

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Docket No. EF-230001

Council Order No. 889

CARRIGER SOLAR PROJECT –
Cypress Creek Renewables, LLC, for
Carriger Solar, LLC, Applicant

ORDER GRANTING A FINDING
OF LAND USE CONSISTENCY

BACKGROUND

Synopsis. *Cypress Creek Renewables, LLC requested a finding of land use consistency to support its request for 2 review of an application it filed with the Energy Facility Site Evaluation Council (EFSEC or Council) for site certification and approval of the Carriger Solar Project. The Council may find that the site proposed for a facility is consistent and in compliance with land use plans and zoning ordinances if the proposed use is one that can be approved under current land use and zoning laws conditionally or outright. The Council, by this order, concludes that the proposed site of the project is consistent with local land use plans and zoning ordinances because the projects can be approved under the Energy Overlay Zone and conditional use provisions of Klickitat County Code (KCC) Title 19.*

- 1 **Nature of Proceeding.** This matter involves an application for site certification (Application) filed on February 10, 2023, by Cypress Creek Renewables, LLC, on behalf of Carriger Solar, LLC, to construct and operate the Carriger Solar Project (Project or facility). The Project is a proposed solar photovoltaic (PV) electric generating facility, battery energy storage, associated interconnection, and ancillary support infrastructure. The Project would be located on a total of 25 parcels in unincorporated Klickitat County approximately two miles west of the City of Goldendale.
- 2 As part of a request for expedited processing of its Application, the Applicant requested that EFSEC find that the proposed Project site is consistent and in compliance with applicable land use plans and zoning ordinances.¹

¹ RCW 80.50.090(2); WAC 463-26-110.

3 **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 April 27, 2023, EFSEC issued a Notice of Land Use Consistency Hearing and scheduled a virtual hearing by Microsoft Teams or by telephone participation for 5:00 p.m. on Tuesday, May 16, 2023.²

4 On May 16, 2023, the Council conducted a virtual land use consistency hearing, to hear testimony regarding whether the facility was consistent and in compliance with Klickitat County’s local land use provisions. The following EFSEC members were present at the May 16, 2023, hearing: Kate Kelly (Department of Commerce), Eli Levitt (Department of Ecology), Mike Livingston (Department of Fish and Wildlife), Lenny Young (Department of Natural Resources), and Stacey Brewster (Utilities and Transportation Commission). Kathleen Drew, EFSEC Chair, called the hearing to order.

5 Linda Atkins, attorney from Davis Wright Tremaine LLP, represented the Applicant and spoke on the Applicant’s behalf.

6 Klickitat County Commissioners Dan Christopher and Lori Zoller testified in opposition to a finding of land use consistency.

7 Members of the public, Greg Wagner, Deborah Wagner, Sheri Bousquet, Russ Hanson, Amy Hanson, Gene Callan, Dave Barta, Elaine Harvey, Justin Bousquet, and Steve Heitmann, testified in opposition to a finding of land use consistency. Member of the public, Dana Peck, testified in support of a finding of land use consistency.

8 **Applicant’s Description of Proposed Project.** The Project is a solar PV electric generating facility with a capacity of 160 megawatts (MW) of alternating current (AC) solar energy and 63 MW of battery energy storage, with associated interconnection and ancillary support infrastructure. The proposal is to site the Project in unincorporated Klickitat county approximately two miles west/northwest of the City of Goldendale, north of State Route 142 and along Knight Road, Fairgrounds Road West, Mesecher Road West, Fish Hatchery Road, Butts Road, and Pine Forest Road.

9 The 25 privately-owned parcels on which the Project will be located total 2,108 acres, in two non-contiguous areas. The Applicant executed options to purchase or lease each parcel. The maximum Project footprint is approximately 1,326 acres.

² The Council sent this Notice to all interested persons on the Project mailing list, and the Notice was published in the Goldendale Sentinel and White Salmon Enterprise.

