

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

In the Matter of  
Application No. 2021-01 of

APPLICATION NO. 2021-01

OER WA Solar 1, LLC- Goose Prairie  
Solar

REPORT TO THE GOVERNOR ON APPLICATION NO. 2021-01

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## EXECUTIVE SUMMARY

On January 19, 2021, OER WA Solar 1, LLC (OER or Applicant) filed an application for site certification (Application or ASC) with the Energy Facility Site Evaluation Council (EFSEC or Council) to construct and operate Goose Prairie Solar (Facility). The Facility consists of a solar photovoltaic generating facility and optional battery storage system. The Facility would be located on eight parcels (the Site) in unincorporated Yakima County near the city of Moxee, with a combined maximum generating capacity of 80 megawatts (MW).

RCW 80.50.010 in the Energy Facility Site Locations Act (EFSLA) provides the legal framework for the Council's siting recommendation. The Washington Supreme Court has described EFSLA as seeking to balance the need for the proposed Facility against its impacts on the broad public interest. The Council determines whether the proposed Facility will produce a net benefit justifying a recommendation of project approval. The Applicant bears the burden of proving, by preponderance of the evidence, that the Facility meets this and other requirements of the law.

The Council has carefully considered the record before it, including: the Application and revisions; the record in the land use consistency hearing; the State Environmental Policy Act documentation; the draft Site Certification Agreement; public comments received orally during hearings and received by the Council in writing; and the statutory policies on need for energy at a reasonable cost, need to minimize environmental impacts, and other relevant state energy policies.

The Council concludes that Goose Prairie Solar will provide the state and the region with important alternative energy supply and will not cause significant unmitigated environmental impacts or substantial negative effect on the broad public interest. With the recommended mitigation measures that are required in the proposed site certification agreement (SCA), the proposed Facility meets the requirements of applicable law and comports with the policy and intent of Chapter 80.50 RCW. Therefore, the Council recommends that the Governor approve of the Facility.

## **I. INTRODUCTION**

### **A. The Applicant and the Application for Site Certification**

On January 19, 2021, OER WA Solar 1, LLC<sup>1</sup> (Applicant) filed an Application with the Energy Facility Site Evaluation Council (EFSEC or Council) to construct and operate the Facility. The Applicant seeks to obtain site certification pursuant to RCW 80.50.060(2). The Facility site is an alternative energy facility as defined in RCW 80.50.020(19). Developers of alternative energy facilities have the option of seeking site certification through the EFSLA process or through standard permitting and local land use approval requirements.<sup>2</sup>

The managing member of the Applicant is OneEnergy Renewables, a Seattle based privately held developer of utility-scale and community solar projects across the United States. Founded in 2010, it has developed solar photovoltaic (PV) projects with more than 700 megawatts (MW) in operation. OneEnergy has project development experience to achieve low cost energy, with solar and storage projects totaling over 1 gigawatt (GW) in development. It has experience working with investor-owned utilities, public power, and commercial and industrial customers.

The proposed Facility, which is described in Section II below, will consist of PV modules mounted in rows on single-axis trackers supported on stationary piles. The top of the panels will stand no higher than 14 feet. The Facility will interconnect with a new Point of Interconnection (POI) to Bonneville Power Administration's (BPA) Midway to Moxee 115-kilovolt (kV) transmission line, which bisects the Facility. BPA will build, own and operate the structures which constitute the POI. The Facility's output will be conveyed to a central substation near the POI to the electrical grid. The optional battery energy storage system would not exceed the nominal 80 MW capacity of the Facility.<sup>3</sup>

The Application submitted by OER is for a site consisting of eight parcels leased from two property owners. For purposes of the report, we refer to the eight parcels as the "Site" or "Project site." The Site is in unincorporated Yakima County east of the city of Moxee. Described below as the Meacham Property and the Martinez Property, the Site's total acreage is 1,568. However, the Facility's footprint would not exceed 625 acres. The Applicant has stated that it chose the location based on several suitability factors, including but not limited to the high solar energy resource, the underlying topography and land traits, access to electrical infrastructure, compatible zoning criteria, and low impacts to land use and habitat.<sup>4</sup> On January 21, 2021, OER requested that the application be granted expedited processing.<sup>5</sup>

### **B. The Council and its Processes**

The Council is a Washington State agency, established under RCW 80.50.030 to advise the Governor in deciding whether to approve applications to site certain new energy facilities. The Council must "prepare written reports to the governor" which shall include recommendations on applications to construct proposed energy facilities on a specified site. If the Council

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<sup>1</sup> See OneEnergy Renewables Public Information Meeting PowerPoint presentations, March 16, 2021, at slide 4, and September 27, 2021, at slide 4.

<sup>2</sup> RCW 80.50.060(2); RCW 80.50.110(2); RCW 80.50.100(2); *See Residents Opposed to Kittitas Turbines v. EFSEC*, 165 Wn.2d 275, 285 (2008).

<sup>3</sup> OER WA Solar 1, LLC Application for Site Certification, Revised June 22, 2021, page 14.

<sup>4</sup> *Id.* at 12-13

<sup>5</sup> RCW 80.50.075

recommends approval, it prepares site certification agreements embodying the conditions upon which approval should be granted.<sup>6</sup>

The Council’s analysis is guided by RCW 80.50.010, which articulates Washington’s policy to recognize the pressing need for additional energy facilities; ensure that the location and operation of such facilities produce minimal environmental effects; and balance the rising demand for energy facilities with the broad interests of the public.

The Council must weigh and balance the need for the proposed facility against its impacts on the broad public interest, including human welfare and environmental stewardship. The Council then determines whether the proposed facility at the particular site selected will produce a net benefit that justifies a recommendation of project approval.<sup>7</sup>

RCW 80.50.110(2) provides that the “state hereby preempts the regulation and certification of the location, construction, and operational conditions of certification” with respect to the energy facilities that are required, or that have the option to receive site certification through the EFSEC process. The inclusion of the word “location” means that local land use plans and zoning ordinances are preempted by EFSLA. However, EFSLA also requires that “[i]f the council recommends approval of an application for certification” to the Governor, it must include in the draft site certification agreement “conditions . . . to implement the provisions of this chapter, including, but not limited to, conditions to protect state or local governmental or community interests affected by the construction or operation of the energy facility, and conditions designed to recognize the purpose of laws or ordinances, or rules or regulations promulgated thereunder, that are preempted or superseded pursuant to RCW 80.50.110.”<sup>8</sup>

The Council consists of a chair, appointed by the Governor, and appointees of the Departments of Ecology, Fish and Wildlife, Natural Resources, and Commerce, and the Utilities and Transportation Commission.<sup>9</sup> The county in which the project is to be sited is authorized to appoint a voting member.<sup>10</sup> In addition, the Departments of Agriculture, Transportation, Health, and the Military may elect to sit on the Council for a specific application.<sup>11</sup> For purposes of this Application, the Department of Transportation appointed a member to sit on the Council but Yakima County did not appoint a member.

