

Land Use Hearing
Tuusso Columbia Solar Project
December 12, 2017



206.287.9066 | 800.846.6989
1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101
www.buellrealtime.com
email: info@buellrealtime.com



WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL
TUUSSO COLUMBIA SOLAR PROJECT
Kittitas Valley Event Center Armory
901 East 7th Avenue
Ellensburg, Washington 98926
Land Use Hearing
December 12, 2017
7:06 p.m.

DANI JEAN CRAVER
CCR NO. 3352

Page 2

1 MR. STEPHENSON: We want to give Bill
2 Sherman, the counsel for the environment, just an
3 opportunity to give everybody his contact
4 information. He didn't have a chance to do that
5 earlier so in case any of you wish to get in touch
6 with him.

7 MR. SHERMAN: Thank you, Mr. Stephenson. So
8 my name is Bill Sherman, I'm the counsel for the
9 environment on this project. I'm the assistant
10 attorney general with the Washington State Attorney
11 General's Office.

12 If you want to get in touch with me, there
13 are a couple ways you can do that. If you --
14 literally if you Google "Counsel for the
15 environment," with quotes around it, you'll come up
16 with a web page that has my phone number and e-mail
17 address.

18 Or if you want to write it down, my e-mail
19 address is bill.sherman -- last name spelled
20 S-h-e-r-m-a-n -- @atg -- like attorney general --
21 .wa.gov. So feel free to contact me if there's
22 anything you want me to consider and that's it.
23 Thank you very much.

24 MR. STEPHENSON: Thank you.

25 All right. Again, thank you for being here

1 tonight. Again, my name is Cullen Stephenson. I'm
2 the EFSEC council member representing the Department
3 of Ecology. I'm presiding over tonight's land use
4 hearing which is being held in accordance with RCW
5 80.50.090 and WAC 463-26.

6 Tonight's hearing is being held at the
7 Kittitas Valley Event Center Armory in Ellensburg,
8 Washington. It's now 7:08 p.m. This meeting is an
9 opportunity for you to provide testimony relative to
10 the consistency and compliance with land use plans
11 and zoning ordinances.

12 Notice of tonight's hearing was published in
13 the Ellensburg Daily Record, the meeting time and
14 location was also provided in a notice which was
15 sent to the project mailing list, as well as being
16 posted on the EFSEC website.

17 The purpose of the land use hearing is to
18 determine whether at the time of application filing
19 the proposed Columbia Solar Project was consistent
20 and in compliance with Kittitas County land use
21 plans and zoning ordinances.

22 Testimony provided tonight will help inform
23 the EFSEC Council in developing a determination on
24 land use consistency. Unlike the public
25 informational meeting we just completed where

Page 4

1 general comments on the project were received, this
2 meeting is focused solely on land use, therefore,
3 your testimony must be specific to land use issues
4 with reference to appropriate county codes and
5 zoning ordinances.

6 This evening we will hear first from the
7 applicant and then Kittitas County if they wish to
8 testify. Following that, we will hear from those of
9 you who have signed up to speak.

10 Again, any written comments should be added
11 to the list and can be brought up here to the table
12 by the court reporter or given to EFSEC staff.

13 Am I getting this right?

14 MR. ROSSMAN: Yes.

15 MR. STEPHENSON: Thank you.

16 We are going to allow -- we'd like to keep
17 this still to two minutes but we'll stretch to three
18 if you're really good about your testimony. So we
19 will stretch to three because we've had a lot of
20 folks ask us for a little more time on this part of
21 the testimony. I think we have 19 people signed up
22 so this will take us hopefully just an hour. All
23 right. Thank you.

24 Can we talk about the first five --

25 MS. POTIS: Yes.

1 MR. STEPHENSON: Excuse me. The proponent.

2 MR. MCMAHAN: This has every opportunity to
3 fly off of here because I speak with my hands, so if
4 it's possible to take it, that'd be great. Thanks.
5 Sorry to be disruptive already.

6 Chairman -- or Acting Chairman Stephenson and
7 ad hoc Chairman Stephenson and council members, good
8 evening. Thank you for the opportunity to be here.

9 I am a fast talker and I'm going to try real
10 hard not to do that tonight, and particularly,
11 because we're going to try to -- we're going to try
12 to cover the applicant's application in 20 minutes
13 or less. We're really, really going to try to do
14 that tonight, so mine included. So we're going to
15 buzz along as quickly as we can within reason.

16 So a couple of preliminaries, I don't plan to
17 talk about the moratorium and I don't plan to talk
18 about the judge's order positioned a couple weeks
19 ago, neither of them are material to these
20 proceedings. I've shared information with staff and
21 your legal counsel on that. If you would like me to
22 address those topics, I'm happy to do so, but I'd
23 rather just get to the heart of the matter here and
24 talk about land use consistency.

25 Another preliminary matter, if, for the

Page 6

1 record, we can make sure that Jason Evans'
2 presentation is made a part of the land use record
3 because it is an important introductory piece for
4 that element of the process.

5 MR. STEPHENSON: I'm sorry, sir.

6 MR. MCMAHAN: Yes.

7 MR. STEPHENSON: I don't think for the record
8 we know who you are.

9 MR. MCMAHAN: Sorry about that. Tim McMahan
10 of Stoel Rives Law Firm, and I am very proud to be
11 the legal counsel for the project. Sorry, my
12 contact information is of record with the siting
13 council.

14 MR. STEPHENSON: Thank you.

15 MR. MCMAHAN: So I'm going to speak, Greg
16 Poremba and Evan Dulin from SWCA will then follow up
17 and really get into the substantive issues dealing
18 with land use compliance.

19 And I submitted a hearing memorandum to you
20 previously, you have that, so I again don't think
21 that I need to go into great, great detail on that
22 which is already made a part of the record.

23 At page 2 of the memorandum I quote verbatim
24 the Kittitas County Code's conditional use criteria
25 which is applicable to these projects. And the

1 conditional use process links the projects and our
2 analysis links with the compliance and consistency
3 provisions in the code with objective standards,
4 objective studies, and the work has been done by
5 TUUSSOs to demonstrate compliance and consistency
6 with local zoning and local Comprehensive Plans, as
7 you heard earlier from Jason, that's a very
8 significant amount of work that's been done here
9 about that.

10 I'm going to zero in several key criteria
11 which if misapplied can render the overall condition
12 use permitting process very subjective, and frankly,
13 unlawful as a basis for decision, and my focus will
14 be on several of these criteria, and again, I will
15 let the legal memorandum and the record speak for
16 itself.

17 But to start by saying the Kittitas County
18 Code, as you have heard from others, allows these
19 facilities as a conditional use -- as a conditional
20 use subject to a conditional use permit.

21 So first of my several points I want to make,
22 and this relates to the county code provisions that
23 are on page 3 of my memorandum, the provisions in
24 the code, Kittitas County allows solar PV as a
25 conditional use. Similarly, the county allows a

Page 8

1 wide range of other rural land uses to enable
2 diverse economic activities in rural areas, you've
3 heard some of that. It's not -- the rural areas in
4 this county are not a farming sanctuary, they are
5 not open space.

6 And most importantly, the code allows and
7 encourages a diversity of economic activities to
8 discourage residential sprawl that is fundamental
9 and it's a fundamental that stems from the Growth
10 Management Act.

11 Washington law expressly allows conditional
12 uses under site-specific conditions, and the goal is
13 to address localized impacts, the localized impacts
14 based upon objective standards and criteria. They
15 may not be based on subjective ad hoc rules.
16 Permits must protect the landowner applicant from
17 discrimination and bias and enable predictable
18 investments.

19 The code must and does, when properly
20 applied, enable project specific, site-specific
21 review linked to consideration of demonstrable
22 proven impacts on how surrounding landowners make
23 use of their lands and whether for some reason these
24 projects would jeopardize the use of those lands,
25 the ongoing use of those lands for farming, that's

1 the key.

2 So criteria I want us to highlight, first of
3 all, the code requires consideration of whether the
4 use is essential or -- heavy on or -- desirable to
5 the public's convenience, not detrimental or
6 injurious to the public health, peace, or safety, or
7 to the character or the surrounding neighborhood.
8 That's a very broad code provision.

9 So in essence -- in essence, the concern is
10 that one can tumble to character of land uses and
11 that this kind of a provision can override the need
12 for predictable and criteria-based standards which
13 is a matter of law.

14 Now, as indicated by Jason, and you'll hear
15 more about this, we have studied agricultural land
16 use, surrounding agricultural land use, and the
17 sites' agricultural land use. Wildlife, wetlands,
18 visual impacts, glare, noise, re-vegetation,
19 geology, so these sites, all of them have been
20 studied on, criteria that is capable of being
21 understood and evaluated objectively versus
22 subjectively.

23 So this Council has heard several and decided
24 on several wind energy facilities where this Council
25 has found need and necessity and essential value to

Page 10

1 the public and to the state by the implementation of
2 robust renewable energy development, those have been
3 key findings in three facilities proven by the
4 Council.

5 So here we find our situation where we are in
6 really an unprecedented effort by this project to
7 evaluate the impacts of the project in a setting
8 where, as you are well aware, having reviewed four
9 years on an oil terminal, we are in the midst of a
10 real struggle nationally and within the state to
11 implement renewable energy.

12 Recent developments are quoted in my
13 memorandum, very significant recent developments
14 that require and create additional markets for
15 renewable power. And we are moving rapidly away
16 from fossil-fuel generation, particularly with coal
17 strip retirement that currently occupies 20 percent
18 of Puget Sound Energy's portfolio.

19 So consistency with the intent and goals of
20 the policies. Consistent doesn't mean compliant,
21 the code does not contemplate a prohibition of
22 natural resource base non-farming uses, to the
23 contrary, it explicitly allows them. It
24 contemplates, quote, differing natural features,
25 landscape types and land uses, and it ensures,

1 quote, economic opportunities for rural areas.
2 That's what the code does. It encourages and
3 ensconces a right to farm but it doesn't impose an
4 obligation to farm every acre of land of
5 agricultural activity.

6 Third thing, third piece of the code that I
7 want to talk about is this language preserving rural
8 character as defined by the Growth Management Act,
9 pages 17 through 21 in my brief, my legal
10 memorandum. This is potentially the most subjective
11 criteria but -- but it is wholly capable of
12 objective application.

13 And the Growth Management Act, which is the
14 genesis of this language, did not intend to apply it
15 as a means of arbitrating whether or not something
16 is or is not subjectively consistent with rural
17 character and should be denied because of individual
18 views of that.

19 The concept has no meaning separate and apart
20 from the seven factors that are in RCW 36.70a.030
21 which are set forth in my memorandum, pages 17
22 through 18.

23 So it is important to note rural character
24 may not be applied as a proxy for varying subjective
25 opinions concerning whether a particular project is

Page 12

1 considered aesthetically pleasing to people in the
2 neighborhood.

3 Greg and Evan's presentations, along with
4 Jason's earlier presentation this evening, will
5 demonstrate and have demonstrated -- will
6 demonstrate the depth of TUUSSO's work to prove that
7 all five projects are wholly compatible with rural
8 land uses, it will not impair surrounding land uses,
9 they will not increase the cost of farming on
10 surrounding land uses, they will in no way force any
11 conversions to non-agricultural or farming land uses
12 including residential land uses and sprawl. So we
13 urge this Council to apply an objective,
14 evidence-based consideration to these facilities.

15 So these projects rely on all objective
16 evaluations of impacts that are required by the
17 siting council and its rules and that have been
18 undertaken by TUUSSO. So rather than the EFSEC
19 acting as arbiter of subjective opinions of rural
20 character, we ask that you rely on your own rigorous
21 standards and make an evidence-based decision that
22 is objectively fair and reasonable under the
23 criteria that are in the county code.

24 With that, I'm going to turn it over to our
25 experts to provide you the substantive information.

1 MR. STEPHENSON: Thank you.

2 MR. MCMAHAN: Thank you very much.

3 MR. POREMBA: Hello. My name is Greg
4 Poremba. I'm a senior energy project manager with
5 SWCA Environmental Consultants in Seattle. We
6 provided TUUSSO support in preparing the application
7 to the Council, as well as the SEPA checklist, doing
8 field studies, visual simulations, basically a lot
9 of the environmental work that you're going to see
10 summarized tonight.

11 For my presentation, I'd like to focus in on
12 land- use effects, all this will be very brief, but
13 it's all in the application, on agricultural
14 effects, visual aesthetic effects, and effects from
15 glare analyses.

