



# Washington State Energy Facility Site Evaluation Council

## REVISED AGENDA

POTENTIAL ACTION ITEM

### MONTHLY MEETING

Tuesday November 15, 2022

1:30 PM

### **VIRTUAL MEETING ONLY**

[Click here to join the meeting](#)

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

1. Call to Order ..... Kathleen Drew, EFSEC Chair
2. Roll Call ..... Andrea Grantham, EFSEC Staff
3. Proposed Agenda ..... Kathleen Drew, EFSEC Chair
4. Minutes  
Meeting Minutes ..... Kathleen Drew, EFSEC Chair
  - October 18, 2022 Monthly Meeting Minutes
5. Projects
  - a. Kittitas Valley Wind Project
    - Operational Updates ..... Eric Melbardis, EDP Renewables
  - b. Wild Horse Wind Power Project
    - Operational Updates ..... Jennifer Galbraith, Puget Sound Energy
  - c. Chehalis Generation Facility
    - Operational Updates ..... Michael Adams, Chehalis Generation
  - d. Grays Harbor Energy Center
    - Operational Updates ..... Chris Sherin, Grays Harbor Energy
  - e. Columbia Generating Station
    - Operational Updates ..... Denis Mehinagic, Energy Northwest
  - f. WNP – 1/4
    - Non-Operational Updates ..... Denis Mehinagic, Energy Northwest
  - g. Columbia Solar
    - Project Updates ..... Owen Hurd, Tuusso Energy
  - h. Horse Heaven Wind Farm
    - DEIS Update ..... Amy Moon & Ami Hafkemeyer, EFSEC Staff
    - DEIS Presentation ..... Patricia Betts, EFSEC Staff
    - Adjudication Update ..... Adam Torem, Administrative Law Judge
  - i. Goose Prairie Solar
    - Project Updates ..... Ami Hafkemeyer, EFSEC Staff
  - j. Badger Mountain
    - Project Updates ..... Ami Hafkemeyer, EFSEC Staff
  - k. Whistling Ridge
    - Project Updates ..... Ami Hafkemeyer, EFSEC Staff
  - l. High Top & Ostrea
    - Project Updates ..... Ami Hafkemeyer, EFSEC Staff
    - Expedited Process Order ..... Ami Hafkemeyer, EFSEC Staff
    - The Council may consider and take FINAL ACTION on an expedited process order for the High Top and Ostrea Projects.*
  - m. Wautoma Solar
    - Project Updates ..... Ami Hafkemeyer, EFSEC Staff
    - Land Use Consistency Order ..... Ami Hafkemeyer, EFSEC Staff
    - The Council may consider and take FINAL ACTION on Land Use Consistency for the Wautoma Solar Project.*
6. Adjourn ..... Kathleen Drew, EFSEC Chair

**Note: "FINAL ACTION"** means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance. RCW 42.30.020

**Verbatim Transcript of Monthly Council Meeting**  
**Washington State Energy Facility Site Evaluation Council**  
**October 18, 2022**



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## Verbatim Transcript of Monthly Council Meeting - 10/18/2022

<p style="text-align: right;">Page 1</p> <p style="text-align: center;">WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL OCTOBER 18, 2022 1:30 P.M.</p> <p style="text-align: center;">Virtual Council Meeting Verbatim Transcript of Proceedings</p> <p style="text-align: center;">(All participants appearing via videoconference.)</p> <p>DATE TAKEN: OCTOBER 18, 2022 REPORTED BY: DANIELLE SCHEMM, CCR 3395</p>	<p style="text-align: right;">Page 3</p> <p>1 [Council meeting commenced at 1:30 p.m.]</p> <p>2 CHAIR DREW: Good afternoon. This is Kathleen Drew,</p> <p>3 chair of the Energy Facilities Site Evaluation Council,</p> <p>4 and bringing to order our regular monthly meeting, Tuesday</p> <p>5 October 18th.</p> <p>6 Ms. Grantham, will you please call the roll?</p> <p>7 MS. GRANTHAM: Yes. Department of Commerce?</p> <p>8 MS. KELLY: Kate Kelly, present.</p> <p>9 MS. GRANTHAM: Department of Ecology?</p> <p>10 MR. LEVITT: Eli Levitt, present.</p> <p>11 MS. GRANTHAM: Department of Fish and Wildlife?</p> <p>12 Department of Natural Resources?</p> <p>13 MR. YOUNG: Lenny Young, present.</p> <p>14 MS. GRANTHAM: Utilities and Transportation</p> <p>15 Commission?</p> <p>16 MS. BREWSTER: Stacey Brewster, present.</p> <p>17 MS. GRANTHAM: Local government and optional state</p> <p>18 agencies for the Horse Heaven Project, Department of</p> <p>19 Agriculture?</p> <p>20 Benton County, Ed Brost?</p> <p>21 For the Badger Mountain Project, Douglas County?</p> <p>22 For the Wautoma Solar Project, Benton County, Dave</p> <p>23 Sharp?</p> <p>24 MR. SHARP: Dave Sharp, present.</p> <p>25 MS. GRANTHAM: Washington State Department of</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2 Councilmembers:</p> <p>3 KATHLEEN DREW, Chair</p> <p>4 ELI LEVITT, Department of Ecology</p> <p>5 LENNY YOUNG, Department of Natural Resources</p> <p>6 KATE KELLY, Department of Commerce</p> <p>7 STACEY BREWSTER, Utilities and Transportation Commission</p> <p>8 Wautoma Solar Project:</p> <p>9 DAVE SHARP, Benton County</p> <p>10 PAUL GONSETH, Washington State Department of</p> <p>11 Transportation</p> <p>12 Assistant Attorney General:</p> <p>13 JON THOMPSON</p> <p>14 Administrative Law Judge:</p> <p>15 ADAM TOREM</p> <p>16 LAURA BRADLEY</p> <p>17 DAN GERARD</p> <p>18 EFSEC Staff:</p> <p>19 SONIA BUMPUS</p> <p>20 AMI HAFKEMEYER</p> <p>21 AMY MOON</p> <p>22 STEW HENDERSON</p> <p>23 ANDREA GRANTHAM</p> <p>24 DAVE WALKER</p> <p>25 SONJA SKAVLAND</p> <p>26 SARA RANDOLPH</p> <p>27 SEAN GREENE</p> <p>28 ERIC MELBARDIS, Kittitas Valley Wind</p> <p>29 CHRIS SHERIN, Grays Harbor Energy Center</p> <p>30 STEFANO SCHNITGER, Chehalis Generation Facility</p> <p>31 MARSHALL SCHMITT, Columbia Generating Station</p> <p>32 OWEN HURD, TUUSSO Energy</p> <p>33 MEGAN SALLOMI, Counsel for the Environment</p>	<p style="text-align: right;">Page 4</p> <p>1 Transportation?</p> <p>2 MR. GONSETH: Paul Gonseth, Washington State</p> <p>3 Department of Transportation, present.</p> <p>4 MS. GRANTHAM: The Assistant Attorney General?</p> <p>5 MR. THOMPSON: Hi, this is Jon Thompson, present.</p> <p>6 MS. GRANTHAM: Administrative law judges, Adam Torem?</p> <p>7 JUDGE TOREM: This is Judge Torem, if you can hear me,</p> <p>8 I'm present.</p> <p>9 MS. GRANTHAM: Thank you. Laura Bradley?</p> <p>10 JUDGE BRADLEY: This is Judge Bradley, present.</p> <p>11 MS. GRANTHAM: Dan Gerard?</p> <p>12 JUDGE GERARD: Judge Gerard, present.</p> <p>13 MS. GRANTHAM: For EFSEC Staff, Sonia Bumpus?</p> <p>14 MS. BUMPUS: Sonia Bumpus is present.</p> <p>15 MS. GRANTHAM: Ami Hafkemeyer?</p> <p>16 MS. HAFKEMEYER: Ami Hafkemeyer, present.</p> <p>17 MS. GRANTHAM: Amy Moon?</p> <p>18 MS. MOON: Amy Moon, present.</p> <p>19 MS. GRANTHAM: Patty Betts?</p> <p>20 Stew Henderson?</p> <p>21 MR. HENDERSON: Stew Henderson, here.</p> <p>22 MS. GRANTHAM: Joan Owens?</p> <p>23 Dave Walker?</p> <p>24 MR. WALKER: Dave Walker, present.</p> <p>25 MS. GRANTHAM: Sonja Skavland?</p>

