
24 precedent on the other three that want to surround the
25 community. So with that, I'm going to be done free

1 styling in my anger but I'm going to call on you to make
2 the right decision in your sensibly siting.

3 And I hope I can trust on you to find that
4 this, because of the moratorium, is not consistent.
5 Because, I feel that if you -- if we cannot trust the
6 state to trust the people of Klickitat County on where
7 these could be sited, I feel you leave me no other
8 argument but to change, and make, and exert an emergency
9 zoning ordinance that clearly, convincing, and
10 unequivocally bans all solar development in the county.
11 And you will no longer have a green energy partner in
12 Klickitat County.

13 I feel that's where this is going. I hope it's
14 not. I hope we can work together to sensitively site
15 projects, but I'm losing faith. So with that, I'll be
16 done. Thank you all for your time. Sorry if I'm a
17 little heated. I just -- with the first 15 minutes of
18 inaccuracies, I got a little worked up. I apologize to
19 the chair. Have a nice day.

20 JUDGE LARRIPA: All right. Thank you,
21 Commissioner Christopher. Commissioner Zoller, if you
22 would please state and spell your name for the court
23 reporter, and you may begin your testimony or argument.

24 LORI ZOLLER: And how many minutes do I
25 have left?

1 JUDGE LARRIPA: It looks like we're at
2 eight minutes and 30 seconds.

3 LORI ZOLLER: Perfect. Thank you. And I
4 probably won't need that. My name is Lori Zoller,
5 L-O-R-I, Z-O-L-L-E-R, and I'm District 2 Klickitat
6 County Commissioner. I'm speaking this evening for
7 myself and my constituents.

8 I too, unfortunately, I'm going to free wheel
9 it here and I'll try to stay on task. After hearing the
10 previous testimony, I too have to refute some things. I
11 had other testimony prepared, but in light of what I
12 heard, I'm pretty disappointed.

13 The applicant began their testimony
14 discrediting the Klickitat County comp plan, saying it
15 was only a plan. Didn't mean anything. Wasn't worth
16 anything to take a look at that. But when they
17 continued through their testimony, they relied back
18 again and again and again for justification to our comp
19 plan.

20 The comp plan does speak to our customs and
21 cultures and it is a plan that drives how we create our
22 ordinances and regulations. The county comp plan, the
23 Energy Overlay Zone, the Critical Area Ordinance, the
24 Shoreline Management Plan, are all aged documents and do
25 not speak to the condition of large scale solar.

1 In fact, all are currently being updated and
2 under review to bring them into today's day. So to rely
3 on the fact that the plan meets -- their application
4 meets -- siting requirements because of the EOZ is
5 false.

6 The EOZ is lacking any information to large,
7 excuse me, large scale industrial solar. It only gave a
8 nod to solar because back when it was created we knew
9 nothing about solar only that they went on the top of
10 people's rooftops. So to say it belongs and covers
11 industrial solar is false.

12 The CAO and the SMP are being updated as we
13 speak as required by Department of Ecology in the state.
14 Those documents do have expanded regulations coming.
15 The regulations that they have now also cover some of
16 the things that weren't included in the application.
17 And that is, that the Goldendale Plateau has long been
18 considered a critical recharge area for the Little
19 Klickitat and Klickitat Rivers.

20 The aquifers that are all connected through
21 that plateau filter water like a funnel as it flows to
22 the Klickitat and Little Klickitat Rivers as clean
23 water. Both rivers are home to the Mid-Columbia
24 Steelhead, a listed species, which was not addressed in
25 their application. Both rivers have multiple overlays

1 of federal, state, and county regulations in place for
2 protection that this project may put at risk.

3 It needs to be well studied to make sure that
4 stormwater runoff, and changes in water, and water
5 quality, and water amounts which could severely impact
6 TMDLs and CFS that have both set -- have been set for
7 both these rivers already to protect the fisheries.
8 Years of studies were conducted and parameters were set
9 for this area for the aquifer protections.

10 And in light of so many expedite -- in light of
11 so many inconsistent items an expedited process would be
12 a travesty for this area. Please ensure a full EIS so
13 that forgotten and unnoted items like the fisheries and
14 the connection to the Mid-Columbia Steelhead are
15 addressed. And also, please take to heart that these
16 documents that they're relying their application are out
17 of date and are being updated and do not talk back to
18 what industrial solar really is. Thank you.

19 JUDGE LARRIPA: Thank you, Commissioner
20 Zoller. So now it's time to move on to members of the
21 public who wish to speak. Ms. Grantham, do you have the
22 list and order that members of the public signed up to
23 speak?

24 STAFF GRANTHAM: Yes, I do.

25 JUDGE LARRIPA: All right, thank you. So

1 if you would, please call off each name. And when Ms.
2 Grantham calls your name, once again, please state and
3 spell your name for the court reporter. And then you'll
4 see the -- if you are viewing us on video -- you'll see
5 the clock. Because I do understand that some people are
6 calling in by phone, when the three minutes is up, I
7 will let you know that your time is expired and give you
8 an opportunity to finish your remarks.

9 I will ask that everybody not speaking please
10 remain on mute and show each person who wishes to speak
11 the same courtesy that I'll expect when you're speaking.
12 So with that, Ms. Grantham, would you please call the
13 first member of the public who would like to offer
14 testimony tonight.

15 STAFF GRANTHAM: Certainly, the first name
16 I have is Justin Sellers.

17 JUDGE LARRIPA: All right. Mr. Sellers,
18 if you're -- if you're with us, please go ahead and
19 unmute, if you're muted, and state and spell your name
20 and begin your comments.