16 So each of the sites, as you've probably seen
17 in the materials in the back.

18 MR. POSNER: Use the mic, Greg.

19 MR. POREMBA: Oh, sorry. All the sites, as
20 you can see, are 35 up to 55 acres. Their land use
21 is either designated in the Comprehensive Plan as
22 commercial agricultural or rural working, and the
23 zoning is either commercial agriculture or ag 20.

24 In the case -- as you can see from the
25 numbers up on the screen, they make up anywhere from

Page 14

1 .01 percent to .02 percent of the land use
2 designated in the county under those categories, so
3 a very minor part of the land use zoning in the
4 county. On an individual basis, the four of the
5 five projects are active agricultural properties
6 either being used to grow hay or for grazing. The
7 Fumaria Solar Project site which is 35 acres is
8 currently a fallow agricultural land without
9 irrigation.

10 So altogether, the 232 acres of the five
11 sites combined includes roughly 145 acres of
12 commercial agricultural land, which is .05 percent
13 of all lands in the county under that designation,
14 and the 87.2 acres that are rural working lands is
15 .03 percent of the total lands under that
16 designation, so they make up a very minor portion of
17 zoning and land use under those categories.

18 Moving on to agriculture briefly. The U.S.
19 census -- or U.S. Department of Agriculture
20 agricultural census from 2012 indicated that there
21 are roughly 183,000 acres of farmlands in Kittitas
22 County, of that, the lands under the TUUSSO projects
23 would make up .13 percent of total farmlands. Of
24 the croplands only, so excluding for raising
25 livestock and for other purposes, it would comprise

1 .34 percent of the 68,000 acres used to grow crops.

2 So again, very minor portion of the county overall.

3 In addition, looking at potential impacts to
4 surrounding farming activities, Jason went through
5 some of this already on the setbacks, so depending
6 on the site design and locational factors that we
7 were -- we and TUUSSO were designing around, the
8 setbacks are generally anywhere from 20 to 60 feet,
9 none of the facilities on the site are greater than
10 eight feet tall, so you don't have to worry about
11 shadows coming off the solar panels or the
12 inverters, anything affecting nearby properties,
13 therefore, shouldn't affect any agricultural
14 activities on those properties, any crop
15 productivity, or anything else;

16 Jason talked about potentially growing native
17 vegetation or potentially some hay crops, and as
18 part of this proposal, there would be treatment for
19 weeds to minimize weeds and, therefore, minimize the
20 opportunity for them to go offsite and there by
21 agricultural properties.

22 And then looking at construction impacts,
23 since we don't want to effect any more than we have
24 to, any kind of tractor movements or product
25 movements to market, we were looking at the

Page 16

1 potential vehicle use on the roads surrounding the
2 sites.

3 On average, there would be six heavy trucks
4 per day to each site and 19 non-heavy vehicles per
5 day to each site, so a total of 25. And in most
6 cases, with the vehicle counts on the access roads,
7 the impact would be less than 5 percent just as far
8 as number of current vehicles using the roads, not
9 as far as the standards for what the roads can
10 handle.

11 In the case of the Fumaria site, the numbers
12 are a little higher, they're more around 12 to I
13 think 35 percent, but that's because Clarke Road and
14 Faust Road have such low traffic counts -- one of
15 them is 66 vehicles a day, one of them is 150 --
16 that a few vehicles amounts to a large percentage
17 even though it's still only a few vehicles, so we
18 don't anticipate that affects farm traffic, related
19 traffic.

20 And the projects are designed because of
21 their buffer distances to be away from the property
22 lines and so that there's no drainage off site --
23 excuse me, so any water that's generated on site,
24 used on site, will stay on site and not drain off.

25 So next I would like to talk about aesthetics

1 from the projects, the visual impacts. We used the
2 U.S. Bureau of Land Management's Visual Resource
3 Management approach to conducting the visual
4 assessment and preparing the visual simulations.
5 This is a widely-accepted method in rural areas as
6 well as for energy projects, I've used it a lot on
7 energy projects.

8 It takes into account land form, vegetation,
9 bodies of water, and human-made structures in
10 defining the characteristics of the sites as well as
11 the contrast that the proposed solar projects would
12 have on those sites, the surrounding areas. So the
13 key here is contrast.

14 There's four categories of impacts, none,
15 where there wouldn't be a contrast; the next
16 category is weak, where it can be seen but it
17 wouldn't attract the visual eye, the eyes to that
18 area; and moderate, where it would begin to attract
19 the eye and dominate it; and then strong.

20 For all five projects, they only rise at most
21 on some cases to the moderate level. None of the
22 projects are evaluated as having a strong contrast,
23 and I'll show you some of those right now.

24 So just briefly, the BLM process requires
25 that you set up a radius to look at around each

Page 18

1 project site. In this case we selected two miles
2 because beyond that was considered beyond background
3 levels, and we used some modeling to try to
4 determine whether the visual points would be best to
5 select. And in this case, we selected three key
6 observation points for each site so that we could do
7 visual simulations from that. And the key factors
8 in selecting those sites or at least some of them
9 were whether or not people were living or working
10 around the sites, travelers along the main
11 transportation routes, or recreational use.

12 We then sent somebody out in the field to
13 actually collect photos and make notes, fill out
14 forms, BLM forms, to do the analysis, and then we
15 created visual simulations using our GIS with all
16 that information.

17 This figure shows the viewpoints and it's
18 nice you can actually see them. They generally, as
19 you can see, are surrounding each of the sites. In
20 some cases, like in Typha, most of the viewpoints
21 were from the northwest and west, so you couldn't
22 really see it from the highway, I think it's because
23 of vegetation that was in the view.

24 So overall, we determined -- using these
25 methods we determined, that yes, the solar projects

1 would introduce horizontal and vertical lines to
2 areas that were generally irregularly shaped, you
3 know, farm country, open fields, and so forth,
4 vegetation and other land forms, but that they
5 generally would not dominate the landscape because
6 of other linear features on sites like fences, other
7 transmission lines, metal buildings, and other
8 things like that. So you'll see it in some cases
9 but it doesn't always rise to, you know, one of
10 those strong contrast effects.

11 And then Jason's already talked about the
12 vegetation that would be planted to try to mitigate
13 and screen some of those effects.

14 One thing to note, and I'm going to talk
15 about this with glare, is most of these are within a
16 pretty flat valley from the flat view, and so we
17 understand that there are people living up on the
18 hills that can look down and see the panels from an
19 elevated view. It's -- some of the studies that
20 have been done on glare analysis for airports and by
21 the U.S. Air Force have shown that they tend to --
22 from a distance, up above they tend to look like
23 dark blue ponds, basically, because they're
24 absorbing most of the light, the panels are darker,
25 they're absorbing most of the light. So it's not

Page 20

1 going to look like an industrial structure
2 necessarily when you get further away and higher up.

3 So here's some examples, and I'm only going
4 to show you the primarily ones where you would see
5 something. This is the Camas site and you can see
6 here that some of the contrast rise up to the
7 moderate level. And off to the right, so here, this
8 is on Interstate 82 looking north where the southern
9 boundary site and this is what the panels would look
10 like, this is mostly the framework there.

11 Go to the next. This is from the northeast
12 corner of the property on Tjossem Road, and you can
13 see the fence line there as well as the panels in
14 the background. This is a -- we also, as part of
15 the mitigation, as part of the simulations, we tried
16 to put in some of the screening that would be
17 planted to offset some of the impacts.

18 There will be a combination of trees and
19 shrubs and the species are to be determined yet, but
20 they will be up to 15 feet tall, and you don't want
21 everything to be 15 feet tall because then it will
22 make it look even more artificial, you want to mix
23 them up. And once these fill more, they'll even --
24 this is first-year planting example, so once they've
25 had a couple years to grow and they'll screen even

1 more this side.

2 This bottom one is from the northwest on
3 Tjossem Road across the freeway looking over. So
4 you're at an elevated height which gives you an
5 example of -- I think that's maybe 20 feet up, so
6 gives you an example of what you could see from a
7 slightly elevated level.

8 Next we've got the Penstemon site which is
9 east of Camas, and we only have one here that we're
10 using because KOP 1, again, has some moderate
11 contrast potential. So you've got an example of the
12 fence line, it's about a 6- to 8-foot height fence
13 with barbed wire on it. Behind here are examples of
14 the solar panels, the solar rays, and again, this is
15 a first-year planting example with shrubs and trees
16 in there.

17 On the Urtica site, there are three sites
18 that have up to moderate contrast, but as you can
19 see, it's much further in the background, so the
20 first two KOP 1, KOP 2 are from Umtanum Road and KOP
21 3 is from Blunt Road, I believe, so you can see here
22 it basically goes from the road, if you can follow
23 the arrow all the way across, and it's very much in
24 the background there.

25 Looking at the second one, again, you can see

Page 22

1 it crosses the landscape in the back but it's
2 difficult to see, so it's kind of an odd thing to be
3 showing you things that are difficult to see, but
4 that's the whole point is you don't want to be able
5 to see it necessarily. And here's another example
6 in between the barn and over in this tree line where
7 it's in the background.

8 So the other two sites, Fumaria and Typha had
9 either no impacts or no contrast levels of any kind,
10 mainly because of how far away the key observation
11 points were from roads that were being used or from
12 other properties or just wasn't visible.

13 And finally, on the light and glare analysis,
14 the solar panels are designed to absorb light, not
15 reflect it. The more light they absorb, the more
16 efficient they are, the more electricity they
17 generate. So some people think of these as being
18 highly reflective, and that actually kind of defeats
19 the purpose of them in many ways to do that.

20 So an example -- a comparison example is the
21 panels generally will absorb two-thirds of the light
22 and reflect up to one-third of the light that shines
23 on them. For example -- and for comparison, dry
24 sand will reflect 45 percent of the light. Grass
25 and trees will reflect anywhere from 10 to

1 25 percent.

2 As I said before, the Air Force has done a
3 study of solar panels to determine their impacts on
4 airports and planes flying in and out of the
5 airports. Their summary of the panels was that they
6 pose a minimal risk to air traffic around airports
7 and that they would look like weathered white
8 concrete.

9 And as you know, some airports have concrete
10 runways so it would look -- reflection wouldn't be
11 any more than they would see landing the plane. And
12 again, from a distance and elevated views, they've
13 determined that they would look substantially like
14 dark water bodies.

15 We did modeling from each of the 15
16 observation points that we did for aesthetics using
17 the Solar Glare Hazard Analysis tool, it's
18 relatively new, and it was developed by Sandia
19 National Labs, it's publicly available. It was
20 licensed to a private firm just this year, and
21 they've done some modifications but this is one of
22 the tools being used often out across the United
23 States for doing solar analyses.

24 What I would like to point out here is what's
25 important, the numbers can get baffling, they were

Page 24

1 to me. And so I want to give to you is a takeaway
2 that the lower you are on this scale, the closer you
3 are to the bottom, the less light that was reflected
4 and the less afterimage you'll get, because one of
5 the things they look at is are you going to be
6 blinded for a while, just like when you're driving
7 through the sunlight in your car.

8 So the lower you are on this, the less
9 reflection there is and the less -- shorter the time
10 you're likely to have any visual effects.

11 This dot in the upper right is if you look at
12 the sun for comparison. So you want to be in the
13 yellow and green potential, and you want to stay out
14 of the red, okay?

15 So using this method, what we found out is
16 for the Camas site, the second and third key
17 observations points you would have acceptable green
18 and yellow potential, so it's well within the
19 recommendations. The Fumaria site would have no
20 glare at the KOPs. The Penstemon site would have
21 acceptable yellow potential at sites 1 and 2.

22 Similarly to Fumaria, the Typha site would
23 not have any glare effects. And all three KOPs for
24 Urtica would have green or yellow potential, so it's
25 all well within and below levels that are normally

1 considered a concern. That's my presentation.

2 Next, I would like to have Evan Dulin, one of
3 our biologists, provide you a summary about some of
4 the potential biological effects. Thank you.

5 MR. STEPHENSON: And let's keep moving along
6 because we're a little over our 20 minutes, so let's
7 keep pushing forward. We have a lot of public
8 testimony to come.

9 MR. DULIN: Thank you. As I've been
10 introduced, I'm Evan Dulin. I work for SWCA Wetland
11 Consultants as a wetland scientist and biologist.