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<p>1 MS. SKAVLAND: Sonja Skavland, present.  2 MS. GRANTHAM: Lisa Masengale?  3 Sara Randolph?  4 MS. RANDOLPH: Sara Randolph, present.  5 MS. GRANTHAM: Sean Greene?  6 MR. GREENE: Sean Greene, present.  7 MS. GRANTHAM: For the operational updates, Kittitas  8 Valley Wind Project?  9 Wild Horse Wind Power Project?  10 MS. RANDOLPH: If Jennifer can't make it, I will speak  11 on her behalf.  12 MS. GRANTHAM: Thank you.  13 MS. SALLOMI: Hi. Sorry to interrupt before you  14 finish the roll call. This is Megan Sallomi for Counsel  15 for the Environment. I think I missed when you called me.  16 MS. GRANTHAM: Oh, I haven't gotten to you yet, but I  17 can mark you off already.  18 MS. SALLOMI: Oh, sorry.  19 MS. GRANTHAM: No worries. I just won't call you  20 again.  21 MS. SALLOMI: I thought you already started the  22 agenda. Okay.  23 MS. GRANTHAM: Oh, no. Thank you, Megan.  24 Grays Harbor Energy Center?  25 MR. SHERIN: This is Chris Sherin for Grays Harbor</p>	<p>1 MR. THOMPSON: Okay. Yeah, so quorum is just a  2 majority of voting members.  3 MS. GRANTHAM: Okay. That is correct. I apologize.  4 There is a quorum. Thank you.  5 MS. BUMPUS: Thank you, Jon.  6 CHAIR DREW: Okay. So moving onto the proposed  7 agenda. The agenda is before you. Is there a motion to  8 approve the agenda?  9 MR. YOUNG: Lenny Young, so moved.  10 CHAIR DREW: Second?  11 MS. KELLY: Kate Kelly, second.  12 CHAIR DREW: Go ahead, Ms. Kelly.  13 MS. KELLY: Kate Kelly, second.  14 CHAIR DREW: Thank you. All those -- are there any  15 questions or comments on the proposed agenda? All those  16 in favor please say "aye."  17 COUNCILMEMBERS: Aye.  18 CHAIR DREW: Those opposed to approving the agenda?  19 The agenda is approved.  20 Moving onto the monthly minutes from  21 September 20th, 2022, one set of minutes today to review.  22 The minutes package is in front of us. Is there a motion  23 to approve the September 20th minutes?  24 MS. BREWSTER: This is Stacey Brewster, I'll move we  25 approve the September 20, 2022 meeting minutes.</p>
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<p>1 Energy Center.  2 MS. GRANTHAM: Thank you.  3 Chehalis Generation Facility?  4 MR. SCHNITGER: Stefano Schnitger, present.  5 MS. GRANTHAM: Columbia Generating Station?  6 MR. SCHMITT: Marshall Schmitt, present.  7 MS. GRANTHAM: Columbia Solar?  8 MR. HURD: Owen Hurd, present.  9 MS. GRANTHAM: Chair, there is a quorum for the  10 regular council and for the Wautoma Solar council. Thank  11 you.  12 CHAIR DREW: I believe there is also quorum for the  13 Horse Heaven council.  14 MS. GRANTHAM: I did not hear Derek Sandison or Ed  15 Brost, if we want to --  16 CHAIR DREW: I believe we have five out of eight  17 members. Ms. Bumpus, will you perhaps verify that for me?  18 MS. BUMPUS: I think I will defer to Jon Thompson.  19 CHAIR DREW: Okay.  20 MS. BUMPUS: Jon, are you on the line?  21 MR. THOMPSON: Yes, I am. Sorry, I'm just trying to  22 recall who -- I think we're missing --  23 CHAIR DREW: We're missing Fish and Wildlife,  24 Mr. Livingston, and Derek Sandison and Ed Brost. So that  25 makes us five of eight from my count.</p>	<p>1 CHAIR DREW: Thank you. Second?  2 MR. YOUNG: Lenny Young, second.  3 CHAIR DREW: Thank you. I do have one change that I  4 saw in the minutes. On page 35, line 17, instead of the  5 words -- 17 and 18 -- "were board," it should be "We're  6 happy you are aboard."  7 Any other changes to the minutes? Corrections?  8 MS. BREWSTER: Chair Drew, I noticed one correction  9 for page 14, line 21, it says "implementation of the  10 omissions allowance auction process." I believe that  11 should be "emissions."  12 CHAIR DREW: And that's, again, page 14? Okay. Line?  13 MS. BREWSTER: 21.  14 CHAIR DREW: Oh, okay. Yes, it says emissions on  15 line 19 and then -- but, yes, on line 21 it should be  16 emissions instead of omissions. Yes. Thank you.  17 Any others? Hearing none, with those two  18 amendments, all those in favor of the minutes as amended  19 please say "aye."  20 COUNCILMEMBERS: Aye.  21 CHAIR DREW: All those opposed? The minutes as  22 amended are approved.  23 Moving onto our meeting -- our project updates,  24 Kittitas Valley Wind Power Project, is Mr. Melbardis with  25 us?</p>

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<p>1 MR. MELBARDIS: I am. Good afternoon Chair Drew, 2 EFSEC Council, and staff. For the record, this is Eric 3 Melbardis with EDP Renewables for the Kittitas Valley Wind 4 Power Project. And as typical, I have nothing nonroutine 5 to report for the period. 6 CHAIR DREW: Thank you. 7 Wild Horse Wind Facility? 8 MS. RANDOLPH: Hi, everyone. This is Sara Randolph, 9 and I am filling in for Jennifer Galbraith. She is in the 10 field today. There are no nonroutine updates for 11 September for Wild Horse. 12 CHAIR DREW: Thank you. 13 Moving onto the Chehalis Generation Facility, 14 Mr. Schnitger? 15 MR. SCHNITGER: Good afternoon Chair Drew, EFSEC 16 Council, and staff. For the reporting period of 17 September 20th, Chehalis Generation Facility received a 18 noise complaint. Upon investigation, the cause of the 19 noise was determined to be a leak in a crossover pipe 20 on unit 1 steam reheater. That unit was shutdown so 21 repairs could be made. It was restarted with no other 22 issues. 23 Besides that, I have nothing else nonroutine to 24 report for the period. 25 CHAIR DREW: Great. Thank you.</p>	<p>1 That's it for now. 2 CHAIR DREW: Thank you. So to clarify, the testing 3 contractor, it appears, had the two confused? 4 MR. SHERIN: The testing contractor or their -- the 5 lab they used swapped the samples was the initial 6 findings. 7 CHAIR DREW: Okay. Thank you. I just wanted to make 8 sure I was understanding exactly what you were reporting 9 to us there. 10 Are there any other questions from councilmembers? 11 Okay. Thank you very much, Mr. Sherin. 12 Moving onto Columbia Generating Station and 13 Washington Nuclear Projects 1 and 4, Mr. Schmitt? 14 MR. SCHMITT: Good afternoon Chair Drew, EFSEC Council 15 and staff. For the record this is Marshall Schmitt. I 16 have three items to report for September. 17 First off, the triduum investigation plan is still 18 ongoing. Since the investigation plan was put into place 19 in August of this year, we have not identified any levels 20 of triduum above the lower limit of detection, which for 21 our lab is 300 picocuries per liter. None of our samples 22 have hit that or really even been close to it. 23 Our last phase has been isolating the last of the 24 three intake pipes to see if maybe there was a slug in the 25 pipe we did not open. And the information here is a</p>
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<p>1 Moving onto the Grays Harbor Energy Center. 2 MR. SHERIN: Good afternoon Chair Drew, Council, 3 staff. This is Chris Sherin, the plant manager from Grays 4 Harbor Energy Center. So the only non-repeat item this 5 month is our relative accuracy test audit, and H2SO4 and 6 HO2 source tests, that was actually a retest, and we 7 submitted those results to EFSEC and Orca, which is 8 routine. 9 But the H2SO4/SO2 results, again, had an 10 unexplainably higher ratio, greater than 1; that ratio 11 should be less than 1. And when this report was generated 12 we were still -- we weren't sure why, and we were working 13 with our test contractor to review the unexpected data 14 again. 15 In the meantime our contractor has let us know 16 that, as part of their investigation, we passed this -- 17 now I'm passing along information we shared with EFSEC 18 staff this week. 19 As a result of their investigation, they 20 determined that the SO2 and H2SO4 samples were swapped 21 causing the ratio to be backwards, or high, instead of 22 lower than 1. So the investigation is still ongoing as to 23 how the mix-up occurred, and they're going to provide us 24 with more details, which we'll pass onto EFSEC staff and 25 Orca when we get that information, just sharing.</p>	<p>1 little outdated. I can say that the data we've seen since 2 we isolated that pipe is in line with everything else. We 3 have not found triduum above that lower limit of 4 detection. So we're in the process of drafting the EFSEC 5 required report on the investigation plan to submit. 6 Second, on September 7th we received the Draft 7 National Pollutant Discharge Elimination System Permit, 8 and the permit fact sheet from EFSEC, so we have begun our 9 facility review of those documents and expect to have 10 comments back to EFSEC here in the near future. 11 On September 27th, we were also able to provide a 12 tour of the facility to the EFSEC site specialist and the 13 permit writer, which is something we appreciated being 14 able to do. 15 Additionally on September 7th, we submitted a 16 letter to EFSEC and Ecology regarding the potential to 17 rewire the run-time meters for two of our station 18 emergency diesel generators. The technical evaluation for 19 this work is still in progress, and we have noted the 20 known discrepancy in run time in our report that we 21 submitted on September 29th. 22 That concludes my updates. Are there any 23 questions? 24 CHAIR DREW: Are there any questions from 25 councilmembers? Hearing none, thank you for your report,</p>