21 STAFF GRANTHAM: I'm not hearing Mr.
22 Sellers, but really quick Judge, I think Chair Drew
23 might have dropped off. Oh, she's joining back in as we
24 speak.

25 JUDGE LARRIPA: Okay. We'll go ahead and

1 stand by.

2 STAFF GRANTHAM: There she is. Welcome
3 back, Chair Drew.

4 JUDGE LARRIPA: All right. So what we'll
5 do, then, is we'll move on to the next member who signed
6 up and then, before we conclude, we'll circle back and
7 see if Mr. Sellers has joined us again.

8 STAFF GRANTHAM: Okay. So the next name I
9 have is Greg Wagner.

10 JUDGE LARRIPA: And, Mr. Wagner, if you're
11 on the line and trying to speak you may still be on
12 mute. Please go ahead and unmute yourself whenever
13 you're ready, sir.

14 GREG WAGNER: My name is Greg Wagner.

15 JUDGE LARRIPA: All right. And, if you
16 would, please spell your name for the court reporter and
17 then you may begin your comments, sir.

18 GREG WAGNER: My name is Greg Wagner,
19 G-R-E-G, W-A-G-N-E-R. I'm with the group CEASE,
20 Citizens Educated About Solar Energy. Klickitat County
21 has a rich history of farming and ranching and that is
22 what the comprehensive plan is all about.

23 The project is inconsistent with land use and
24 is incompatible. The Cypress Creek ASC is inaccurate.
25 The 266 pages is flawed; has many omissions and

1 accuracies. It cannot be counted on. It was
2 provided -- much of the information was provided by
3 Tetra Tech, a company that's under investigation. EFSEC
4 itself has asked for a data request dated 5/9 for
5 additional information.

6 CEASE members request that this virtual
7 consistency hearing cease and be rescheduled until a
8 later date that this applicant could provide answers
9 prior to this Land Use Consistency Hearing. EFSEC and
10 its consultants would not have adequate time to review
11 their answers to ensure they are accurate. CEASE
12 members, the public, and Klickitat County government
13 would not be given adequate time to review these
14 answers.

15 Many of these answers were provided by Tetra
16 Tech and should not be accepted considering they're
17 being investigated for fraudulent reporting. EFSEC
18 questions should be forwarded to and reviewed by the
19 appropriate agencies for accuracy. These are the
20 reasons why this Land Use Consistency Hearing should be
21 canceled and rescheduled. If this certification process
22 is to be conducted in a fair and impartial manner, and
23 in compliance with RCW 42.36, adequate time needs to be
24 given to all parties.

25 CEASE members are requesting the Land Use

1 Consistent Hearing be postponed. And we heard the
2 applicant's lawyers say that our moratorium, our
3 ordinances, had no value. And then they turn around and
4 they quote all our EOZ and our code as having value and
5 importance in their consistency.

6 I feel that our moratorium should have as much
7 weight as the ordinances that we have in place that they
8 want to use in their favor and against us. This is
9 unfair to the citizens of the county. We'd like to have
10 input in what goes on in our county and not be have
11 Cypress Creek pay somebody to get the answers they want.

12 And the picture they showed of the viewshed was
13 on Fish Hatchery Road. It doesn't show what the real
14 landscape looks like. This project will be seen for
15 miles and it would disrupt people's lives or property
16 values. It would destroy the land. Our water counts on
17 the recharging of our potable aquifers. It's in
18 violation of the Critical Area Ordinance.

19 Many of their studies are false, inaccurate,
20 misleading. Even on April 25th, at their meet and greet
21 with EFSEC, their displays were wrong. Tai Wallace gave
22 out false information to the Fire Commissioner Rural 7.
23 Everything that they say is always questionable.
24 They'll say anything to get their projects permitted.

25 So in light of that, this project should not be

1 certified. It should go to adjudication. It should be
2 fully studied. All their studies should be reexamined,
3 especially if they were done by Tetra Tech. They have
4 proven to be inconsistent and inaccurate with their
5 information. That's all I have to say. Thank you.

6 JUDGE LARRIPA: All right. Thank you, Mr.
7 Wagner. And for future speakers, I understand that part
8 of the comment -- and it was limited so I didn't want to
9 interrupt Mr. Wagner's comment -- but with regard to any
10 motions to continue the land use hearing, further
11 motions will not be considered. This is the time, date,
12 and venue for the land use hearing pursuant to the
13 notice that was issued on April 27, 2023. So, for
14 future speakers, I will ask you to refrain from making
15 any further motions regarding the procedures for this
16 evening's hearing. With that, Ms. Grantham, who is our
17 next speaker?

18 STAFF GRANTHAM: Our next speaker is Deb
19 Wagner.

20 JUDGE LARRIPA: All right. And Ms.
21 Wagner, you're welcome to go ahead and unmute. And, if
22 you'd like, please state and spell your name for the
23 court reporter and then proceed with your comments.

24 DEBORAH WAGNER: My name is Deborah
25 Wagner, D-E-B-O-R-A-H, W-A-G-N-E-R. Can you hear me?

1 JUDGE LARRIPA: Yes, ma'am.

2 DEBORAH WAGNER: Okay. These are my
3 comments why Carriger Solar Project should not be
4 certified. The Clean Water Act is a federal law enacted
5 in 1948, and amendments have been made in 1972, to
6 protect our water. Where Carriage proposes to put their
7 site water is present.

8 This is our potable water for the county.
9 Potable water for our fish, which is right across the
10 street. This should not be damaged. Our water should
11 not be contaminated by solar sites. With all the
12 chemicals in the solar panels this would be
13 irresponsible to do.