12 And I'm going to briefly -- go as briefly as
13 I can, go over wetlands and wildlife impacts and
14 mitigation measures for this project.

15 And what we did in the beginning was took a
16 look at two scales of impact, one is the
17 Landscape-scale Analysis Area on the left, this is
18 at a sub-watershed level, includes the sites and
19 basically goes up to a natural ridge defining the
20 Kittitas Valley.

21 And on the Project-scale Analysis Areas which
22 are shown on the right, these are for each
23 individual project sites and it's all areas that are
24 within 500 meters of the sites. And the reason we
25 looked at these two scales was to look at an overall

Page 26

1 habitat availability for wildlife and also look at
2 what is in the immediate vicinity of the project
3 that could be affected by the projects.

4 And what we found in the Project-scale
5 Analysis Area is it's dominated by active
6 agricultural. It also includes fallow fields,
7 recently grazed areas, and natural vegetation.
8 Primarily the natural vegetation was along riparian,
9 wetland, and open-water areas, as well as some
10 native shrubsteppe areas that were nearby.

11 And on the Landscape-scale Analysis Area,
12 just to put in this perspective, the project areas
13 which, as we said, are about 232 acres encompass
14 less than 1 percent of the Landscape Area Analysis.
15 And this is also dominated by agricultural
16 production as well as other land uses.

17 The water impacts, this is something Jason
18 touched on briefly. We are avoiding all water
19 impacts on the site through project design. Any
20 access roads or internal access roads will be
21 located along uplands and existing roads and
22 bridges, so there's no additional work or impacts to
23 those resources.

24 And for wetlands, Jason also mentioned we
25 have one proposed wetland impact and that is on the

1 Typha site entrance. This would result in less than
2 1,000 square feet of wetland fill, it's about
3 600 square feet, as Jason said earlier, and this is
4 just to address a collapsed and clogged culvert that
5 is allowing for flooding of that road.

6 They're going to fix that using geotextiles
7 and other road-building material to allow for
8 year-round access to that site. On all other sites,
9 impacts to wetlands were avoided and buffered to
10 avoid those impacts.

11 Here is a specific close up of the Typha
12 entrance, and we have a joined aquatic resource
13 permit that has been completed and will be submitted
14 to EFSEC.

15 Now, for wildlife impacts, it is considered a
16 temporary habitat conversion, as Jason mentioned, at
17 the end of its lease it can go back to its current
18 habitat function if the landowners decide to do
19 that. Overall, the total project area is 232 acres.
20 The total area to be fenced is 223 acres, and of
21 that active agriculture only includes about
22 138 acres, the rest of it is either fallow or it's
23 currently being grazed.

24 As well as the operational impacts to this
25 habitat really only includes impervious surfaces,

Page 28

1 which is less than 12 acres for the overall project,
2 and these proposed impervious surfaces on six acres
3 of that is about half is agricultural land.

4 Now, these fences could pose wildlife
5 impacts, the only major impact that we were able to
6 find was to game species that could be traversing
7 the Kittitas Valley. These sites are not within
8 identified big game migratory corridors or migratory
9 fly-aways, and overall, fencing of these properties
10 would have a less than 1 percent impact on the
11 landscape analysis area of available habitat.

12 And shifting to protected species, here's a
13 table of all the species that have the potential to
14 occur in this area that are either state listed or
15 federally protected. As you can see here, only two
16 species had a high likelihood to occur in the
17 project areas or near the project areas, and those
18 included bald eagles and Columbia spotted frogs.

19 As you can see, all fish species had no
20 likelihood of occurring within the Project-scale
21 Analysis Area, this was because we avoided any
22 stream that could potentially have those species in
23 them.

24 And just taking a look at these two species
25 that have a high likelihood, Columbia spotted frog

1 is a Washington State candidate species. It is
2 known to occur at the Typha site, the Camas, and the
3 Penstemon site. I have a picture here of one of
4 those egg masses at the Typha site.

5 However, all impacts to the species would be
6 avoided based on the setback distances from the
7 aquatic resources and based on where they're located
8 as well as the BMPs and construction measures that
9 we will undertake to avoid contamination or
10 sedimentation into those resources.

11 And for bald and golden eagles, they're
12 protected by the Bald and Golden Eagle Protection
13 Act, as well as the Migratory Bird Treaty Act, and
14 they're also a federal species of concern.

15 We did observe some individual eagles either
16 on flyovers or stopping in areas. There were no
17 nests identified within any -- within the
18 Project-scale Area, near any of the sites, or within
19 those sites. However, to avoid any potential
20 impacts, nesting surveys will be conducted closer to
21 the construction period in coordination with WDFW
22 and potentially U.S. Fish and Wildlife Service, if
23 necessary, will be done at that point.

24 Now, mitigation measures regarding the
25 wetland and waters impact, these are very minimal.

Page 30

1 Most of it was conducted at project scoping to avoid
2 and minimize impacts. As stated earlier, existing
3 roads will be used when all possible and best
4 management practices would be utilized to eliminate
5 runoff and contaminants.

6 In addition, Jason mentioned earlier that
7 there would be seeding and planting at all of the
8 sites and this could provide and add benefit to
9 those areas including seeding at Typha and Urtica
10 sites for wetlands which would improve the water
11 quality at those sites, as well as the herbicide
12 treatments to control noxious weeds on the site and
13 to control the spread of noxious weeds to adjacent
14 sites.

15 As far as wildlife mitigation measures go,
16 buffers and seasonal timing are the main way to
17 avoid impacts. These are going to be completed by
18 establishing buffers on known resources. Currently
19 there aren't any. We are also buffering riparian
20 corridors and will be improving the quality of those
21 riparian corridors. An ongoing consultation with
22 WDFW will occur to ensure that we continue to comply
23 with that.

24 Noise standards were already gone over, we
25 will comply with state and local noise standards and

1 as well as other mitigating measures that we will
2 conduct such as the BMPs, design and construction
3 techniques, erosion and sediment control, as well as
4 the restoration and noxious weed control mentioned
5 earlier for wetlands. These will all have
6 mitigation factors to help wildlife.

7 Overall conclusions, the project is not
8 proposing to impact waters or wetlands, except for
9 the one wetland fill at the Typha entrance. No
10 significant impacts to wildlife and their available
11 habitat was found for this project, and no
12 significant impacts to protected species either.

13 So with that, I'll hand it back to Tim real
14 quick.

15 MR. STEPHENSON: Thank you. I think Tim is
16 done. I saw him waive. Thanks, Tim.

17 Does Kittitas County wish to testify on this
18 matter?

19 MR. JEWELL: Yes.

20 MR. STEPHENSON: Thank you.

21 Can you please identify yourself for the
22 record and then give your testimony? Thanks for
23 being here.

24 MR. JEWELL: Well, thank you. My name is
25 Paul Jewell. I'm a Kittitas County Commissioner and

Page 32

1 Chairman of the Board of County Commissioners for
2 Kittitas. I'm speaking to you on behalf of the
3 Board.

4 You just looked like you were going to do
5 something there so...

6 MR. STEPHENSON: I'm doing lots of things but
7 not to you.

8 MR. JEWELL: Okay. All right. Unlike
9 Mr. McMahan, I do plan to talk specifically about
10 the moratorium and the judge's recent decision. In
11 fact, I have three points for your consideration
12 this evening.

13 My first point is regarding the applicant's
14 request for expedited review. It's Kittitas
15 County's position that this application does not
16 meet the statutory requirements necessary to qualify
17 for expedited review for that 180-day process.

18 RCW 80.50.075 regarding expediting processing
19 of application states in part that the Council may
20 grant an applicant expedited processing for
21 certification upon the finding that the project is
22 found under RCW 80.50.09(2), to be consistent and in
23 compliance with the city, county, or regional land
24 use plans or zoning ordinances.

25 Kittitas County enacted a six-month

1 moratorium on all new applications for solar
2 developments in unincorporated areas of the county
3 on March 31st of this year. This ordinance is
4 2017-002, and I have a copy for you.

5 The moratorium was then extended through
6 ordinance 2017-004 on July 18th for an additional
7 six months. At the time that this application was
8 submitted, which was October 16th of this year, the
9 moratorium on all new applications was and remains
10 in effect.

11 The moratorium was and is the local land use
12 plan and zoning ordinance in effect. Therefore,
13 it's not possible for the Council to make a finding
14 that the application is consistent and compliant
15 with county regulations as required by law. The
16 request for expediting processing must be denied in
17 our opinion.

18 The second item I have for your consideration
19 is the recent superior case or superior court
20 decision, excuse me, in the case of One Energy
21 Development, LLC, and Iron Horse Solar, LLC, vs.
22 Kittitas County and various others. This case was
23 about the county's denial of a conditional use
24 permit for a 47.5 solar photovoltaic project on
25 high-quality irrigated land in our county.

Page 34

1 The permit was denied by the Board on the
2 basis that the proposed land use, a large-scale
3 industrial facility, which was presented at the time
4 as the largest energy-producing solar facility in
5 Washington state, was not compatible with the rural
6 character of the area.

7 In its decision, the court found that the
8 county has substantial discretion in determining the
9 facility's effect on character of the surrounding
10 neighborhood and whether it met standards
11 established in our development regulations and in
12 our Comprehensive Plan.

13 In this case, an application very similar to
14 this one that's before you today was found -- it was
15 found that the proposed facility did not meet our
16 requirements for maintaining rural character and the
17 permit was denied. I also have a copy of that case
18 for the record.

19 My third and final point for your
20 consideration is the county's value statement
21 regarding the site -- the siting of solar
22 photovoltaic projects in rural areas. This value
23 statement was considered and proved by the Board of
24 County Commissioners in Resolution 2017-192. I also
25 have a copy of that.

1 It was developed from a recommendation by the
2 county's Solar Facilities Siting Citizen Advisory
3 Committee which was formed and is working hard to
4 develop local regulations as a recommendation for --
5 county regulations for siting these facilities in
6 rural areas.

7 The committee has not yet completed its work,
8 I think that was stated earlier. We hope it will
9 soon, but it has agreed on some key principals that
10 I present to you this evening.

11 Those principals are, one, high-quality
12 agricultural land in Kittitas County is a limited
13 resource and should be protected. Two, commercial
14 solar facilities may be allowed on high-quality
15 irrigated land but only subject to the highest level
16 of review and scrutiny and with the requirement for
17 an alternative analysis that considers whether the
18 proposed use can be reasonably accommodated on lands
19 other than high-quality irrigated agricultural land.

20 Three, reasonable and economically viable
21 alternatives do exist in Kittitas County for
22 commercial solar facilities on lands other than
23 high-quality irrigated agricultural land. And
24 finally, four, conditions should be required for
25 commercial solar facilities to mitigate impacts to

Page 36

1 surrounding properties.

2 Thank you for the opportunity. That's all I
3 have. With that, I'll conclude my testimony and
4 I'll submit these documents to the court reporter.

5 MR. STEPHENSON: Thank you. Is that her or
6 -- where is it?

7 MS. MASTRO: Here.

8 MR STEPHENSON: Always listen to Tammy when
9 you're wondering.

10 All right. Are there other folks from
11 Kittitas County that wish to testify on this?

12 And hearing none, what I would propose is a
13 very quick -- it's now five minutes to 8, let's take
14 a five- minute break and then we'll start the public
15 testimony on the land use hearing. Thank you.

16 (A short recess was had.)

17 MR. STEPHENSON: So can you call out the
18 first five names?

19 MS. POTIS: Yes, if Speakers 1 through 5
20 would like to come and sit in the front, that will
21 help move things along faster. So Speakers 1
22 through 5, come and sit in these front rows, they're
23 meant for you.

24 And we're ready for Speaker No. 1, Dave
25 Nerpel.

1 MR. NERPEL: Good evening. I appreciate the
2 chance to chat with you here tonight. It's an
3 important topic to us in Kittitas County.

4 My name is Dave Nerpel, I'm a local farmer
5 and agricultural consultant. I've got projects here
6 locally as well as nationally and internationally.
7 And I'm also a member of the Solar Facility
8 Committee so I'm definitely not speaking for them,
9 I'm speaking for myself.

10 I want to talk about the value of
11 agricultural products grown in the valley.
12 Currently, that valley runs at about \$70 million and
13 with the multipliers that have been given to us by
14 WSU, that 70 million turns into 154 million
15 annually. It's a pretty substantial production.