**The Council Review Process.** In reviewing an Application, the Council and the Governor must complete a number of procedural steps. The steps are summarized below, with a detailed discussion of how the Council accomplished each of its steps for purposes of this Application provided in Section III of this report.

- **Informational Public Hearing.** RCW 80.50.090(1) requires the Council to conduct an informational public hearing in the county of the proposed site no later than 60 days after receipt of the application for site certification.

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<sup>6</sup> RCW 80.50.040(8); RCW 80.50.100(2).

<sup>7</sup> *Columbia RiverKeeper v. Port of Vancouver*, 188 Wn.2d 80, 95, 392 p.3d 1025 (2012).

<sup>8</sup> RCW 80.50.100(2); *Residents Opposed to Kittitas Turbines v. EFSEC*, 165 Wn.2d 275, 285 (2008).

<sup>9</sup> RCW 80.50.030(2), (3).

<sup>10</sup> RCW 80.50.030(4).

<sup>11</sup> RCW 80.50.030(3)(b).

- **Land Use Consistency Hearing.** RCW 80.50.090(2) requires the Council to conduct a public hearing to determine whether the proposed site is (or sites are) consistent and in compliance with city, county, or regional land use plans or zoning ordinances as those terms are defined in EFSLA.
- **State Environmental Policy Act (SEPA).** The Council must comply with SEPA, RCW 43.21C, which requires consideration of probable significant adverse environmental impacts of government action (including approval or denial of an application to site an energy facility) and possible mitigation. If the Council’s SEPA responsible official (the EFSEC manager) finds that any adverse environmental impacts can be mitigated to non-significant levels, he may issue a mitigated determination of non-significance.<sup>12</sup>
- **Expedited Processing Decision.** If an applicant requests expedited processing, the Council must decide whether to use the expedited process authorized by RCW 80.50.075 to evaluate the application. An application 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 and zoning ordinances. If an application is granted expedited processing, the Council may proceed to a decision without holding an adjudicative proceeding under chapter 34.05 RCW, and is not required to conduct any further review of an application by an independent consultant.<sup>13</sup>
- **Recommendation to Governor and Site Certification Agreements.** The final step for the Council is to prepare a report to the Governor recommending approval or denial of the application. If the Council recommends approval, the Council will also prepare and provide with the report draft site certification agreements.<sup>14</sup>
- **Governor’s action on the Recommendation.** Within sixty days of receipt of the Council’s report, the Governor is to either approve the application and execute the draft certification agreements, reject the application, or direct the council to reconsider certain aspects of the draft certification agreements.<sup>15</sup>

This report is organized as follows. Section II provides a summary description of the proposed Site. Section III details the procedural steps followed by the Council in processing this Application. Section IV discusses the issues and objections raised and the Council’s resolution of each. Section V discusses the legal framework to be applied and the Council’s application of the RCW 80.05.010 balancing analysis. Section VI contains the findings of fact and conclusions of law. Finally, Section VII states the recommendation of the Council.

## II. DETAILED DESCRIPTION OF THE SITES

The eight parcels on which the Facility will be located will together constitute the “Facility Parcels.” The Estate of Willamae G. Meacham owns three of the parcels which together are known as the “Meacham Property.” S. Martinez Livestock, Inc. owns the other five parcels which together are known as the “Martinez Property.” The Applicant has executed options to lease with the landowners for adequate acreage to accommodate the Facility long-term. Both

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<sup>12</sup> WAC 197-11-350, WAC 463-47-080.

<sup>13</sup> RCW 80.50.075(2), WAC 463-43-060.

<sup>14</sup> RCW 80.50.100.

<sup>15</sup> RCW 80.50.100(3).

landowners have provided letters of support for the Facility (Attachment C to the Application for Site Certification (ASC)).

Each row of solar panels will be strung together in a north-south orientation and the panels will tilt on a single-axis (facing east in the morning and tilting toward the west, following the sun, through the course of each day to maximize energy output). Each string of panels will be arranged in rows with approximately eight to twelve feet of space between the rows. The racking system and panels will be supported by steel piles that will be driven to a depth of five to nine feet below grade. The top of the panels will stand no higher than 14 feet.

Throughout the Facility, inverters paired with medium voltage step-up transformers will convert the generated electricity from direct current (DC) to alternating current (AC) and increase the voltage to distribution class to minimize ohmic losses when collecting power circuits. The output will be conveyed to a central substation near the Point of Interconnection (POI) to the electrical grid. The central substation will house a generator step-up transformer, which will convert the power to 115 kilovolts (kV) and will house the controls for the Facility. An operations and maintenance building may be built adjacent to the substation.

The optional battery energy storage system would not exceed the nominal 80 MW capacity of the Facility. Optional battery storage system would be connected to the DC side of the transformer. The battery would store power generated by the Facility and dispatch it to the electrical grid at a later time. The Facility is designed to utilize lithium-ion battery energy technology. However, pending commercial interest, the Facility could be designed to utilize flow battery technology.

The Facility will interconnect with a new POI to Bonneville Power Administration's (BPA) Midway to Moxee 115-kV transmission line, which bisects the Facility. BPA will build, own and operate the structures which constitute the POI. The Facility will be accessed by an existing approach from Washington State Route 24. The Facility will be secured with a fence up to eight feet in height with access gates for authorized personnel. Internal gravel roads built to the applicable fire code will be used to maintain the Facility. During construction, a temporary lay-down area will be utilized for delivery of major equipment. This area will convert to parking during operations.

The optional battery energy storage system would not exceed the nominal 80 MW capacity of the Facility.

The Meacham property is currently in the Conservation Reserve Program (CRP) which is set to expire on September 30, 2022. Consequently, there is no current agricultural use, though a portion of the area was previously used for row crops. The Applicant described the habitat type within the portion that will be utilized for the Facility as mainly CRP with a small component of Pasture Mixed Environs and the vegetation consists primarily of non-native species such as downy brome, crested wheat, Russian thistle, mustard species and others. No existing buildings are present on the Meacham Property.

