



Washington State Energy Facility Site Evaluation Council AGENDA

MONTHLY MEETING
Wednesday September 18, 2024
1:30 PM

HYBRID MEETING
[Click here to join the meeting](#)
Conference number: 564-999-2000 ID: 699286814#

- 1. Call to Order Kathleen Drew, EFSEC Chair
- 2. Roll Call Andrea Grantham, EFSEC Staff
- 3. Proposed Agenda Kathleen Drew, EFSEC Chair
- 4. Minutes **Meeting Minutes**..... Kathleen Drew, EFSEC Chair
 - August 13, 2024 Goldeneye BESS Info Meeting and Land Use Hearing Minutes
 - August 21, 2024 Monthly Council Meeting Minutes
 - August 29, 2024 Horse Heaven Special Meeting Minutes
- 5. Projects
 - a. **Kittitas Valley Wind Project**
 - Operational Updates.....Jarred Caseday, EDP Renewables
 - b. **Wild Horse Wind Power Project**
 - Operational Updates.....Jennifer Galbraith, Puget Sound Energy
 - c. **Chehalis Generation Facility**
 - Operational Updates.....Jeremy Smith, Chehalis Generation
 - d. **Grays Harbor Energy Center**
 - Operational Updates.....Chris Sherin, Grays Harbor Energy
 - e. **Columbia Solar**
 - Operational Updates.....Thomas Cushing, Greenbacker Capital
 - f. **Columbia Generating Station**
 - Operational Updates.....Denis Mehinagic, Energy Northwest
 - g. **WNP – 1/4**
 - Non-Operational Updates.....Denis Mehinagic, Energy Northwest
 - h. **Goose Prairie Solar**
 - Project Updates.....Jacob Crist, Brookfield Renewable
 - i. **High Top & Ostrea**
 - Project Updates.....Sara Randolph, EFSEC Staff
 - Construction Stormwater General Permit (CSWGP).....Sara Randolph, EFSEC Staff

The Council may consider FINAL ACTION on the CSWGP for the Ostrea project.
 - j. **Horse Heaven Wind Farm**
 - Project Updates.....Amy Moon, EFSEC Staff
 - k. **Wautoma Solar**
 - Project Updates.....Lance Caputo, EFSEC Staff
 - l. **Hop Hill Solar**
 - Project Updates.....John Barnes, EFSEC Staff
 - m. **Carriger Solar**
 - Project Updates.....Joanne Snarski, EFSEC Staff
 - n. **Wallula Gap**
 - Project Updates.....John Barnes, EFSEC Staff
 - o. **Goldeneye BESS**
 - Project Updates.....Zia Ahmed, EFSEC Staff
- 7. Adjourn..... Kathleen Drew, EFSEC Chair

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

WASHINGTON STATE

ENERGY FACILITY SITE EVALUATION COUNCIL

Goldeneye Battery Energy Storage System Project
Public Informational Meeting and Land-Use Hearing

August 13, 2024

Sedro-Woolley, Washington

Reporter: John M.S. Botelho, CCR, RPR

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1 PUBLIC INFORMATIONAL MEETING AND LAND-USE HEARING
2 APPEARANCES

3 STATE AGENCY MEMBERS:

4 Kathleen Drew, Chair
5 Elizabeth Osborne, Department of Commerce (*)
6 Eli Levitt, Department of Ecology (*)
7 Mike Livingston, Dept. of Fish and Wildlife (*)
8 Lenny Young, Department of Natural Resources (*)
9 Stacey Brewster,
10 Utilities & Transportation Commission (*)

11 LOCAL GOVERNMENT AND OPTIONAL STATE AGENCIES:

12 Goldeneye BESS:

13 Robby Eckroth, Skagit County

14 ASSISTANT ATTORNEY GENERAL:

15 Jon Thompson (*)

16 ADMINISTRATIVE LAW JUDGE:

17 Dan Gerard

18 COUNSEL FOR THE ENVIRONMENT:

19 Yuriy Korol (*)

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1 PUBLIC INFORMATIONAL MEETING AND LAND-USE HEARING
2 APPEARANCES (Continuing)

3 COUNCIL STAFF:

4 Ami Hafkemeyer Zia Ahmed (*)
5 Joan Owens Adrienne Barker
6 Andrea Grantham Trevin Taylor
7 Karl Holappa

8 IN ATTENDANCE:

9 Alex Martin, Tenaska
10 Tommy Nelson, Tenaska
11 Tim McMahon, Attorney, Stoel Rives
12 Jordan Grace, Tetra Tech

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23 (*) indicates remote attendee
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1 BE IT REMEMBERED that on Tuesday,
2 August 13, 2024, at Sedro-Woolley Community Center,
3 715 Pacific Street, Sedro-Woolley, Washington, at
4 5:31 p.m., the following Public Informational Meeting
5 and Land-Use Hearing of the Washington State Energy
6 Facility Site Evaluation Council was held, to wit:
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8 <<<<<< >>>>>>
9
10 CHAIR DREW: Good evening. My name
11 is Kathleen Drew, and I chair the Washington Energy
12 Facility Site Evaluation Council. And sometimes I
13 even forget the words in the name, but you can call
14 us "EFSEC."
15 Welcome to all of you who are here in person and
16 for those of you who may be joining us online as
17 well. This is the first of two meetings. This is
18 the public informational meeting. And this is
19 required by RCW 80.50.090(1) and WAC 463-26-025.
20 The EFSEC staff and the applicant will introduce
21 themselves and the counsel for the environment, who
22 is an assistant attorney general appointed by the
23 Washington attorney general, and will explain the
24 duties of this position. And then we will have
25 presentations, and then we will have the public

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1 invited to provide comments.
2 The second meeting, which will begin after the
3 first meeting ends -- potentially about 7:00 is what
4 we expect -- and that is specifically about land-use
5 consistency.
6 And I will begin now calling this meeting to
7 order and asking Ms. Grantham to call the roll.
8 MS. GRANTHAM: Certainly, Chair
9 Drew.
10 Department of Commerce.
11 MS. OSBORNE: Elizabeth Osborne,
12 present.
13 MS. GRANTHAM: Department of
14 Ecology.
15 MR. LEVITT: Eli Levitt, present
16 online.
17 MS. GRANTHAM: Department of Fish
18 and Wildlife.
19 MR. LIVINGSTON: Mike Livingston,
20 present online.
21 MS. GRANTHAM: Department of
22 Natural Resources.
23 MR. YOUNG: Lenny Young, present.
24 MS. GRANTHAM: Utilities and
25 Transportation Commission.