16 In recent years, the county has also produced
17 in addition to Timothy hay, vegetables, sweet corn,
18 peas, durum wheat, a number of other crops, it's a
19 very high quality -- fresh potatoes and chipper
20 potatoes. A large amount of the produce from
21 Kittitas county is in that production.

22 Based on proximity to Western Washington and
23 consistent with national trends, we would expect
24 that vegetable production comes back into this
25 county. Our county has roughly 60,000 acres of

Page 38

1 irrigated ground compared to 1.5 million acres
2 non-irrigated.

3 Our agricultural production is all on that
4 60,000 acres. So 60 thousand compared to
5 1.5 million, that's 4 percent. And we wonder why we
6 would want to take away from that 4 percent when we
7 have plenty of ground outside of that irrigated
8 ground that is very viable for agricultural
9 production.

10 Also, we have a 145-year history of
11 investment in this process, and a lot of that money
12 has been public money. Solar Committee has seen a
13 lot of good input from a lot of different places,
14 and I see my time is getting short, but I want to
15 mention particularly DNA has come to talk to us, and
16 they have given us maps, I've presented them here
17 with my written testimony, of areas that are
18 available and that fit the industry standards for
19 solar facilities.

20 Okay. So just to summarize, people don't eat
21 hay, so at some times people kind of write that off
22 as expendable. Our valley can also produce a lot of
23 high- value crops, and so I think we need to
24 preserve those as much as possible.

25 Locating large industrial solar facilities on

1 prime farm ground is short-sighted.

2 MR. STEPHENSON: Just about there.

3 MR. NERPEL: Thank you.

4 MS. POTIS: Thank you. Speaker No. 2, Jeff
5 Brunson.

6 MR. BRUNSON: My name is Jeff Brunson. I
7 reside at 1585 Tjossem Road, Ellensburg, Washington.
8 I represent myself and my wife, Jackie. We were
9 both born and raised in Kittitas County and I thank
10 you for the opportunity to speak.

11 The solar facilities proposed on our property
12 will not only provide clean energy to this community
13 but also provide financial diversification for my
14 farming practices.

15 The farming community never knows when we'll
16 experience a drought year, when product prices may
17 plunge, or when other unforeseen circumstances may
18 happen. Having an alternative income source makes
19 sense for my farming practices and for this
20 community's energy needs.

21 The Daily Record published a guest column on
22 December 2, 2017, which states one acre of Timothy
23 hay production is worth \$1,875. Farmers do not
24 typically disclose the value of their crops, and I'm
25 one of those farms, but I can tell you \$1,875 per

Page 40

1 acre is not even close to the average value, and
2 that figure is unrealistically high price for
3 Timothy hay.

4 In addition, it should be noted that Timothy
5 hay has to be replanted every three to five years
6 for the rotation crop that typically has less value.
7 The dollar values published by the Daily Record are
8 flawed.

9 Apparently, people are concerned about my
10 water rights and I appreciate that. However, I have
11 confirmed that I will not lose any water rights from
12 Town Ditch or Bull Ditch. Their project will
13 require water for vegetation so there'll be no issue
14 with water rights.

15 As stated, I farm for a living and I do not
16 owe anybody a view. I do not farm or grow crops for
17 the pleasure of my neighbors. My wife and I run our
18 farming operation as a business, not a family farm.
19 The decision to sign agreements for the Camas and
20 the Penstemon solar facilities with TUUSSO Energy is
21 a business decision.

22 Jason Evans and his company have been
23 professional and have been a pleasure doing business
24 with them. Jason volunteered to include a
25 vegetation buffer for neighboring property owners

1 showing his dedication to the project and
2 willingness to work with neighbors to help mitigate
3 any perceived conflicts.

4 These projects will not change the
5 surrounding land uses, and I can't see how it will
6 impact anybody's property values, including our own
7 farm ground that's close to these facilities.

8 Coincidentally, another part of our farm was
9 chosen by Kittitas County as one of the top three
10 locations for a transfer station. We find it ironic
11 that the county would be willing to build a garbage
12 dump on prime ag 20 land but not allow a clean and
13 beneficial solar facility on the same site.

14 One last comment, our property met the
15 criteria of TUUSSO Energy for their facilities and
16 Jason came to us regarding the solar facility. We
17 look forward to renewable energy and feel these
18 projects have been well planned out and warranted.

19 Thank you.

20 MR. STEPHENSON: Thank you.

21 MS. POTIS: Speaker No. 3, Jay Pittenger.

22 MR. PITTENGER: Yeah, I'm Jay Pittenger, 2130
23 Clarke Road. And my wife, Lori, and I together own
24 the Fumaria site. My family's been ranching in
25 Kittitas Valley since the early '60s.

Page 42

1 And up until 2007, we were mostly in cattle.
2 My dad became ill, and when he became ill we had to
3 get out of the cattle business and sold all of our
4 cattle. As my dad's illness progressed, my wife and
5 I purchased the property in 2011.

6 And we have -- most of our property is about
7 380 acres in land lease -- ground leases for hay
8 production, which has been wonderful. We've got
9 some great neighbors who operate that.

10 The reality and economics on that are that,
11 you know, the income from that covers taxes, it
12 covers insurance, it covers water, and that's really
13 about it. There's no net income off the property.

14 And we talked about the land use and great
15 presentations and just wonderful comments from both
16 sides so far. It's been really, really informative.

17 I think there's a fundamental truth to all of
18 this, that for landowners in the -- call them large
19 to middle span landowners that are struggling in
20 terms of the ability to operate that themselves,
21 create the business, and deliver the agricultural
22 services, development at some level has to be
23 accommodated, otherwise the overall agricultural
24 character that we keep talking about is going to go
25 away entirely.

1 Because consolidation is just going to create
2 a reality where the ability for midsized landowners
3 won't exist. When that happens, you have just giant
4 owners, and ultimately, you have what you don't want
5 in terms of development.

6 For us, proceeding with the land and the
7 allowed for this development allows us to keep the
8 rest of our property in agriculture, and it keeps us
9 from being motivated to pursue developing and
10 subdividing that property, and that's just a fact
11 for us.

12 And I just, you know, would like to comment a
13 couple of things. I attended the moratorium
14 hearings, and I've actually been really impressed
15 with the county and how they've approached things.
16 I personally have no heartburn.

17 I'm also very impressed with the TUUSSO folks
18 and how they've approached things very thoughtfully,
19 very professionally, very transparently. And I'm
20 pretty convinced that that will continue on their
21 half if everything moves forward.

22 We spent a lot of time with Jason, years, you
23 know, we didn't rush into this, and so I feel like
24 I've got a pretty good perspective on him and his
25 firm and I think they'll do a good job on these

Page 44

1 projects. Thanks.

2 MR. STEPHENSON: Thank you.

3 MS. POTIS: Speaker 4, Karen Poulsen.

4 MS. POULSEN: Thank you for letting me
5 testify tonight. My name is Karen Poulsen, 3591
6 Tjossem Road, Ellensburg, Washington. I'm a
7 full-time farmer, as I said earlier in my prior
8 presentation, and a fifth generation in this valley
9 -- farming family from this valley.

10 As background, I'm a graduate of WSU, I have
11 a bachelor's of science and agriculture and have
12 served on the Washington State Farm Bureau Board of
13 Directors of Kittitas County, as Kittitas County
14 Farm Bureau President, Board of the Kittitas County
15 Hay Growers, and the County Noxious Weed Board, and
16 I've also served on the Kittitas County Planning
17 Commission and the Board of Adjustment.

18 MR. STEPHENSON: Perhaps a little slower.
19 Thank you.

20 MS. POULSEN: Okay. I'm trying to keep in my
21 three-minute time limit.

22 MR. STEPHENSON: I know.

23 MS. POULSEN: I would first like to speak to
24 the expedited review process. TUUSSO Energy is
25 requesting EFSEC to use the expedited process for

1 review of the ACS.

2 I don't think that the project is eligible
3 for this process under WAC 463-43-030 Eligible
4 Proposals. For EFSEC to even consider using the
5 expedited process, the Council must find that the
6 following four items are not significant enough to
7 warrant a full review under the provisions of
8 Chapter 80.50 RCW.

9 One, the environmental impact is not
10 significant; two, the area potentially affected is
11 not significant; three, the cost and magnitude of
12 the energy facility is not significant; and number
13 four, the degree to which the proposed energy
14 facility represents a change of use of the proposed
15 site -- change the plan use of the proposed site is
16 not significant.

17 And I do not think -- these projects are not
18 small-scale rooftop projects. They are
19 industrial-sized energy projects changing the use of
20 hundreds of acres of prime irrigated farmland to a
21 completely nonagricultural use, and therefore,
22 certainly do not comply with the fourth requirement.

23 Two, the conversion of prime farmland to
24 nonagricultural uses under WAC 463-43- -- anyway,
25 all of the project sites are a zoned commercial ag

Page 46

1 and both zones an area where farming and ranching
2 are priority. The intent of this zoning
3 classification preserve fertile farmland from
4 encroachment of nonagricultural uses.

5 And all the project sites are also classified
6 as open space farm agricultural land under the Open
7 Space Act. And three, growth management requires
8 that we adopt and develop regulations to prevent
9 conversion of agricultural, forest, and mineral
10 resource lands to other uses.

11 Rural character, both GMA and Kittitas
12 County's Comp Plan define what rural character
13 means. And I'll leave the rest with you so that you
14 can read it. Thank you very much.

15 MR. STEPHENSON: Thank you. Do please leave
16 your written comments over here with Tammy and we
17 will review those.

18 And can we get the next five maybe?

19 MS. POTIS: Yeah. Speaker 5. And would
20 Speakers 6 through 10 please come and sit at the
21 front? Thank you.

22 MR. CARKENER: Good evening, members of the
23 Energy Siting Council. My name is Dick Carkener.
24 I'm a retired WSU agricultural economist and I've
25 also farmed over 30 years, and I serve on the

1 Kittitas County Solar Advisory Committee.

2 I'm personally supportive of solar. I've got
3 30 solar panels on my house. I've got written
4 testimony that covers way more detail than I'm going
5 to deal with -- deal with here. So I'm just going
6 to hit a couple of high points and maybe not use all
7 my time.

8 I guess this is -- this falls with what Paul
9 Jewell shared earlier. If you follow your own
10 rules, you really can't use the expedited process to
11 put industrial solar on farmland.

12 Well, the county does not have detailed
13 siting guidelines, that's a work in progress. They
14 do have policy that guides alternative energy and
15 it's a conditional use process that you heard about.
16 But that conditional use process, the requirements
17 to meet the conditional use, that process is
18 favorable to agricultural.

19 So I guess this brings up a question to me in
20 why TUUSSO would have chosen prime farmland as
21 opposed to nonag land, there wouldn't have been near
22 the resistance or the controversy and this whole
23 project may actually be underway.

24 I guess another point is I don't see how you
25 can lump these five projects together. They are

Page 48

1 different. There's different environmental,
2 cultural, other issues surrounding these sites,
3 they're different, and I can't see how a
4 professional planning department, for example, would
5 lump these together. And I've had experience as a
6 planning commissioner and I haven't seen anything --
7 I haven't seen anything like this.

8 And as you look ahead, there's dozens of
9 these projects in the queue. How are you going to
10 deal with them? Are you going to lump them all as
11 one and deal with it or what kind of criteria are
12 you going to use? They have to be adjacent, can
13 they -- they have to be in the same county? I think
14 you need to do a little homework on that part of the
15 process.

16 I guess I'd like to point out again I'm
17 absolutely not opposed to solar nor do I think our
18 community is. Solar alternative energy is where we
19 need to go. It just doesn't make sense to destroy a
20 productive resource, in this case, irrigated
21 farmland when we have literally thousands of acres
22 that meet solar siting requirements.

23 I urge you to let our process work. We'll
24 soon have siting requirements in a matter of a few
25 months, I would expect, I'm on the committee, and

1 these projects can be built and we can move forward.

2 Thank you.

3 MR. STEPHENSON: Thank you.

4 MS. POTIS: Speaker No. 6, Doug Dicken.

5 MR. DICKEN: My name is Doug Dicken. I live
6 off the Thorp Highway near the golf course. I've
7 lived part time and full time in this county for
8 over 25 years. I've been a property owner for over
9 25 years, and I've worked with Jason Evans on this
10 energy project for a little over a year. I've found
11 him to be extremely diligent and cover all the bases
12 and easy to work with.