14 RCW 89.10.005, written to preserve farmland.
15 Again, where Carriger Solar proposes to put their solar
16 site is on our farmland. This is our food. This is
17 food for everyone, not just Klickitat County. This food
18 goes farther than Klickitat County. We are the
19 northwest growers. Very important to sustain life.

20 One more thing I would like to say is, I agree
21 with everything that Dan Christopher said, our
22 Commissioner, and Lori Zoller, and I thank them very
23 much for standing up for our citizens. Thank you.

24 JUDGE LARRIPA: All right. Ms. Wagner.
25 Thank you.

1 DEBORAH WAGNER: I'm done.

2 JUDGE LARRIPA: Thank you for your
3 testimony. Ms. Grantham, who's our next speaker this
4 evening?

5 STAFF GRANTHAM: Our next speaker is
6 Delmer Eldred.

7 JUDGE LARRIPA: Please go ahead and state
8 and spell your name for the court reporter, and you may
9 begin your comments. Do we have Delmer Eldred on the
10 line? All right. Hearing no one. Ms. Grantham.
11 Please move to our next speaker, but just put a note to
12 call Delmer Eldred's name once again once we move
13 through all of those who signed up to speak.

14 STAFF GRANTHAM: Certainly. The next
15 person I have on the list is Sheri Bousquet.

16 JUDGE LARRIPA: And if you're on the line,
17 please go ahead and unmute state and spell your name for
18 the court reporter and then proceed with your comments.

19 STAFF GRANTHAM: I see that she's trying
20 to speak but we're not hearing her come through,
21 unfortunately.

22 SHERI BOUSQUET: Can you hear me now?

23 CHAIR DREW: Yes, we can.

24 SHERI BOUSQUET: Okay. Dear EFSEC, my
25 name is Sheri Bousquet, S-H-E-R-I, B-O-U-S-Q-U-E-T. I

1 live at Husum, Washington. I care about my seat of my
2 county and I do not want it surrounded by industrial
3 solar. I do not believe you have the territorial
4 jurisdiction. Come into our county and tell our county
5 how we will use our land. I do believe that you must
6 listen to our county planning. We will not allow
7 permits. We will not allow this in our moratorium. You
8 do not have jurisdictional -- territorial jurisdiction.
9 You don't have it.

10 JUDGE LARRIPA: And Ms. Bousquet, it
11 appears that you went back on mute. Have your comments
12 concluded? Ms. Bousquet, it appears that we're either
13 experiencing technical difficulties or you may have
14 inadvertently muted yourself. If you have further
15 comments, please speak up and let us know that you're
16 there. All right. In order to --

17 SHERI BOUSQUET: I guess I do have
18 additional time. And what I'm saying is I do not
19 believe that EFSEC has territorial jurisdiction in our
20 county. If you do not have a state law, if you do not
21 have a federal law that says you can site large scale
22 solar in our county, our county is the one that would
23 make the decision. You're over stepping your
24 jurisdiction.

25 I mean, I if you want to do imminent domain on

1 the property, do it. You know, just do it. Just
2 imminent domain. Imminent domain it as the state. But
3 I don't believe you guys have the authority to come into
4 our county and tell us what we're going to do with our
5 ag land. That's ridiculous.

6 I don't care who puts up -- who puts up a
7 substation. You know, they just went and did it and now
8 they're like, oh, now we're going to be a solar
9 wasteland. No. No. You guys -- you guys need to
10 seriously step off and realize that our county has
11 jurisdiction. Thank you.

12 JUDGE LARRIPA: All right. Thank you for
13 your comments. Ms. Grantham, who is our next speaker?

14 STAFF GRANTHAM: Our next speaker is
15 Justin Bousquet.

16 JUDGE LARRIPA: Right. And if you're on
17 the line, please go ahead and unmute and state and spell
18 your name and then begin your comments.

19 STAFF GRANTHAM: I believe we're having
20 the same issue as before where it shows he is attempting
21 to speak but we are not hearing it come through.

22 JUDGE LARRIPA: We'll give it just a
23 moment. And is Justin Bousquet present or are you able
24 to hear us. And, Mr. Bousquet, it appears that you're
25 experiencing technical difficulties. If you can try to

1 speak. If I'm not able to hear you, though, we'll move
2 on to the next speaker and then call you again at the
3 end. But please go ahead and try one more time, sir.
4 All right. Mr. Bousquet, if you can hear me, we're
5 going to move to the next speaker just to keep comments
6 moving along but we will call you again before comments
7 conclude for the evening. Ms. Grantham, would you
8 please call the next person who signed up.

9 STAFF GRANTHAM: Yes. The next person I
10 have on the list is Dana Peck.

11 JUDGE LARRIPA: And, Dana Peck, if you're
12 on the line, please go ahead and unmute and state and
13 spell your name for the court reporter.

14 DANA PECK: Can you hear me? Okay?

15 JUDGE LARRIPA: I sure can.

16 DANA PECK: My name is Dana, D-A-N-A, and
17 the last name is Peck, P-E-C-K. Way back when, I
18 managed the Energy Overlay Zone process.

19 And the one -- the one aspect of it, that I'd
20 like to bring to the council's attention, is that the
21 commissioners are certainly right that we didn't foresee
22 large scale solar when we did this back in 2004 and
23 2005. But, we did do -- and this is the piece that's
24 been sort of lost when we refer to the Energy Overlay
25 Zone is -- although we're not growth management at

1 county, we did do a programmatic environmental impact
2 statement on the entire county, and that's what informed
3 the language that was subsequently put into the
4 comprehensive plan and zoning.