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<p style="text-align: right;">Page 13</p> <p>1 and we look forward to continuing updates. Thank you.  2 Moving onto Columbia Solar Project, Mr. Hurd?  3 MR. HURD: Good afternoon Chair Drew, Councilmembers,  4 and EFSEC staff. This is Owen Hurd from TUUSO Energy  5 reporting on the Columbia Solar Projects. Penstemon's  6 online, as it's been for awhile now.  7 Camas, we've finally achieved substantial  8 completion on October 5th. After having several delays on  9 that, we're now kind of beyond substantial completion.  10 Urtica is trailing behind. It's been most  11 recently delayed due to some communications issues that  12 PSE is having within interconnection. We're working to  13 resolve those. Hoping to have the witness test where PSE  14 will kind of be there to turn on the plant at the end of  15 this month or early next month. So it's been a little bit  16 of a moving target on the schedule just based on trying to  17 resolve this issue.  18 And then beyond that, we had our on-site meeting  19 with WDFW and the landowners regarding the planting plan  20 and, I think, reached general agreement on where the woody  21 species will be planted, so we're just finalizing that  22 revised plan, and then we expect planting and seeding to  23 commence fairly shortly.  24 Some of that is a little bit impacted by the  25 Urtica schedule because we need to get to substantial</p>	<p style="text-align: right;">Page 15</p> <p>1 Heaven Wind Project.  2 EFSEC staff continued its work preparing the Draft  3 Environment Impact Statement or Draft EIS. We are focused  4 on finalizing all resource topic sections, including final  5 refinement of the proposed de-minimization and mitigation  6 opportunities.  7 We continue to work closely with our contractor  8 Golder to compile the Draft EIS as well as prepare an  9 executive summary and fact sheet. As mentioned at the  10 September 20th council meeting, 30 days is the minimum  11 required comment period. However, due to -- that's the  12 comment period for the Draft EIS.  13 However, due to the timing of the Draft EIS  14 issuance, EFSEC is extending this by 15 days, as allowed  15 by Washington Administrative Code or WAC 197.11.455  16 Subpart 7, to allow the public time to review in light of  17 the winter holidays.  18 Does the council have any questions on that before  19 I go further?  20 CHAIR DREW: Any questions from councilmembers?  21 Go ahead, Ms. Moon.  22 MS. MOON: Okay. We are also working to schedule  23 EFSEC site tours of Horse Heaven in early November, but  24 details regarding the logistics are still being finalized,  25 and more information will be forthcoming.</p>
<p style="text-align: right;">Page 14</p> <p>1 completion so then we can remove the rocks that are on  2 site before we do the litha planting.  3 But anyway, that's moving forward, and it was a  4 productive meeting, so that's all I have.  5 CHAIR DREW: Great. Thank you. Are there any  6 questions for Mr. Hurd?  7 MS. BREWSTER: This is Stacey Brewster. Mr. Hurd, can  8 you let us know, do you have data on how much energy  9 Penstemon is generating at this point?  10 MR. HURD: I can get that. I don't have it offhand,  11 but, yeah, I can -- I can follow up. Should I follow up  12 directly with you or with EFSEC staff or?  13 CHAIR DREW: Go ahead and follow up with EFSEC staff,  14 and they'll share it with the council.  15 MR. HURD: Okay. Okay.  16 MS. BREWSTER: Thank you.  17 MR. HURD: Yup.  18 CHAIR DREW: Thank you. Any other questions? Okay.  19 Thanks.  20 Now we will get our update on the Horse Heaven  21 Wind Project.  22 MS. MOON: Thank you. Good afternoon Council Chair  23 Drew and councilmembers. For the record this is Amy Moon,  24 EFSEC staff member. I am providing the State  25 Environmental Policy Act or SEPA update on the Horse</p>	<p style="text-align: right;">Page 16</p> <p>1 That's my SEPA update. Any -- any questions now?  2 CHAIR DREW: Are there any questions?  3 MS. MOON: Okay. So I also have an application  4 extension request update.  5 CHAIR DREW: Okay.  6 MS. MOON: So if there are no further questions, I'd  7 like to direct your attention to the extension request  8 letter in your packet.  9 EFSEC statute states in the Revised Code of  10 Washington RCW 80.50.100, that the council shall report to  11 the governor its recommendations as to the approval or  12 rejection of an application for certification within  13 12 months of receipt by the council of such an application  14 or such later time as is mutually agreed by the council  15 and the applicant. So that's the quote from that RCW  16 80.50.100.  17 The application for site certification was  18 received by EFSEC on February 8th of 2021. The 12-month  19 recommendation for approval or rejection would have been  20 due February 7th of 2022. However, the applicant  21 submitted a letter dated January 7th, 2022 requesting an  22 extension to December 8th, 2022.  23 The council approved this extension at the  24 January 18th, 2022 council meeting. Since that time,  25 EFSEC received an additional extension request from the</p>

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<p>1 applicant dated September 27th of this year. The</p> <p>2 applicant requested that the processing time of the</p> <p>3 application be extended an additional 7 months to July 8th</p> <p>4 of 2023.</p> <p>5 This extension would allow time for the SEPA and</p> <p>6 adjudication process to occur for the proposed Horse</p> <p>7 Heaven Wind Project. Being an action by the council, the</p> <p>8 request was opened for public comment prior to this</p> <p>9 meeting, and 6 comments were received. The comments</p> <p>10 received were primarily focused on the Draft EIS issuance.</p> <p>11 As I mentioned previously, staff is committed to a</p> <p>12 45-day comment period which we believe addresses these</p> <p>13 concerns. With regards to the extension request before</p> <p>14 the council, staff recommends that the council approve</p> <p>15 this extension request as presented by the applicant.</p> <p>16 Are there any questions from the councilmembers?</p> <p>17 CHAIR DREW: So this is for the Horse Heaven.</p> <p>18 MS. MOON: Yes, Horse Heaven.</p> <p>19 CHAIR DREW: Councilmembers, are there any questions</p> <p>20 for the Horse Heaven -- from the Horse Heaven</p> <p>21 councilmembers at this point? Which include all of our</p> <p>22 regular council and a couple others, Mr. Brost and</p> <p>23 Mr. Sandison.</p> <p>24 Questions? Okay. Thank you. So then we will</p> <p>25 move onto the recommended action item, and, again, it</p>	<p>1 continues to keep staff updated with their anticipated</p> <p>2 construction schedule.</p> <p>3 The certificate holder recently submitted multiple</p> <p>4 preconstruction plans including the Initial Site</p> <p>5 Restoration Plan or ISRP which staff are reviewing. This</p> <p>6 is one of the plans that will require council approval</p> <p>7 prior to the start of construction. EFSEC staff will</p> <p>8 notify the council once the ISRP is ready for the council</p> <p>9 to review and approve.</p> <p>10 Are there any questions?</p> <p>11 CHAIR DREW: Thank you, Ms. Hafkemeyer. And under our</p> <p>12 new proceedings, that would also then be public for the</p> <p>13 public to comment on before the meeting in which the</p> <p>14 council takes action. So as that comes forward for an</p> <p>15 action item, the public -- it will be on our agenda, and</p> <p>16 the public will have an opportunity to comment in writing</p> <p>17 on that plan. Which again, I know the letters but please</p> <p>18 state the name of the plan again, the site restoration</p> <p>19 plan.</p> <p>20 MS. HAFKEMEYER: Initial site restoration plan.</p> <p>21 CHAIR DREW: Initial site restoration plan. So that</p> <p>22 would be the plan that talks about the end of the project</p> <p>23 and what happens at its conclusion of the operating of the</p> <p>24 project to restore the site. So members of public who</p> <p>25 would be interested in it look forward to that in the</p>
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<p>1 would be the five members of the regular council who will</p> <p>2 be voting on this because they are the ones of the Horse</p> <p>3 Heaven council who are present at the meeting.</p> <p>4 The applicant, Scout Clean Energy, has requested</p> <p>5 an extension for the review of the application for site</p> <p>6 certification for the Horse Heaven Wind Farm Project. Is</p> <p>7 there a motion to approve the Horse Heaven extension</p> <p>8 request to July 8th, 2023?</p> <p>9 MS. KELLY: This is Kate Kelly, move to approve.</p> <p>10 CHAIR DREW: Thank you. Is there a second?</p> <p>11 MR. LEVITT: Eli Levitt, second.</p> <p>12 CHAIR DREW: Thank you. Is there any discussion? I</p> <p>13 think it's clear that we have a period of time for the</p> <p>14 Draft EIS and the adjudication ahead of us still, so that</p> <p>15 this is a reasonable request. Any other comments?</p> <p>16 All those in favor of the extension request please</p> <p>17 say "aye."</p> <p>18 COUNCILMEMBERS: Aye.</p> <p>19 CHAIR DREW: The motion is approved. Thank you all.</p> <p>20 We now will move to an update on the Goose Prairie</p> <p>21 Solar Project, and that is Ms. Hafkemeyer.</p> <p>22 MS. HAFKEMEYER: Apologies. Thank you Chair Drew, and</p> <p>23 good afternoon council. EFSEC staff are working with the</p> <p>24 certificate holder and our contractors to review and</p> <p>25 refine preconstruction plans. The certificate holder</p>	<p>1 future.</p> <p>2 Are there any questions from councilmembers?</p> <p>3 Okay. Thank you.</p> <p>4 Badger Mountain Solar Energy Project,</p> <p>5 Ms. Hafkemeyer.</p> <p>6 MS. HAFKEMEYER: Thank you. Staff have been working</p> <p>7 with our contractor to prepare for drafting of the</p> <p>8 Environment Impact Statement or EIS. EFSEC is</p> <p>9 coordinating with our contractor to determine details such</p> <p>10 as the structure of the EIS as well as alternatives to be</p> <p>11 considered. Staff are also preparing a data request for</p> <p>12 the applicant in support of drafting the EIS.</p> <p>13 There are no other updates at this time. Are</p> <p>14 there any questions?</p> <p>15 CHAIR DREW: Did you say staff are preparing a data</p> <p>16 request?</p> <p>17 MS. HAFKEMEYER: Correct.</p> <p>18 CHAIR DREW: So when the data request goes out, it</p> <p>19 will be posted and will be public for the public to see</p> <p>20 that --</p> <p>21 MS. HAFKEMEYER: Correct.</p> <p>22 CHAIR DREW: -- for your information.</p> <p>23 Any questions from councilmembers? Okay. Thank</p> <p>24 you, Ms. Hafkemeyer.</p> <p>25 And moving onto Whistling Ridge. Again.</p>