The Martinez Property has two distinct areas: four of the parcels may be used for solar facilities and one parcel may be utilized for an aerial easement for the interconnection tie-line

depending on the final design of the interconnection with BPA. The area that may be utilized for solar facilities has a historic and current use of grazing and has habitat types that the Applicant categorized as a mix of Eastside Grasslands<sup>16</sup>, Shrub-steppe and Pasture Mixed Environs with predominantly native vegetation including sagebrush and wheatgrass; much of the shrub-steppe area is degraded in its quality due to heavy grazing. The area which may be utilized for an aerial easement is currently planted with an orchard. BPA's Midway-to-Moxee 115 kV transmission line, on which the Facility will directly rely, crosses the Martinez Property. A few agricultural buildings exist on the Martinez Property, but none are within the Facility Area.

The Applicant is in the process of completing a rare plant survey. If the survey identifies special status plants within the Facility Area, the Applicant will work with EFSEC and Department of Natural Resources (DNR) to minimize impacts to these plants and incorporate mitigation measures into the design and construction of the Facility. These measures will be incorporated into the Vegetation and Weed Management Plan.

The Facility Parcels are wholly outside of the 100-year FEMA floodplain and the only surface water features present are ephemeral streams, from which the Facility will maintain a minimum 50-foot buffer on both sides. The Applicant's Revised ASC deleted plans for a stream crossing structure (i.e., bridge or culvert). Instead, a permanent ford stream crossing (also referred to as the "draw crossing") will be designed and constructed to minimize permanent impacts per YCC 16C.06.13, YCC 16.06.17, and WAC 220-660-190(10) and (12). The Facility area generally has a south-facing slope, ideal for solar PV projects, and is mostly under 10% grade, ideal for constructability. A few small areas with grades above 10% may require grading, though none of this will occur in surface waters, wetlands or frequently flooded areas.

The total acreage of the Facility Parcels is 1,568 acres. However, the Facility's footprint would not exceed 625 acres, defined as the Facility Area. The Facility Area would be located wholly within a broader micro-siting boundary of 789 acres, defined as the Facility Area Extent. The Survey Area is the extent of the acreage that was surveyed for the wildlife, cultural and wetland surveys, which totals 808 acres and wholly encompasses the Facility Area Extent. The Facility Area Extent includes 517 acres of the Meacham Property and up to 272 acres of the Martinez Property. The 272 acres of the Martinez Property includes the Transmission Easement Area which is approximately 17.0 acres.

The Applicant requests that EFSEC allow the Applicant flexibility to micro-site the precise location of Facility components within the Facility Area Extent and provide an updated site plan prior to construction. This would give the Applicant the ability to refine the spacing of solar modules, associated access roads, collector lines, staging areas and above-ground

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<sup>16</sup> The Revised ASC filed June 22, 2021, acknowledges that the Washington Department of Fish and Wildlife (WDFW) does not agree with the habitat classification of Eastside Grasslands. The Applicant, following discussions with WDFW and EFSEC, agrees the habitat types identified as "Shrub-steppe -Degraded" and "Eastside Grasslands" will be considered Shrub-steppe for the purposes of compensatory mitigation calculations.



facilities within the Facility Area Extent as design is finalized. The Applicant asserts that the requested flexibility to microsite the final Facility layout within the Facility Area Extent also would allow the Applicant to minimize potential impacts and deliver the most effective and efficient Facility consistent with the landowners' needs. The maximum footprint of the Facility Area would not exceed 625 acres, located wholly within the Facility Area Extent. As shown in the Preliminary Site Plan (Attachment B to the ASC), the Facility would consist of PV panels, inverters, mounting infrastructure, an electrical collection system, operation and maintenance building, access roads, interior roads, security fencing, a new collector substation and electrical interconnection infrastructure.

### **III. PROCEDURAL STEPS – EXPEDITED PROCESS**

#### **A. Informational Public Hearing and Land Use Consistency Hearing**

RCW 80.50.090(1) requires the Council to conduct an informational public hearing in the county of the proposed site no later than 60 days after receipt of the application for site certification. RCW 80.50.090(2) requires the Council to conduct a public hearing to determine whether a proposed site is consistent and in compliance with city, county, or regional land use plans or zoning ordinances as those terms are defined in EFSLA.

On March 2, 2021, EFSEC issued a Notice of Informational Public Hearing and Land Use Consistency Hearing and scheduled a virtual hearing by Skype or by telephone participation for 5:30 p.m. on Tuesday, March 16, 2021.<sup>17</sup>

The Council conducted a virtual public informational hearing, which was followed by a land use consistency hearing. The Council Members present on March 16, 2021, were Kate Kelly (Department of Commerce), Robert Dengel (Department of Ecology), Mike Livingston (Department of Fish and Wildlife), Leonard “Lenny” Young (Department of Natural Resources), Stacey Brewster (Utilities and Transportation Commission), and Bill Sauriol (Department of Transportation). Kathleen Drew, EFSEC Chair, presided over the hearing. Assistant Attorney General Bill Sherman, Counsel for the Environment, was present.<sup>18</sup>

After a presentation by OER describing the Project and a presentation by Council staff describing the Council and its role in the application process, the public was provided an opportunity to provide comment.

At the land use consistency hearing, Tim McMahan, Stoel Rives Law Firm, represented the Applicant and spoke on the Applicant's behalf. No other persons presented testimony at the land use consistency hearing. The Applicant provided the Council a letter dated March 11, 2021, from Thomas Carroll, the Yakima County Planning Official, which included a Certificate of Zoning Compliance (Certificate). According to the Certificate, the Facility is defined as a Power Generating Facility under Yakima County Code (YCC) Title 19, the Unified Land Development Code, and is proposed to be within the Agricultural Zoning

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<sup>17</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 in English and Spanish on its public website, distributed the Notice to local libraries, and purchased advertisement in the Yakima Herald Republic and the Tri-City Herald, the local daily newspapers of general circulation.

<sup>18</sup> TR at 3.

District (AG). It is classified as a “Type 3” conditional use in the County’s AG zoning district (YCC Table 19.14-010). Type 3 Uses are “uses which may be authorized subject to the approval of a conditional use permit as set forth in Section 19.30.030. Type 3 conditional uses are not generally appropriate throughout the zoning district. Type 3 uses require Hearing Examiner review of applications subject to a Type 3 review under the procedures of Section 19.30. 100 and YCC Subsection 16B.03.030(1)(c).” (YCC Title 19.19-010(2)). Therefore, for purposes of the Council’s initial determination of land use consistency (which considers only whether the project “can be permitted either outright or conditionally”<sup>19</sup>) the Goose Prairie Solar project is consistent with Title 19 and would be eligible for review and permitting under Yakima County permit processes.

**B. State Environmental Policy Act (SEPA)**

SEPA, chapter 43.21C RCW, requires consideration of environmental information about impacts, alternatives, and mitigation before committing to a course of government action (approval or disapproval of the application). The Council’s SEPA rules are found in chapter 463-47 WAC.