5 And one of the things that we looked at
6 specifically was a preferred alternative that allowed --
7 well, we looked at three alternatives on the procedural
8 side, one that would prohibit any kind of energy project
9 outside the Energy Overlay Zone. And the preferred
10 alternative that we selected addressed the idea that,
11 okay, within the Energy Overlay Zone, you know, there's
12 a certain amount of allowed uses.

13 Well, let me just read it. It's easier to read
14 it than to try to summarize it, if you don't mind,
15 because it's short. This is page 2-18 of the county's
16 programmatic impact statement dated September 2004,
17 Section 25 Preferred Alternative. "The FEIS includes a
18 preferred alternative combining procedural alternative
19 one with the limited geographic alternative. The
20 preferred alternative would allow wind, gas-fired
21 biomass, and solar energy development to be permitted
22 outright within the overlay subject to site-specific
23 SEPA review and mitigation and compliance with relevant
24 local, state, and federal laws and regulations. Energy
25 proposals outside the overlay would be subject to the

1 existing county conditional use process." And this was
2 incorporated into the comprehensive plan and zoning
3 through County Ordinance 031505, March 15, 2005.

4 So again, although the specifics of grid-scale
5 solar weren't addressed at that time, the concept of
6 solar certainly was. And it isn't just a quasi judicial
7 or legislative action that the commissioners took. It
8 was based on a programmatic environmental impact
9 statement, which is a relatively odd duck in the world
10 of process, but we felt that it was a way of
11 underpinning the other decisions that were made. And
12 that concludes my remarks.

13 JUDGE LARRIPA: All right. Thank you, Mr.
14 Peck. Ms. Grantham, would you please call our next
15 speaker?

16 STAFF GRANTHAM: Next speaker is Russ
17 Hanson.

18 RUSS HANSON: Yes. Can you hear me?

19 JUDGE LARRIPA: I sure can. Thank you.

20 RUSS HANSON: Yes. My name is Russ
21 Hanson, R-U-S-S, H-A-N-S-O-N. My wife and -- my wife
22 Amy and I live directly adjacent to the proposed project
23 and the development is called McCabe Meadows which
24 consists of 240-acre development that was created by
25 James Farrer as 12 parcels, which are 20 acres each in

1 size. In 2005, Mr. Farrer created protective covenants
2 for this development and they were recorded with the
3 county court. Each buyer of a parcel on this
4 development acknowledged protective covenants when they
5 purchased the property.

6 My wife, Amy, bought two parcels on McCabe
7 Meadows development in 2012 and took comfort knowing
8 that these protective covenants would limit the type of
9 use that would be allowed in this development. Cypress
10 Creek Renewables has released -- leased six parcels in
11 this development totaling 120 acres from three different
12 landowners, none of who live in the developed. This is
13 a direct violation of our protective covenants and not
14 consistent with the land uses in the development.

15 Section three of the covenants regarding uses.
16 The second sentence states that any owner or occupant
17 may make ordinary residential or recreational uses to
18 that portion of the property they have interest.

19 Industrial scale solar and lithium-ion battery storage
20 is definitely not a residential or recreational use.
21 Again, this is a direct violation of our covenants in
22 this development and not consistent with the land uses.

23 Section five of this mor -- or our covenants
24 regards activities. The last sentence states, no
25 noxious thing or use of the property shall be allowed.

1 Solar panels, if cracked or broken, have noxious and
2 toxic materials that can easily contaminate the soil and
3 the private wells in this development. A two-acre
4 lithium battery storage in our development directly
5 behind our homes is a noxious and toxic time bomb. This
6 would contaminate our air, soil, private wells, not to
7 mention be extreme fire hazard to the residences here.
8 Again, this is a violation of our covenants and our land
9 uses in this development.

10 When Mr. Farrer wrote these covenants, it was
11 clear that he intended for the land to be developed for
12 residential and recreation purposes, not industrial uses
13 like solar. And when parties brought property in this
14 development, based on the protective covenants, they
15 would have never imagined that industrial solar would be
16 allowed in our development.

17 Protective covenant case law states that
18 covenants are a legal binding contract between
19 landowners. It further states that covenants that are
20 consistent with applicable law will not be superseded or
21 terminated by zoning ordinances that are not consistent
22 with those covenants.

23 In March of this year my wife spoke with Joanne
24 Snarski of EFSEC about her covenants. She stated that
25 EFSEC has not run into this before and she would consult

1 with the Assistant Attorney General. She later advised
2 us that the AG's office stated that EFSEC has no
3 authority -- or has authority over state law, county and
4 city ordinances, and zoning but has no authority over
5 protective covenants. So by its own admission, EFSEC
6 has no authority over our protective covenants;
7 therefore, that portion of the Carriger Project that is
8 located within McCabe Meadows development cannot be
9 approved.

10 I will be submitting my testimony along with a
11 copy of the protective covenants and parcel maps via
12 email. Thank you.

13 JUDGE LARRIPA: Thank you for your
14 testimony, Mr. Hanson. Ms. Grantham, would you please
15 call our next speaker.

16 STAFF GRANTHAM: The next speaker I have
17 is Amy Hanson.

18 AMY HANSON: Good evening, Committee and
19 Judge Larripa. Can you hear me?

20 JUDGE LARRIPA: I sure can. Thank you,
21 Ms. Hanson.

22 AMY HANSON: My name is Amy Hanson, A-M-Y,
23 H-A-N-S-O-N, as my husband just said, we live directly
24 behind the Knight Road substation and are going to be
25 directly affected by the Carriger Project. In listening

1 to testimony this evening, I would ask that the
2 committee actually read our Energy Overlay Zone document
3 and ordinances that were created. It mainly addresses
4 wind. There's very few paragraphs in there that even
5 address solar and they were expected to be a small in
6 size and number and sensitively sited.