5 (Pages 17 to 20)

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<p>1 MS. HAFKEMEYER: Thank you.</p> <p>2 CHAIR DREW: You're still up.</p> <p>3 MS. HAFKEMEYER: EFSEC staff are waiting for the</p> <p>4 certificate holder to submit the remaining materials for</p> <p>5 the SCA amendment requests. However, there are no further</p> <p>6 updates at this time.</p> <p>7 CHAIR DREW: Okay. And then to High Top and Ostrea</p> <p>8 update, starting with the SEPA update and the MDNS, the</p> <p>9 Mitigated Determination of Non-Significance.</p> <p>10 Ms. Hafkemeyer?</p> <p>11 MS. HAFKEMEYER: Thank you. For the SEPA update,</p> <p>12 EFSEC issued a Mitigated Determination of Non-Significance</p> <p>13 or MDNS on October 1st, 2022. The 14-day comment period</p> <p>14 ran from October 1st through October 14th. During this</p> <p>15 time staff received 4 comments on the MDNS.</p> <p>16 As a result of these comments, EFSEC is revising 2</p> <p>17 changes to the MDNS. In mitigation no. 10, EFSEC is</p> <p>18 revising the MDNS to read "Prior to the start of</p> <p>19 construction, habitat restoration and mitigation plans</p> <p>20 will be developed in coordination with WDFW and EFSEC as</p> <p>21 described in the ASC to include, one, considerations of</p> <p>22 any potential setbacks as identified by WDFW or other</p> <p>23 microcytic options that may be feasible to further reduce</p> <p>24 the impacts to habitat productivity."</p> <p>25 And then here's where the revision is: Two,</p>	<p>1 and our attorney Jon Thompson.</p> <p>2 This order was prepared for your review, and at</p> <p>3 this time staff recommends the council approve the order</p> <p>4 deeming the project's consistent with the land use</p> <p>5 regulations.</p> <p>6 CHAIR DREW: Okay. There is the draft --</p> <p>7 MS. HAFKEMEYER: Are there any questions?</p> <p>8 CHAIR DREW: -- order. Okay. I'm just wanting to get</p> <p>9 that one where I can read it better myself here.</p> <p>10 So are there any questions from councilmembers on</p> <p>11 this item? There we go.</p> <p>12 We have seen the pieces of information that are</p> <p>13 going into this land use -- finding of land use</p> <p>14 consistency throughout the process, beginning with the</p> <p>15 initial application, and specifically the document from</p> <p>16 Yakima County which does indicate that the project would</p> <p>17 be consistent with the land use -- Yakima County's</p> <p>18 Comprehensive Plan and land use.</p> <p>19 So if you go to the findings, let's take a --</p> <p>20 conclusions of law, let's take a look at that, which is</p> <p>21 page 9, and just do a walk-through of the conclusions of</p> <p>22 law.</p> <p>23 Number 1, the council has jurisdiction under RCW</p> <p>24 80.50.075 and Washington Administrative Code Chapter</p> <p>25 463-43; two, the council provided adequate notice to</p>
Page 22	Page 24
<p>1 revegetation of disturbed areas within need of seed mix,</p> <p>2 including the revegetation as a requirement is in response</p> <p>3 to the comments that we received.</p> <p>4 EFSEC is also including a new mitigation measure,</p> <p>5 a new mitigation no. 11 to read "Prior to the start of</p> <p>6 construction, the applicant will implement, where feasible</p> <p>7 in coordination with EFSEC and WDFW, the raising of the</p> <p>8 fences to allow for small animal passage."</p> <p>9 Due to the inclusion of the new mitigation</p> <p>10 measure, the following measures will need to be</p> <p>11 renumbered. Staff will issue the revised MDNS and the</p> <p>12 supplemental staff report responding to comments by the</p> <p>13 end of this week. We just need a little bit of time for</p> <p>14 finalizing the documents. The council will receive these</p> <p>15 documents when they are distributed.</p> <p>16 Are there any questions?</p> <p>17 CHAIR DREW: Are there any questions about the SEPA</p> <p>18 update and the MDNS plus the changes -- the amendments</p> <p>19 that will be made due to the public comments? Okay.</p> <p>20 Thank you.</p> <p>21 And now we will move to the land use consistency</p> <p>22 action item, Ms. Hafkemeyer.</p> <p>23 MS. HAFKEMEYER: Thank you. As hopefully you can all</p> <p>24 see on the screen, there's a draft land use order provided</p> <p>25 in your packets prepared by Judge Bradley, EFSEC staff,</p>	<p>1 interested party and has adequate information to render a</p> <p>2 land use consistency decision; three, under Yakima County</p> <p>3 Code Title 19 the facility meets definition of a power</p> <p>4 generating facility.</p> <p>5 Number 4, the proposed sites for the facility are</p> <p>6 on land in the agricultural zoning district under Yakima</p> <p>7 County Code. In the AG zoning district, power generating</p> <p>8 facilities are a type-3 use.</p> <p>9 Five, Yakima County determined the projects are</p> <p>10 consistent with Yakima County Code Title 19 and would be</p> <p>11 eligible for review and permitting under Yakima County</p> <p>12 conditional use processes and issued the applicant a</p> <p>13 certificate of zoning compliance.</p> <p>14 Number 6, the applicant has met its burden of</p> <p>15 proof of demonstrating that the sites are consistent and</p> <p>16 in compliance with Yakima County's Comprehensive Plan and</p> <p>17 applicable zoning ordinances as required by RCW 80.50.075</p> <p>18 Sub 1.</p> <p>19 Therefore the council orders, no. 1, Cypress Creek</p> <p>20 Renewable, LLC's request for finding of land use</p> <p>21 consistency is granted consistent with RCW 80.50.090 Sub 2</p> <p>22 and 463-26-110, and, two, the council will provide a means</p> <p>23 to receive information regarding site specific conditions</p> <p>24 and criteria akin to what Yakima County would receive</p> <p>25 during a conditional land use hearing.</p>

6 (Pages 21 to 24)



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<p style="text-align: right;">Page 25</p> <p>1 So that is the essence of our action today. One</p> <p>2 question for staff, this was also open for public review.</p> <p>3 Did we receive any public comments on it?</p> <p>4 MS. HAFKEMEYER: No, we did not receive any comments</p> <p>5 on the draft land use order.</p> <p>6 CHAIR DREW: Thank you. Are there any comments from</p> <p>7 councilmembers?</p> <p>8 MS. KELLY: Chair, this is Kate Kelly. It's not a</p> <p>9 comment but a question. In this -- and under order and</p> <p>10 then no. 2, where we say "will provide a means to receive</p> <p>11 information." It's just, what does that mean exactly?</p> <p>12 CHAIR DREW: It's a public meeting, and it's where</p> <p>13 people are invited to comment on -- you know, I'm going to</p> <p>14 ask actually Mr. Thompson, since I'm going from the top of</p> <p>15 my head. And we have done this before. We did it with</p> <p>16 Goose Prairie Project. So Mr. Thompson?</p> <p>17 MR. THOMPSON: Right, that's correct. I don't have</p> <p>18 too much to add. I mean, it's the finding of land use</p> <p>19 consistency, as we were just discussing, is just a finding</p> <p>20 that the -- a project of this type would be eligible to</p> <p>21 apply for a conditional use permit.</p> <p>22 So it's not -- it's not -- it's not permitted</p> <p>23 outright in the AG zone, but it requires a conditional use</p> <p>24 permit. So at this -- at this stage the finding of</p> <p>25 consistency is just based on that eligibility.</p>	<p style="text-align: right;">Page 27</p> <p>1 has provided information in the land use consistency</p> <p>2 section of the application that does walk through that</p> <p>3 criteria from the applicant's perspective as well.</p> <p>4 MS. HAFKEMEYER: Correct. That can be found in</p> <p>5 attachment A to the application. You'll actually see two</p> <p>6 attachments; one for the High Top site and one for the</p> <p>7 Ostrea site.</p> <p>8 CHAIR DREW: So really, the council will -- our job</p> <p>9 will then be to consider all of that information at --</p> <p>10 during that whole application process and, when we get to</p> <p>11 that point, to determine whether there are additional</p> <p>12 mitigations that need to be made or to consider the</p> <p>13 project in total.</p> <p>14 MS. KELLY: Thank you all. That's very helpful.</p> <p>15 CHAIR DREW: Okay. Thanks. Any other questions?</p> <p>16 Okay. I will ask then if there is a motion to</p> <p>17 approve the council order for the High Top and Ostrea</p> <p>18 Projects with a finding of consistency with land use per</p> <p>19 RCW 80.50.090 Sub 2 and WAC 463-26-110.</p> <p>20 So, again, is there a motion to approve this order</p> <p>21 with a finding of consistency -- land use consistency?</p> <p>22 MS. BREWSTER: This is Stacey Brewster. I'll move</p> <p>23 that the council approve the order granting a finding of</p> <p>24 land use consistency.</p> <p>25 CHAIR DREW: Is there a second?</p>
<p style="text-align: right;">Page 26</p> <p>1 So there still needs to be an opportunity for the</p> <p>2 public to comment on whether the Yakima County's</p> <p>3 conditional use criteria are met for the project, or if</p> <p>4 there are conditions that need to be imposed to ensure</p> <p>5 that those conditional use criteria are met.</p> <p>6 So, and that's -- yeah, that's how the council has</p> <p>7 consistently dealt with situations where their -- where a</p> <p>8 conditional use permit would be required at the county.</p> <p>9 Does that answer your question?</p> <p>10 MS. KELLY: Yeah. Just a little bit more, Madam</p> <p>11 Chair, if you'll indulge. So as part of that process, I</p> <p>12 understand hearing from the public and how important that</p> <p>13 is, but do we also take -- take into consideration</p> <p>14 whatever the county itself has to share in terms of what</p> <p>15 site specific conditions might be?</p> <p>16 CHAIR DREW: Oh, yes. And my recollection is during</p> <p>17 Goose Prairie our staff worked with the county staff quite</p> <p>18 closely in that process. Ms. Hafkemeyer, do you have</p> <p>19 anything to add there?</p> <p>20 MS. HAFKEMEYER: Not too much to add. The county</p> <p>21 would obviously be noticed of the meeting and welcome to</p> <p>22 attend as well as coordinate with staff directly if they</p> <p>23 had any additional concerns or criteria that they had</p> <p>24 questions or concerns about as part of the review process.</p> <p>25 CHAIR DREW: And I would also add that the applicant</p>	<p style="text-align: right;">Page 28</p> <p>1 MS. KELLY: Kate Kelly, second.</p> <p>2 CHAIR DREW: Thank you. Discussion?</p> <p>3 MR. YOUNG: Chair Drew, this is Lenny Young. Should</p> <p>4 WAC be inserted in paragraph 47 prior to the numbers that</p> <p>5 start with 463?</p> <p>6 CHAIR DREW: Yes. Thank you for that. That's just a</p> <p>7 technical error there.</p> <p>8 MS. BUMPUS: Chair Drew, this is Sonia Bumpus. I did</p> <p>9 note that we missed that abbreviation for the Washington</p> <p>10 Administrative Code. We can make that change for the</p> <p>11 final document.</p> <p>12 CHAIR DREW: Okay. Thank you. Any other questions or</p> <p>13 discussion or comments? All those in favor of approving</p> <p>14 the council order say "aye."</p> <p>15 COUNCILMEMBERS: Aye.</p> <p>16 CHAIR DREW: Opposed? Motion carries. Thank you.</p> <p>17 Now, we are -- let's see, just close that</p> <p>18 document. Moving onto the discussion of expedited</p> <p>19 processing.</p> <p>20 MS. HAFKEMEYER: Thank you.</p> <p>21 CHAIR DREW: So what we are looking at here -- go</p> <p>22 ahead, Ms. Hafkemeyer.</p> <p>23 MS. HAFKEMEYER: Oh. I was just going to give a</p> <p>24 little bit of background for the council.</p> <p>25 CHAIR DREW: Thank you.</p>