EFSEC staff completed a revised SEPA environmental checklist that cross references the parts of the Revised ASC that provide the requested information in the checklist. EFSEC staff also provided a memo of their review for consideration by the SEPA responsible official.

On June 24, 2021, EFSEC’s SEPA responsible official<sup>20</sup> issued a Mitigated Determination of Non-Significance (MDNS) and invited public comment as required by WAC 197-11-340. The public comment period ended on July 8, 2021, during which EFSEC received 16 public comments. All of these comments were reviewed, with a supplemental memo prepared by staff, and the SEPA responsible official added one additional mitigation measure related to Earth (regarding wind erosion), and revised mitigation measure related to Animals and Habitat.

On July 30, 2021, EFSEC issued a Revised MDNS under WAC 197-11-350. The Revised MDNS listed 19 mitigation measures related to Earth, Water, Plants, Animals and Habitat, Noise, Visuals and Aesthetics, and Historic and Cultural Preservation, and Utilities as follows:

Resource	Impact	Mitigation
Earth	Erosion from wind or water	1) Monitoring for erosion, and response measures should erosion occur, would be addressed in the Vegetation and Weed Management Plan prepared prior to construction. Should erosion, including wind-caused erosion occur post construction, the erosion would be remediated and appropriate measures to address the cause of the erosion would be implemented. If measures are implemented for erosion, monitoring would occur post-mitigation to ensure it is successful.
Water Quality –	Water quality impacts from	1) Final construction details for the crossing would be developed in consultation with Washington Department

<sup>19</sup> In re Columbia Solar Project, Docket No. EF-170823, Council Order – Expedited Processing, ¶ 35.

<sup>20</sup> Within EFSEC, the SEPA responsible official is the council manager. WAC 463-47-051.

Wetlands and Surface Waters	draw crossing construction	<p>of Fish and Wildlife (WDFW) and Washington Department of Ecology (WDOE) and approved by EFSEC prior to the start of construction.</p> <p>2) Draw Crossing Water Quality Standards:</p> <p>a) If the draw crossing cannot be constructed while meeting all relevant Washington State water quality regulation an Administrative Order authorizing work in waters of the state would be required.</p> <p>b) If the draw crossing can be constructed while meeting all relevant Washington State water quality regulations, an Administrative Order would not be required; however additional documentation such as the use of appropriate Best Management Practices (BMPs) in an erosion and sediment control plan and water quality protection plan would be needed to ensure all work would be done in accordance with the State’s water quality standards.</p>
Water use and Utilities	Availability of water sources	<p>3) Prior to construction, an approved source of water with enough legally available water to supply the needed amount for construction and continued operation would be identified and confirmed via a contract or certificate of availability for the following project water uses:</p> <ul style="list-style-type: none"> <li>• 50,000 gallons for construction (Letter of Availability provided by City of Moxee);</li> <li>• up to 250,000 gallons of water 2-4 times per year during operation for photovoltaic panel washing, site maintenance; and</li> <li>• potentially additional water for domestic use and maintenance activities during operation</li> </ul>
Plants	Ground disturbance from short term laydown areas	<p>4) Short term laydown areas would be located in areas that would also be disturbed for operational project components (e.g., solar arrays, roads, graded/filled areas), not areas that would be otherwise left undisturbed.</p>
	Removal of special status plant species	<p>5) Two surveys for state special status plant species would be conducted in the northern portion (non-Conservation Reserve Program (CRP) habitat) of the project site during the appropriate season for identifying them (April/May and June-September). The information would be used to protect and preserve any identified plants during final design, construction, and operation to the extent practicable. Results of the surveys would be</p>

		provided to EFSEC and Department of Natural Resources (DNR) prior to start of construction.
Animals and Habitats	Impacts to functions and value of draw as a travel corridor	6) Solar array fencing would not reduce the width of undisturbed area around the draw in the vicinity of Den Beste Road to less than 100 meters, except for roads and electrical crossings.
	Habitat impact mitigation ratios	7) The mitigation ratio for project impacts to habitat would be: <ul style="list-style-type: none"> <li>• Permanent impacts to shrub steppe would be mitigated at 2:1 (2 acres of mitigation land for each acre of impacted land)</li> <li>• Altered impacts to shrub steppe would be mitigated at 1.85:1 (1.85 acres of mitigation land for each acre of impacted land.)</li> <li>• Permanent impacts to CRP land would be mitigated at 1:1 (1 acre of mitigation land for each acre of impacted land).</li> <li>• Altered impacts to CRP land would be mitigated at 0.5:1 (0.5 acres of mitigation land for each acre of impacted land).</li> </ul>
	Mitigation options for altered and permanent impacts to Habitat	8) The Applicant would provide compensatory mitigation through one or more actions of land acquisition, onsite, and/or fee-based mitigation. The total acres of compensatory mitigation would be determined using the mitigation ratios outlined above and be based on the final approved project extent. The final composition of the compensatory mitigation would be determined by EFSEC in coordination with WDFW and incorporated into the Habitat Restoration and Mitigation Plan. <ul style="list-style-type: none"> <li>• Calculation of Compensatory Mitigation Acres (CMA)  <math display="block">(acres\ shrub\ steppe\ permanent * 2)</math> <math display="block">+ (acres\ shrub\ steppe\ altered * 1.85)</math> <math display="block">+ (acres\ CRP\ permanent * 1)</math> <math display="block">+ (acres\ CRP\ altered * 0.5)</math> <math display="block">= CMA</math> </li> <li>• <u>Land acquisition.</u> Land, located in Section 23,24,25,26 T13N, R23E, identified by WDFW as the Cold Creek corridor, would be acquired by the applicant at a ratio of 1 acre of Cold Creek land for every 1.4 acres of identified Compensatory Mitigation Acres. Consultation with WDFW would be required to identify the area and orientation of acquired land. This land and a fee of 15% of the</li> </ul>