7 The document was created in 2004. I think it
8 was amended maybe once. But this area has changed a lot
9 since 2004. This is an area that is highly populated
10 just right outside Goldendale city limits.

11 I would ask that the committee come take a
12 look. Come drive out here, take a look, and see this is
13 rolling terrain that goes, you know, slowly, you know,
14 higher as it goes towards the Simcoes and this will be
15 visible from town, from everywhere. So for Carriger,
16 the attorney, to say that this will not visually impact
17 us is not correct. Please come take a look. Please
18 look at where they're proposing this project.

19 I've read the county comprehensive plan many
20 times and basically it says that activities should keep
21 the rural character of our county. Where we live we are
22 surrounded by productive farmland. Productive farmland.
23 It is -- I mean, drive out here. Every -- it's being
24 farmed right now. This is not sage brush. This is not
25 rocky country. This is beautiful farmland that is being

1 used.

2 My husband and I raise sheep. We have horses.
3 We bought this property for the view, for the proximity
4 of close to town. I just don't understand how an
5 industrial project can be sited on agricultural land.
6 When we moved here, we were paying -- our tax base was
7 through the county, was residential -- and we're paying
8 a higher tax rate on one of our parcels for the view.
9 So the county recognizes that our view is worth
10 something.

11 This is our quality of life. This is the
12 quality of life for everybody surrounded surrounding us.
13 And once this, you know, if this is approved and this is
14 turned into industrial solar, no matter what they say,
15 it can never go back to the farmland, the beautiful
16 farmland it is. It'll be ruined forever. So please
17 thank you for your time this evening. And please come
18 take a look at where they're proposing this project
19 before you make a decision. Please come to our home. I
20 invite you all. Thank you.

21 JUDGE LARRIPA: Thank you for your
22 comments, Ms. Hanson. Ms. Grantham, would you please
23 call our next speaker?

24 STAFF GRANTHAM: Yes. I have Gene Callan.

25 JUDGE LARRIPA: And if Gene Callan is on

1 the line, please go ahead and unmute yourself and state
2 and spell your name for the court reporter, please.

3 GENE CALLAN: Can you hear me?

4 JUDGE LARRIPA: I sure can thank you.
5 Okay.

6 GENE CALLAN: Thanks. This is Gene
7 Callan, G-E-N-E, last name is Callan, C-A-L-L-A-N. My
8 wife and I live directly adjacent to this project. In
9 fact, our domestic well is within a few hundred feet of
10 the panels just to give you some context.

11 Tonight, because it is a land use hearing, by
12 the way, one which I think is probably one of the most
13 important land use hearings we've had in the history of
14 our county. I'm a little appalled that we didn't have
15 this in person. This is such a huge topic that it
16 should have been in person, and I think some of the
17 technical difficulties are proving that.

18 But that being said, I had three land use items
19 to cover. I think our commissioners did a great job of
20 covering two of those so I'm not going to go into hardly
21 any detail on my first two and applaud our commissioners
22 for covering those. The first one was, the fact that we
23 do have the moratorium in place, the moratorium that was
24 in place over a month before the Carriger Project was
25 submitted to Cypress.

1 The second one was, the fact that we have a
2 requirement inside our EOZ, and I'm not sure anyone has
3 talked about it in detail yet, that there is an
4 Environmental Impact Statement required for every
5 project that goes through the EOZ via a legal agreement
6 that was executed back years ago. And so the fact there
7 hasn't been an EOZ and there's a bunch of components of
8 that -- I mean, EOZ and EIS -- that there are a bunch of
9 components that need to be included in that. It needs
10 to happen also as part of this land use process.

11 My last item is, it talks about -- I've titled
12 it common sense and someone may say, well, this is a
13 land use hearing, you know, we need to parse the legal
14 language and review the RCWs and the entitlement
15 process. Common sense really doesn't come into play in
16 this meeting. And I would push back and say that's
17 baloney. If you look at all of our zoning, they always
18 start with the purpose of that zone. There's a global
19 goal to that zone.

20 For example, our Extensive Agriculture talks
21 about continuing practice and preserving lands best
22 suited for agriculture and preventing conflicts. And
23 our EOZ talks about sensitively siting projects. For
24 this project to be called, you know, micro sited and
25 sensitively sited does not factor in a common sense

1 filter. If we were to use that filter, I don't think
2 anyone, whether you're for this project or against this
3 project, would argue that we are not turning our ag land
4 into an industrial use. And that's the common sense
5 factor that we're faced with in this county. Thank you
6 very much.

7 JUDGE LARRIPA: Okay. All right. Thank
8 you for your comment, Mr. Callan. Ms. Grantham, would
9 you please call our next speaker?

10 STAFF GRANTHAM: Next speaker I have is
11 Dave Barta.

12 DAVE BARTA: Good afternoon. D-A-V-E,
13 B-A-R-T-A. And you can hear me, correct?

14 JUDGE LARRIPA: Yes, sir.

15 DAVE BARTA: Thank you, Chair Drew and
16 council members. Good afternoon. Thank you for the
17 opportunity to testify on land use related to the
18 Carriger Solar Project.

19 According to the applicant's presentation,
20 they're in full compliance with Klickitat land use and
21 zoning. The applicant further states that the
22 moratorium related to industrial solar siting is not a
23 land use action. History, however, proves that
24 assertion false.