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<p style="text-align: right;">Page 29</p> <p>1 MS. HAFKEMEYER: As you may recall at the July 19th 2 council meeting, the council agreed to the request from 3 the applicant to extend the expedited process decision to 4 October 20th to allow time to complete the SEPA review. 5 The two requirements to consider expedited process 6 include consistency with local land use regulations as 7 well as a determination of non-significance or a mitigated 8 determination of non-significance. 9 So now that the MDNS has completed the comment 10 period, and with the land use order having been voted to 11 be approved, staff would like the council to consider the 12 request for expedited process. 13 CHAIR DREW: And councilmembers, again, following up 14 on what Ms. Hafkemeyer just said, there are two criteria 15 for expedited processing. One is land use consistency, 16 which we just granted, and then the mitigated 17 determination of non-significance, which has been 18 determined not by the council but by the council director 19 Ms. Bumpus with a couple changes that -- you've heard what 20 those changes will be this week. 21 And our process moving forward would be to direct 22 the staff to prepare an order for the council's review in 23 November approving the Cypress Creek Renewables' request 24 granting expedited processing since the two criteria are 25 met. Are there questions or comments on that?</p>	<p style="text-align: right;">Page 31</p> <p>1 to complete our SEPA determination. 2 MR. YOUNG: So the staff's interpretation is that 3 there is still a request for expedited processing on the 4 table? 5 MS. HAFKEMEYER: Correct. 6 MR. YOUNG: Thank you. 7 MS. KELLY: Chair, this is Kate Kelly again. The 8 expedited processing letter in our packet dated April 7th 9 only mentions Ostrea Solar Facility. 10 MS. HAFKEMEYER: I believe the application, I can 11 doublecheck, but I believe with the application there is a 12 letter for each site. So there is a letter with the 13 application for the Ostrea Solar and a letter with the 14 application for High Top Solar. 15 MS. KELLY: Chair, you're muted. 16 CHAIR DREW: Thank you. Why don't we take a minute 17 and confirm that. 18 MS. HAFKEMEYER: I'm looking right now. Yes, there is 19 a letter for each site, and those letters can be found on 20 the EFSEC website on the project page. 21 CHAIR DREW: Ms. Kelly, is that satisfactory? 22 MS. KELLY: It is. I'm still -- back to the previous 23 question about the connection between the two letters and 24 what we're being -- we're being asked to take action on 25 something right now or not?</p>
<p style="text-align: right;">Page 30</p> <p>1 MR. YOUNG: Chair Drew, I was slightly confused 2 because the July letter seems to push in the opposite 3 direction of the April letter, and almost to the point 4 where the July letter seemed to almost withdraw the 5 request for expedited processing and ask for more time. 6 What's the relationship between those two 7 requests? Is the second letter still consistent with the 8 concept of expedited processing? 9 CHAIR DREW: Ms. Hafkemeyer? 10 MS. HAFKEMEYER: May I jump in? 11 CHAIR DREW: Yes, thank you. 12 MS. HAFKEMEYER: Thank you. So the second letter is 13 in keeping with the first letter. The initial request for 14 expedited process was received with the application on 15 April 7th. The timeline in the EFSEC rules -- I'm sorry, 16 the exact WAC is escaping me. I believe it's 463-43 17 provides a timeline of 120 days for the expedited process 18 decision. 19 So that decision would initially have needed to be 20 made, I believe, on August 6th. Staff were not prepared 21 to make a SEPA threshold determination at that time. We 22 were still coordinating with our contracted agencies to 23 get input. 24 And so the July 8th letter was to extend that 25 expedited process decision to allow staff sufficient time</p>	<p style="text-align: right;">Page 32</p> <p>1 CHAIR DREW: We're being asked to direct the staff to 2 prepare a draft order for our review for the November 3 meeting granting expedited processing. So our final 4 action on expedited processing will actually come in 5 November. 6 MS. KELLY: Even though the letter, the July 8th 7 letter, asks for an extension through this week, through 8 October 20th? 9 CHAIR DREW: Yes. So I'll ask the question to 10 Ms. Bumpus or perhaps Mr. Thompson. Do we need to also 11 have an extension letter from Cypress Creek Renewables? 12 MS. BUMPUS: This is Sonia Bumpus. We did discuss 13 that very question internally, and being that the two 14 criteria are met for qualifying for expedited processing, 15 we did not think we needed to request another extension 16 just to carry us to November when the draft order would 17 have been reviewed and then, you know, hopefully 18 presumptively approved. 19 Jon Thompson is here and can weigh in with 20 anything additional, but that was discussed internally. 21 And being that the MDNS is going to be completed, it's 22 already gone out for public comment, the proposal has 23 demonstrated that it meets those two qualifying criteria; 24 we did not think we needed to request another extension 25 letter.</p>