		<p>negotiated sale price would be transferred to WDFW or a WDFW identified third party for the management of these lands. Any remaining compensatory mitigation requirement would be met via the fee-based option and/or onsite option below.</p> <ul style="list-style-type: none"> <li>• <u>Onsite</u>. Land in the draw and associated shrub steppe habitat in the vicinity of Den Beste Road between the proposed solar arrays would be provided a mitigation ratio of one acre of fenced land for each acre of compensatory mitigation commitment. The applicant would control cattle access to these lands with 4 strand fencing, while allowing wildlife access for use including connectivity and movement. To be viable as mitigation and to provide the intended benefit for habitat connectivity, this option must maintain draw connectivity throughout the mitigated area extent. Additional credit for habitat enhancement activities may be applied in consultation with WDFW and as approved by EFSEC. Any remaining compensatory mitigation requirement would be met via the fee-based option below and/or land acquisition option above.</li> <li>• <u>Fee-based</u>. The applicant would compensate for the permanent and altered impacts by providing money to WDFW or a third party identified by WDFW to purchase other lands suitable as in-kind and/or enhancement mitigation. This per acre fee would be determined by market rates and land sales within the general vicinity of the Facility for lands containing comparable habitat types and quality present within the project area. The per acre fee would be developed by the applicant in consultation with WDFW and approved by EFSEC. The Total Financial Obligation (TFO) would be determined by multiplying the cost per acre by the total Compensatory Mitigation Acres and would include a one-time 15% premium to cover administration and management costs for the purchased lands. The TFO for compensatory mitigation would be determined prior to issuance of the Site Certification Agreement (SCA). If construction has not begun within 12 months of the approval of the SCA the TFO identified in the SCA would expire and be recalculated prior to beginning construction; comparable land sales at the time the TFO is recalculated would be used. <ul style="list-style-type: none"> <li>○ Fee calculation:</li> </ul> </li> </ul>
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		<i>(Average Comparable Land Sale Cost per acre) * (CMA * 1.15 = TFO</i>
	Construction – Unnecessary ground disturbance, habitat loss, and revegetation success	<p>9) <u>Site preparation.</u></p> <ul style="list-style-type: none"> <li>• Prior to ground disturbance activities, clearing/grading areas would be staked/flagged and workers informed of their purpose in order to ensure vegetation removal does not extend beyond the area necessary for construction, grading and road improvements.</li> <li>• Two weeks prior to ground disturbing activities, the applicant would notify EFSEC and WDFW, provide the opportunity for onsite review of the final layout of the facility and to discuss any additional micro-siting adjustments that would further avoid or minimize impacts to wildlife habitat.</li> <li>• All electrical cabling would be placed under ground to the greatest extent practicable and utilize the narrowest trench permitted per relevant regulation to minimize disturbance.</li> <li>• Topsoil removed during excavation or grading activities would be retained, segregated, and used for replacement during revegetation.</li> <li>• Reseeding timeframe, watering schedule, and monitoring would be incorporated into vegetation management and habitat management plans in consultation with WDFW and approved by EFSEC.</li> <li>• Where practicable, collector lines would be installed above ground to minimize ground disturbance activities.</li> </ul>
	Construction - Disturbance of nesting birds	10) If construction is planned between March 1 through July 15, a pre-construction raptor nest survey would be conducted in the project area and within a 0.25 mile buffer around project boundaries. Results of these surveys would be made available to WDFW and EFSEC two weeks prior to beginning of construction. Findings would be used in the development of a wildlife and habitat mitigation plan.
	Construction and Operations - Aerial hazards to birds	11) Any new above-ground transmission line or electrical cabling would be constructed in accordance with Avian Power Line Interaction Committee standards.

	Operations –Nest destruction from mowing	12) Mowing would be restricted March 15 to May 15 and limited to the extent practicable from February 1 to March 15 and May 15 to September 30. A native seed mix which minimizes the need for mowing would be chosen in consultation with WDFW, grass height would be maintained as tall as practicable, and battery powered equipment would be used for maintenance activities where practical.
Noise	Construction – loud noise near sensitive receptors	13) Construction laydown, construction equipment maintenance, or assembly areas would be set back a minimum of 1,200 feet from Noise Sensitive Receptor ID 6 and ID 7.
	Operations – loud noise near sensitive receptors	14) If an alternative layout for the inverter/transformer, battery energy storage system, or substation transformer is proposed, these noise sources would not be located in any project area which would result in a greater than 50dBA noise level at the property boundary of any identified sensitive receptor (e.g., ID 6 and ID 7).
Visual and Aesthetics	Additional Key Observation Point (KOP) simulations and Visual screening/surface treatments	15) Following final design, provide additional simulations as requested by EFSEC, for EFSEC review, for current KOPs that do not already have simulations to further support the characterization of visual contrast and to assist with identifying mitigation opportunities. For all KOPs with a moderate contrast rating, provide mitigated scenarios that would be used to assist with determining effectiveness of the mitigation.  16) Following review of the additional simulations, mitigation such as visual screening (e.g., vegetation or physical) or surface treatments would be implemented for KOPs: 1) with a moderate rating for contrast and 2) that have specific aspects that contribute to visual contrast that could be mitigated to a less than moderate level by additional BMPs such as visual screening or surface treatments.
Historic and Cultural Preservation	Alteration of historic or cultural sites	17) If any of the 4 sites currently identified as being avoided, are going to be altered during construction or operation, the applicant would consult with Department of Archeology and Historic Preservation (DAHP), any concerned Tribes, and EFSEC. An archaeological excavation permit issued by EFSEC in coordination with DAHP would be required prior to any alteration.

	DAHP approval of Cultural Resources Survey	18) The applicant would submit to EFSEC a Concurrence Letter from DAHP stating approval of the revised Cultural Resources Survey Report.
Utilities	Water sources	See mitigation measure #4

The responsible official determined that the above mitigating conditions included in the MDNS, along with required compliance with applicable county, state and federal regulations and permit requirements, will mitigate all significant adverse impacts to the environment. An environmental impact statement (EIS) therefore is not required under RCW 43.21C.030(2)(c). The responsible official made this determination after a review of the Revised ASC, other information on file with the agency, and existing regulations applicable to the proposal.<sup>21</sup>

### C. Expedited Processing Decision and Order

The Applicant requested that EFSEC use the expedited process authorized by RCW 80.50.075 to evaluate the Application. An Application 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 and zoning ordinances.

If an application is granted expedited processing, the Council may make a decision on the Application without holding an adjudicative proceeding under chapter 34.05 RCW and is not required to conduct any further review of an application by an independent consultant.<sup>22</sup>

On August 6, 2021, the Council issued an order concluding that expedited process should be granted, finding land use consistency and that a revised MDNS had reasonably been issued by the SEPA responsible official. In so doing, the Council directed EFSEC Staff to develop a means for the Council to receive information akin to what the County would receive during a conditional use hearing as to site-specific conditions and criteria.<sup>23</sup> The Council’s conclusion that the Project is consistent and in compliance with land use provisions, within the meaning of EFSLA, is set forth in the Council’s August 6, 2021, Order Granting Expedited Processing at pp. 7-9.

## IV. PUBLIC MEETING TO RECEIVE COMMENT ON YAKIMA COUNTY CONDITIONAL USE CRITERIA

The Council’s August 6, 2021, Order Granting Expedited Processing instructed EFSEC Staff to develop a means to receive information akin to what the County would receive during a conditional use hearing as to site-specific conditions and criteria.