25 In 2013, shortly after marijuana was legalized

1 across the state, Klickitat County placed a moratorium
2 on sale, distribution, and retailing of marijuana
3 products in the county. Within a few months, the
4 commissioners tasked the planning commission with
5 considering ordinances or limitations in the county on
6 growth and sales of the product. After hearings, the
7 Klickitat County Planning Commission elected to prohibit
8 growth and sales activities in the county and the Board
9 of County Commissioners followed up by codifying that
10 prohibition.

11 The land use or zoning process worked just like
12 it should. Commissioners imposed a land use interim
13 control in the county. It delegated the work of zoning
14 and ordinances to the Planning Commission and the Board
15 of County Commissioners then passed a resolution based
16 on the Planning Commission findings and recommendations.

17 The exact same process is underway right now.
18 In January, the Board of County Commissioners passed a
19 resolution imposing a moratorium on industrial solar
20 siting in the Knight Road area. Following the hearing
21 the BOCC directed the county planner to employ the
22 services of the Klickitat County Planning Commission to
23 review zoning and land uses in the stated area. The
24 Planning Commission met last night for the second time
25 on the issue; meets again in a couple of weeks to review

1 data and consider performance standards.

2 The process is just the same as it was in 2013
3 and 14. The applicant has stated that not accepting
4 applications for industrial scale solar in the affected
5 area is not a land use control. Of course, that is not
6 the case. In principal, it is no different from
7 initiating a moratorium, working through a process, and
8 then restricting Marijuana grows or retail -- or retail
9 storefronts in the county. Moratorium has history in
10 Klickitat County as a land use decision.

11 In addition, the applicant states because a
12 portion of the project occurs outside the EOZ, the EOZ
13 process does not apply in the underlying zones for
14 permitting utility facilities by a Conditional Use
15 Permit process are applicable. In fact, Klickitat
16 County ordinance 01121, which was passed well before the
17 moratorium, states that any energy system seeking to
18 connect to the BPA substation on Knight Road would be
19 required to use only the CUP process regardless of
20 whether in or out of the EOZ.

21 Though the applicant neglected to reference
22 that county ordinance in the application, it is the
23 actual reason Cypress Creek is beholden to the CUP
24 process. So Cypress Creek acknowledges one county land
25 use directly related to utility scale solar near Knight

1 Road while denying another, the moratorium, which
2 applies to the same area.

3 Klickitat County has faced similar issues in
4 the past. In the 1990s, when farmland was being
5 consumed unchecked by real estate developers,
6 citizens -- many of them farmers -- got the county
7 commissioners to start a process to review development
8 standards. Shortly after, the Planning Commission
9 recommended the smallest lot size allowed without road
10 and infrastructure improvements was to be 80 acres. The
11 commissioners adopted the recommendations so farmland
12 and agriculture could be preserved.

13 Utility scale solar does not preserve farmland.
14 It is inconsistent with agriculture, inconsistent with
15 Klickitat County code and ordinances, and I ask you to
16 deny Cypress Creek's expedited application to site
17 industrial solar in this area. Thank you very much.

18 JUDGE LARRIPA: All right. Thank you.
19 Ms. Grantham, who is our next speaker?

20 STAFF GRANTHAM: Our next speaker is
21 Elaine Harvey.

22 JUDGE LARRIPA: And for our last speaker,
23 if you'll go ahead and place yourself back on mute, I
24 just want to make sure that we don't have background
25 noise.

1 ELAINE HARVEY: Hello, Elaine Harvey,
2 E-L-A-I-N-E, H-A-R-V-E-Y. I'm Elaine Harvey. I'm a
3 resident of Klickitat County, also a member of the
4 Kah-milt-pah Band, which is from this land here in
5 Taneum.

6 And I'm concerned about the tribal first foods
7 because this project will impact the first foods of this
8 area. And this is the usual and accustomed gathering
9 grounds of the Kah-milt-pah Band, also known as the Rock
10 Creek Band, and the Klickitat Band. We still live here.
11 We still gather our foods. This proposed project will
12 directly impact our foods that grow in this area. The
13 ephemeral streams will be impacted, the wetlands, the
14 perennial streams will all be impacted by this project.
15 And that will in turn impact the wildlife and all the
16 different native plants, first foods, species in the
17 area.

18 And this land, you know, is proposed as
19 industrial solar. It's -- this area is not zoned for
20 industrial uses. This land is currently in ag, range,
21 and rural. The six to eight-foot fences with barbed
22 wire is not consistent with the current land use and the
23 existing fences in the project area. And the solar
24 project will impact the views of the city of Goldendale
25 and the views to the Simcoe Mountains and Mount Adams

1 from Goldendale as well as Highway 97.

2 And this proposed project is within the
3 county's Energy Overlay Zone and shall -- and should
4 require a full EIS, and this application should not go
5 through expedited EFSEC tracking process. And also
6 there's, as mentioned before, a solar moratorium. So,
7 with Carriger, you know, that just shows their lack of
8 respect to the Klickitat County and the residents of
9 this county who will be living with the impacts of this
10 project, if permitted by EFSEC.

11 And also, that this county does not have the
12 Critical Ordinance or Shoreline Master Plan in place,
13 and that is a conflict because those are required by
14 Department of Ecology. And you guys are also a state --
15 Washington State agency, so, you know, those need to be
16 in place to protect the resources of the county.

17 And there are federally listed ESA species --
18 which was stated before -- steelhead. And this is in
19 the headwaters of the Little Klickitat River, which will
20 impact ESA listed threatened steelhead. And there are
21 western gray squirrels in the area -- in this project
22 area and also Ferruginous Hawks. So these are some of
23 the concerns I have and reasons why this project is not
24 in -- consistent with the current land use. Thanks.