<p style="text-align: right;">Page 6</p> <p>1 MS. BREWSTER: Stacey Brewster, 2 present. 3 MS. GRANTHAM: For local government 4 and optional State agencies: For the Goldeneye BESS 5 project, for Skagit County, Robby Eckroth. 6 MR. ECKROTH: Hi. 7 MS. GRANTHAM: Assistant attorney 8 generals. Jon Thompson. 9 MR. THOMPSON: Present. 10 MS. GRANTHAM: Jenna Slocum. 11 Zack Packer. 12 Administrative law judge: Dan Gerard. 13 ALJ GERARD: Present. 14 MS. GRANTHAM: And for the counsel 15 for the environment, Yuriy Korol. 16 MR. KOROL: Present. 17 MS. GRANTHAM: And for Council 18 staff, I will call those anticipated to speak tonight 19 as well as admin staff who are here. 20 Ami Hafkemeyer. 21 MS. HAFKEMEYER: Present. 22 MS. GRANTHAM: Joan Owens is 23 present as admin. 24 Karl Holappa. 25 MR. HOLAPPA: Present.</p>	<p style="text-align: right;">Page 8</p> <p>1 development with Tenaska, and I'm the project 2 director for the Goldeneye project. Tenaska is an 3 Omaha, Nebraska, based company with over 35 years of 4 experience in the energy space, with a long history 5 of developing, constructing, safely operating 6 facilities, and safely operating facilities across 7 the country. 8 With me are several of my colleagues from our 9 engineering group, development, community engagement, 10 as well as environmental consultants and safety 11 experts as well. We won't take too much time to 12 introduce each of them for the sake of brevity, but 13 if questions are asked and they speak to them, then 14 they can introduce themselves. 15 Before I turn it over to Tommy Nelson, our lead 16 project manager, to introduce the Goldeneye project 17 and the need for it and its benefits, I'd like to 18 just take a second to say we recognize our role here 19 tonight is not only to introduce the project but to 20 listen to your input and to take action from that 21 input and incorporate it in the creative manner to 22 develop the best project possible. 23 In my experience and my belief, when we take that 24 input into account, we come back with better projects 25 and more sustainable projects. So thanks very much,</p>
<p style="text-align: right;">Page 7</p> <p>1 MS. GRANTHAM: Zia Ahmed. 2 MR. AHMED: Present. 3 MS. GRANTHAM: Adrienne Barker. 4 MS. BARKER: Present. 5 MS. GRANTHAM: And Trevin Taylor. 6 MR. TAYLOR: Present. 7 MS. GRANTHAM: Chair, there is a 8 quorum. Thank you. 9 CHAIR DREW: Thank you. 10 And with that, we will start with the 11 presentation and introduction of the Goldfinch energy 12 storage -- and the microphone. 13 Once again, so we will start with Goldfinch 14 energy storage project presentation, and the team 15 will introduce themselves. Thank you. 16 MR. MARTIN: Hello. Can everyone 17 hear me okay in the back? Okay. Excellent. Thanks 18 for the thumbs-up. 19 Good evening, Chair Drew, Council members, folks 20 on the line, members of the community here in the 21 room. Thank you for the opportunity to be here 22 tonight to introduce the project, the Goldeneye 23 project to you, and to listen to your questions and 24 comments. 25 My name is Alex Martin. I'm a senior manager of</p>	<p style="text-align: right;">Page 9</p> <p>1 again, for the opportunity to be here tonight. I'll 2 turn it over to Tommy. 3 MR. NELSON: Thank you. 4 Can everybody hear me in the back? All right. 5 So we're going to start with a brief overview of 6 the technology that we're discussing here. 7 What is a battery energy storage system? And I 8 do want to take a quick moment at the top of this to 9 say that all the pictures here and in the 10 presentation -- and these are pictures from the 11 presentation -- while they might have labels on them, 12 they don't necessarily represent the exact 13 manufacturer that we're going to go forward with. 14 That decision hasn't been made yet. So just a caveat 15 at the top here. 16 But basically what a BESS facility is, they're 17 designed to charge from the grid or store power and 18 then discharge back to the grid when there's a 19 shortfall of power. Important to note that these 20 facilities don't generate power. They're just power 21 that's generated elsewhere. And once these projects 22 are built, the facility won't require any water or 23 sanitary facilities. They will be unmanned. 24 A few of the kind of what we like to call quick 25 facts about BESS at this project size, which is, you</p>

<p style="text-align: right;">Page 10</p> <p>1 know, 200 megawatts: It's going to require 2 approximately 20 acres of full project footprint. 3 These do represent a low-impact form of development. 4 They are low noise. They comply with the noise 5 ordinance. Like I said, they're unstaffed once 6 they're operational, so there's no traffic -- ongoing 7 traffic impact. There's no light or air pollution 8 once it's operating. Very low visual impact. 9 The kind of maximum height of the units, 10 themselves, is around ten feet, so a single story. 11 They can easily be obscured with visual buffering -- 12 fences and walls and vegetative buffering -- and we 13 try to, you know -- we've already begun the process 14 of working with the County on, you know, what those 15 might look like. And then, again, no ongoing 16 infrastructure needs once these are operating. 17 As far as project siting and how we decide where 18 one of these is going to go, well, it does begin kind 19 of at its point of interconnection at the substation. 20 Stand-alone BESS facilities have to be as close to 21 the substation as possible, to -- along the 22 transmission system to give the project the maximum 23 efficiency for the grid. Ideally, they're already 24 suited -- I mean, ideally they're already going to be 25 sited next to, you know, either a substation or a</p>	<p style="text-align: right;">Page 12</p> <p>1 will be certified by an independent engineering firm, 2 which, you know, is what is required for these things 3 to get financed and insured. 4 There are about north of 20,000 BESS facilities 5 operating across the United States right now, and 6 several of those are in the state of Washington now 7 operating. And I would say that the industry has 8 definitely learned from some rare yet very well- 9 publicized malfunctions at some of the first- 10 generation BESS facilities. 11 But because of that, since then, there's been 12 advancements in siting, advancements in technology, 13 operating, and especially the commissioning of these 14 projects. And with all of that collective knowledge 15 and lessons learned, that's what kind of combines to 16 make these a safe energy solution. And on an ongoing 17 basis, our team is committed to working with the 18 local Skagit County emergency management folks, 19 working with the first responders, the ones that are 20 tasked with responding to these facilities, and make 21 sure that the appropriate training and resources and 22 implementation is in place for them. 23 One of the things that we do when we first 24 commission one of these projects is we have a 25 manufacturer-led first responder safety training.</p>
<p style="text-align: right;">Page 11</p> <p>1 very constrained previously area with a lot of 2 existing infrastructure, where our facility can 3 integrate along with that infrastructure. 4 And with kind of all, you know, those kind of 5 backstop parameters in mind, we, you know, look for 6 the best available site that minimizes the overall 7 impacts that the project is going to have while it 8 maximizes the benefits to the region. 9 These projects like the project that we're 10 talking about tonight, Goldeneye, use 11 state-of-the-art battery technology. They are -- we 12 only work with Tier 1 manufacturers that we can trust 13 are going to deliver a safe product. Manufacturers 14 that have demonstrated that their equipment meets or 15 exceeds all of the safety standards that the industry 16 has either put in place recently or have existed. 17 And we do work closely with those BESS safety experts 18 for every aspect of the design. 19 And here tonight we've got some of our 20 consultants from our safety -- fire protection safety 21 engineers and safety consultants that we use in 22 developing our plans for the project, and they're 23 here to answer any questions as well. 24 Once the project is, you know, later in its 25 design phase, all the safety and technical aspects</p>	<p style="text-align: right;">Page 13</p> <p>1 Excuse me. And then on a biannual basis, we bring 2 back the first responders to keep getting trained and 3 retrained. And, again, this is led by the 4 manufacturers participating with -- with our safety 5 consultants. And the idea is that, on an ongoing 6 basis, they're catching, you know, lessons learned. 7 They're catching updates to fire safety code. And 8 they're also catching, you know, turnover in the 9 first responders as people come and go. 10 And while these can absolutely be operated and 11 installed safely, we do know that there are 12 questions, and the kind of community education aspect 13 is an important piece of our outreach for this 14 project. And, you know, we've definitely seen and 15 heard questions and concerns about utility-scale BESS 16 systems. We do want to make sure that folks 17 understand that those concerns don't necessarily need 18 to be, you know, applied to the projects where 19 technologies are getting conflated or different 20 applications and make sure that, you know, they're 21 considered an apples-to-apples comparison. 22 And we are absolutely committed to working with 23 our partners in the industry to provide as much 24 information as possible to our stakeholders, to 25 answer questions, and to clarify any</p>

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1 misunderstandings or help provide background and
2 information throughout the process. To that end,
3 we've made, you know, the website live. We've had
4 multiple venues here for education and feedback.
5 We've got a contact form on the website. Questions
6 can be submitted directly to that e-mail address. We
7 have a project-specific ringtone that you can
8 download.
9 We do have a BESS explainer or introductory video
10 that can be made available on the project website --
11 or sorry -- is available on the project website.
12 And, you know, like I said, we got our -- our safety
13 experts here at the open house available to answer
14 questions as well.
15 Wanted to talk a little bit about the project
16 need, but I don't need to belabor this. I'm sure
17 Council heard it there, that the meat of these
18 projects is driven by the legislative level. The
19 utilities then respond to those legislative mandates
20 with solicitation requests, and these projects or
21 projects such as these are responses to
22 solicitations.
23 The thing that we like to kind of focus on is
24 that there is absolutely at the utility level in this
25 region a need for capacity, which is firm

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1 dispatchable power. Those are the things that need
2 to get -- or the generation that needs to get
3 replaced from retired base load generators or, you
4 know, contracts that are expiring and not being
5 renewed for a variety of reasons. And these projects
6 provide that firm dispatchable capacity that the
7 utilities need to keep the lights on.
8 There are definitely challenges that this region
9 specifically faces. The, again, legislative kind of
10 mandates that -- that filter down. And then we have
11 a electrification of vehicle fleets happening,
12 extreme weather events that keep happening, and then
13 coupled with that, you've got ongoing growth, ongoing
14 demand increase. We've got energy-intensive uses,
15 such as data centers that a region's trying to
16 (unintelligible) in, and the region, itself, is
17 already at risk for blackouts and brownouts. So with
18 this firm dispatchable power, that's what is going to
19 be the backstop for regions such as this.
20 I do like to point out too that throughout the
21 process, it's projects such as these that -- you
22 know, infrastructure projects such as these that pay
23 for the interconnection or the transmission system
24 upgrades that are desperately required. Those do get
25 included in utility long-term plannings. But when