<sup>21</sup> The Revised MDNS, environmental checklist, environmental review and staff recommendation, and the Revised ASC are available for review at the EFSEC office. For convenience, the documents are available online at <https://www.efsec.wa.gov/energy-facilities/goose-prairie-solar>

<sup>22</sup> RCW 80.50.075; WAC 463-43-060.

<sup>23</sup> Order on Expedited Processing (Order) at 13, 23.



Yakima County Code 19.30.100(2) allows the County hearing examiner to impose additional requirements as conditions of approval of Type 3 conditional uses (including Power Generating Facilities proposed in the Agricultural Zoning District), to:

- a. Comply with any development standard or criteria for approval set forth in Yakima County Code
- b. Mitigate material impacts of the development
- c. Ensure compatibility of the development with existing neighboring land uses; assure consistency with the intent and character of the zoning district involved
- d. Ensure that the structures and areas proposed are surfaced, arranged and screened in such a manner that they are compatible with and not detrimental to existing or reasonable expected future development of the neighborhood, or resources uses, consistent with the Comprehensive Plan and
- e. Achieve and further the intent, goals, objectives, and policies of the Comprehensive Plan and this Title (Title 19)

On September 10, 2021, the Council issued a Notice of a Public Meeting and Request for Public Comment and invited public comment regarding whether additional requirements should be imposed in consideration of the goals of YCC 19.30.100(2). The Applicant and EFSEC Staff made presentations at the virtual meeting convened on September 27, 2021.

Blake Bjornson and attorney Tim McMahan presented on behalf of the Applicant, summarizing the information and analysis presented in Attachment A to the Application, which concerns the applicability of County comprehensive plan and development code provisions to the project.

EFSEC Staff member Kyle Overton explained that EFSEC contracted with Yakima County to conduct a review of the ASC materials as they relate to Yakima County land use plans and development ordinances.

Yakima County Planning Division reviewed OER's Application, including the land use analysis included as Attachment A, and provided EFSEC with a review summary.<sup>24</sup> The summary identified the additional requirements Yakima County staff would recommend be imposed upon the project if the project was going through the County's conditional use permit process. These additional items were:

1. A statement that the project is within the Agriculture Zoning District, that Yakima County is a "Right to Farm" county, codified in YCC 6.22 (declaring that a farm or farm operation shall not be found to be a public or private nuisance if the farm operation existed before the change in land use or occupancy by an adjacent land use), and that the project may be subject to impacts, such as dust, from surrounding areas.
2. The source of water for washing solar panels shall have legal and physical availability of water.
3. The Habitat Management and Mitigation Plans shall be implemented prior to development of the site.

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<sup>24</sup> The summary, which is dated March 15, 2021, is posted on EFSEC's public website under the title Yakima County Land Use Consistency letter.

Mr. Overton explained that requirements had either already been included in the Revised MDNS or would be included in the draft Site Certification Agreement to address Yakama County's recommendations.

EFSEC received comments from seven parties during the public comment period regarding conditional use criteria.

Five of these comments were given during the public comment meeting by five representatives of a local laborer's union expressing support of the project and the local jobs it would create.

A written comment was received from the Yakima County Fire District #4 requesting consultation in the planning processes related to the project's use of emergency services and further requesting a meeting prior to the start of construction of the proposed project to coordinate emergency service efforts. The Fire District's comments were similar to comments it provided during the SEPA public comment period. To address the Fire District's comments, the Revised Application for Site Certification (ASC) commits OER to coordinating with the local emergency services providers in the development of required fire control plans, emergency services and safety plans, and in developing necessary project infrastructure for emergency services such as road and facility access. All of these plans are required to be approved by EFSEC prior to the start of construction.

Lastly, written comments were received from the Yakima County Farm Bureau (YCFB). The comments touched upon several topics and were generally not in favor of the project. YCFB had submitted similar, but more abbreviated comments during the SEPA public comment period. Certain of YCFB's concerns, such as those pertaining to stormwater and fire/emergency services impacts, were addressed in the EFSEC staff memos and through mitigation measures included in the Revised MDNS.<sup>25</sup>

YCFB proposes a requirement that the facility be designed to allow grazing by domestic animals, in part to improve vegetation management, reduce stormwater impacts, and stabilize soils. While EFSEC encourages multi-use projects such as solar and agriculture, there has been no demonstration that livestock grazing would reduce or otherwise mitigate impacts relating to stormwater, vegetation management, and soil stabilization to an equal or greater extent than requirements included in the Revised ASC and mitigation measures in the Revised MDNS.

YCFB objects to review and approval authority of this project by EFSEC and the Governor, preferring review and approval be conducted by local jurisdictional authorities with input provided by local community members. Further, the YCFB argues that an Environmental Impact Statement, conducted at a local level, is appropriate for the review of this project. The Applicant has the option, and exercised the option, to have their project considered by EFSEC under RCW 80.50. During the EFSEC review process EFSEC contracted with Yakima County staff to conduct a thorough review of the proposal as it relates to local regulations and ordinances. Additionally, members of the public have been invited to comment on this project proposal

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<sup>25</sup> The Revised MDNS, environmental checklist, environmental review and staff recommendation are available online at <https://www.efsec.wa.gov/energy-facilities/goose-prairie-solar>

during several stages of the review including, land use consistency analysis, SEPA review, and conditional use consideration.

YCFB expresses concern regarding the conversion of agricultural land to other land uses such as solar generation facilities. As noted previously, the proposed Facility is a conditionally allowable use in Yakima County's AG zoning district. Yakima County planning staff found the project to be consistent with surrounding agricultural uses. Additionally, EFSEC rules, the proposed SCA, and the Revised ASC require the facility be returned to pre-project condition upon termination of the facility's operation and must allow for a return to agricultural use.

Lastly the YCFB expresses concern that solar facilities require more land area than do wind facilities of similar generating capacity. EFSEC agrees with the YCFB that wind and solar generation facilities have differing impacts, but considering the relative impacts and merits of a wind power generation facility versus a solar facility is outside the scope of EFSEC's review of this project proposal.

## **V. LEGAL FRAMEWORK AND ANALYSIS UNDER RCW 80.50.010**

### **A. Legal Framework**

RCW 80.50.010, the EFSLA, provides the central legal framework for the Council's siting recommendation:

The legislature finds that the present and predicted growth in energy demands in the state of Washington requires the development of a procedure for the selection and utilization of sites for energy facilities and the identification of a state position with respect to each proposed site. The legislature recognizes that the selection of sites will have a significant impact upon the welfare of the population, the location and growth of industry and the use of the natural resources of the state.