- 10 As shown in the Preliminary Site Plan, the Project will consist of single-axis tracking PV modules, pile-driven racking equipment, cabling, power inverters and transformers mounted on concrete pads, and a system of overhead and underground cables. The Project also includes a battery energy storage system, Project substation, interconnection equipment, operations and maintenance building, employee parking, a laydown area, as well as access roads and perimeter fencing. The Project will connect to the Northwest transmission grid via the Knight Substation, located adjacent to the Project substation.
- 11 The site for the Project is in unincorporated lands of Klickitat County. The Project is located primarily on land designated as “agricultural/forest” (AF) in the County’s General Land Use Plan; Extensive Agriculture and General Rural zoning districts are included within this designation. The AF designation allows a conditional use for a non-agricultural or non-forest use when the use is not in conflict with agriculture and forest practices, and the use does not take out of production more land than is reasonably needed for the proposed use.
- 12 Two parcels totaling approximately 180 acres are within the General Rural district, while the remaining acreage is within the Extensive Agriculture district. Additionally, the southern portion of the Project is located within the Klickitat County Energy Overlay Zone.
- 13 The southern two-thirds of the Project footprint is located within areas covered by the County’s Energy Overlay Zone,³ which overlaps and supersedes previously mapped zoning districts. The purpose of this zone is twofold: 1) “[t]o provide areas suitable for the establishment of energy resource operations based on the availability of energy resources, existing infrastructure, and locations where energy projects can be sensitively sited and mitigated”; and 2) “[t]o provide siting criteria for the utilization of wind and solar energy resources.”⁴ Solar energy facilities, along with their associated buildings and infrastructure, are permitted uses in the Energy Overlay Zone.⁵
- 14 The majority of the northern one-third of the Project is located within the Extensive Agriculture district, outside of the Energy Overlay Zone. Conditional uses in the Extensive Agriculture district include “[u]tility facilities necessary for public service,” and “[a]ny other uses judged by the board of adjustment to be consistent with the purposes and intent of this chapter and to be no more detrimental to the adjacent properties than, and of the same type and character as” the other listed uses.⁶

³ Klickitat County Code (KCC) Chapter 19.39.

⁴ KCC 19.39:1.

⁵ KCC 19.39:4(B)-(C).

⁶ KCC 19.16.030(E), (H).

- 15 Approximately 180 acres of the northern one-third of the Project is located within the General Rural district, also outside of the Energy Overlay Zone. Conditional uses in the General Rural District include “[b]uildings and uses of a public works, public service, or public utility nature,” and “[a]ny other uses judged by the board of adjustment to be consistent with the purposes and intent of this chapter and to be no more detrimental to the adjacent properties than, and of the same type and character as” the other listed uses.⁷
- 16 On March 30, 2021, the Klickitat County Board of County Commissioners enacted Ordinance No. 0033021, which provided that “no conditional use permit application shall be accepted by the Planning Department for commercial/industrial solar projects.” On January 10, 2023, the Klickitat County Board of County Commissioners enacted Resolution No. 00823, which imposed a moratorium on large-scale solar projects over one acre in size. It then extended the moratorium through October 18, 2023, via Resolution No. 04323.
- 17 Currently, the land on which the Project will sit is predominantly used for crop cultivation and pasturelands.
- 18 The Project Study Area⁸ contains six habitat types: agriculture, pastures, and mixed environs; dwarf shrub-steppe; urban and mixed environs; eastside (interior) riparian wetlands; ponderosa pine forest and woodlands (including eastside oak); and eastside (interior) grasslands. The majority of the Project Study Area is composed of agriculture, pastures, and mixed environs habitats.
- 19 No wildlife habitat concentration areas or wildlife priority habitat linkages were identified within the Project Study Area.
- 20 No part of the Project is located within the FEMA flood hazard area. There are a total of 18 wetlands, five vernal pools, and 14 stream segments (1 perennial, 5 intermittent, and 8 ephemeral) within the Project Study Area. It is anticipated that Project impacts for temporary and permanent access road crossings would occur to one ephemeral and two intermittent streams. As needed, the Applicant will obtain U.S. Army Corps of Engineers, Clean Water Act Section 404 permitting for these road crossings. Additionally, the Applicant will consult through EFSEC with the Washington Department of Ecology as well as the Washington Department of Fish and Wildlife to obtain any required permits.

⁷ KCC 19.18.030(H), (Q).

⁸ The Project Study Area is the survey area for all of the resource-specific surveys conducted in preparation of the Application.

21 The Applicant requests that EFSEC allow the Applicant flexibility to microsite the precise location of Project components anywhere within the Maximum Project Extent.⁹

22 **Public Comment.** Two Klickitat County Commissioners spoke at the land use hearing in opposition to a finding of land use consistency, on the basis that Klickitat County has a moratorium on large-scale solar projects.