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1 the project comes along and supports that
2 transmission upgrade, that's where it ends up going.
3 So our proposed project, Goldeneye project,
4 itself, it's located on -- I think most people here
5 know where it is, but it's on Minkler Road, just
6 northeast of the Sedro-Woolley substation. Kind of
7 catty-corner to it. It's on about -- it's a 14-acre
8 parcel. About eight acres of it will be encumbered
9 with batteries, about, you know, less than, you know,
10 four-tenths of a mile east of the Sedro-Woolley
11 substation.
12 And we've got the project parcel under option.
13 And we -- you know, for several years now, we've been
14 collaborating with local stakeholders on our site
15 plans, on our environmental mitigation measures, on
16 buffer enhancements, on controlling nonnative
17 vegetation, and several other things.
18 UNIDENTIFIED SPEAKER: Could you
19 speak up? (Unintelligible.)
20 MR. NELSON: Sure. That better?
21 All right. So the -- more project details here.
22 Again, I mentioned this project is just northeast of
23 the Sedro-Woolley substation. It is connecting at
24 230 kilovolts. This is on the transmission system.
25 This project does have a signed interconnection

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1 agreement, and the point of interconnection is the
2 Sedro-Woolley substation.
3 We are looking to start operations somewhere
4 between 2026 and -- as early as 2026 or 2027. And
5 it'll -- once it starts construction, it'll be from
6 kind of start to finish about a 12-month build
7 period. That won't look the same all 12 months, but
8 it'll start and end at about that.
9 And one thing I also like to kind of point out on
10 this, I know there's a -- we have this also blown up
11 over there, but if folks want to notice where the
12 project is kind of northeast of also Hansen Creek.
13 And we've stayed outside the shoreline buffer.
14 That's what the big empty space at the bottom
15 represents.
16 And also we have some larger versions of these as
17 well to look at. But these are some renderings that
18 we did for our submittal that show existing and
19 proposed conditions along Minkler Road as you're
20 heading -- you know, in this view, heading northeast
21 on Minkler Road. So the top is how it looks today,
22 and the bottom is how it would look during operations
23 once the plantings have reached maturity. And we've
24 also got another view here coming the opposite way on
25 Minkler Road. So now you're heading southwest and

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1 passing what would be, you know, the more inundated
2 side of the project on the -- on the eastern side.
3 This is just an extra view there as well.
4 And, finally, on the views, this is the
5 Sedro-Woolley substation here. An aerial view just
6 to the south of the project. Very similar footprint
7 to what our project would look like. And one of the
8 things I like to always tell people when they try to
9 conceptualize what these look like is a self-storage
10 facility, where, you know, you drive in, and they've
11 got a couple of aisles you go down, and maybe the,
12 you know, roll-up garage doors. But in terms of
13 visual, you know, line and, you know, vertical
14 relief, they're extremely similar looking at it
15 aerially or standing there.
16 And we'll also talk a little bit about the
17 benefits of the Goldeneye project. It represents
18 a -- and this is, you know, as we kind of review
19 this, we -- we also want to make sure that we, you
20 know, again note that this is an ongoing discussion
21 with the community, and we -- we have been meeting
22 with stakeholders and discussing community benefits,
23 packages for the project. And we want to, you know,
24 keep that conversation ongoing.
25 But this represents an approximately \$250 million

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1 investment. At its peak, it will be approximately a
2 hundred union jobs from local union labor. We have a
3 signed MOU. And this project will provide energy
4 security, that crucial capacity for growing
5 businesses and residential development, and help
6 strengthen the electrical infrastructure. These
7 projects, projects like this, are what allow for the
8 maximization of integration of renewable resources.
9 And, you know, in Skagit County, what this represents
10 is, you know, about a hundred thousand homes for
11 eight hours or so of power.
12 And, finally, just, you know, again reviewing the
13 low-impact nature of this development. I do want to
14 kind of point out two specific bullets on here:
15 That this project will still undergo -- as, you
16 know, Trevin and I were talking about before the
17 hearing, this will still undergo a full SEPA
18 analysis, including a biological Class 3 cultural
19 wetlands evaluation, Phase 1 environmental site
20 assessment, and we don't anticipate the project will
21 result in any impacts that cannot be mitigated.
22 As part of the stakeholder engagement and
23 community outreach that I mentioned, we've been
24 engaging with stakeholders across the region,
25 incorporating community feedback, and really trying

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1 to incorporate that into what our plan is for what
2 this project will provide for the community.
3 We met with over 60 stakeholders in the
4 community, including from tribes, including elected
5 officials, community organizations, and that was all
6 introducing the project, providing briefings, and
7 getting any input or feedback prior to our
8 application submittal back in June.
9 And I do want to highlight again that we have a
10 signed MOU with labor. Do want to highlight that
11 we've been engaging with the Skagit River System
12 Cooperative to collaborate -- excuse me -- on
13 environmental protection with Hansen Creek, and,
14 again, we have the website and contact form live.
15 And I will stop there for any questions.
16 CHAIR DREW: Thank you very much.
17 I will ask for questions from Council members.
18 Is there a way I can get the meeting screen up here,
19 or will somebody have to let me know if there are
20 Council members with questions?
21 MS. GRANTHAM: Chair Drew, this is
22 Andrea Grantham. I have Teams open, so I can let you
23 know if someone raises their --
24 CHAIR DREW: Okay.
25 MS. GRANTHAM: -- hand on the

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1 Teams.
2 CHAIR DREW: Thank you. I do have
3 a couple of questions.
4 First of all, how many utility scale BESS
5 facilities have you developed?
6 MR. NELSON: Number of facilities?
7 CHAIR DREW: Or some scale. Just
8 give us some -- some -- you don't have to -- some
9 scale of how much you have worked in this arena.
10 MR. NELSON: 40 or 50 active in
11 development and...
12 MR. MARTIN: Several in development
13 and several in construction.
14 CHAIR DREW: Okay.
15 MR. NELSON: Yeah, I think we have
16 a handful that are just at the operational stage.
17 CHAIR DREW: And you have a signed
18 interconnection agreement. Can you tell us who that
19 is with?
20 MR. MARTIN: We -- we do. That's
21 with PSE.
22 CHAIR DREW: Thank you.
23 MR. MARTIN: Sorry. Thank you.
24 Yes, to answer your question, we do have a large
25 generator interconnection agreement signed with PSE.

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1 CHAIR DREW: Okay. Puget Sound
2 Energy.
3 Is there a specific advantage that will -- this
4 community gains by having such a facility in their
5 area, or does it go to -- directly to the grid on
6 larger transmission flow?
7 MR. NELSON: So the -- the answer
8 to your question is both. It helps to think of power
9 in -- in the same way with water. Because this is --
10 this project is located so close to its injection
11 point, once it goes onto the grid, it will go to
12 the -- the shortest path of least resistance to where
13 it's needed. In times --
14 CHAIR DREW: Do you still need to
15 hear him?
16 UNIDENTIFIED SPEAKER: I couldn't
17 hear the answer to the question. I couldn't hear him
18 answer the question about how many systems he has on
19 line right now.
20 CHAIR DREW: So if you would answer
21 that one again, please.
22 MR. NELSON: I'm not sure how many
23 we have on line. We have a few in our California
24 portfolio that have just come on line.
25 CHAIR DREW: But you said you had a

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1 number that are in construction.
2 MR. NELSON: We have a number in
3 development and a number in construction as well.
4 CHAIR DREW: Okay.
5 UNIDENTIFIED SPEAKER: So you have
6 no track record.
7 CHAIR DREW: Okay. So thank you
8 for your question. And not hearing the answer, I am
9 going to ask for questions from the Council, and I'll
10 try and keep this really short. And if you have
11 questions, please state them when you come up for
12 your remarks, and I am sure that the company,
13 Tenaska, will take note and talk to you, answering
14 your question after the meeting.
15 So we won't have a back-and-forth at this point.
16 We had the open house. We'll take comments. And
17 then if you have a question, we'll make sure there's
18 follow-up.
19 MR. NELSON: Thank you.
20 CHAIR DREW: Are there other -- so
21 the answer to the question in an advantage, yes, it's
22 close to going onto the grid, but there could also be
23 an advantage to provide it locally. Is that true?
24 MR. NELSON: Correct.
25 CHAIR DREW: Okay. Are there