It is the policy of the state of Washington to recognize the pressing need for increased energy facilities, and to ensure through available and reasonable methods, that the location and operation of such facilities will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.

It is the intent to seek courses of action that will balance the increasing demands for energy facility location and operation in conjunction with the broad interests of the public. Such action will be based on these premises:

- (1) To assure Washington state citizens that, where applicable, operational safeguards are at least as stringent as the criteria established by the federal government and are technically sufficient for their welfare and protection.
- (2) To preserve and protect the quality of the environment; to enhance the public's opportunity to enjoy the esthetic and recreational benefits of the air, water and land resources; to promote air cleanliness; and to pursue beneficial changes in the environment.
- (3) To provide abundant energy at reasonable cost.

(4) To avoid costs of complete site restoration and demolition of improvements and infrastructure at unfinished nuclear energy sites, and to use unfinished nuclear energy facilities for public uses, including economic development, under the regulatory and management control of local governments and port districts.

(5) To avoid costly duplication in the siting process and ensure that decisions are made timely and without unnecessary delay.

Citing RCW 80.50.010, the Washington Supreme Court has described EFSLA as seeking to “balance the increasing demands for energy facility location and operation in conjunction with the broad interests of the public.”<sup>26</sup> The Council applies RCW 80.50.010 by weighing and balancing the need for the proposed facility against its impacts on the broad public interest, including human welfare and environmental stewardship. The Council then determines whether a proposed facility at a particular site will produce a net benefit justifying a recommendation of project approval. The Council has referred to this balancing as determining “need and consistency.”<sup>27</sup>

## **B. Analysis**

This Recommendation draws from the Revised Application and informational meeting presentations, information provided by consultant agencies, information provided at the land use consistency hearing, SEPA documentation and comments, and information received at the meeting to receive comment on the County’s conditional use criteria.

On matters where there is a divergence of views, the Council makes the necessary findings based on the record assembled.

Regarding need for the facility, the Council has considered the policy of the State of Washington to support the development of facilities that produce electricity from renewable resources, including solar energy facilities. RCW 19.285, RCW 19.405. The Facility will produce electrical energy without generating greenhouse gas emissions.

Regarding the off and onsite impacts to the broad public interest, the Facility will meet federal, state and local regulatory requirements and the Applicant has agreed to appropriate environmental mitigation requirements as indicated in the sections discussed above. As a whole, the mitigation package preserves and protects the quality of the environment.

After reviewing all available information on the record in this decision, the Council finds that:

- a. The Facility will contribute to the availability of abundant energy at reasonable cost.
- b. The required mitigation will preserve and protect the quality of the environment and the broad public interest in terms of off and onsite impacts.
- c. The Facility will contribute to the diversification and reliability of the state’s electrical generation capacity.

The Council concludes that the proposed Facility will produce a net benefit justifying a recommendation of project approval.

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<sup>26</sup> *Columbia Riverkeeper v. Port of Vancouver*, 188 Wn.2d 80, 95, 392 P.3d 1025 (2017) (citing RCW 80.50.010).

<sup>27</sup> Council Order No. 753, at 12, *In re Chehalis Generating Facility* (Feb. 12, 2001).

## **VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Council includes conclusions of law with its findings of fact for the convenience of the reader. Any finding in the nature of a conclusion of law should be interpreted as a conclusion, and any conclusion in the nature of a finding should be interpreted as a finding of fact.

### **Nature of Proceedings**

1. This matter involves Application No. 2021-01 to EFSEC for site certification to construct and operate the Goose Prairie Solar (the Facility) on a site located in unincorporated Yakima County, Washington, near the city of Moxee. The Facility consists of a solar photovoltaic (PV) project with an optional battery storage system with a combined generating capacity of 80 MW.
2. The Washington State Energy Facility Site Evaluation Council has jurisdiction over the persons and the subject matter of Application No. 2021-01, pursuant to Chapter 80.50 RCW.

### **The Applicant and the Application**

3. The Applicant, OER WA Solar 1, LLC, is a privately owned, Seattle based utility-scale solar developer that has previously developed solar sites across the United States.
4. The Applicant submitted its Application for Site Certification on January 19, 2021, seeking certification pursuant to 80.50.060(3)(a)(iii) and requesting expedited processing of the Application.
5. The Applicant and the Council mutually agreed to extend the one hundred twenty-day timeline for the Council to issue an order on the expedited request. The Applicant submitted an Revised Application on June 22, 2021.

### **Site Characteristics**

6. The proposed Facility will consist of PV modules mounted on single-axis trackers supported on stationary piles no higher than 14 feet. The Facility will interconnect with a new Point of Interconnection (POI) to Bonneville Power Administration's (BPA) Midway to Moxee 115-kilovolt (kV) transmission line, which bisects the Facility. BPA will build, own and operate the structures which constitute the POI. The Facility's output will be conveyed to a central substation near the POI to the electrical grid. The optional battery energy storage system would not exceed the nominal 80 MW capacity
7. The Meacham property is currently in the Conservation Reserve Program (CRP) which is set to expire on September 30, 2022, with no current agricultural use. A portion of the area was previously used for row crops. No existing buildings are present on the Meacham Property. The Martinez Property has two distinct areas: four of the parcels may be used for solar facilities and one parcel may be utilized for an aerial easement for the interconnection tie-line depending on the final design of the interconnection with BPA. The area that may be utilized for solar facilities has a historic and current use of grazing and has habitat types that the Applicant categorized as a mix of Eastside Grasslands<sup>28</sup>, Shrub-steppe and Pasture Mixed

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<sup>28</sup> The Revised ASC filed June 22, 2021, acknowledges that the Washington Department of Fish and Wildlife (WDFW) does not agree with the habitat classification of Eastside Grasslands. The Applicant, following discussions with WDFW and EFSEC, agrees the habitat types identified as "Shrub-steppe -

Environs with predominantly native vegetation The Applicant, following discussions with WDFW and EFSEC, agrees the habitat types identified as “Shrub-steppe -Degraded” and “Eastside Grasslands” will be considered Shrub-steppe for the purposes of compensatory mitigation calculations. The area which may be utilized for an aerial easement is currently planted with an orchard. BPA’s Midway-to-Moxee 115 kV transmission line, on which the Facility will directly rely, crosses the Martinez Property. A few agricultural buildings exist on the Martinez Property, but none are within the Facility Area

### **Informational Public Meeting**

8. The Council held a virtual public informational meeting on March 16, 2021, after receipt of the Application. The Council considered the written comments received prior to the meeting from Yakima County and the Yakama Nation.
9. The Council concludes that it has complied with the applicable procedural law and regulation, including RCW 80.50.090(1), in conducting an informational public hearing in the county of the proposed site not later than 60 days after receipt of the application for site certification.