23 Members of the public also offered comments in opposition, over concerns regarding the large scale of the Project, the moratorium, and potential disruption to the character, views, water, and wildlife of the area.

24 One member of the public spoke at the land use hearing in support of the project. He noted that although large-scale solar was not specifically addressed in the Energy Overlay Zone chapter of the zoning code, he believes even large-scale solar projects are allowed within that zone, and potentially allowed outside of the Energy Overlay Zone through the County's conditional use process. Furthermore, he explained that the Energy Overlay Zone chapter was enacted based upon a programmatic environmental impact statement on the entire county.

DISCUSSION

I. Land Use Consistency Determination

25 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.”¹⁰ 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.”

26 The Council's evaluation of land use consistency is not dispositive of the Application and a determination of land use consistency is neither an endorsement nor an approval of the Project.¹¹ The evaluation pertains only to the general siting of categories of uses, considering only the site and not the project's construction and operational conditions.

27 Whether a particular facility will create on- or off-site impacts (including impacts to the environment) is considered separately through the State Environmental Policy Act

⁹ The Maximum Project Extent is a subset of the Project Study Area. It includes the approximately 1,326-acre area that contains the maximum Project footprint.

¹⁰ WAC 463-26-050.

¹¹ In re Whistling Ridge Energy Project, Council Order No. 868 at 9 (October 6, 2011) (Whistling Ridge Order). A determination of land use inconsistency simply results in the Council's further consideration of whether local land use provisions should be preempted. WAC 463-28-060(1); *see also* RCW 80.50.110(2) and WAC 463-28-020. If they are preempted, the Council will include in any proposed site certification agreement conditions designed to recognize the purpose of the preempted provisions. WAC 463-28-070.

(SEPA) process, during the Council’s adjudication (if applicable), through the environmental permitting processes (if applicable), and through other Council processes (if applicable).¹² The Council’s ultimate recommendation to the Governor will be made after full and thorough consideration of all relevant issues.

28 Under the test for land use consistency previously established by the Council, EFSEC considers whether the pertinent local land use provisions “prohibit” the site “expressly or by operation clearly, convincingly and unequivocally.” A facility meets this initial standard so long as it “can be permitted either outright or conditionally.”¹³ Whether applicable conditional use criteria are in fact met is a question for later EFSEC proceedings,¹⁴ after which EFSEC may recommend and impose conditions of approval in the Site Certification Agreement (SCA) to uphold Klickitat County’s conditional use permit criteria.¹⁵

29 The EFSEC process contemplates that the Applicant will coordinate with the local jurisdiction to attempt to determine whether the project would be consistent and compliant with the jurisdiction’s land use plans and ordinances.¹⁶ If through these discussions the local jurisdiction determines the project is indeed consistent and compliant with its land use plans and ordinances, it may provide, and the applicant may present to the Council, a certificate attesting to that fact. Such a certificate provides prima facie proof of consistency and compliance with County land use plans and zoning ordinances.¹⁷

30 The Applicant did not obtain certificates from local Klickitat County authorities attesting to land use consistency. Therefore, the Applicant retains the burden of proving the Project is indeed consistent and compliant with the local jurisdiction’s land use provisions.¹⁸

31 **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

¹² RCW 80.50.090; RCW 80.50.040(9), (12); Chapter 463-30 WAC; Chapter 463-47 WAC; Chapter 463-76 WAC; and Chapter 463-78 WAC.

¹³ In re Columbia Solar Project, Docket No. EF-170823, Council Order – Expedited Processing, ¶ 35. (April 17, 2018).

¹⁴ *Id.*, ¶ 36.

¹⁵ RCW 80.50.100(2); WAC 463-64-020.

¹⁶ WAC 463-26-090.

¹⁷ *Id.*

¹⁸ WAC 463-26-090. In cases where such certificates are obtained, they are regarded as prima facie proof of consistency and compliance with local land use plans and zoning ordinances, absent contrary demonstration by anyone present at the hearing.

adopted . . . pursuant to” one of the listed planning statutes.¹⁹ 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.²⁰ Comprehensive plan elements and provisions that do not meet this definition are outside of the scope of the Council’s present land use consistency analysis. 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.²¹ 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. Ordinances that do not meet this definition are outside of the scope of the Council’s present land use consistency analysis.