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1 questions from other Council members?
2 MS. GRANTHAM: I'm not seeing any
3 questions right now from the Council members.
4 UNIDENTIFIED SPEAKER: Can you
5 speak up a little bit for people that are hard of
6 hearing?
7 CHAIR DREW: Yes. Thank you. We
8 will continue to emphasize that.
9 Okay. Then we will move to the next item on our
10 agenda, which is EFSEC siting -- EFSEC siting process
11 presentation. And that will be Mr. Trevin Taylor.
12 MR. TAYLOR: Hello. My name's
13 Trevin Taylor. I am an environmental planner for
14 EFSEC. I'll be the SEPA specialist on this project,
15 helping Zia Ahmed, who's going to be your --
16 basically your main point of contact through the
17 project. He can't be here tonight, but he's online,
18 so I'm going to walk through EFSEC. I'm going to
19 make an absolute mistake that new public speakers are
20 supposed to say, is I've been on EFSEC for two
21 months. So you're going to have to bear with me on a
22 couple of these. I might need to get some questions
23 from more experienced people, but...
24 So what is EFSEC? The Energy Facility Site
25 Evaluation Council was actually started in 1970.

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1 Their job is to basically help energy projects,
2 especially large ones, to go through sort of a
3 one-stop shop of basically permitting and
4 environmental compliance and overview. The type of
5 projects that they're known for basically that are
6 required to go through EFSEC would be anything from a
7 nuclear power plant, natural gas and oil pipelines,
8 underground natural storage facilities. Those kind
9 of things require certification from EFSEC. And that
10 is going to be basically the product that will come
11 out of our process as a certification to the
12 governor.
13 That -- that recommendation goes through a
14 commission that we have. And the final decision, the
15 final decision that comes through the governor's
16 office will basically preempt any state or local
17 permitting.
18 So tonight we actually have in the house our
19 chair, Kathleen Drew; online, the Department of
20 Ecology, Eli Levitt; Department of Fish and Wildlife,
21 Mike Livingston; Department of Commerce, Elizabeth
22 Osborne; Department of Natural Resources, Lenny
23 Young; Utilities and Transportation Commission is
24 represented by Stacey Brewster.
25 One of the -- I got to remember that. One of

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1 the -- one of the optional -- you have also optional
2 agencies that can join in with EFSEC depending on the
3 project and location and things. It might be the
4 Department of Agricultural, Department of
5 Transportation, or Department of Health, Military
6 Department. Those are examples that aren't
7 necessarily permanent seats all the time but might
8 join as needed.
9 Also tonight we actually have Robby Eckroth -- I
10 hope I'm pronouncing it correctly -- representing
11 Skagit County. As you know, this project is within
12 Skagit County jurisdiction, and they will be
13 reviewing the project as it's going through the
14 process.
15 Also what's kind of unique is if a project goes
16 through a port, then the port will be a nonvoting
17 member but will have full review of the application
18 review process.
19 So what -- I mentioned a little bit, so basically
20 any nuclear power facility will fall under EFSEC.
21 Any nonhydro -- nonnuclear thermal plant that makes
22 over 350 megawatts would fall under our jurisdiction
23 for certification. Clean energy, manufacturing, and
24 transport. And then there's a couple of them that
25 can opt in, if they want. For instance, alternative

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1 energies such as hydroelectric or solar panels,
2 landfill, biomass, those kind of things can actually
3 opt in and go through our process, if they wish,
4 versus other permit options.
5 Transmission lines that are greater than 500
6 kilovolts are required to go through us. Although,
7 150 -- 115 kilovolts or less -- or 115 kilovolts up
8 to 500 can opt in.
9 Pipelines and refineries and storage facilities
10 actually have regulations, and they're a little bit
11 more in detail. If anybody's really interested in
12 it, they can look up RCW Code, or Revised Code of
13 Washington 80.50.060.
14 So this map here actually shows -- it'll be a
15 little bit tougher in the back of the room to be able
16 to see the color coding on it, but it is the
17 locations that are currently under EFSEC's
18 jurisdiction. There's six active facilities: Two
19 natural gas, one nuclear, one solar, and two wind
20 facilities. The blue marks on there -- once again, I
21 apologize that the marks are small, a little bit
22 tough to probably see. The blue marks on there are
23 basically facilities that are currently approved but
24 are under construction or will go to construction.
25 There's a clear circle that's kind of buried

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1 under the Columbia Generating Station that's really
2 tough to see, and that's actually one that is going
3 through decommission. EFSEC will follow these
4 projects from the initial start or from birth,
5 through construction, all the way to decommission.
6 So it is a unique office that follows the process
7 from birth to grave, as they say.
8 And then, of course, tonight here, we have seven
9 projects on here that are currently under review or
10 under application, and of course the Goldeneye
11 battery storage is one of those that's currently
12 under review and very early stages to the permit
13 process.
14 So where are we at in the process? This chart
15 here, I think the key thing with so many participants
16 here tonight from the community, I want you to really
17 pay attention to the green arrows. Those are all
18 opportunities for you to make public comment. So the
19 process doesn't steamroll through. It's a
20 three-tiered process, starting with the land-use
21 hearing, which actually will conclude after the
22 public comments tonight.
23 They will have a consistency determination that
24 will come out at some point in the process. Then as
25 that tier follows down, you'll also have a chance at

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1 the initiate -- initiate intervention process to more
2 public comment. Goes through a couple more reviews
3 to adjudicative hearings. And so that one tier alone
4 will basically give you three opportunities for
5 comment as the process is alone.
6 Tier 2, the SEPA side of it, is which I'll be the
7 most active in personally. There is basically a SEPA
8 determination. Now, this is where I'm going to -- I
9 don't -- I don't want to get too far in the weeds on
10 you, 'cause this is getting into a whole bunch of
11 permitting nerd stuff. But there's three things that
12 I want you to remember. Okay?
13 So you got determination of nonsignificance, a
14 mitigation, a mitigated determination of
15 nonsignificance, and a determination of significance.
16 So what do those three things mean?
17 Basically nonsignificant means that the project
18 really has no environmental take or no issues on the
19 project and kind of fast-forward through.
20 A mitigated determination, it means that it might
21 have a few takes, a few issues, but they should be
22 able to come up with some options to kind of
23 counterbalance that.
24 Then a determination of significance, which is
25 the most common one for EFSEC projects due to the

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1 scale of the size of the projects that we normally
2 build, means that, no matter what, we can't avoid
3 some type of natural resource. And that requires a
4 full-blown, what we call environmental impact study.
5 Okay? That's the famous one most you guys usually
6 hear about on the news. A long time to get through
7 an environmental impact study.
8 So this case here, if it goes through a
9 full-blown determination of significance, meaning a
10 full-blown impact study, you'll have two more comment
11 periods alone in just the SEPA process. The unique
12 feature that comes in -- we'll come back to in a
13 little bit here on the SEPA part. But then the third
14 piece is the permits.
15 EFSEC actually has authority over state permits,
16 and we will also have a public comment period before
17 we send that final package to the Council that then
18 gets sent on to the governor's office. So in all,
19 there's over six to seven potential times to
20 basically make comment, and we want to make sure that
21 everybody understands that, especially the larger
22 group we have tonight.
23 Okay. All right. I'm going to dare to bore you
24 one more time with a little bit of this SEPA stuff,
25 but I do want you to understand it. So if you

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1 remember I mentioned the other two processes is
2 basically known as the mitigated -- okay? -- where
3 they have enough countermeasures to kind of make it
4 even or just no issues at all.
5 If a project can show that they meet their
6 consistency land-use decision along with a
7 determination of nonsignificance, no take, no issues
8 on-site, or they mitigate it enough, they can
9 actually go through an expedited process per WAC
10 No. 46-43 -- 463 -- 463-43. That will actually save
11 them -- they have no environmental impact statement,
12 so they save the time and money there, and also no
13 required adjudication.
14 So if it's the MDNS, there is another 15-day
15 comment period. The DNS, no issues, is fast-forward
16 and they're kind of done. Okay?
17 So if a determination comes out of this that it's
18 one of these two, I want everybody in the room to be
19 aware that they made sort of a fast -- they either
20 were able to show that they have a low enough impact
21 to meet one of these standards. It's tough to get
22 there. And we're way early in the assessment process
23 to see if they're going to be eligible for either one
24 of those. Okay? So nobody's went past that.
25 I guess the next one. All right. Permit issues.