### **Land Use Consistency Hearing**

10. On March 2, 2021, the Council issued a Notice of Land Use Consistency Hearing.
11. On March 16, 2021, the Council conducted a virtual Land Use Consistency Hearing under RCW 80.50.090 and WAC 463-26-050.
12. The Council heard from an attorney for the Applicant, but no others offered testimony at the hearing.
13. The Council concludes it has complied with the applicable procedural law and regulation, including RCW 80.50.090(2), in conducting a land use consistency hearing in the county of the proposed site not later than 60 days after receipt of the application for site certification.

### **Compliance with the State Environmental Policy Act (SEPA)**

14. EFSEC is the lead agency for environmental review of project proposals within its jurisdiction under the State Environmental Policy Act (SEPA), RCW 43.21C.
15. The Council Manager is the SEPA responsible official. WAC 463-47-051.
16. EFSEC’s SEPA responsible official issued a Mitigated Determination of Non-Significance (MDNS) on June 24, 2021, under WAC 197-11-350.
17. Also on June 24, 2021, the Council issued a notice inviting the public and agencies to comment on the MDNS by submitting written comments no later than July 8, 2021.
18. EFSEC’s SEPA responsible official considered the public comments received and revised the MDNS to address the comments.
19. EFSEC’s SEPA responsible official issued the revised MDNS on July 30, 2021.
20. The Council concludes that it has complied with SEPA and its implementing regulations including Chapter 80.50 RCW and WAC 463-47.

### **Expedited Process**

21. The Applicant requested expedited processing of the Application on January 21, 2021.

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Degraded” and “Eastside Grasslands” will be considered Shrub-steppe for the purposes of compensatory mitigation calculations.

22. By mutual agreement, the Applicant and the Council set a later time of August 6, 2021, for the Council to issue an order on the request for expedited process.
23. On August 6, 2021, EFSEC issued an Order Granting Expedited Processing consistent with the requirements of RCW 80.50.075 and WAC chapter 463-43.
24. In the order, EFSEC concluded that the Applicant had met its burden of proof of demonstrating that the sites were consistent and in compliance with Yakima County's Comprehensive Plan and applicable zoning ordinances as required by RCW 80.50.075(1). EFSEC also concluded the environmental impact of the proposed Site would be mitigated to a nonsignificant level under RCW 43.21C.031, as required by RCW 80.50.075(1).
25. The Order also directed Council staff to develop a means to receive information akin to what the County would receive during a conditional use hearing as to site-specific conditions and criteria.
26. The Council concludes that the Order granting expedited process complied with applicable statutes and regulations.
27. The Applicant requested an extension for the decision on the Application to October 31, 2021, which was granted.

### **Conditional Use Meeting**

28. The EFSEC Staff reviewed the Revised Application and contracted with Yakima County to conduct a review of the ASC materials as they relate to Yakima County land use plans and development and ordinances. They considered the items identified by Yakima County in its March 15, 2021, letter regarding OER's proposed Facility.
29. The Council concludes that the SCA includes conditions to protect local governmental or community interests affected by the construction or operation of the energy facility, and conditions designed to recognize the purpose of Yakima County land use plans and development ordinances as required by RCW 80.50.100(2).

### **Site Certification Agreement**

30. The holder of the Site Certification Agreement (SCA) would be required to comply with all mitigation measures provided for in the Revised Application, all mitigation required by the revised MDNS, and the requirements of EFSEC rules and the SCA, such as site restoration and financial assurances.

### **Balancing Need against Public Interest**

31. It is the policy of the State of Washington to support the development of facilities that produce electricity from renewable resources, including solar energy facilities. RCW 19.285, RCW 19.405. The Facility will produce electrical energy without generating greenhouse gas emissions.
32. Council finds that the project will contribute to the availability of abundant energy at reasonable cost.
33. The Council concludes that OER met its burden of proof demonstrating that the Site would comply with applicable land use provisions and should be approved as a conditional use.
34. The Site as conditioned in the SCA has no significant unmitigated impacts to the environment.

35. Finding no significant public interest impacts and finding significant evidence of need, the Council concludes that the project will produce a net benefit that would support a recommendation of approval.
36. The Council concludes that it should recommend that the Governor approve the updated Application with the mitigation measures outlined in SCA.

**VII. RECOMMENDATION**

The Counsel recommends that the Governor of the State of Washington approve OER WA Solar 1, LLC’s Application dated January 19, 2021, and Revised June 22, 2021, for site certification to construct and operate the Goose Prairie Solar Project.

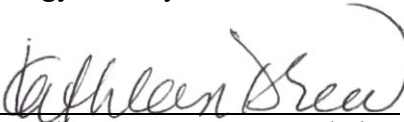
**VIII. RECONSIDERATION OR OTHER ADMINISTRATIVE RELIEF**

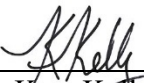
There is no opportunity for petitions for reconsideration of this Report. WAC 463-30-335, which allows parties to petition the Council for reconsideration of its recommendation to the Governor, is codified in WAC 463-30, the purpose of which is to set forth procedures by which adjudicative proceedings are to be conducted before the Council. Because the Council used the expedited process under RCW 80.50.075, it did not hold an adjudicative proceeding, and WAC 463-30-335 does not apply.


Pursuant to RCW 80.50.140, the Governor’s final decision pursuant to RCW 80.50.100 on an application for certification shall be subject to judicial review pursuant to provisions of chapter 34.05 RCW and RCW 80.50. Any petitions for review of such a decision must be filed in the Thurston County superior court. RCW 80.50.140.


DATED at Olympia, Washington, and effective October 19, 2021.

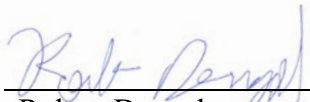
Washington Energy Facility Site Evaluation Council

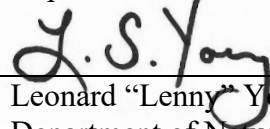
  
Kathleen Drew, EFSEC Chair

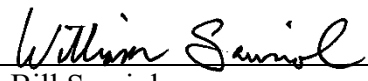
  
Kate Kelly,  
Department of Commerce

  
Mike Livingston,  
Department of Fish and Wildlife

  
Stacey Brewster,  
Utilities and Transportation  
Commission

  
Robert Dengel,  
Department of Ecology

  
Leonard “Lenny” Young,  
Department of Natural  
Resources

  
Bill Sauriol,  
Department of  
Transportation