25 JUDGE LARRIPA: Thank you for your

1 comments, Ms. Harvey. Ms. Grantham, who's our next
2 speaker?

3 STAFF GRANTHAM: So that was our last
4 speaker. So I will be circling back to those who we
5 couldn't hear or might not be here. So the first one
6 was Justin Sellers.

7 JUDGE LARRIPA: Justin Sellers, if you're
8 on the line, please out and identify yourself. All
9 right. Hearing no one, Ms. Grantham, please go to the
10 next name.

11 STAFF GRANTHAM: Sure. The next name is
12 Delmer Eldred.

13 JUDGE LARRIPA: Do I have Delmer Eldred on
14 the line? If so, please unmute yourself and state and
15 spell your name for me. All right. Ms. Grantham,
16 please go ahead and go to the next name.

17 STAFF GRANTHAM: Okay. And the last name
18 I have is Justin Bousquet.

19 JUSTIN BOUSQUET: Hello. Audio check.
20 Can you hear me?

21 JUDGE LARRIPA: Yes.

22 JUSTIN BOUSQUET: Oh, finally, thank you
23 for your time tonight. Name's Justin Bousquet,
24 J-U-S-T-I-N, B, as in boy, O-U-S, like Sam, Q-U-E-T.
25 And if you're good, I'll just get started.

1 JUDGE LARRIPA: Please. When you're
2 ready.

3 JUSTIN BOUSQUET: Thank you. The
4 permitting process is supposed to take the entire
5 project into consideration. This project is not sited
6 wholly within the county's Energy Overlay Zone. Even
7 assuming the EOZ does permit this solar project in its
8 entirety, including the lithium storage facilities,
9 which people are ignoring, it must be held to the
10 county's standing comprehensive plan.

11 This project is absolutely not consistent with
12 the current comp plan. Klickitat County's comprehensive
13 plan does not address industrial scale solar projects.
14 Stated within Carriger's own application, they would be
15 required to obtain Conditional Use Permits to complete
16 this project, assuming such permits would even be
17 approved.

18 As I previously mentioned, and others have
19 stated, the county also does have the standing
20 moratorium over large scale solar, is a gross
21 misrepresentation of the purpose of this moratorium as
22 it does address land use for which this project intends
23 to accomplish.

24 Carriger's statement regarding occasional water
25 usage is far too vague and does not accurately depict

1 their tangible usage over time. It is known that these
2 panels require water to periodically clean their
3 surfaces. It would be unreasonable to expect anyone to
4 evaluate consistency for a project without thorough and
5 accurate details about this requirement in its entirety.

6 How can this project claim to not permanently
7 alter soil conditions while it doesn't provide a site
8 restoration plan? It absolutely will alter the land and
9 soil conditions immediately upon the start of the
10 construction. The soil alterations will continue to --
11 beyond the life of the project. Carriger does not make
12 claims about how long this alteration will be.

13 Moreover, they do not even provide the site
14 restoration decommissioning plan as required by WAC
15 463-72-020. How are we to discuss land use consistency
16 when the proposal does not contain the details necessary
17 to confirm as such? Carriger continues to make claims
18 regarding consistency without substantiating those
19 claims. EFSEC must deny this project and allow the
20 local Klickitat County officials to work this project
21 through their own existing enshrined process.

22 And I want to take my -- rest of my time to say
23 thank you very much to my county commissioners for
24 having the morals and courage to stand up and say what
25 we need said to these officials today. I appreciate Dan

1 and Lori very much for their attention and support in
2 our -- as our county leaders, and I hope that they can
3 be put back into place of leading this project and
4 ensuring that the county citizens are protected as we
5 need to be protected. Thank you very much. Appreciate
6 your time and coming back to me.

7 JUDGE LARRIPA: All right. Thank you for
8 your comments. Ms. Grantham, because we do have a few
9 additional minutes. If you would, please, just do one
10 last role call for the other two people who signed up to
11 speak tonight.

12 STAFF GRANTHAM: I can go back to Justin
13 Sellers.

14 JUDGE LARRIPA: All right. And I also see
15 a hand up. We'll go ahead and call that person after we
16 call the two names who've signed up. All right. And I
17 don't hear Justin Sellers speaking up. So please go to
18 the other name who signed up.

19 STAFF GRANTHAM: Delmer Eldred.

20 JUDGE LARRIPA: Do I have Delmer Eldred on
21 the line? And your handset might be muted independently
22 of being muted on Teams. So, if you just want to check
23 your handset, if you are on the line, please go ahead
24 and speak up. All right. Hearing nothing. I did see a
25 hand raised on the -- using the hand raised function on

1 Teams. Ms. Grantham, did you write down that person's
2 name?

3 STAFF GRANTHAM: I did not, but I believe
4 it was Steve Heitmann? Yes.

5 LORI ZOLLER: And I'd like to have one
6 more minute when you get back to the phone people too.
7 This is Commissioner Zoller. Thank you.

8 JUDGE LARRIPA: All right. Yes. Please
9 go ahead and state and spell your name for the court
10 reporter. And then, if you have a comment related to
11 land use, please go ahead.

12 STEVE HEITMANN: Okay. I'm Steve
13 Heitmann, H-E-I-T, as in Tom, M, as in Mary, A-N, as in
14 Nancy, N, as is Nancy. I'm also submitting a detailed
15 document as my testimony. I'm a research engineer with
16 several decades of experience, and I've been a strong
17 proponent of, and user of, solar technology since 1974.
18 I also agree with the commissioner's statements. Voted
19 for one of them.

20 In addition, consistency with EFSEC's existing
21 land use criteria in no way implies that those criteria
22 are complete. In fact, EFSEC needs to complete
23 significantly more groundwork before it can consider
24 certifying any large scale clean energy project in the
25 state. I base this conclusion on reading RCW 80.50.