13 It's my understanding when we got into this
14 that the state had voted a number of years ago to
15 encourage green energy and that the utility
16 companies were required to generate a certain amount
17 of green energy for their consumer base.

18 Also, under my understanding, this was quite
19 a few years ago, the county went through the process
20 and decided that ag 20 and some of these other areas
21 were -- I don't know what the right word is, I
22 guess, available for alternative energy.

23 This project makes all kinds of sense to me.
24 It's absolutely clean, the properties that have been
25 selected for the most part are ones where there's

Page 50

1 virtually no impact on the environment.

2 In my case, my farmland isn't really -- it's
3 never been hay land, it's pasture, it's not really
4 good farmland. But I do have water rights and I
5 graze it. I mean, I rent it out for pasture.

6 I think one other thing I haven't heard
7 anybody talk about today is that all these water
8 rights can be sold to somebody down the river. I've
9 personally had more than two calls from people
10 wanting to buy water rights from down in the
11 wine-growing country, and I know a lot of pieces --
12 pieces of property around here where the water has
13 been sold.

14 So I think a lot of this we're getting real
15 emotional about it but we need green development, we
16 need to be able to develop our own property the way
17 we want to as long as it fits within the county
18 guidelines which this does. The end I guess. Thank
19 you.

20 MR. STEPHENSON: Thank you.

21 MR. POTIS: Speaker No. 7, Mark Pritchard.

22 MR. PRITCHARD: Thanks for holding the
23 hearing today. My name is Mark Pritchard. I'm a
24 professor up in the Central Washington College of
25 Business where I regularly chair, for the last

1 couple of years, the Annual Economic Outlook
2 Conference, and the last two years have been on hay
3 and potatoes this year, and it was on the fruit
4 industry last year.

5 And you can't help but to sit through those
6 talks and see the great benefits that we have
7 through prime irrigated land being developed through
8 this valley over the last century.

9 There's significant state and federal money
10 that's been invested in making these lands
11 available, and I would urge the committee to weigh
12 these things closely. When you look at standard
13 practices up and down the west coast, you'll find
14 that Oregon is moving its land use policies very
15 quickly to under 12 acres.

16 And if you go to down to California, Santa
17 Clara is moving to 10 acres of prime irrigated land,
18 that's all they will allow, not, in this case, 20
19 fold that size amount, as the TUUSSO request has
20 been to have 240 released from prime irrigation into
21 service for the solar complex.

22 So really, what's at stake is that we've got
23 a big investment. I don't see the economic
24 projections really being done and I think in a round
25 solid way in terms of understanding the net

Page 52

1 contribution to this. If you really start to weigh
2 out some of the costs that we might incur through
3 doing this, it can be significant.

4 If you look at the last EFSEC approval that
5 took place on the north end of town, you'll find
6 that you got farmers that had, in some cases,
7 300 acres, they had their properties valued and
8 listed at 3 million for those 300 acres, and they're
9 worth 1.5 million today.

10 There are significant costs, we need to weigh
11 these things carefully. An expedited process will
12 not allow that to occur. Thank you.

13 MR. STEPHENSON: Thank you. This speaker
14 reminds me that this part of the hearing tonight is
15 about land- use consistency, so please try to keep
16 your comments focused on land use issues.

17 MS. POTIS: Speaker No. 8, Kathi Pritchard.

18 MS. PRITCHARD: Hello, again. I will be
19 brief. I have been studying this issue for just
20 about three weeks, and I concur with those -- the
21 work that the solar committee is doing and the
22 comments of Commissioner Paul Jewell, and I would
23 urge you to consider also Karen Poulsen's comments
24 because of her experience in land use and farming
25 for the last decades. Thank you very much.

1 MR. STEPHENSON: Thank you. And you get lots
2 of bonus points for such a brief presentation.

3 MS. POTIS: Speaker No. 9, Jim Joyner.

4 MR. JOYNER: Yes, my name is Jim Joyner. I
5 live at 4511 No. 6 Road. I am an adjoining property
6 owner to the Camas project.

7 And I'd just like to point out, well, I think
8 a slight error that was presented on the visual
9 earlier by the gentleman that was showing the views
10 from the various corners of the project.

11 Back when I first became aware of this
12 project, and it was after several hearings in the
13 valley, honestly, the project did not include the
14 area south of Tjossem Road and lying north of the
15 Naneum Creek and east of the Bull Ditch. That would
16 have been maybe somewhat acceptable visually to some
17 of us.

18 There's five landowners that directly border
19 this project to the east and to the south, and we
20 are extremely concerned about the visibility, the
21 reflectivity, the noise, and everything involved in
22 that particular site. It wouldn't be such an impact
23 on us if that approximately five acres was excluded
24 from the site boundaries as it was originally
25 proposed.

Page 54

1 But that being said, this is an agricultural
2 community, some of us chose to retire -- most of us
3 that live there in the area, actually, I know three
4 out of the five are retired folks that bought three-
5 to five-acre parcels and have small little home
6 ranch farms and have the luxury of the aesthetics of
7 our area.

8 And it -- we knew when we purchased and also
9 in the Growth Management Act, as were established by
10 the county, that we were in an ag 20 zone and I do
11 not feel that the installation of these type of
12 solar projects, which are more industrial commercial
13 developments, is a good use of our prime
14 agricultural property, and I think that needs to be
15 seriously considered.

16 That along with the fact that there are
17 thousands of acres around the area that are outside
18 of that zoning, and I think that if more time was
19 given to the committee and the county conditional
20 use development committee would be able to propose
21 ideal locations that would accommodate these sites.

22 I spent 30 years as a distribution design
23 engineer and I know the importance of renewable
24 energy, and I also know a little bit about what it
25 would take to supply and connect to these

1 facilities, so I do think that a haste to judgment
2 is the wrong approach. Thank you.

3 MR. STEPHENSON: Thank you.

4 MS. POTIS: We heard from speaker 10 so we're
5 ready for Speaker 11. And if 12 through 15 would
6 please come forward and make use of the front seats.
7 Thank you.

8 MR. DUNNING: Jeff Dunning, my family has
9 farmed and ranched here since the 1890s. My father
10 was a soil scientist and history supervisor for the
11 NRSC in Kittitas County for over 30 years, and a
12 member of the Solar Advisory Committee but reporting
13 as an individual.

14 I support development in use of solar energy,
15 however, feel our states land use regulation
16 policies aren't ready. Current state statutes, and
17 therefore, county zoning codes in our state have not
18 foreseen the land use issues arising from projects
19 like TUUSSO's. A void exists which is in regulation
20 which is being taken advantage of. Kittitas County,
21 after much litigation, fell into compliance with our
22 state GMA. We've been the state's testing ground
23 for wind, ground water, and now solar use.

24 County code states the commercial
25 agricultural zone is an area where farming and

Page 56

1 ranching are the priorities. Kittitas County Code
2 also states from a -- conservation of resource
3 values means the use and sustainability of the land
4 for farm, agricultural, or forest production and the
5 perpetual retention of the land for such purpose.

6 Washington's GMA was largely based on
7 Oregon's. Washington has no experience with the
8 siting and location issues related to these types of
9 projects. Precedence from areas with experience and
10 conflicts arising out of such solar development is
11 coming to light.

12 Jackson County, Oregon, the land use board of
13 appeals reversed an approval by the Jackson County
14 Board of Commissioners, finding that if -- finding
15 that if criteria for the developers cited were a
16 legitimate reason for converting farmland, such
17 exceptions have become commonplace. They also found
18 that Oregon's goal of energy conservation is not a
19 requirement to build new renewable energy
20 facilities.

21 Counties and cities collectively have spent
22 millions of dollars to comply with the Growth
23 Management Act, what is the purpose and force of the
24 Growth Management Act or its hearing board decisions
25 if EFSEC can simply ignore them?

1 How do we on the local level develop our
2 criteria for siting and location of solar facilities
3 if the growth management regulations we have to base
4 them on simply can be ignored by another
5 state-regulating entity?

6 In TUUSSO's application, each individual site
7 has its own individual soil classifications, and
8 therefore, must be considered individually, not
9 lumped together for one expedited approval.

10 RCW 80.50.101 reads, in part, the legislature
11 recognizes that the selection of sites will have a
12 significant impact upon the welfare of the
13 population, the location and growth of industry, and
14 the use of the natural resources of the state. It
15 is the policy of the State of Washington to
16 recognize the pressing need for increased energy
17 facilities and to ensure through available and
18 reasonable methods that the location and operation
19 of such facilities will produce minimal adverse
20 effects on the environment, ecology of land, and its
21 wildlife.

22 More of our lands whose soils are designated
23 of being of long-term commercial significance cannot
24 be made. They are as environmentally sensitive as
25 the lands the solar company states it's avoiding the

Page 58

1 use of due to environmental sensitivity.

2 There are --

3 MR. STEPHENSON: Sir, we're at three minutes
4 and over.

5 MR. DUNNING: There are alternative sites
6 available with less significant soil
7 classifications. We want the right land use at the
8 right place. Thank you.

9 MR. STEPHENSON: And your written testimony
10 can be given over to Tammy over there and we'll get
11 the entire part of it if you wish.

12 MS. POTIS: Speaker No. 12.

13 MS. DONOVAN: Good evening. My name is
14 Colleen Donovan and I own about three acres here in
15 the valley, and I'm very supportive of solar as part
16 of our mix in terms of our sustainable future and so
17 on. My own house is solar passive, and I'm a
18 terrible PSE customer because I use hardly any
19 electricity.

20 But tonight I just wanted to comment with
21 regards to supporting Commissioner Jewell's position
22 on the land use in the county and making sure that
23 the county is able to put together its own policies
24 prior to having this process expedited.

25 And it may be that the five sites are okay

1 with this particular case, but I think the precedent
2 that it sets is extremely crucial in terms of the
3 future. I think there's a very, very real risk of
4 paving the way for renewal sprawl, and that is not
5 something that I don't think any of us want to
6 happen to our valley. And you can definitely see
7 this in California, even pieces of Oregon and
8 Washington as well. So I think we shouldn't get
9 ahead of the process and let the county work its way
10 through.

11 And lastly, with regard to land use
12 practices, I would say that in addition to the
13 vistas and the beauty that we all love, I think it's
14 also important to evaluate the impact on the
15 property values, and perhaps, based on other
16 comments on a site-by-site basis because I think
17 there absolutely will be a negative or potential
18 negative impact on the property values for those
19 situated next to the sites, so that's definitely
20 important to consider. Thank you very much.

21 MR. STEPHENSON: Thank you.

22 MS. POTIS: Speaker No. 13, Donald Chance.

23 MR. CHANCE: Mr. Chairman, before I start, I
24 have a question. I don't quite understand why the
25 general public in this section of the hearing is

Page 60

1 being restricted to three minutes quite militantly,
2 when you allowed the proponents 20 minutes, 30
3 minutes, individually, I mean, they must have spoken
4 for an hour plus during the same format.

5 Now, do they get different rules than the
6 rest of us do?

7 MR. STEPHENSON: Sir, we try to get time for
8 folks to present their cases. All the things you
9 want to say will be listened to, and as I've said,
10 we'll listen to them in writing. Yes, in these
11 situations the proponent gets to present their case
12 and the county gets to present their case, and the
13 public, which is a lot of us, we are listening and
14 you're actually taking up part of your three minutes
15 by asking the question, and so I -- I respect your
16 question.

17 MR. CHANCE: Actually, you're taking up my
18 time.

19 MR. STEPHENSON: Well, you asked me to talk.

20 MR. CHANCE: Is this like a football game?
21 Do the referees get to back the time to reset the
22 clock here?

23 MR. STEPHENSON: Do you want to go?

24 MR. ROSSMAN: Sure. Please give us your
25 comments, please give us written comments, and we'll

1 take them under advisement and go forward.

2 MR. CHANCE: I'm sorry?

3 MR. ROSSMAN: Please give us your comments
4 and your written comments and we'll take them under
5 advisement and go forward. And thank you for the
6 point.

7 MR. CHANCE: My name is Donald -- Dr. Donald
8 Chance. I'm a retired land use planner,
9 environmental planner, 45 years, former county/city
10 planning director, and for 20 years I've represented
11 the association of Washington business, the timber
12 industry in this state, and other business entities
13 specifically in land use matters. Much of SEPA,
14 much of GMA, I was a principal architect and
15 lobbyist to pass those statutes.