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1 So, once again, I'm going go on this real quick.
2 EFSEC has a unique opportunity from our position that
3 was granted to us years ago in the '70s. And so we
4 do have authority over certain permits, such as water
5 quality permits or air quality permits. We can
6 actually -- Department of Fish and Wildlife issues.
7 There's things like that. So because we're a State
8 agency, we're granted that authority to be able to
9 try to make it one-stop shopping. It gives us an
10 opportunity to have that third process. And, once
11 again, this will have your final opportunity -- I
12 won't say "final." Somewhere in that process, it
13 gives you another opportunity to have public comment,
14 if you wish.
15 Okay. So the Council will -- basically, Council
16 makes a recommendation to the governor. So that
17 packet that we're talking about comes down to a
18 certification. The packet is built with several
19 different aspects from those three tiers: A packet
20 of the permits, packet of that SEPA with all those
21 determination things I talked about, and of course
22 the adjudication issues, if it has them.
23 That package is then sent on to the governor's
24 office. They have 60 days to comply. The governor
25 then either comes back with one of three decisions.

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1 They either approve the application, and they're off
2 and running, which is off to the draft certification,
3 or they reject the application, and it is done.
4 Don't pass "Go" from there. That's -- so they
5 definitely don't want to get to that point.
6 Although, the governor can remand the project and
7 say, You know what? You're on the right track.
8 Although we need you to do this, this, and this. Or
9 why did the Council make such and such decision? And
10 then they basically come back with the justification
11 or to do additional research, if needed, to get to
12 resubmit it once again.
13 Now, compliance monitoring. As I said, we're
14 from the beginning -- from the beginning to the end.
15 So through the process, the EFSEC staff will also be
16 monitoring, on environment (unintelligible), the
17 things that they promise to do throughout the project
18 and through the site certification agreement
19 requirements. Also those permits will have
20 additional things that they'll be required to do from
21 construction -- from planning to construction to run
22 the facility.
23 So it doesn't just end once they're done
24 constructing it. It has ongoing compliance issues
25 that they have to keep in compliance.

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1 And then the third spot, if they're required to
2 do an environmental impact statement, that has even a
3 bigger pile of commitments that's built into that
4 document. And all those things EFSEC will keep an
5 eye on from the time that the project goes into
6 decommissioning, which is actually our next slide, I
7 believe.
8 So decommissioning. Once the project has lived
9 its life and it's time to shut it down, they
10 actually -- before they can go to construction, the
11 applicant is required to provide an initial site
12 restoration plan. That's basically, we'll call it
13 the initial ideas on someday this project's going to
14 live its life, and it's got to go away, and these are
15 the kind of things that you got to do to put the
16 property back or to make it the best shot at whole.
17 Now, what's unique about this is that once the
18 project has lived its life and they can then request
19 for actual full decommissioning, they have 90 days to
20 let the Council know that they're going to do a
21 detailed site to restoration, which basically before
22 that's approved to -- because things change, right?
23 Laws change. Science changes. And what's the best
24 way to replan a wetland or do some type of -- so that
25 gives the Council now time somewhere in the future to

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1 use the best available science and best decisions and
2 policies and laws. And before they can decommission,
3 they have to put in a 90-day plan to be approved to
4 do so.
5 And they also have to be required to show
6 financial -- financially secure to be able to follow
7 through with the process. And whoever receives that
8 approved certificate from the governor, it is
9 basically who is going to be required at that time of
10 decommissioning to show the financial responsibility
11 to decommission the site.
12 So I'm going to close out real quick here. Once
13 again, what a great showing for my first time out,
14 and hopefully it's like this every time. So, once
15 again, welcome. And so if you have e-mail, you can
16 send to comments@EFSEC.wa.gov, or you can call (360)
17 664-1345. They do accept regular mail at the address
18 there for the Energy Facility Site Evaluation Council
19 at 621 Woodland. And, of course, during those
20 comment periods that I mentioned, you can also go
21 online and write, once again, at
22 comments.EFSEC.wa.gov. So thank you very much.
23 CHAIR DREW: And that, I believe,
24 is a form that you can just enter your comment into;
25 is that correct? The comments database? And is that

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1 open until what time for this meeting?
2 MS. GRANTHAM: This is Andrea
3 Grantham. Chair Drew, I can answer that question for
4 you.
5 CHAIR DREW: Thank you.
6 MS. GRANTHAM: Yeah. It is an
7 online -- excuse me -- comment campaign, so it is a
8 form that you can fill out, and it will be open
9 from -- well, it's open now. It started at 5:00, and
10 it will close at 11:59 p.m. tonight.
11 CHAIR DREW: So you don't have to
12 write a separate e-mail or anything. You can just
13 tonight just go into that "comments" at EFSEC.wa.gov
14 and just insert your comments into that. So that's
15 another way to do it.
16 I did not ask our counsel for the environment to
17 speak, and so I would ask him to once again introduce
18 himself and let you know what the role of the counsel
19 for the environment, who is appointed by the attorney
20 general of Washington, is.
21 Go ahead, please.
22 MR. KOROL: Good evening, everyone.
23 My name is Yuriy Korol. I'm an assistant attorney
24 general here for the State of Washington. My role
25 here is statutorily to represent the public and its

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1 interest in protecting the quality of the
2 environment.
3 So as you just saw, there's plenty of
4 opportunities for the public to comment. And I will
5 also be a formal party for any adjudications that may
6 arise. So if you have any comments or evidence or
7 testimony you'd like to submit regarding those
8 issues, I'd be happy to hear them.
9 I will enter into the chat my contact detail so
10 you have those. And also on the EFSEC website -- I
11 mean, for the project site, itself -- my name and
12 contact detail should be pretty readily available.
13 So, yes, if you have any testimony to submit,
14 please let me know. Thank you.
15 CHAIR DREW: Okay. Thank you.
16 And with that, we will move to the public comment
17 period. We will go over 7:00 in order to accommodate
18 all these people, all of you who are here who wish to
19 speak. And we will have a two-minute time limit.
20 And I will turn it over to Judge Gerard to manage.
21 Go ahead.
22 MS. HAFKEMEYER: Excuse me. Thank
23 you. Sorry, Chair Drew. I just want to -- hello?
24 Okay. Thank you.
25 I just wanted to make sure that people know that

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1 the comment campaign website, the
2 comments.EFSEC.wa.gov, is open for specific comment
3 periods associated with the project milestone, but
4 the comments@EFSEC.wa.gov e-mail is available any
5 time. Regardless of the method they are received,
6 they are posted to the website to be publicly
7 available and made available to the Council for
8 review.
9 So if anybody misses a comment, wants to go look
10 at comments later, they will be available on the
11 website. And I've noticed that there are some -- a
12 person in chat posting some information. I would
13 encourage everybody to please submit their comments
14 through these avenues so that they can be properly
15 captured with the project record and made available
16 to the Council.
17 CHAIR DREW: That's right. We will
18 not -- the comments in chat will not be in the public
19 record. So, again, tonight during this comment
20 period, you can see the online portion of the screen
21 that says where you can type in those comments. At
22 the top, where it says "Public Input" -- thank you --
23 the comments@EFSEC.wa.gov is open any time for
24 comments. And those both go into the public record.
25 They are available to Council members. They're

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1 available to the public. So please use all avenues,
2 and send us a good old-fashioned letter if you want
3 to. Thanks.
4 ALJ GERARD: Good evening,
5 everyone. I'm Administrative Law Judge Dan Gerard.
6 I will be controlling the public comment section as
7 well as the comment section for the land-use hearing.
8 As Chair Drew said, everyone will have two
9 minutes for their comments. She said you can ask
10 questions of the proposal or the applicant here.
11 Don't expect an answer, because obviously our time is
12 limited. We do have, I think last check, 32 people
13 that are signed to make comments. So please make
14 your comments succinct as possible.
15 Obviously if -- obviously if you are unable to
16 complete your comment section, you can complete those
17 comments within the avenues provided to you by
18 Ms. Hafkemeyer earlier.
19 We do have a court reporter here today that will
20 transcribe everything into written format for us to
21 review later. So when you begin to speak, please
22 state and spell your name just so we get it correct.
23 With that, with the two-minute time frame, I will
24 do my best to prompt you when you have about 15
25 seconds left. That way you can wrap up whatever