1 Until this groundwork is complete, we should go
2 beyond Klickitat County's moratorium and get an
3 injunction against all large scale clean energy
4 projects. Keep in mind, I'm really interested in the
5 clean energy future and I use solar. We live off grid.
6 So I'm disagreeing with EFSEC, basically.

7 What is the needed groundwork? Stop me if I go
8 too long. I have a long list. EFSEC needs the
9 certification process reflecting an immediate purpose.
10 We, meaning Washington State, all counties, cities,
11 Native American communities, and energy companies all
12 need to work together to establish one set of
13 certification criteria for clean energy projects is
14 designed to accommodate all affected. If a proposed
15 project can't meet negotiated certification criteria of
16 all affected, then it probably needs to be redesigned,
17 relocated, or terminated.

18 I've included a -- in this written document, I
19 propose a modification of RCW 80.50.020, section six.
20 As it is, we have a patchwork quilt of city and county
21 ordinances, concerned citizens, including Native
22 Americans, driving loosely or incoherently defined
23 requirements that EFSEC can consider. However, EFSEC is
24 not mandated by law to meet those requirements and get
25 approval by all affected jurisdictions to certify a

1 project. It needs to be mandated by law -- by state
2 law.

3 EFSEC needs cradle-to-grave requirements.
4 EFSEC must establish stringent requirements for
5 end-of-life recycling as a part of the certification
6 process. Spent solar panels, batteries, and electronic
7 components must be properly recycled and not end up in
8 landfills where our soil and water can be contaminated.

9 EFSEC must establish a costly consequence for
10 any energy company that ignores these requirements at
11 the end of life for any system component. EFSEC needs
12 to --

13 JUDGE LARRIPA: Your time has concluded.
14 If you'd like to finish your thought, though, I'd
15 welcome you to do so.

16 STEVE HEITMANN: Oh, okay. Thank you.
17 EFSEC needs to require safe alternatives to lithium
18 energy storage. The necessary groundwork includes
19 evaluating battery technologies other than lithium.
20 Yes. There are several safer, and just as effective,
21 battery technologies that are available on the market
22 today. I won't state what their names are because I own
23 stock in them.

24 JUDGE LARRIPA: And Mr. Heitmann, by
25 finishing your thought, I meant the point that you're

1 making rather than moving on to another one, sir. If
2 there's anything -- any final remark you'd like to make,
3 please go ahead, but your comments must conclude.

4 STEVE HEITMANN: The other piece of
5 groundwork needs to identify and study alternatives to
6 make up solar farms because there are lots of
7 alternatives. Complete due diligence requires that we
8 evaluate all viable clean energy generation technologies
9 before making decisions about Klickitat's clean energy
10 future.

11 JUDGE LARRIPA: All right, sir. I'm sorry
12 that I must cut you off at this point but I do thank you
13 for your time.

14 STEVE HEITMANN: That's fine. Thank you
15 for the extra time, but I'll send a document in so it's
16 really -- overwhelms with detail.

17 JUDGE LARRIPA: All right. Thank you.
18 And I did, just before -- or actually, let me go back to
19 Ms. Grantham and Mr. Heitmann, if you -- okay, I see
20 that you put your hand down. Ms. Grantham, do we have
21 any other members of the public who expressed a desire
22 to speak?

23 STAFF GRANTHAM: Not as of right now. So,
24 I'm not sure if you're wanting to open up to the Teams.

25 JUDGE LARRIPA: All right. So we -- one

1 thing I would like to address is, I believe I heard
2 Commissioner Zoller speak up a moment ago regarding
3 reserved time. And, Commissioner Zoller, one concern
4 that I have is that if I -- we didn't provision for
5 speakers to reserve time for rebuttal at the conclusion.
6 If I allow you additional time to make a remark or a
7 closing remark, I must do the same for the applicant.

8 LORI ZOLLER: I fully understand.

9 JUDGE LARRIPA: Okay.

10 LORI ZOLLER: Okay, thank you.

11 JUDGE LARRIPA: So, with that, we've
12 concluded comment from anybody who's already signed up
13 to speak. Ms. Grantham, we do have enough time for one
14 or two additional speakers if anybody desires to speak.
15 Please use the hand-raise function, identify yourself,
16 and Ms. Grantham will call your name in the order that
17 you've raised your hand. And, once again, we have time
18 for two speakers.

19 All right. And I do hear somebody that's
20 connected by phone is unmuted. Are you trying to
21 identify yourself to make comment? All right. And I no
22 longer hear that background noise. Let me briefly
23 check. All right. I don't see any hands raised. So
24 with that, public comment has concluded on the Land Use
25 Hearing, and I'm now going to turn this back over to

1 Chair Drew.

2 CHAIR DREW: Thank you very much, Judge
3 Larripa, and thank you everybody who participated
4 tonight. We will certainly take all of your comments
5 into consideration for all the speakers tonight and
6 appreciate your participation. Have a good evening.
7 This meeting is adjourned.

8 (Meeting adjourned at 6:23 p.m.)
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CERTIFICATE.

I, Steven B. Crandall, certify that the foregoing transcript is a full, true, and accurate transcription of the proceedings and testimony taken in the matter of the above-entitled proceeding.

That the foregoing meeting was taken before me, via Teams video conference, completed on May 16, 2023, and thereafter transcribed by me;

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

IN WITNESS WHEREOF, I have hereunto set my signature on this 10th day of May, 2023.



Steven B. Crandall, CER
Certified Electronic Reporter #1198