16 I have a variety of concerns associated with
17 this project and I live in the county. Due process
18 questions, the project clearly doesn't qualify under
19 the WAC rules for expedited processing. The SEPA
20 scoping issues particularly dealing with cumulative
21 impacts, and my written testimony goes through that
22 in some detail.

23 But my principal comment that I want to
24 comment on, the main focus is the inconsistency of
25 the proposal with the state's overarching land use

Page 62

1 policies, goals, and regulations as established in
2 the Growth Management Act, and the
3 precedence-setting implication of approving this
4 project on GMA agricultural protection regimes
5 across the state for local governments. We know of
6 at least 18 projects that have been proposed in the
7 county. We're trying to redirect those projects
8 into non-irrigated ag lands.

9 And the precedent that will be set here on
10 the decisions that you guys make could open the door
11 to not just these five projects but potentially
12 dozens and dozens of projects later in the county,
13 that's the cumulative impact question here.

14 The circumstances for your organization or
15 committee, it strikes me that this is a brand new
16 class of projects that you have not already dealt
17 with before. I mean, you basically were set up to
18 deal with multi-state power lines and once in a
19 generation large-scale power plants, not literally
20 hundreds of small-scale solar projects that are
21 probably coming down the pike.

22 The need for WAC adjustments to accommodate
23 and have a closer tie to GMA so there's not a break
24 between the --

25 MR. STEPHENSON: Give him his full three

1 minutes.

2 MR. CHANCE: The break between the state's
3 overarching policies on land use and the decisions
4 that this organization makes -- I mean, right now, I
5 know you have the statutory authority to do that,
6 but the question is, is that appropriate? So thank
7 you.

8 MR. STEPHENSON: Thank you.

9 MS. POTIS: Speaker No. 14, Joanne Chance.

10 MS. CHANCE: Good evening. My name is Joanne
11 Chance. I'm a retired environmental engineer. I've
12 worked for 40 years in different professional
13 positions involving regulatory affairs, technical
14 and managerial roles for both the government and the
15 private sector. I'm a resident of Kittitas County
16 where I also own a small -- with my husband -- a
17 Christmas tree production plantation.

18 I'm here tonight to express my strong
19 opposition to the TUUSSO Columbia Solar Project.
20 While I support solar, as many people have said
21 tonight and renewable energy facilities, I only
22 support them when they are properly sited. And the
23 TUUSSO project, as we've heard many times tonight,
24 is not properly sited because it would be installed
25 on prime agricultural irrigated land.

Page 64

1 I support all of the issues and problems that
2 have been identified by my co-opponents tonight such
3 as the inconsistency with our state land use
4 policies and the Growth Management Act and SEPA.
5 And impacts to ag and the fact that there are
6 thousands of non-irrigated acres that are more
7 appropriate for the location of this large-scale
8 industrial project.

9 But let me move on to my two, three, new
10 points. One of these is the adverse legal
11 precedence regarding land use that would be
12 established if you approve these five industrial
13 projects. We all know that you would be giving the
14 green light to many other projects to go in on their
15 irrigated land if you approve this project because
16 it will be precedent-setting, you haven't seen one
17 like this before.

18 So this applicant will come forward with 13
19 more and other applicants will come, and soon, we
20 will have a checkerboard pattern of industrial
21 facilities across our agricultural valley, which
22 brings me to my second point.

23 That is its incompatibility with rural
24 character and a landscape of regional significance.
25 And as we've talked about -- the commissioner talked

1 tonight, there is no way that these industrial
2 complexes of 30 to 60 acres are conducive and
3 compatible with agriculture.

4 The pictures that were presented by the
5 consultant aren't even close to the sites. I would
6 like to know how far away the pictures were taken.
7 I could barely see just a slim line of solar panels
8 or something in the distance. They were not
9 representative of the visual impact that we're going
10 to have here. So it will impact our rural
11 character. It's obvious it will.

12 Kittitas Valley has been recognized over
13 100 years in literature by citizens and visitors
14 that we are a uniquely beautiful and lush valley.
15 The Columbia River Gorge recognized their uniqueness
16 and they did not allow in their planning process to
17 have solar panels right down along the river of the
18 Columbia River Gorge. I think the Kittitas Valley
19 deserves the same respect.

20 Thirdly, if you'd just bear with me for just
21 one more minute or 30 seconds --

22 MR. STEPHENSON: Please.

23 MS. CHANCE: My third one is environmental
24 justice and it relates to land use. The U.S.
25 Environmental Protection Agency and the Washington

Page 66

1 State Department of Ecology have supported and
2 worked for years to rectify the unfair and
3 inequitable practice under which lower income,
4 urban, and rural communities who are fewer in
5 number, voting power, prestige, and power are forced
6 to bear a disproportionate amount of the impacts of
7 infrastructure and commercial development. Their
8 living environment is degraded.

9 Isn't this what we're saying is happening
10 here? Kittitas County has already had to support
11 the installation of a contentious wind turbine power
12 generating facility.

13 Why should Kittitas County be required to
14 supply a disproportionate share of renewable energy
15 projects to supply the power generation needs of
16 multi-national corporations and a Seattle-based
17 population and at the expense of our available local
18 resource, our irrigated lands?

19 MR. STEPHENSON: Thank you.

20 MS. CHANCE: I support solar facilities which
21 are properly sited but not those on irrigated
22 farmland. And if you approve this project, you'll
23 be giving a black eye to the face of green power and
24 green energy now and into the future. Thank you for
25 the opportunity to comment.

1 MS. POTIS: Speaker No. 15. And if Speakers
2 16 through 20 would please come forward and sit in
3 the front row seats, thank you.

4 MR. KIRKPATRICK: Hi. I'm Mark Kirkpatrick,
5 I'm a citizen of Kittitas County. I think the solar
6 projects are a great alternative for landowners to
7 achieve the highest and best use of their property.

8 Once constructed, these sites historically
9 have a very low impact to the environment, noise,
10 water, and transportation impacts. In fact, they
11 can easily return the land back to its original use
12 if the landowner so wishes.

13 TUUSSO's projects help us meet our state and
14 federal goals of clean energy. I think these
15 projects would be forward thinking by our county to
16 use such a small portion of our ag land for such a
17 large amount of clean energy.

18 As a consumer of electricity where I live,
19 work, and travel, I appreciate the large investment
20 like organizations like TUUSSO, PSE, and PUD put
21 forward to help this preserve this amenity we have.
22 Thank you.

23 MR. STEPHENSON: Thank you.

24 MS. POTIS: Speaker 16, Jerry Price. Speaker
25 16.

Page 68

1 UNIDENTIFIED SPEAKER: He had to leave.

2 MS. POTIS: Okay. 17, then, Matthew Cox. No
3 Speaker 17?

4 MR. COX: No, I'm on my way.

5 MS. POTIS: Oh, all right.

6 MR. COX: I didn't know 16 wasn't showing up
7 so...

8 MS. POTIS: 18, 19, and 20 and 21, please
9 come forward and sit in the front row seats.

10 Thanks.

11 MR. COX: My name is Matthew Cox, I'm a
12 full-time farmer here in Kittitas County, and I'll
13 be brief. I just want to reiterate the statements
14 of Paul Jewell and many others here, dozen or so
15 others, about the need to protect or irrigated
16 farmland, our prime farmland, our publicly-funded
17 irrigated projects.

18 I'm a big proponent of solar power, I think
19 it's an important addition to our power generation,
20 and I just wanted to reiterate those feelings and
21 protect our ag 20 zoning and keep some of the
22 industrial projects in more appropriate areas.

23 Thank you.

24 MR. STEPHENSON: Thank you. Speaker 18,
25 Keith Crimp.

1 MR. CRIMP: Yes, Keith Crimp, Ellensburg Golf
2 Club. Say, I just wanted to go ahead and concur
3 with the gentleman that just spoke up and the young
4 lady in the gray pants suit and confirm exactly
5 that's how we feel.

6 Now, specifically to the type of project,
7 Doug Dicken spoke to his irrigated farmland right
8 there, and it is in pasture land, he wants to go
9 ahead and put his 20,000 panels in there, but I tell
10 you, we just love going in and seeing those cattle
11 and those horses grazing right there. And he put in
12 a brand new Reinke irrigation system here about five
13 years ago, and so he got away from the flood
14 irrigating and he's just doing a wonderful job,
15 irrigating the land via that.

16 But my big concern is this, the other four
17 sites probably don't deal with people like we do.
18 We've got 3 to 400 people that play our golf course
19 every day. The other four sites, even though I feel
20 for them, they probably got mostly cropland and
21 horses and cattle grazing and maybe a few farmhouses
22 around.

23 But here, my big concern I didn't get to
24 expand on is the financial impact. You cannot go
25 ahead and hurt the little guy at the expense of

Page 70

1 putting in a big operation such as TUUSSO is putting
2 in.

3 I'm quite concerned about wages for our ten
4 employees diminishing. We are, I know, the only
5 golf course in the valley, and we know the
6 population of the Kittitas County is growing
7 tremendously, and we expect our revenues to rise
8 accordingly. Unfortunately, I just can't take the
9 chance and I don't want to take the chance of having
10 this go ahead and hurt us down the line.

11 Irrigated land, I want it to stay irrigated
12 land. I think the power of -- TUUSSO should put
13 their solar panels outside with all of the
14 non-irrigated land.

15 I just have one other concern -- well, two
16 other concerns, I know the environmental spokesman
17 person said that there's no migratory concerns
18 because we're not in the flight pattern. But every
19 spring we got 500 geese that roost right out there
20 in Mr. Dicken's land and on our golf course.

21 And the river across the land is also
22 inhabited by the geese that roost in five washtubs
23 that were put there by the Washington State Game and
24 Fish. Now, right now when I was playing golf today,
25 I looked out there and I only saw a couple of them.

1 Some of them may have fallen down or whatever, but a
2 lot of guys go down there and hunt also, so you're
3 going to have gunshots that are going to be ringing
4 around, and I think your solar panels could also
5 have a problem being hit by some gunshot. But
6 anyway, I consider it a migratory pattern, and we
7 just love to see the geese out there.

8 The last thing is, they've got to go ahead
9 and go through our easement to go ahead and get to
10 their land to go ahead and put in their solar
11 panels, and I'm quite concerned that there's going
12 to be some problems with an accident or whatever
13 with this easement, because we have to go ahead and
14 cross that easement on Doug's land when we go ahead
15 and have our guys sit range so I'm quite concerned
16 about accidents. Thank you.

17 MR. STEPHENSON: Thank you.

18 MS. POTIS: Speaker 19, Stan Blazynski.

19 MR. BLAZYNSKI: Good evening, again. Stan
20 Blazynski. This Council -- this Council is not
21 being asked for expedited process. This Council is
22 asked to set a precedent to allow circumventing
23 local regulations. Because we know it's a fact that
24 numerous other applicants just waiting.

25 So in effect, this Council would not approve

Page 72

1 five separate little projects, this Council would
2 approve an array of different projects all around
3 the county. Once you allow one company to
4 circumvent the local process, the same has to be
5 granted to another. This Council knows that, like I
6 said, there are many, many, many other projects
7 coming in if this one is allowed.

8 Under SEPA regulations, this Council has to
9 weigh a cumulative impact of all these known
10 projects. This is not about five little projects,
11 the Council has to know and this is not hard to find
12 out on many, I think many, many again.

13 So we know for sure that we are not debating
14 here today about five little 30 to 50-acre projects,
15 we are debating today here about allowing many,
16 thousands of acres.

17 Just out of curiosity, I give this Council
18 some numbers. Previous project that was debated and
19 got denied, Iron Horse, would produce roughly about
20 1.2- megawatt output. One wind farm turbine, the
21 new generation, produces 2.2 megawatts of power,
22 almost twice what 50 acres of glass would produce.

23 Just to replace the Bonneville Dam output --
24 I put everything here in writing, I'm going to
25 supply that -- would take 28,000 acres of

1 agricultural land, okay? Just output, Bonneville
2 Dam is on the bottom of the output on Columbia
3 River, it's the -- I think it's second smallest. It
4 will take 28,000 acres to replace just that.

5 So if the proponent here tells percentage was
6 very, very little, these farms produce no
7 electricity, they take a lot of precious land, and
8 please do not set a precedent. Thank you.