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1 comments you wish to make at this point. I'll simply
2 raise my left hand just to give you a cue. But given
3 the number of people we do have speaking today, I
4 will enforce the two-minute rule rather strictly. So
5 please make sure you do cut off at that point.
6 So I think with that, if we go ahead and bring up
7 our first speaker, please.
8 MS. BARKER: The first speaker is
9 Lisa Janicki.
10 LISA JANICKI: Good evening.
11 Welcome to my hometown of Sedro-Woolley. And my name
12 is Lisa Janicki, J-a-n-i-c-k-i. I am a county
13 commissioner with Skagit County. And we have another
14 commissioner here who will be addressing some of the
15 issues.
16 I think the primary -- the primary concern that I
17 hear throughout the room and that the commissioners
18 are concerned with is the use of agricultural land
19 for a permanent project like this. You know, we work
20 really hard to protect our farmland, and including
21 a -- self-taxing our whole population to buy out
22 farmland legacy credits and putting conservation
23 easements across farmland so that we have this
24 ability to literally feed the world. It creates an
25 ache in all of our hearts to see a piece of farmland

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1 consumed with the project.
2 With that being said, I do appreciate Mr. Nelson
3 introducing the project to me in conjunction with our
4 economic development folks at EDASC. I absolutely
5 understand the need for enough power. I have
6 testified in front of the legislator -- legislature
7 and asked, You passed all these rules for new energy
8 codes, new buildings with all electric appliances,
9 electrifying the fleet, some of the things that
10 Mr. Nelson listed here. Who's doing the utility math
11 to make that happen?
12 And I remember the distinct answer from that
13 legislator who said, That's up to the utilities.
14 Well, that's why we're here. PSE did a call for
15 action because I know out at the Port of Skagit, they
16 cannot continue the industrial siting development of
17 existing projects and expansion projects because
18 there's not enough power. So we need the power. I
19 know this is not generation or transmission, but it's
20 part of the system that we need in place, so I get
21 it. Let's work on that farmland piece.
22 ALJ GERARD: Thank you.
23 MS. BARKER: Peter Browning.
24 PETER BROWNING: Thank you. I'm
25 Peter Browning, the other commissioner here. And I

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1 appreciate you coming and talking to us. I did meet
2 with Goldeneye early on, and we had a very good
3 discussion.
4 ALJ GERARD: Mr. Browning --
5 PETER BROWNING: One thing --
6 ALJ GERARD: -- would you --
7 PETER BROWNING: Yes.
8 ALJ GERARD: -- spell your name as
9 well, please.
10 PETER BROWNING: Oh. P-e-t-e-r
11 B-r-o-w-n-i-n-g.
12 And the one disappointing part was that I just
13 did not know and I was not led to believe that this
14 was going to become a state decision, and I feel very
15 strongly that it should be a local decision. I
16 understand that we -- we have been overruled on this,
17 and it's unfortunate.
18 The environmental impact. Hansen Creek is a huge
19 fish-producing creek, and so there is some concern
20 that it's absolutely well -- it has to be really well
21 protected, because this leads into the Skagit River.
22 Any sort of lithium-ion would be devastating for fish
23 production. And so, again, we're going to be
24 expecting some very, very diligent effort on your
25 part to make sure that we are absolutely protected.

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1 The floodplain area. It's kind of low. It's a
2 swampy area. It has to be elevated, so if there is a
3 flood, it's not going to be consumed with floodwater
4 in the spring or the -- or the fall. So we have to
5 be assured that it's going to be up high enough and
6 it's going to be protected area.
7 And, finally, we really expect that there would
8 be something on the verge of -- the order of a SWAT
9 team that is available to come out. So we do not
10 have firemen that are prepared to take on a fire of
11 the magnitude of a lithium-ion fire, battery fire.
12 So we want to make sure that one of the components of
13 this agreement is a very easily access -- people who
14 can be here very quickly if there is any sort of
15 hazard so that we're not putting our own community
16 members in danger nor are we putting our community in
17 danger. So -- and I'm hoping that will be a very
18 significant part.
19 Again, Mr. Nelson, I appreciate our conversation.
20 You were very honest with me, always, and I
21 appreciated that. So thank you.
22 ALJ GERARD: Thank you,
23 Mr. Browning.
24 MS. BARKER: Charles Johnson.
25 ALJ GERARD: Charles Johnson, are

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1 you here? Or online?
2 Let's go ahead and move on to next, and we can
3 call him at the end if we have time.
4 MS. BARKER: Seth Newsome.
5 ALJ GERARD: Seth Newsome, are you
6 here or online? If so, go ahead and speak up or come
7 to the podium, please.
8 MS. BARKER: Robert McCloud.
9 ROBERT McCLOUD: Good evening,
10 ladies and gentlemen. My name is Robert McCloud. I
11 am a field agent for the Laborers International
12 Union --
13 ALJ GERARD: Would you spell your
14 name as well, sir.
15 ROBERT McCLOUD: M-c-C-l-o-u-d.
16 I am a field agent for the Laborers International
17 Union of North America, Local 292, in Everett,
18 Washington. We cover the northern five counties:
19 Snohomish, Whatcom, Island, Skagit, San Juans. We
20 have roughly 250 members who live here in Skagit
21 County. Approximately 90 of those members live right
22 here in Sedro-Woolley. I arise today to express our
23 members' support for the Goldeneye energy storage
24 project.
25 The Goldeneye project will provide energy

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1 security for our local communities as the region
2 works to achieve a clean energy transition the State
3 of Washington has mandated. If we're going to be
4 relying on more renewable energy, then we need a way
5 to store energy so that it can be redistributed
6 during critical periods. Our union workforce, our
7 union members are proud to have a role in securing
8 the prosperous energy future for our communities.
9 Thank you.
10 ALJ GERARD: Thank you.
11 MS. BARKER: Lisa Stuurmans.
12 ALJ GERARD: And just a quick
13 reminder: Before you begin, go ahead and spell your
14 name, just so I don't have to interrupt your flow,
15 please.
16 LISA STUURMANS: Good evening.
17 Lisa Stuurmans. L-i-s-a S-t-u-u-r-m-a-n-s.
18 I'm an IBEW electrician. I live here in
19 Sedro-Woolley as a resident. And I wanted to speak
20 tonight in favor of constructing this facility using
21 skilled crafts workers with family-wage jobs.
22 It's not often enough that we have construction
23 projects this size here in Skagit County where
24 electricians like me can work so close to home.
25 Thank you for the opportunity to speak.

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1 MS. BARKER: Matt Phillips.
2 MATT PHILLIPS: Matt, M-a-t-t,
3 Phillips, P-h-i-l-l-i-p-s.
4 I live here locally with my family. I have
5 school-age children, own a local business, and have a
6 13-year career in public safety as a firefighter here
7 in Washington. I love the neighborhood feeling and
8 community-focused lifestyle we have here in
9 Sedro-Woolley, the abundant wildlife, outstanding
10 scenery, et cetera.
11 I'm going to blast through this, so bear with me.
12 I'm here today to strongly oppose the proposed 800
13 megawatt hour battery energy storage system in our
14 town due to the significant impact to our community's
15 health, safety, and general welfare.
16 In my line of work, current industry standard is
17 to anticipate we may need 10,000 gallons of water to
18 mitigate a single electric vehicle fire. My research
19 from TESLA indicates a single EV can hold 50 to a
20 hundred kilowatt hours of energy. Assuming the lower
21 amount of 50 kilowatt hours, we compare that to --
22 take a quarter of the site that's being projected, of
23 the BESS site -- I'll skip all the math here --
24 equals to about 4,000 EVs, a quarter of this site.
25 So if we had 4,000 EVs on fire, at 10,000 gallons per

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1 each, we would need 40 million gallons of water.
2 The point here is to highlight the enormous scale
3 of this facility. The runoff would threaten the
4 Skagit River. This size facility doesn't belong in
5 Sedro-Woolley. The energy industry downplays the
6 occurrences of these fires, probably because it would
7 negatively affect profits. But these fires do happen
8 and keep occurring regularly, even with modern
9 equipment and technology and today's leading safety
10 metrics like the ones promised here by Goldeneye.
11 July 18th, just less than a month ago, Santa Ana,
12 California, battery storage facility prompted
13 evacuation, required 60 firefighters, under
14 investigation. May 20th, just a couple months ago,
15 San Diego, California, Gateway energy storage
16 facility. Smaller than ours, 250 megawatt-hour
17 facility. Involved in a fire. Water was pumped into
18 the building suppression system to extinguish it.
19 They put a 650-foot barrier around for 22 hours with
20 air monitoring equipment from drones and robots. An
21 evacuation warning in a half mile around the area.
22 And they stayed on the fire for 17 days because it
23 reignited. I've got six more here.
24 ALJ GERARD: Thank you,
25 Mr. Phillips. (Unintelligible.)