## Verbatim Transcript of Monthly Council Meeting - 10/18/2022

<p style="text-align: right;">Page 33</p> <p>1 But, Jon, did you want to add anything to that?</p> <p>2 MR. THOMPSON: No, I don't have anything to add. The</p> <p>3 deadline for making a decision on a request for expediting</p> <p>4 processing is not statutory. It's self-imposed, if you</p> <p>5 will, in an EFSEC rule, and so -- which is one</p> <p>6 consideration.</p> <p>7 And then another is, as Ms. Bumpus was explaining,</p> <p>8 yeah, I think we have the information at this point before</p> <p>9 you for you to, you know, make a presumptive decision and</p> <p>10 then direct staff to prepare that order. Technically your</p> <p>11 vote would come at the next meeting, but we felt like</p> <p>12 that's in compliance with the spirit of the rule.</p> <p>13 MR. YOUNG: This is Lenny Young. Follow-up question</p> <p>14 on that. So for an order that we would be asked to vote</p> <p>15 on in November, what date would be specified in that</p> <p>16 order? Would it be October 20th, which at that time would</p> <p>17 be a date that would be three to four weeks in the past,</p> <p>18 or would it be a current or future date with respect to</p> <p>19 the date of the November council meeting?</p> <p>20 MR. THOMPSON: There is no intention of backdating or</p> <p>21 anything like that. I think it would be signed as of the</p> <p>22 date that I think Chair Drew would probably sign it as the</p> <p>23 practice. So, yeah, it would be -- it would be a date</p> <p>24 that it was actually signed.</p> <p>25 MR. YOUNG: So the order would have a date that would</p>	<p style="text-align: right;">Page 35</p> <p>1 by signing the order but by having the two pieces clearly</p> <p>2 met by that date, is what I hear them saying.</p> <p>3 MR. YOUNG: Understood. Thank you.</p> <p>4 CHAIR DREW: Okay. Thanks. Yeah, little bit</p> <p>5 confusing I know.</p> <p>6 But so other questions or comments? Is there a</p> <p>7 motion to direct staff to prepare a draft order for the</p> <p>8 council's review approving the Cypress Creek Renewables'</p> <p>9 request granting expedited processing for the High Top and</p> <p>10 Ostrea Solar projects? Motion, please?</p> <p>11 MS. KELLY: This is Kate Kelly. I move that we ask</p> <p>12 staff to prepare the order as described.</p> <p>13 CHAIR DREW: Thank you. Second?</p> <p>14 MR. LEVITT: This is Eli. I'll second.</p> <p>15 CHAIR DREW: Thank you. Anymore questions or comments</p> <p>16 now that we have the action in front of us? Okay. All</p> <p>17 those in favor please say "aye."</p> <p>18 COUNCILMEMBERS: Aye.</p> <p>19 CHAIR DREW: Opposed? The motion carries. Thank you.</p> <p>20 Wautoma Solar Project, is this Ms. Hafkemeyer?</p> <p>21 MS. HAFKEMEYER: Yes. Thank you. For the Wautoma</p> <p>22 Solar Project, EFSEC staff continue to work with the</p> <p>23 applicant and our contractors to review the project.</p> <p>24 EFSEC sent a data request to the applicant to</p> <p>25 facilitate our review which they're working on at this</p>
<p style="text-align: right;">Page 34</p> <p>1 either be the same day or later than the council's</p> <p>2 November meeting?</p> <p>3 MR. THOMPSON: Correct.</p> <p>4 MR. YOUNG: Okay.</p> <p>5 CHAIR DREW: This is a council action too which,</p> <p>6 again, the information has been prepared. We want time</p> <p>7 for the council, and then it will also, under the new</p> <p>8 statute, have an opportunity for the public to comment on</p> <p>9 that final action.</p> <p>10 So we want that to occur, but there isn't a lot of</p> <p>11 wiggle room, if you will, in -- we're not -- we're not --</p> <p>12 we -- there's no question that we've met the two criteria.</p> <p>13 The criteria are quite cut and dried in this particular</p> <p>14 action.</p> <p>15 So from that standpoint, I think what we want is</p> <p>16 to make sure the language in the order is appropriate for</p> <p>17 the action, but we have enough information to see that the</p> <p>18 two criteria have been met.</p> <p>19 Does that make sense?</p> <p>20 MR. YOUNG: Yes, I'm just not sure about the</p> <p>21 continuing significance of the October 20 date mentioned</p> <p>22 in the July TRC letter.</p> <p>23 CHAIR DREW: Again, what I'm hearing from both</p> <p>24 Ms. Bumpus and Mr. Thompson, that's a council rule, not a</p> <p>25 statute. So we were -- we're in keeping with the date not</p>	<p style="text-align: right;">Page 36</p> <p>1 time. We are also working to schedule a site tour in</p> <p>2 early November and will provide details to the council and</p> <p>3 the public as logistics are finalized.</p> <p>4 Are there any questions?</p> <p>5 CHAIR DREW: The site tour will also be a site tour at</p> <p>6 the same time for the High Top and Ostrea Projects; is</p> <p>7 that true?</p> <p>8 MS. HAFKEMEYER: That -- because of logistics, we may</p> <p>9 be able to -- be able to, you know, park near and sort of</p> <p>10 look at where the High Top and Ostrea sites are. But due</p> <p>11 to applicant availability and private landowner access</p> <p>12 concerns, we may not be taking the public and the council</p> <p>13 onto the High Top and Ostrea sites during that site visit.</p> <p>14 CHAIR DREW: As I remembered, the access isn't created</p> <p>15 yet either when we drove past.</p> <p>16 MS. HAFKEMEYER: I think there is some dirt roads that</p> <p>17 go that direction, but I think at this time we're</p> <p>18 proposing sort of pointing people in the general direction</p> <p>19 so that they can see where those sites will be --</p> <p>20 CHAIR DREW: Yes.</p> <p>21 MS. HAFKEMEYER: -- and then actually visit the</p> <p>22 Wautoma site.</p> <p>23 CHAIR DREW: Okay. Ms. Bumpus, go ahead. You were on</p> <p>24 mute. Ms. Bumpus, did you want to add?</p> <p>25 MS. BUMPUS: No, Chair Drew, I was just turning on my</p>



## EFSEC Monthly Council Meeting – Facility Update Format

Facility Name: Kittitas Valley Wind Power Project

Operator: EDP Renewables

Report Date: November 7, 2022

Reporting Period: September 2022

Site Contact: Eric Melbardis, Sr Operations Manager

Facility SCA Status: Operational

### Operations & Maintenance (only applicable for operating facilities)

- Power generated: 13661 MWh
  - Wind speed: 4.4 m/s
  - Capacity Factor: 18%
- 

### 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 3, 2022  
**Report Period:** October 2022  
**Site Contact:** Jennifer Galbraith  
**SCA Status:** Operational

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### Operations & Maintenance

October generation totaled 50,813 MWh for an average 25.05%.

### Environmental Compliance

Nothing to report.

### Safety Compliance

Nothing to report.

### Current or Upcoming Projects

Nothing to report.

### Other

Nothing to report.

## EFSEC Monthly Council Meeting – Facility Update

Facility Name: Chehalis Generation Facility  
Operator: PacifiCorp  
Report Date: November 03, 2022  
Reporting Period: October 2022  
Site Contact: Mike Adams, Plant 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.

- 315,955 net MW-hrs generated in the reporting period for a capacity factor of 86.6%.

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

### Environmental Compliance

-Monthly Water Usage: 2,909,720 gallons

-Monthly Wastewater Returned: 958,195 gallons

-Permit status if any changes.

- No changes.

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

- No issues or updates.

-Any EFSEC-related inspections that occurred.

- Nothing to report

-Any EFSEC-related complaints or violations that occurred.

- Nothing to report

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

- Nothing to report

### Safety Compliance

-Safety training or improvements that relate to SCA conditions.

- Zero injuries this reporting period for a total of 2,649 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).
  - Mike Adams will be providing routine facility updates to the Council.
- Public outreach of interest (e.g., schools, public, facility outreach).
  - Nothing to report.

Respectfully,



Mike Adams  
Plant Manager  
Chehalis Generation Facility

### EFSEC Monthly Council Meeting – Facility Update

Facility Name: Grays Harbor Energy Center

Operator: Grays Harbor Energy LLC

Report Date: November 22, 2022

Reporting Period: October 2022

Site Contact: Chris Sherin

Facility SCA Status: Operational

#### Operations & Maintenance

-GHEC generated 417,568MWh during the month and 2,464,654MWh YTD.

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

#### Environmental Compliance

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

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

- Monthly Outfall Discharge Monitor Report (DMR).
- Quarterly Stormwater Discharge Monitor Report (DMR).
- Semi-Annual AOP Report.
- Quarterly EDR Report.

-Submitted a revised Relative Accuracy Test Audit (RATA). An investigation was conducted to determine the cause of the H<sub>2</sub>SO<sub>4</sub>/SO<sub>2</sub> source tests for Gas Turbines 1 & 2 to result in a ratio greater than one in the source test report issued on September 30, 2022. A ratio less than one is an unexpected result based on theoretical calculations for converting SO<sub>2</sub> to H<sub>2</sub>SO<sub>4</sub> in gas turbine exhaust. The source test contractor investigated this issue and identified an error was made on the chain of custody paperwork and sample labels for the H<sub>2</sub>SO<sub>4</sub> and SO<sub>2</sub> samples. The error resulted in a mix-up between the H<sub>2</sub>SO<sub>4</sub> and SO<sub>2</sub> samples at the laboratory. This caused the laboratory to report the H<sub>2</sub>SO<sub>4</sub> results as SO<sub>2</sub> and the SO<sub>2</sub> results as H<sub>2</sub>SO<sub>4</sub>. SO<sub>2</sub> and H<sub>2</sub>SO<sub>4</sub> samples are analyzed using an identical test method at the laboratory and there is no way to differentiate between whether a sample contains H<sub>2</sub>SO<sub>4</sub> or SO<sub>2</sub> without proper sample control and labeling. The sample mix-up was identified by comparing the H<sub>2</sub>SO<sub>4</sub> and SO<sub>2</sub> sample volumes. The laboratory report indicated the H<sub>2</sub>SO<sub>4</sub> samples had a larger volume than the SO<sub>2</sub> samples. Per the source test contractor, the larger volume sample containers were erroneously labeled as condenser rinses (H<sub>2</sub>SO<sub>4</sub>), when the smaller volume bottles were the actual condenser rinses. The H<sub>2</sub>SO<sub>4</sub>/SO<sub>2</sub> laboratory report was revised and reissued based on correctly labeled samples. A revised source test report was generated by the source test contractor to incorporate the revised laboratory results. The H<sub>2</sub>SO<sub>4</sub>/SO<sub>2</sub> ratios in the revised report are less than one and are similar results to those of the tests conducted in years prior.

#### Safety Compliance

- None.

**Current or Upcoming Projects**

-- Application for a Modification to the Air Operating Permit submitted to EFSEC in April. GHEC is currently authorized to operate under PSD Permit EFSEC/2001-01, Amendment 5 and Federal Operating Permit EFSEC/94-1 AOP Initial.

**Other**

- Annual Dangerous Waste refresher training was conducted.