9 MR. STEPHENSON: Thank you.

10 MS. POTIS: Speaker No. 20, Roger Clerf.

11 MR. CLERF: Good evening and thank you for a
12 chance to speak with you this evening. My name is
13 Roger Clerf. I currently live near Cle Elum but I
14 was raised on a farm east of Kittitas, and I still
15 farm part of which was my father's farm at that
16 time.

17 I am against the positioning of the solar
18 farms in the Kittitas Valley area. If you look at a
19 map of Kittitas County, you'll see it's a rather
20 large county. It stretches 60 to 80 miles east and
21 west from the crest of the Cascades to the Columbia
22 River, and from its farthest northwest extremities
23 to the southeast perhaps over 100 miles. It is a
24 large county.

25 But when you're looking at that map, you have

Page 74

1 to look two or three times to find where the
2 Kittitas Valley is. The Kittitas Valley forms only
3 about 10 percent of the land area of the Kittitas
4 County, and the farmland in the valley is even less
5 than that.

6 Now, I'm probably not the oldest person in
7 this room but I can remember back to 1950 when I was
8 about a 9- or 10-year-old boy. And at that time, it
9 was virtually unknown for a man who owned a business
10 or had a job in the city of Ellensburg or one of the
11 smaller towns to have a home and live in the
12 country. It was virtually unknown. I would say
13 that at that time, at least 90 percent of the houses
14 in the valley were occupied by a farmer or a farm
15 employee.

16 Now that situation is almost reversed or is
17 reversed. Probably 90 percent of the houses in the
18 rural area of Kittitas county are non-farmer,
19 non-farm employee occupied. That means a large
20 portion of the farmland -- not a majority yet, but a
21 large portion of the farmland is now divided up into
22 1-, 2-, 3-, 5-, and 10-acre parcels that are no
23 longer intensively farmed.

24 In the last 50 or 60 years we have lost at
25 least 10,000 acres and perhaps 20,000 acres that had

1 been intensively farmed back in the '40s and '50s
2 and is now in rural home sites.

3 Now, our county has not done a very good job
4 of preserving farmlands but it is mandatory that we
5 preserve farmlands. And siting solar farms in the
6 middle of the good farming country is just one more
7 encroachment and one more means of converting
8 farmland into some other use.

9 We no longer have a true rural character in
10 Kittitas Valley, simply because every highway, every
11 bi-way, and every dirt road is lined by houses and
12 small-acreage parcels. True, they may be pasturing
13 a few horses, they may be raising a few steers, few
14 goats or sheep, but it is not intensively farmed
15 like it was many, many years ago.

16 And consequently, I fear that the next
17 50 years we'll see this valley wall-to-wall houses
18 and other uses such as solar farms or other
19 non-agriculture uses, and I am certainly afraid of
20 that.

21 King County used to be covered with truck
22 farms and dairy farms as well as Snohomish County
23 and Pierce County. Now nothing is farmed over
24 there, very few dairy farms. So I'll end with that
25 and thank you.

Page 76

1 MR. STEPHENSON: Thank you.

2 MS. POTIS: Last speaker, No. 21, Charles
3 Weidenbach.

4 MR. WEIDENBACH: My name is Charles
5 Weidenbach. I live on 3300 Nameum Road. I'm a
6 farmer, have been full-time since '97. I've really
7 been around farming all my life. And before that,
8 from '74 to '97, I worked as a salesman in Yakima
9 covering Kittitas County part of the time and also
10 farming on weekends and evenings.

11 I too am concerned about solar power being
12 placed on prime irrigated land. I really want to
13 support the local people here and the committee
14 that's working on siting making a plan for solar
15 power, and right now I went to one meeting and it
16 was obvious that they're really going through a
17 good, thorough process, and I realize this TUUSSO
18 company wants to expedite it, but it's important
19 that the county works through the process and is
20 listened to, I really believe that.

21 I would also like to say that we have a local
22 newspaper and even a Cle Elum newspaper, and they
23 both have had some, I think, informative information
24 on solar power and the different angles, and I agree
25 that everything in there is not accurate but it

1 gives some idea of what the local view of it is.
2 And there certainly is a lot of land in this valley
3 that could be sited for solar where the wind is now
4 that is on non-irrigated land that would be more
5 appropriate.

6 Why destroy something we've got that's good
7 for the long term? It's not a good plan and agree
8 it has a domino effect. If you put five in now, how
9 many more are going to be in next year?

10 So I think keeping -- about planning for the
11 county and the wishes of the majority of the people
12 are definitely to keep the valley productive in
13 irrigated land and site something like an industrial
14 solar plant in a better location which would be a
15 dry land area and there's a lot of it in this
16 county. Thank you.

17 MR. STEPHENSON: Thank you. So at this
18 point, I need just a moment. I'm going to ask you
19 to indulge us. I want to thank you for the very
20 civil and measured and helpful and impassioned and
21 careful and wonderful responses that you've given to
22 us, we're listening.

23 I need a moment now to work with my Council
24 members and staff to figure out exactly how to close
25 out this meeting, and I think there's going to be a

Page 78

1 couple Council questions. And I hope that we will
2 take less than 15 or more minutes, maybe 20 at most
3 to finish this out.

4 But let's take a two-minute -- just a
5 two-minute break and we'll be right back.

6 (A short recess was had.)

7 MR. STEPHENSON: All right. Let's reconvene,
8 if we can. Thank you. Let's start again.

9 I'd like to take a couple Council questions
10 to talk about this process. And first Council
11 Member Rossman.

12 MR. ROSSMAN: Yeah, thank you. I do have a
13 couple questions and these are for the first
14 speaker, the attorney for the applicant, if I may.

15 So, Mr. McMahan, I believe?

16 MR. MCMAHAN: Correct. Thank you. Yes. I
17 introduced myself.

18 MR. ROSSMAN: I was hoping you could just
19 very briefly explain why you think the moratorium
20 isn't relevant to our analysis here.

21 MR. MCMAHAN: Yeah, happy to do that. Just a
22 minute here.

23 MR. ROSSMAN: Then I'll have one or two more
24 questions, and then if the commissioner is still in
25 the room, I have a question or two for him as well.

1 UNIDENTIFIED SPEAKER: Could you repeat what
2 your question was there?

3 MR. ROSSMAN: Yeah, I was hoping he could
4 speak briefly as to why the moratorium is not
5 relevant to our consideration in his view.

6 MR. MCMAHAN: Thank you very much for the
7 question. I understand the confusion about this.

8 The EFSEC statute RCW 80.50.020(22), defines
9 a zoning ordinance, which is what we're talking
10 about here, as an ordinance of a unit of local
11 government regulating the use of land and adopted
12 pursuant to a whole litany of enabling authority for
13 land use.

14 The moratorium only applies to the acceptance
15 of solar applications in the county. So this
16 moratorium is a moratorium on accepting
17 applications. It is not a change -- there is no
18 change that's been made thus far to the county's
19 ordinances dealing with the conditional use process
20 or the criteria or approval of conditional uses.

21 Now, in Save Our Scenic Area vs. Skamania
22 County, that is an EFSEC case that went to the
23 supreme court, the supreme court indicated that the
24 moratorium is a valid tool of local government for
25 stalling permit applications but indicated that it

Page 80

1 does not repeal, amend, or contradict the existing
2 regulations, and therefore, in that case, which is
3 an EFSEC case, there was a determination made that
4 the moratorium is not a zoning ordinance nor is a
5 part of the Comprehensive Plan, which I think is
6 what Commissioner Jewell said it was.

7 MR. ROSSMAN: Okay. Thank you. Second, in
8 the memorandum that you submitted, you site to a
9 number of sections of the county code titles, and I
10 notice that not on that list is 17(b) Shorelines.

11 MR. MCMAHAN: Right.

12 MR. ROSSMAN: Can you speak to whether your
13 proposal is or is not consistent with that?

14 MR. MCMAHAN: Yes, thank you, Commissioner
15 Rossman, for that question. We've had conversation
16 with staff about this. The state's shoreline
17 regulations and the state's EFSEC statute and rules
18 exempt Shoreline Management Act from EFSEC review
19 and process. We
20 have -- and is not actually part of the zoning code
21 per se either.

22 The Shoreline Management Act, the Shoreline
23 Master Program really stands in its own regulatory
24 format. We have, however, erring on the side of
25 caution, submitted a Shoreline Management Master

1 Program application using the Kittitas County form
2 for that very small piece of shoreline that is on
3 the Yakima River for the Typha site.

4 MR. ROSSMAN: And then my last question for
5 you, I'm having just a little bit of a cognitive
6 conflict between the idea of sort of the expedited
7 process for these and then the concept of
8 conditional use as being where you sort of look
9 really intensely at whether the characteristics of
10 the site and the use that are proposed for the site
11 are appropriate.

12 MR. MCMAHAN: Right.

13 MR. ROSSMAN: And it seems like the expedited
14 process removes some of the procedural and
15 substantive tools that we would have to look into
16 impacts at a particular site, including the
17 adjudicative process and the ability to commission
18 our own independent studies on impacts so I'm hoping
19 you can speak briefly, again, recognizing we're
20 trying to conclude, as to whether you see a conflict
21 there and what channels do you see as available to
22 EFSEC to evaluate the on-site specific impacts if we
23 do go the expedited route.

24 MR. MCMAHAN: Yeah, that's a great question.
25 The expedited process that EFSEC has adopted is an

Page 82

1 unusual process. I don't think it's actually been
2 used before, not for a full blown new application.
3 And in our application that we submitted to you, we
4 anchored the application on an in-depth analysis of
5 the county's conditional use permit process and
6 criteria, that is any application, and I've
7 summarized it in the hearing memorandum itself.

8 So as to the substance, the substantive
9 content of the zoning inquiry, I don't, you know, I
10 mean, I don't think it's any different than what
11 one -- what a local hearing examiner would consider
12 in this county. And in fact, there was a local
13 hearing examiner and the examiner decision on the
14 Iron Horse case that found that project to be
15 consistent and compliant with county code, went to
16 the Board of Commissioners, we can talk about all
17 the drama thereafter.

18 So yes, but the Council is -- was within its
19 authority in enacting expedited permitting for
20 facilities to do that in a different and expeditious
21 fashion. There still will be SEPA review which will
22 drill down on some of these impacts as well I trust.

23 MR. ROSSMAN: Thank you.

24 MR. ELLIOT: Can I ask -- I'm a little new
25 having been appointed by the local jurisdiction, so

1 I'm getting my arms around this. But do you believe
2 that the expedited process was envisioned to handle
3 five desperate different projects within a fairly
4 wide geographical zone?

5 I mean, usually EFSEC has worked on projects
6 that are individual projects, not diverse projects.
7 I'm just wondering how you think that's consistent.

8 MR. MCMAHAN: Well, my answer, Commissioner,
9 is I don't see how it's inconsistent. What we've
10 done -- and there was a lot of pre-application
11 consultation with EFSEC staff on this point, we
12 could have filed five different applications, and we
13 were counseled and came to a concurrence that rather
14 than five different EFSEC applications, these were
15 all really a consistent portfolio of projects that
16 all provide some geographical diversify and feeding
17 power into the Puget Sound Energy grid much like I
18 suppose five gas turbine generators might.

19 But when it's translated into solar
20 facilities it's not really like having five natural
21 gas generators altogether because you go to
22 potentially different locations to have some
23 diversity of resource and access to the grid. So
24 rather than the hassle, frankly, of having five
25 different applications, five different hearings,

Page 84

1 five different site certifies, five different
2 processes, we analyze each and every project in
3 depth as individual projects for compliance with the
4 code, compliance with environmental considerations.

5 You've heard about these various efforts of
6 evaluation of the visual resources and others
7 tonight. So that's what we did, we bundle it into a
8 single application for efficiency, we felt that that
9 was the right approach, and again, there was
10 concurrence with EFSEC staff before we did that.

11 I would add as an anecdote that I happened to
12 work in Oregon as well, and I have a project kind of
13 like this that we're working on in the Oregon EFSEC
14 system for those very same reasons that it's just a
15 different kind of land use than is typical and
16 conventional with other generation facilities.

17 MR. STEPHENSON: Thank you, Mr. McMahan.
18 Council Member Rossman has another question, I
19 believe.

20 MR. ROSSMAN: Yeah, this is for Commissioner
21 Jewell, so if no other members have questions --

22 MR. STEPHENSON: You go.

23 MR. MCMAHAN: Thank you.

24 MR. JEWELL: Hello again. I hope you don't
25 mind, my legal counsel is here. I feel a little,

1 shall we say, at a disadvantage compared to the
2 applicant's counsel. I'm not an attorney, so if you
3 don't mind, and if it would be appropriate if I
4 could get his assistance perhaps in answering your
5 question not knowing what it is ahead time.