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1 (Applause.)
2
3 MS. BARKER: James Delay.
4 ALJ GERARD: James Delay? Are you
5 present?
6 JAMES DELAY: I'm online. Can you
7 hear me?
8 ALJ GERARD: We can. Thank you.
9 JAMES DELAY: My name's James
10 Delay. Spelling: J-a-m-e-s D-e-l-a-y.
11 In short, what the fireman just said is totally
12 true. BESS fires are a lot more -- they happen a lot
13 more often than what the developers say. His
14 estimates of the amount of water required were also
15 accurate. The Otay Mesa BESS fire that he referenced
16 is the second fire back in May. Used almost 20
17 million gallons of water to try to control.
18 And my biggest concern with this location is that
19 it's right next to Hansen Creek, which goes into
20 Skagit, and also its proximity to downtown
21 Sedro-Woolley. If you have to evacuate, generally
22 most BESS fires have a -- both an evacuation zone and
23 also a shelter-in-place zone. The average is about a
24 mile and a half to two miles for evacuations, and
25 then the shelter in place is usually out to five

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1 miles.
2 We have seen, depending on locations, where the
3 shelter-in-place orders have been placed as far as
4 seven miles out because of the way the wind goes
5 through. There was a fire in Melba, Idaho, where
6 they evacuated everybody, and the BESS developer who
7 was building the BESS -- and they actually had just
8 plugged it in for the very first time at the Melba,
9 Idaho, fire just to see, you know, if everything was
10 working, and it then ignited and caught fire.
11 The developer actually had a contingency plan or
12 financial responsibility agreement that basically had
13 them pay for everybody that was evacuated, and the
14 fire ended up burning for five days. Everybody who
15 was evacuated needed to be put up in hotels.
16 Going back to the most recent -- the -- the fire
17 in Otay Mesa, imagine having to evacuate everybody in
18 downtown Sedro-Woolley for two weeks. And where are
19 they going to go? Where is the financial
20 responsibility for the cleanup of all the
21 contamination of everything that comes out of
22 lithium, you know, battery fires? And the list of
23 that stuff is exhaustive. Thank you.
24 (Applause.)
25 ////

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1 ALJ GERARD: Thank you, Mr. Delay.
2 MS. BARKER: Kathy Sutton.
3 KATHY SUTTON: Kathy Sutton.
4 K-a-t-h-y S-u-t-t-o-n. That better? Thank you.
5 I was going to talk also about the San Diego fire
6 recently. I think one thing that Matt may have
7 mentioned but I missed was that not only did it take
8 almost 24 hours to contain it; it reignited itself
9 twice within the next two days, and then it went
10 further to contain it. People were evacuated for two
11 weeks. The evacuation had gone off and then been
12 reinstated. Plus what I read also is that there was
13 hydrogen fluoride released into the air up to 600
14 feet away from the site.
15 My concerns are local as well: Environmental for
16 the -- the land, the animals, but also the children
17 and the people's homes. Within a few miles as the
18 crow flies up the site, we have Sedro-Woolley High
19 School, State Street High School, at least four
20 elementary schools. We have Cascade Middle School,
21 Riverfront Park with baseball fields. We have
22 Janicki baseball fields, Sedro-Woolley downtown area,
23 residential areas, Hansen Creek, Skagit River, Judy
24 Reservoir, which services -- stores PUD water to
25 service a lot of Skagit County and beyond.

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1 So worst-case scenario, of course, if there is a
2 thermal runaway, it could be big bad. Where is the
3 20 million gallons of water going to come from to
4 serve that, and then where is it going to outflow to?
5 To the river, to the creek, to the soil. You know,
6 that's going to be massive to clean up.
7 Again, our fire personnel, we don't want to
8 jeopardize them. APS, Arizona. Eight firemen were
9 seriously injured, four of which were hospitalized
10 for chemical burns, when they had an explosion down
11 there. I believe it was 2019. So a lot of risk.
12 Benefit? Maybe. I don't know. But a lot of
13 risk to our community, our environment, and our
14 children. So thank you.
15 (Applause.)
16
17 ALJ GERARD: Thank you, Ms. Sutton.
18 MS. BARKER: Suzanne Rohner.
19 SUZANNE ROHNER: Suzanne Rohner.
20 S-u-z-a-n-n-e R-o-h-n-e-r.
21 I have -- I want to echo the concerns that
22 Commissioner Janicki had about using ag land. We
23 need to eat. I also want to know who approached who.
24 Did EFSEC come to the community, or did the community
25 go to EFSEC? Who started the ball rolling on this?

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1 I was looking up for lithium fires today on the
2 Internet. On August 12th, in Dutch Harbor, a
3 container ship on a Yang Ming Wok (phonetic) ship
4 exploded. It was loaded with lithium batteries.
5 They had to pump the hold full of carbon dioxide and
6 seal the hold off to put the fire out.
7 Also, questions on decommission. What is the
8 longevity of one of these systems? And what is the
9 environmental impact of the mining of rare-earth
10 minerals to get the lithium batteries and the
11 disposal of those batteries? What's the entire
12 environmental impact with that?
13 And the other thing that really kind of chilled
14 me was the statement that the final decision -- and
15 I'm kind of unclear on whose final decision, whether
16 it's EFSEC or not -- but the final decision preempts
17 other state and local decisions. And that sounds
18 like somebody's giving up control, and it doesn't sit
19 well with me.
20 (Applause.)
21
22 ALJ GERARD: Thank you, Ms. Rohner.
23 MS. BARKER: Ethan Pfahl.
24 ETHAN PFAHL: It's Ethan Pfahl,
25 P-h-a-h-l.

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1 Good evening, Council. My name is Ethan. I work
2 for LiUNA Local 292. I represent approximately 1300
3 construction craft laborers, including those who live
4 and work in Sedro-Woolley. The Goldeneye energy
5 project will be the gold standard for all projects in
6 Skagit and surrounding counties. This project is a
7 step in the right direction, pushing us towards a
8 clean energy transition. Goldeneye will meet all the
9 State's new mandates for clean energy while
10 simultaneously providing a hundred, approximately,
11 good-paying jobs with benefits for the men and women
12 building this landmark project.
13 The Goldeneye project will help limit the
14 ever-growing burden of stressing the grid. Goldeneye
15 will also assist the growing demands of all -- of an
16 increasing population, the severe weather storms
17 which leave families without power for many days. I
18 understand everybody's safety concerns, but that's
19 why there's committees like you guys to uphold those
20 safety concerns. In general, labor supports the
21 Goldeneye project. Thank you.
22 ALJ GERARD: Thank you, Mr. Pfahl.
23 MS. BARKER: Val Mullen.
24 VAL MULLEN: I'm Val Mullen. V-a-l
25 M-u-l-l-e-n. I live 15 minutes from this project.

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1 And I'm actually opposed to the project, but it
2 sounds like it might already be a done deal.
3 I also want to know the life of the project. And
4 I'm concerned about the parcels that are zoned
5 agricultural, natural resources. Why are we able to
6 do that in these zoned areas? If I wanted to do
7 something like that, I'm sure I would be shot down
8 immediately.
9 The project is near population -- a very
10 populated park, the Skagit River, Hansen Creek. None
11 of these are really compatible with a lithium-ion
12 battery.
13 And I noticed on one of the maps that you showed,
14 none of these projects are in Seattle or Everett or
15 in the populated areas. Why are we just in the rural
16 areas that are hosting these projects?
17 The batteries are not recyclable. They're
18 expensive to manufacture. The mining for the lithium
19 destroys land, ecosystems, pollutes water, pollutes
20 air. The extraction depletes the water needed by
21 agricultural and homeowners. And extreme cold can
22 damage these batteries.
23 So I have a opposition to this, but I'm just
24 wondering how much impact our statements have on
25 this. Thank you.