32 EFSEC has defined the phrase “consistent and in compliance” based on settled principles of land use law: “[z]oning ordinances require compliance; they are regulatory provisions that mandate performance. Comprehensive plan provisions, however, are guides rather than mandates and seek consistency.”²²

33 **Opposition to consistency and compliance.** EFSEC received numerous public comments opposing a finding of land use consistency due to the County’s moratorium on large-scale solar projects. The Council does not find this testimony persuasive because it is contrary to EFSEC’s previous precedent on the issue.

34 The Council previously concluded that a moratorium that neither repeals nor amends the county zoning code does not meet the definition of a zoning ordinance.

35 RCW 36.70.795 provides for the adoption of moratoria by boards of county commissioners in counties such as Klickitat that plan and regulate land use under the Planning Enabling Act (Act), Chapter 36.70 RCW.²³ The Act specifies that a moratorium “may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period.” The moratorium “may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each

¹⁹ RCW 80.50.020(18).

²⁰ In re Northern Tier Pipeline, Council Order No. 579 (Northern Tier Pipeline Order) at 9 (November 26, 1979).

²¹ RCW 80.50.020(30).

²² Whistling Ridge Order at 10 n 15.

²³ See Klickitat BOCC Resolution No. 04323 (citing RCW 36.70.795).

- renewal.”²⁴ The purpose of a moratorium is typically to halt applications for new land uses and to thereby provide “breathing room” while the County’s legislative body considers whether to enact changes to its zoning ordinances.
- 36 The Act does not include moratoria within its definition of “development regulations,” which are “the controls placed on development or land use activities.”²⁵ The Act’s definition of “development regulations” closely parallels the definition of “zoning ordinance” in RCW 80.50.020(30) (“an ordinance . . . regulating the use of land”).
- 37 Although the term “moratorium” is not defined in Chapter 36.70 RCW, the Washington Supreme Court in *Save Our Scenic Area v. Skamania County*, 183 Wn.2d 455, 465 (2015), described zoning moratoria as the “temporary suspension of established regulations” that “do[] not repeal, amend, or contradict” the existing regulations.
- 38 In *Friends of Columbia Gorge, Inc. v. State Energy Facility Site Evaluation Council*, 178 Wn.2d 320, 346-47 (2013), the Washington Supreme Court held that a Skamania County moratorium on the acceptance of SEPA checklists did not fall within the RCW 80.50 definition of “zoning ordinance,” which is “an ordinance of a unit of local government regulating the use of land and adopted pursuant to chapter ... 36.70[] or 36.70A.” The Court explained that the moratorium in that case “does not regulate how land is used. Rather, it regulates the county’s processing of SEPA checklists and is not a land use regulation within the definition provided by EFSLA.” Similarly here, the County’s moratorium on the acceptance of applications for large scale solar projects is not a land use regulation because it regulates the processing of applications and does not regulate how land is used.
- 39 Finally, under the holding previously established by the Council in *In the Matter of TUUSSO Energy, LLC Columbia Solar Project*,²⁶ under almost completely analogous facts, a moratorium that temporarily suspends the acceptance of applications for conditional use permit applications under the existing zoning ordinance in order to provide time to consider whether to amend the zoning ordinances, but that does not repeal, amend, or contradict those ordinances, cannot be said to be “not in compliance” with local “zoning ordinances” as defined in EFSLA.
- 40 Commenters at the land use consistency hearing argued that the County never considered the possibility of solar projects on the scale of the Project when adopting the Energy Overlay Zone chapter of the zoning code in 2005. The chapter lists solar energy

²⁴ *Id.*

²⁵ RCW 36.70.545 (incorporating RCW 36.70A.030 by reference).