## 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 3, 2022**

Reporting Period: **October 2022**

Site Contact: **Denis Mehinagic**

Facility SCA Status: **Operational**

CGS Net Electrical Generation October 2022: **854,566 MW-Hrs**

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### **Environmental Compliance:**

On October 26, 2022, Washington State Department of Ecology (Ecology) conducted a Synthetic Minor Air Permit inspection at Columbia Generating Station. The purpose of the inspection was to assess the station's compliance with EFSEC Order No. 873 (Order on Request to Operate Multiple Diesel-fired Combustion Units to Provide Steam and Emergency Power). The inspectors conducted a visual inspection of diesel generators (DG-GEN-DG1, DG-GEN-DG2, HPCS-GEN-DG3, and FLEX-GEN-DG5) and an auxiliary boiler (AS-BLR-1). No deficiencies were noted by Ecology during the walk down and exit meeting.

### **Safety Compliance:**

No update.

### **Current or Upcoming Projects**

No update.

### **Other**

No update.

## EFSEC Monthly Council Meeting Facility Update

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

Operator: Tuusso Energy, LLC

Report Date: Nov 4, 2022

Reporting Period: 30-days ending Nov 4, 2022

Site Contact: Owen Hurd

Facility SCA Status: Construction

### Construction Status

- Penstemon
    - Currently operational
    - Total Generation during the month of October was 796 MWhs (~21% capacity factor), which included several days of the plant being partially offline
  - Camas
    - Currently operational
  - Urtica
    - Mechanical Completion and the PSE Witness Test is finally complete. Substantial Completion is expected November 21.
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### Other

- Site prep/rock clearing still needed on Urtica (post-Substantial Completion), after which planting & seeding will begin on all three sites (potentially sooner on Penstemon).

# Horse Heaven Wind Project

November 2022 project update

[Place holder]

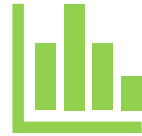


# Horse Heaven Draft Environmental Impact Statement Overview

*Reviewing the Draft EIS*

# What is an Environmental Impact Statement (EIS)

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Provides information about the adverse environmental impacts of the proposal to both the built and natural environment.



Provides an opportunity for public review prior to the Final EIS.



Decisionmakers use the Final EIS along with other information to decide whether to approve, approve with conditions, or deny the proposal




# How is the Draft EIS organized?

Document Contents	Chapter Description
Executive Summary	
Chapter 1 Project Background and Purpose and Need	Chapter 1 provides background information on the proposed Project and states the Project purpose and need as provided in the Application. The chapter also outlines the steps undertaken to date in the SEPA review process, describes public, agency, and tribal involvement to date, and identifies federal, state, and local permits that would apply to the proposed facility.
Chapter 2 Proposed Action and Alternatives	Chapter 2 provides detailed descriptions of the construction, operation, maintenance, and decommissioning activities proposed for the facility. It explains the Applicant's Proposed Action, provides an evaluation of alternatives to the Proposed Action, and describes the No Action Alternative. Applicant commitments and proposed best management practices are collated and presented here.
Chapter 3 Affected Environment	Chapter 3 has been subdivided into separate sections that describe the existing environment for 15 separate resources.
Chapter 4 Impacts, and Mitigation Measures	Chapter 4 focuses on impacts that may occur to environmental resources from the construction, operation, and decommissioning of the proposed facility for the 15 resources presented in Chapter 3.
Chapter 5 Cumulative Impacts	Chapter 5 describes potential cumulative impacts of the Proposed Action when combined with potential impacts from other past, present, and reasonably foreseeable developments that could occur within similar spatial and temporal settings.
Chapter 6 References	Chapter 6 provides a complete list of literature cited references used throughout the Draft EIS.
Chapter 7 List of Contributors	Chapter 7 identifies those who contributed to the preparation of the Draft EIS.
Chapter 8 Glossary	The glossary defines many of the terms used in the Draft EIS.
Chapter 9 Distribution List	The distribution list identifies organizations and individuals who were sent an electronic copy of the Draft EIS.



# Some Pointers for Reviewing the Draft EIS

Understand the overall organization of the document

- Chapters
  - Subsections in Chapters 3 and 4, and
  - Appendices.
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# Commenting on the Draft EIS



USEFUL COMMENTS WHICH CAN  
AFFECT THE CONTENT IN THE FINAL  
EIS



SOME TOPICS ARE OUTSIDE THE  
SCOPE OF THE EIS



# Final Environmental Impact Statement

- Changes between the Draft EIS and the Final EIS are expected and normal
  - During the EIS process,
    - Projects/applicants respond to the identified environmental impacts
    - The project description, applicant commitments, and agency-identified mitigation typically evolves
  - A Final EIS includes:
    - Responses to public comments
    - More analysis, when warranted, responding to those comments
    - New information/analysis responding to project changes
    - More or refined mitigation

# Goose Prairie Solar Project

November 2022 project update

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# Badger Mountain Solar Energy Project

November 2022 project update

[Place holder]

# Whistling Ridge Energy Project

November 2022 project update

[Place holder]

# High Top and Ostrea Solar Project

November 2022 project update

[Place holder]

**BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of Application

Docket No. EF-220212

CYPRESS CREEK RENEWABLES –  
High Top Solar, LLC and Ostrea  
Solar, LLC

**Council Order No. 885**

**ORDER GRANTING EXPEDITED  
PROCESSING**

**BACKGROUND**

**Synopsis.** *Cypress Creek Renewables requested expedited review of an application it filed with the Energy Facility Site Evaluation Council (EFSEC or Council) for site certification and approval of the High Top Solar and Ostrea Solar Projects. The Council may grant expedited review when it finds the project is consistent and in compliance with land use plans and zoning ordinances, and the environmental impacts are insignificant or can be mitigated to a nonsignificant level. The Council, by this order, concludes that the criteria for expedited review have been satisfied and will use the expedited process authorized by RCW 80.50.075 to evaluate the application.*

- 1 **Nature of Proceeding.** This matter involves an application for site certification (Application or ASC) filed on April 7, 2022, by Cypress Creek Renewables (the Applicant) to construct and operate High Top Solar and Ostrea Solar (the Projects or the facility) solar photovoltaic (PV) projects with one planned and one optional battery storage system. The Projects would be located adjacent to one another on a total of eleven parcels in unincorporated Yakima County between SR-24 to the south and the Yakima Training Center to the north.
- 2 The Applicant requests that EFSEC use the expedited process authorized by RCW 80.50.075 to evaluate the Application. An applicant is eligible for expedited processing when EFSEC finds (1) the environmental impacts of the proposed project are not significant or can be mitigated to non-significant levels and (2) the proposed project is consistent and in compliance with city, county, or regional land use plans.<sup>1</sup>
- 3 The Applicant and the Council mutually agreed to extend the one hundred twenty-day

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<sup>1</sup> RCW 80.50.075; WAC 463-43-030.

timeline for the Council to issue an order on the land use consistency and to decide the request for expedited process, by 10 weeks to encompass the later time of the Council's monthly meeting on October 18, 2022.<sup>2</sup>

- 4 **Land Use Consistency Finding.** 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 May 25, 2022, EFSEC issued a Notice of Informational Public Hearing and Land Use Consistency Hearing and scheduled a virtual hearing by Microsoft Teams or by telephone participation for 5:00 p.m. on Wednesday, June 1, 2022.<sup>3</sup>
- 5 On June 1, 2022, the Council conducted a virtual land use consistency hearing, to hear testimony regarding whether the facility was consistent and in compliance with Yakima County's local land use provisions.
- 6 The Council issued an Order Granting a Finding of Land Use Consistency on October 18, 2022. The order is incorporated by reference herein. In that order, the Council granted the Applicant's request for a finding of land use consistency for the reasons, and with the limitations, set forth therein. Consistent with that Order, the Council will provide a hearing to take comments from the public and give consideration to any specific recommendations from Yakima County Planning Department, after which the Council may decide whether to recommend site certification conditions to uphold Yakima County's conditional use permit criteria.<sup>4</sup>
- 7 **SEPA Mitigated Determination of Non-Significance:** On September 30, 2022, EFSEC's SEPA responsible official, EFSEC Director Sonia Bumpus, issued a Mitigated Determination of Non-Significance (MDNS) for the Projects and invited public comment as required by WAC 197-11-340.
- 8 The comment period ended on October 14, 2022, during which EFSEC received four comments. The responsible official reviewed and considered all comments, finding that no new issues were raised that had not already been considered.
- 9 On October 28, 2022, the responsible official issued a Revised MDNS under WAC

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<sup>2</sup> While the Council and the Applicant have not formally agreed to a further extension of the one hundred twenty day aspirational timeline that EFSEC has set for itself in WAC 463-43-050 for the Council to grant a request for expedited processing, neither has the Applicant objected to the Council continuing its final vote on this Order to the November 2022 Council meeting.

<sup>3</sup> The Council sent this Notice to all interested persons on the application mailing list and the project mailing list. Further, the Council purchased a legal advertisement in the Yakima Herald.

<sup>4</sup> RCW 80.50.090(5) requires that “[a]fter expedited processing is granted under RCW 80.50.075, the council must hold a public hearing to take comments on the proposed application prior to issuing a council recommendation to the governor.”

197-11-350 that clarified one mitigation measure related to vegetation and added one additional mitigation measure related to animals and habitat. The Revised MDNS lists 19 total mitigating conditions related to earth, air, water, animals and habitat, noise, visual and aesthetics, historic and cultural resources, and utilities.