6 MR. ROSSMAN: Fair enough.

7 MR. JEWELL: Okay. Excellent. Mr. Caulkins,
8 deputy prostituting attorney with Kittitas County.

9 MR. ROSSMAN: Thank you, yes. I think it's
10 maybe a two-part question. So recognizing the
11 county's position that the moratorium should control
12 here, if that's not the case, have you submitted any
13 written comments or are you able to share any
14 comments with us today as to whether if we're
15 viewing it based on the regulations that are in
16 place and not considering the moratorium, whether we
17 should find it consistent in that case?

18 MR. JEWELL: Sure, I'll begin and I'm sure
19 Mr. Caulkins will have a couple things to add.
20 First of all, I think it's important to note for the
21 record that the Board of County Commissioners
22 actually never received notice of this hearing
23 today. It only came to our Community Development
24 Services Office.

25 And to my knowledge, we were not aware that

Page 86

1 the county even had an opportunity to make a
2 presentation. I simply came prepared today to
3 provide testimony on behalf of the county and behalf
4 of the Board of County Commissioners, and had we
5 known that we would have been given 10 or 20 minutes
6 to make a presentation, we would have done so.

7 I consulted with Mr. Caulkins, my deputy
8 prosecuting attorney, our legal counsel, and he
9 actually wasn't even aware that there was a legal
10 brief regarding consistency filed by the applicant's
11 counsel. So we really do feel like we're kind of at
12 a bit of a disadvantage here today before you, but
13 we will do our best to answer your question.

14 With regard to the moratorium, that's a tool
15 that is allowed by state statute and specifically
16 also within the GMA. I'm sure counsel -- or I'm
17 sure the applicant's counsel was correct, it's
18 intended to stop applications for particular land
19 use actions at least temporarily from being accepted
20 by the county or the city who imposes the
21 moratorium.

22 Of course, the reason that is the case is
23 because when an application is filed, once it's
24 deemed complete, it vests to the current regulations
25 that are in place at that time. So as it moves

1 through the review process, regardless of any change
2 in local land use ordinances or development
3 regulations, that application has a time certain
4 upon which it is reviewed and it's immune from those
5 changes that are land use controls moving forward.

6 So the ordinance that we used to impose the
7 moratorium, it's intent was clear and the result was
8 what we had intended. We did not want any further
9 applications to vest to what we felt were inadequate
10 land use controls and development regulations at the
11 time.

12 Mr. Caulkins, do you have anything else to
13 add?

14 MR. CAULKINS: Yes, good evening. For the
15 record, Neil Caulkins, deputy prosecuting attorney
16 representing Kittitas County. Your question, as I
17 understood it, was beyond this question of
18 moratoria, what is our stance as a -- have we
19 submitted some other reason why this application or
20 this raft of applications is not consist with local
21 land use.

22 And I would submit to you that what has been
23 submitted by Commissioner Jewell as the decision of
24 the superior court in the One Energy case, the Iron
25 whatever, solar farm case, stands for that

Page 88

1 proposition. The idea there is that even in the
2 absence of a moratorium, which that case occurred
3 prior to the imposition of such, even in the absence
4 of a moratorium, a solar farm does not necessarily
5 comport with Kittitas County Land Use Code. It was
6 denied and that approval was affirmed by the court.

7 And so there is another instance as to where,
8 even beyond the moratorium, there is evidence that
9 such a thing is not necessarily consistent with our
10 land use code.

11 MR. ROSSMAN: So the second part of the
12 question, then, should we take that as the sort of
13 substantive comments you would have on consistency
14 from a conditional use perspective and just read
15 that for that proposition?

16 MR. CAULKINS: I don't think so.

17 MR. STEPHENSON: You said no?

18 MR. CAULKINS: Yes.

19 MR. STEPHENSON: Need any more?

20 MR. ROSSMAN: I think that's all right. I do
21 have one other questions.

22 And my last question for Commissioner Jewell
23 is can you speak at all to -- do you have any
24 knowledge that you can share with us as to how these
25 became a conditional use under the present code and

1 sort of what the vintage of that was and whether --
2 what the county's thinking was in allowing this as a
3 conditional use?

4 MR. JEWELL: Sure. I don't know how familiar
5 you are with Kittitas County and our history under
6 the GMA, it's long and sorted. Since the GMA's
7 inception or life or creation, you know, I've been a
8 county commissioner since 2000 but I've heard the
9 stories involved, and I certainly was involved in
10 many of our GMA compliance efforts since 2008, and
11 we finally became compliant May 15, 2014. I think
12 that might actually be the first day we were
13 compliant with the GMA.

14 And a lot of what you see in our development
15 regulations and our Comprehensive Plan is a result
16 of many, many, many years, if not decades, of
17 efforts of trying to come into compliance.

18 Now, the alternative energy generation
19 facilities that are in our code really had to do --
20 you'll find most of that around utilities and how
21 utilities are sited in our code and the alternative
22 facilities sites are kind of grouped in there.

23 It was an attempt at the time to just really
24 have kind of a placeholder not knowing what was
25 going to come down the pike but by placing them as a

Page 90

1 conditional use, we then have the opportunity for
2 site-specific evaluation on a case-by-case basis.

3 There is absolutely no circumstance under
4 which we anticipated the demand that we're facing
5 today where we really do have evidence of over a
6 dozen applications potentially being filed across
7 Kittitas County for facilities very much like you
8 have before you and very much like what we
9 previously reviewed in the Iron Horse case.

10 And so what we discovered was, you know, we
11 didn't anticipate this, our development regulations
12 were woefully inadequate, and that's why we imposed
13 the moratorium when we did. I hope that answers
14 your question.

15 MR. ROSSMAN: Very well. Thank you.

16 MR. STEPHENSON: I think we have one more
17 question from Council Member Elliot.

18 MR. ELLIOT: County Commissioner Jewell,
19 would the county look favorably on putting written
20 testimony for the record on their -- how they feel
21 about the moratorium?

22 MR. JEWELL: I think we certainly look
23 favorably on the opportunity to provide written
24 testimony for certain, much more detailed written
25 testimony. We certainly would like the opportunity

1 to see the legal brief submitted by the applicant's
2 counsel and provide testimony, written or otherwise,
3 with regard to that document.

4 It's not something that we've had the
5 opportunity to actually view prior to today.

6 MR. STEPHENSON: Yes, it's on the website.

7 MR. POSNER: It is on our website.

8 MR. JEWELL: Okay. And we know there's many
9 documents and the full application on the website
10 which we're in the process of reviewing. Again,
11 just restating, though, we really did not know we
12 would have an opportunity to make a presentation
13 today. So had we known that, we would have been
14 better prepared.

15 MR. POSNER: If I could just respond to that
16 point if I could get the microphone turned on.
17 Let's see.

18 So on that point, actually, when we -- when
19 we sent out notification letters to Kittitas and the
20 optional state agencies asking that the county
21 appoint a Council member, there was information in
22 there about a land use hearing and an informational
23 meeting being held in December, we didn't have the
24 specific date at that time.

25 So we did provide some information and a

Page 92

1 notification was sent to -- when we had the specific
2 date for this meeting and this hearing, it was sent
3 to Kittitas County, it was also posted on our
4 website. I'm not sure if it was actually sent to
5 the Board of County Commissioners, we're checking on
6 that now.

7 MR. JEWELL: We did receive the notice asking
8 us to make the appointment, which we followed
9 through with, we did also receive a notice of this
10 meeting and the agenda to our Community Development
11 Services Office, but I don't believe, I could be
12 mistaken, I may have missed it, that's possible, but
13 I usually am pretty careful about those things, I
14 don't remember seeing any notice that we would
15 actually be entitled to make a presentation along
16 with the applicant.

17 MR. STEPHENSON: So let me ask the question,
18 as a Council, we often get requests to extend the
19 timeframe and I'm loathed to do that --

20 MR. JEWELL: As a county commissioner, I
21 often get the same requests and I empathize with
22 your position.

23 MR. STEPHENSON: Thank you. And as a county
24 Council person I am listening to you pretty strongly
25 here in terms of it seems that that's compelling.

1 If we opened this for a few more days to give
2 you time to provide written testimony, it would not
3 be open just to you, it would be open to everybody
4 if we did this, and I'm looking at our attorney
5 general down here, our assistant attorney general to
6 make sure we're doing this right.

7 If we open this for a few more days, would
8 that work?

9 MR. THOMPSON: Certainly. I think you have
10 that discretion, yeah.

11 MR. JEWELL: Would a few days be as much as
12 14, perhaps?

13 MR. STEPHENSON: Are we negotiating now? How
14 about 10?

15 MR. JEWELL: We'll take 10. It will just
16 take us time, obviously, you know, to look at the
17 appellant's citations and do the legal research
18 necessary, so but we will definitely try to
19 accommodate any schedule that you put forward.

20 MR. POSNER: Council Member Stephenson, I
21 would concur with that option, particularly since
22 the county hasn't had an opportunity to look at the
23 brief, and I think that the information that the
24 Council was getting this evening and if you do
25 extend it, that is the information that the Council

Page 94

1 would need to base their determination on land use
2 consistency.

3 So I think, from my perspective, the more
4 information you have in front of you to inform you
5 about the land use consistency, the better. So I
6 think giving the county an opportunity to at least
7 respond might be a benefit to the Council.

8 MR. STEPHENSON: So let's, then, say 10 days.

9 MR. POSNER: Well, whatever time period, I'm
10 not sure but at least a few more days or whatever it
11 is Council decides.

12 MR. ROSSMAN: Just a question, would it be
13 permissible to us to just leave it open for 10 days
14 just to hear from the county and then perhaps a
15 small period of time for the applicant to respond,
16 or do we need to leave it open for all public
17 comment?

18 MR. POSNER: Well, I think, you know, our
19 rules contemplate that the applicant and the county
20 are going to provide the bulk of the testimony. If
21 you read our rules, it says essentially that the
22 applicant makes a presentation and so does the local
23 land use authority.

24 So in my view, you know, I think we have
25 heard from the public this evening, I think that the

1 county has expressed concerns or they've expressed a
2 desire to provide more information and I think that
3 would be a benefit for the Council to have that
4 information.

5 MR. STEPHENSON: All right. So let's say 10
6 days, I think that would be the 22nd, which is the
7 Friday week after this, and we'll ask for that back
8 and this will be an opening of the entire public
9 comment. Anybody that wants to can come in with
10 more comments, correct?

11 MR. POSNER: Well, I think that's a Council
12 decision, I don't know that you can restrict it to
13 just the county providing the --

14 MR. STEPHENSON: That's what I'm saying, if
15 we open it for 10, I don't think without a complete
16 Council decision, I don't think we can say we're
17 going to restrict it just to Kittitas County here.

18 MR. ROSSMAN: Mr. Chair, I motion that we
19 hold the record open for 10 days for additional
20 written submissions.

21 MR. ELLIOT: Second.

22 MR. STEPHENSON: So it's moved and seconded.
23 And we do have a quorum today, so all in favor say
24 aye.

25 COUNCIL MEMBERS: Aye.

Page 96

1 MR. STEPHENSON: All right. Thank you.

2 MR. ROSSMAN: So just question to staff, can
3 you put information up on our website about how
4 those comments can be submitted?

5 MR. POSNER: Yes, we will.

6 MR. ROSSMAN: Thank you.

7 MR. STEPHENSON: All right. So thank you
8 once again for a very civil and helpful
9 presentation, we obviously are still collecting
10 information on this and will continue to do so in a
11 straightforward manner the best we can for the next
12 10 days, and then we'll start working from there.

13 I want to thank, first of all, Kittitas
14 County, the fairground folks that were here from the
15 armory have been very helpful in getting this room
16 set up; our EFSEC staff have done their normal
17 incredible job, you don't see all that behind the
18 scenes work that they do; and then maybe the hardest
19 working person here tonight was Dani Craver over
20 here, doing our court reporting, and I just want to
21 give her a hand from the entire group.

22 Thank you. I think we're done for tonight.

23 (PROCEEDINGS CONCLUDED AT 9:34 P.M.)

24

25