²⁶ Order Granting Expedited Processing (April 17, 2018).

facilities as a permitted use in the zone.²⁷ The term “solar energy facilities” does not appear to be defined in the County’s land use plan or in any land use regulation except by excluding small-scale energy systems from the terms coverage. From that exclusion, it can be inferred that the term means solar generation facilities “with a rated capacity of . . . more than one hundred kilowatts (kW)” and “which is [not] intended to primarily generate power for on-site consumption.” In 2018, Klickitat County authorized the construction of the 150 MW, 1,871 acre Lund Hill Solar Energy Project pursuant to the Energy Overlay Zone. Another very large solar proposal, the Bluebird Solar Project is still going through the SEPA process. Regardless of whether solar photovoltaic facilities on the scale of the proposed Project were anticipated at the time the Klickitat County adopted the Energy Overlay Zone in 2005, the proposed facility is not clearly and unequivocally prohibited by the terms of the energy overlay zoning ordinance.

41 One commenter who owns land adjacent to the proposed facility raised the issue of whether the Council would consider the non-compliance of the proposed solar project with a private covenant prohibiting certain types of development on a parcel or parcels within the proposed site. EFSEC’s statutory authority extends only to determining consistency with land use plans and zoning ordinances of the local government.²⁸ A covenant is a private agreement, typically between a property owner and an adjacent property owner or owners, to restrict the use of property. The EFSEC process does not preempt or otherwise prevent a party that holds the legal right to enforce the terms of a covenant to bring an action in court seeking to enjoin the owner of the encumbered property from leasing or developing the property for a purpose prohibited by the valid covenant. However, EFSEC lacks authority to judge the validity of the covenant, or to enforce its terms.

42 Matt Chiles, Klickitat County’s representative on EFSEC, submitted written argument following the land use hearing. Most notably, he asserts that Klickitat County’s moratorium on solar projects was an “emergency zoning action” that has the force of law, since the County has no other means of quickly changing zoning in emergency situations. Furthermore, Mr. Chiles, a member of the Klickitat County Board of Adjustment (though not speaking on its behalf), stated his view that while the Project proponents could apply for a conditional use permit, a conditional use permit would almost certainly not be approved for such a project outside of the Energy Overlay Zone, and therefore the Council should not make a determination of consistency. These arguments are also in conflict with previous EFSEC precedent.

43 In two recent EFSEC land use decisions, Columbia Solar and Horse Heaven, the same

²⁷ KCC 19.39:4.

²⁸ RCW 80.50.090(2).

argument was raised by the respective counties, that projects of this size would never actually be approved through the conditional use permit process, even if they were technically eligible to apply. In both cases, the Council determined that the projects were consistent with local zoning regulations because the projects would be eligible to apply for a conditional use permit, regardless of the likelihood of actual approval.

- 44 While the Klickitat County code does not expressly include solar energy facilities as projects eligible for a conditional use permit in either the Extensive Agriculture or General Rural zones, the code provides two categories of conditional uses for which the Project could arguably qualify: (1) “[b]uildings and uses of a public works, public service, or public utility nature” in the General Rural zone,²⁹ and “[u]tility facilities necessary for public service” in the Extensive Agriculture zone;³⁰ or (2) the catch-all provision in both zones for “[a]ny other uses judged by the board of adjustment to be consistent with the purposes and intent of this chapter and to be no more detrimental to the adjacent properties than, and of the same type and character as, the above listed [expressly eligible] uses.”³¹
- 45 There is no basis to conclude that solar generation facilities are outside the ordinary meaning of public utility uses or uses necessary for public service, and that such term only refers to energy transmission or distribution infrastructure. For instance, under Chapter 80.04 RCW, the Utilities and Transportation Commission regulates the rates and services of public service companies, including electric companies, which is defined to include any entity owning an “electric plant.” Electric plant, in turn, is defined to include all real estate, fixtures, and personal property “used or to be used for or in connection with or to facilitate *the generation*, transmission, distribution, sale or furnishing of electricity.”³²
- 46 Nor is there reason to conclude that the Project would be more detrimental to adjacent properties or different in type and character from the uses expressly eligible to apply for conditional use permitting. Some of the conditional uses listed in the County code for the General Rural zone are: (1) the excavation, removal and processing of sand, gravel, stone, loam, dirt, or other earth or natural materials; (2) an airport or landing strip; and (3) solid waste disposal facilities. Similarly, the County code lists “[q]uarries, mines and sand and gravel pits” as conditional uses appropriate for the Extensive Agriculture zone.

²⁹ KCC 19.18.030(H).

³⁰ KCC 19.16.030(E).

³¹ KCC 19.16.030(H); KCC 19.18.030(Q).

³² RCW 80.04.015 (emphasis added).