- 10 The Revised MDNS sets forth the responsible official's determination that mitigating conditions included in the Revised MDNS report, along with required compliance with applicable county, state, and federal regulations and permit requirements will mitigate any significant adverse impacts to the environment. An environmental impact statement therefore is not required under RCW 43.21C.030(2)(c).<sup>5</sup>

### FINDINGS OF FACT

- 11 (1) On April 7, 2022, Cypress Creek Renewables, LLC, submitted an application for site certification to construct and operate High Top Solar and Ostrea Solar Projects (the facility), a solar photovoltaic (PV) project with an optional battery storage system at the High Top Project and battery storage at the Ostrea Project. The facility would be located on 3,263 leased acres in unincorporated Yakima County, Washington.<sup>6</sup>
- 12 (2) On April 7, 2022, the Applicant submitted a written request that the Council use the expedited processing procedure authorized by RCW 80.50.075.
- 13 (3) On June 1, 2022, the Council convened a virtual land use consistency hearing, pursuant to due and proper notice. The Council received testimony from the Applicant's attorney and community member, Michael Tobin.
- 14 (4) The Applicant presented Certificates of Zoning Compliance from Yakima County's Zoning and Subdivision Manager, Jason Earles, attesting to the facility's consistency and compliance with local land use plans and zoning ordinances.
- 15 (5) On October 28, 2022, EFSEC's SEPA responsible official issued a Revised Mitigated Determination of Non-Significance under the State Environmental Policy Act that lists 19 mitigating conditions related to earth, air, water, animals and habitat, noise, visual and aesthetics, historic and cultural resources, and utilities.

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<sup>5</sup> The revised environmental checklist was completed by EFSEC and cross references the parts of the application that provide the requested information in the checklist. The Revised MDNS, environmental checklist, environmental review and staff recommendation, and the updated ASC are available for review at EFSEC. For convenience, the documents are available online at: <https://www.efsec.wa.gov/energy-facilities/high-top-and-ostrea-solar-project>

<sup>6</sup> The respective Project Site Control Boundaries are: 1,564 acres for High Top; and 1,699 acres for Ostrea.

**CONCLUSIONS OF LAW**

- 16 (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.
- 17 (2) The Council provided adequate notice to interested parties, and the Council has adequate information to render a land use consistency decision.
- 18 (3) The Applicant has met its burden of proof of demonstrating that the sites are consistent and in compliance with Yakima County's Comprehensive Plan and applicable zoning ordinances as required by RCW 80.50.075(1).
- 19 (4) The environmental impact of the proposed High Top and Ostrea Facility can be mitigated to a nonsignificant level under RCW 43.21C.031 as required by RCW 80.50.075(1).
- 20 (5) The criteria for expedited processing set forth in RCW 80.50.090 and WAC 463-43-050 as of the date of the Application have been satisfied, and therefore, the Applicant's request for expedited processing should be granted.

**ORDER**

## THE COUNCIL ORDERS:

- 21 Cypress Creek Renewable, LLC's request for expedited processing is GRANTED; EFSEC will evaluate Cypress Creek Renewable, LLC's Application for Site Certification of the High Top and Ostrea Facility in an expedited process consistent with the requirements of RCW 80.50.075, RCW 80.50.090 and WAC chapter 463-43.

DATED at Olympia, Washington, and effective November 15, 2022.

WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL

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KATHLEEN DREW, Chair



# Wautoma Solar

## November 2022 project update

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**BEFORE THE STATE OF WASHINGTON**  
**ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of  
Docket No. EF-220355

**Council Order No. 886**

Innergex Renewable Development  
USA, LLC, for Wautoma Solar Energy  
Project, Applicant

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

**BACKGROUND**

**Synopsis.** *Innergex Renewable Development USA, LLC, submitted an application to the Energy Facility Site Evaluation Council (EFSEC or Council) on June 9, 2022, for site certification of the proposed 470 megawatt and battery storage Wautoma Solar Energy Project site in unincorporated Benton County. On December 21, 2021, Benton County Board of County Commissioners (BOCC) adopted Ordinance Amendment (OA) 2021-004, which removed “solar power generation facility, major” from the list of uses allowed with a conditional use permit (CUP) in the Growth Management Act Agricultural District (GMAAD). The Applicant conceded that the project is not consistent with land use regulations after the adoption of OA 2021-004. Because the proposed site would be a solar power generation 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 was filed. RCW 80.50.090(2). The Council will schedule an adjudicative proceeding to consider whether to submit a recommendation to the Governor to preempt the local land use and zoning rules.*

- 1 **Nature of Proceeding.** This matter involves an Application for Site Certification (Application or ASC) filed on June 9, 2022, by Innergex Renewable Development USA, LLC (the Applicant) to construct and operate Wautoma Solar Energy Project (the Project), a commercial solar photovoltaic (PV) project with a battery storage system. The Project would be located in unincorporated Benton County, 12.5 miles northeast of the city of Sunnyside and 1 mile south of the State Route (SR) 241 and SR 24 interchange. The Project would be a 470-megawatt PV generation facility coupled with a 4-hour battery energy storage system (BESS) sized to the maximum capacity of the Project, as well as related interconnections 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 July 27, 2022, 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 Monday, August 8, 2022.<sup>1</sup>
- 3     On August 8, 2022, 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 August 8, 2022, hearing: Kate Kelly (Department of Commerce), Mike Livingston (Department of Fish and Wildlife), Eli Levitt (Department of Ecology), Leonard “Lenny” Young (Department of Natural Resources), Dave Sharp (Benton County), and Paul Gonseth, (Washington State Department of Transportation). Kathleen Drew, EFSEC Chair, presided over the hearing.
- 4     Assistant Attorney General Megan Sallomi (Counsel for the Environment) was present for the land use consistency hearing. Also present were Dave Sharp, representing Benton County.
- 5     Erin Anderson, Attorney, represented the Applicant and spoke on the Applicant’s behalf. The Council also heard testimony from: Michelle Cooke, Benton County Planning Manager, and Benton County residents Allison Keeler, Jeanie Polehn, George Penn, Jim Melbauer, Bill Jenkins, and Lorre Gefre.
- 6     **Applicant’s Description of Proposed Facility - Wautoma Solar Energy Project.** The Project would be a 470-megawatt PV generation facility coupled with a 4-hour BESS sized to the maximum capacity of the Project, as well as related interconnections and ancillary support infrastructure. The Project would be located in unincorporated Benton County, 12.5 miles northeast of the city of Sunnyside and 1 mile south of the SR 241 and SR 24 interchange.
- 7     According to the Application, the Project is located entirely on land within the Benton

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<sup>1</sup> 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 on its public website, distributed the Notice to local libraries, and purchased advertisement in the Tri-City Herald, the Columbia Basin Herald and the Yakima Herald, the local daily newspapers of general circulation.

County GMAAD zone. *Application for Site Certification, Attachment C: Land Use Consistency Review at Sec. 1.3.*

- 8 The thirty-five parcels on which the Project will be located will together constitute the “Project Parcels.” The owners of the parcels are listed in a table in Section C of the initial application. The owners are: Robert Ford and Marilyn Ford; Wautoma Energy LLC; Robert Ranch 5+1 LLC; Michael Robert, et al.; High Valley Land LLC; Jean Emile Robert; Robin Robert; United States Government. The Applicant has executed or is pursuing options to lease with the landowners to accommodate the Project long-term. *Application for Site Certification, Part 1, Section A.3.*
- 9 The BOCC adopted Benton County 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 and non-agricultural uses, 3) conserve critical areas and habitat, 4) protect visual resources, and 5) protect rural character. *Board of Benton County Commissioner’s Regular Board Meeting Minutes, December 21, 2021.*
- 10 Prior to December 21, 2021, the Project would have been a conditionally permitted use in the GMAAD per former BCC 11.17.070(cc). The Applicant agrees that the site is not consistent with current land use regulations, but would like to proceed with the Application and is not seeking an expedited process.

## DISCUSSION

### Land Use Consistency Determination

- 11 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.”<sup>2</sup> 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.”

<sup>2</sup> WAC 463-26-050.

- 12 **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.<sup>3</sup> 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.<sup>4</sup> The term “zoning ordinance” is defined by statute as an ordinance “regulating the use of land and adopted pursuant to” one of the listed planning statutes.<sup>5</sup> 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.
- 13 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.”<sup>6</sup>
- 14 **Proof of non-consistency and non-compliance.** EFSEC accepts the Applicant’s concession that the Project is not consistent or compliant with Benton County land use provisions.
- 15 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.<sup>7</sup> 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.<sup>8</sup>

### FINDINGS OF FACT

1. On June 9, 2022, Innergex Renewable Development USA, LLC, submitted an Application for Site Certification (ASC) to construct and operate Wautoma Solar Energy Project (the Project), a commercial solar photovoltaic project with an optional battery storage system, on 4,399 leased acres in Benton County, Washington.
2. The Project would be a 470-megawatt PV generation facility coupled with a 4-hour battery

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<sup>3</sup> RCW 80.50.020(14).

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

<sup>5</sup> RCW 80.50.020(22).

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

<sup>7</sup> 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).

<sup>8</sup> WAC 463-29-060

energy storage system sized to the maximum capacity of the Project, as well as related interconnections and ancillary support infrastructure.

3. On August 8, 2022, 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, consisting of solar panels, with an optional storage system.
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)*.

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5. As the primary land use for the Project site would be for commercial 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 on June 9, 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. 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 Site Certification Agreement that consider local governmental or community interests affected by the construction or operation of the alternative energy resource and the purposes of the ordinances to be preempted pursuant to RCW [80.50.110\(2\)](#).

## ORDER

### THE COUNCIL ORDERS:

Innergex Renewable Development USA, LLC's ASC is not consistent 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 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