47 In past decisions,³³ EFSEC concluded that where a project is potentially eligible for a conditional use permit, there is no inconsistency with local land use regulations, regardless of the likelihood of final county approval. In this case, the Project may fall under either the public utility or the general catch-all category to qualify as an eligible conditional use in the General Rural and Extensive Agricultural zones.

48 The question of a project's likelihood of actually receiving approval for a conditional use permit is incorporated into EFSEC's process in the form of an additional public hearing required under RCW 80.50.090(5) when EFSEC grants expedited processing, or in the adjudication required by RCW 80.50.090(4), in the event that expedited processing is not granted. These additional hearings have been used by the Council to receive public comment in a manner similar to what would be received by a county during a conditional use hearing in consideration of the county's conditional use criteria.

FINDINGS OF FACT

- 49 (1) On February 10, 2023, Cypress Creek Renewables, LLC submitted an application for site certification to construct and operate the Carriger Solar Project, a solar photovoltaic (PV) project with a battery storage system. The facility would be located on 2,108 purchased or leased acres in Klickitat County, Washington.
- 50 (2) On May 16, 2023, the Council convened a virtual land use consistency hearing, pursuant to due and proper notice. The Council heard testimony from the Applicant's attorney, two Klickitat County Commissioners, and 11 community members.
- 51 (3) The proposed Project is located in unincorporated Klickitat County, Washington.

CONCLUSIONS OF LAW

- 52 (1) The Council has jurisdiction over the subject matter of this proceeding and the parties to it, pursuant to RCW 80.50.075 and Chapter 463-43 WAC.
- 53 (2) The Council provided adequate notice to interested parties, and the Council has adequate information to render a land use consistency decision.
- 54 (3) The southern two-thirds of the Project is located within Klickitat County's Energy Overlay Zone, which permits solar energy facilities. The Project is a solar energy facility which is permitted outright within the Energy Overlay Zone.

³³ In the Matter of TUUSSO Energy, LLC, Columbia Solar Project, Order Granting Expedited Processing (April 17, 2018); In the Matter of Scout Clean Energy, LLC, for Horse Heaven Wind Farm, LLC, Applicant, Order Finding Proposed Site Consistent with Land Use Regulations (May 17, 2022).

- 55 (4) With respect to the portion of the Project outside the Energy Overlay Zone, in the Extensive Agriculture district, proposed land uses eligible to apply for conditional use permits include utility facilities necessary for public service, and other uses judged by the board of adjustment to be consistent with the purposes and intent of the chapter and to be no more detrimental to the adjacent properties than, and of the same type and character as the expressly eligible uses, including quarries, mines, and sand and gravel pits. The Project is not clearly prohibited in the Extensive Agriculture district and is eligible to apply for permitting as a conditional use.
- 56 (5) As to the portion of the Project outside the Energy Overlay Zone, in the General Rural district, proposed land uses eligible to apply for conditional use permits include uses of a public works, public service, or public utility nature and other uses judged by the board of adjustment to be consistent with the purposes and intent of the chapter and to be no more detrimental to the adjacent properties than, and of the same type and character as the expressly eligible uses, including the excavation, removal, and processing of sand, gravel, stone, and other natural materials, airports, and solid waste disposal facilities. The Project is not clearly prohibited in the General Rural district and is eligible to apply for permitting as a conditional use.
- 57 (6) Klickitat County's moratorium on large-scale solar projects is not a land use plan or zoning ordinance, and as such, does not preclude a finding of consistency and compliance.
- 58 (7) The Applicant met its burden of proof of demonstrating that the site is consistent and in compliance with Klickitat County's Comprehensive Plan and applicable zoning ordinances, as required by RCW 80.50.075(1).

ORDER

THE COUNCIL ORDERS:

- 59 (1) Cypress Creek Renewable, LLC's request for a finding of land use consistency is GRANTED, consistent with RCW 80.50.090(2) and WAC 463-26-110.
- 60 (2) The Council will provide a means to receive information regarding site-specific conditions and criteria akin to what Klickitat County would receive during a conditional use hearing. This will occur either as part of the adjudication, if one is to be provided in this matter, or during the hearing required by RCW 80.50.090(5).

DATED at Olympia, Washington, and effective September 25, 2023.

WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL


KATHLEEN DREW, Chair