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1 (Applause.)
2
3 ALJ GERARD: Thank you, Ms. Mullen.
4 MS. BARKER: Bonnie Helms.
5 BONNIE HELMS: Hi. Do you need me
6 to spell my name?
7 ALJ GERARD: Yes, please.
8 BONNIE HELMS: You need me to spell
9 my name? B-o-n-n-i-e H-e-l-m-s.
10 So I did like that you talked about the
11 legislative mandates. I kind of wanted to talk about
12 that. EFSEC has been an independent agency hardly
13 longer than any rules or regulations for siting a
14 BESS have existed. 2022, House Bill 1812, as I
15 understand it, enabled you to streamline green energy
16 projects to meet net-zero policy goals of the
17 outgoing governor. I hope Council's taking due
18 process and adequate time investigating these
19 projects and their justifications and involving NEPA
20 when required.
21 SCOTUS's decision on Chevron deference should be
22 considered in your upcoming expedited rule-making
23 that public comment closes on on September 24th.
24 There are many reasons to postpone a decision or
25 demand an EIS. I'd refer you to the cities of

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1 Covington and Black Diamond's councils, who both
2 placed moratoriums on BESS to allow for further
3 investigation of things like evacuation plans, plume
4 studies, firefighting ability, and more. There's a
5 lot of info available that shows lithium-based
6 batteries pose many risks to the environment and
7 community, all while alternative technology is
8 available. Data center demand is not a valid
9 justification in my mind. Find for a determination
10 of significance, and obtain a third-party EIS, and do
11 a NEPA review especially if any of this energy is
12 being exported out of state. Thanks.
13 ALJ GERARD: Thank you, Ms. Helms.
14 (Applause.)
15
16 MS. BARKER: Ernesto Avelar.
17 ALJ GERARD: Do we have Ernesto
18 Avelar either in person or online?
19 ERNESTO AVELAR: Yeah, I'm online.
20 Can you hear me?
21 ALJ GERARD: I can. Go ahead and
22 spell your name, and make your comments, please.
23 Thank you, sir.
24 ERNESTO AVELAR: My name is Ernesto
25 Avelar. E-r-n-e-s-t-o A-v-e-l-a-r.

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1 I am the director of policy and regulatory
2 affairs affiliated with the Laborers International
3 Union of North America in the Northwest Region. We
4 work directly with the Washington and Northern Idaho
5 District Council of Laborers and Laborers Local 292
6 that covers the area in which the project is being
7 proposed. We wanted to thank Chair Drew, the
8 Council, and its staff for allowing us to participate
9 this evening to voice our support of the Goldeneye
10 energy storage project.
11 As Washingtonians continue its commitments to a
12 clean energy transaction in efforts to meet the
13 State's mandates to reduce greenhouse gas emissions,
14 the Goldeneye project will play an important role not
15 only in the build-out of the infrastructure, which
16 will provide support and stability to the system
17 while providing energy security for our local
18 communities during extreme weather events.
19 In addition to the added energy system stability,
20 the local economic benefits that Goldeneye is
21 investing by creating a hundred good-paying
22 family-wage jobs, that will be built by a trained and
23 skilled workforce which includes a commitment to
24 utilizing registered apprenticeship programs and
25 ensuring a dependable -- the dependability of a clean

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1 energy future.
2 The LiUNA Northwest Region commends the developer
3 for its work on this project to ensure an equitable
4 and just transition, its investment to the
5 development of a locally trained and skilled
6 workforce of the community. We ask the commission to
7 approve this project. And we thank you in advance
8 for your time and consideration. Thank you.
9 ALJ GERARD: Thank you, Mr. Avelar.
10 Please next.
11 MS. BARKER: Connie Miller.
12 CONNIE MILLER: Good evening. My
13 name is Connie Miller. C-o-n-n-i-e M-i-l-l-e-r.
14 I really don't have a lot of comments. I'm new
15 to this process. This is my first exposure to BESS.
16 And so I really have a lot of questions. I
17 understand you may not be able to answer them. But
18 I'd like to note my questions for the record.
19 So my first question really is about who owns
20 this project. Is Goldeneye owned by the developer,
21 and will they maintain ownership as they operate the
22 facility? I understand that they build and operate,
23 but it wasn't clear who actually owns the facility.
24 What's -- my other question is, what supplies the
25 energy that is actually stored? Is that existing

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1 energy through, you know, our dams, our other
2 sources, or will there be new energy sources to
3 create that energy that then will be stored at BESS?
4 And then since this is an unmanned location and
5 although it's great we might have jobs for the
6 construction of the project, there's no long-term
7 jobs here, from what I understand. Who determines
8 when that energy is released? That's a question I
9 have. Is that energy released to Puget Sound Energy,
10 and is it therefore sold to them? And then who
11 receives the benefit and the profits of that energy
12 sale?
13 So I just don't understand the whole ecosystem of
14 how that actually works. But those are some
15 questions I had. I'm also concerned about the
16 lithium-ion battery storage. I'm wondering if other
17 options were considered, like lithium phosphate,
18 nickel, salt, or even new technology recently
19 announced by Samsung using solid-state for storage.
20 So I will follow up with some information you
21 provided to see if I can get answers to these
22 questions. Thank you.
23 (Applause.)
24
25 ALJ GERARD: Thank you, Ms. Miller.

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1 MS. BARKER: Sally Carlson.
2 SALLY CARLSON: S-a-l-l-y
3 C-a-r-l-s-o-n. Thank you.
4 I'm wondering -- I'm concerned about a meltdown,
5 which it's not a matter of if it will happen. It's
6 when it will happen. And this --
7 UNIDENTIFIED SPEAKER: Exactly.
8 SALLY CARLSON: -- project is going
9 to be sitting practically right on top of a mobile
10 home park with a lot of people who are on very fixed
11 incomes. They're not prepared for being housed in a
12 hotel for two weeks or -- there's -- they don't have
13 the resources for that.
14 So who would pay for that? You? You guys? Or
15 is that on PSE's plate?
16 That's all I have to say. Environmentally, bad
17 decision.
18 (Applause.)
19
20 ALJ GERARD: Thank you,
21 Ms. Carlson.
22 Who's next?
23 MS. BARKER: Beverly Laudermilk.
24 BEVERLY LAUDERMILK: The story of
25 my life. Beverly, B-e-v-e-r-l-y, Laudermilk,

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1 L-a-u-d-e-r-m-i-l-k.
2 Thank you for this opportunity for us to speak
3 and have our input. When there's -- we have a
4 problem, obviously, where as -- we have a problem,
5 obviously, as just a state. We're making the
6 decision to get off of fossil fuels as quickly as we
7 can for the sake of our environment, for the sake of
8 our waters and our air. And I just find it a problem
9 that our solution can involve a thermal runaway that
10 may cause pollution in our rivers, in our air, and
11 it'll affect the environment, our children, the
12 animals around us.
13 The gases that are produced by these batteries,
14 which my understanding is that when one has a
15 problem, it immediately causes an ongoing effect;
16 like Sally said, a meltdown. Skin burns, lung
17 damage, possible systemic issues.
18 And I don't think this is a good plan. If we
19 have a problem, we need a solution. We don't need
20 more problems being caused by the solution. And
21 why -- why Mr. -- I can't -- I can't see your name.
22 You said these things don't happen, they're --
23 they're better now. They are happening. And there's
24 no guarantee that they won't happen. And you're only
25 going to have -- you're not going to have anybody

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1 manning them. That just doesn't make good sense.
2 This is the community that needs this land and this
3 water. We need to protect our Earth.
4 (Applause.)
5
6 ALJ GERARD: Thank you,
7 Ms. Laudermilk.
8 Next, please.
9 MS. BARKER: Derek Maloney.
10 DEREK MALONEY: Yeah, my name's
11 Derek Maloney. D-e-r-e-k M-a-l-o-n-e-y. I'm an IBEW
12 member. I support this project.
13 Some quick research. I found a report here from
14 EPRI that says that the rate of failure incidents
15 fell 97 percent between 2018 and 2023. As technology
16 evolves, you know, there are risks obviously.
17 Everything that we do involves some sort of risk.
18 And, you know, we know that we have a problem with
19 green energy, and part of that problem is storage.
20 We need to create the storage somewhere. It has
21 to be close to substations in order for it to work.
22 So I support this project. Thank you.
23 ALJ GERARD: Thank you,
24 Mr. Maloney.
25 Next, please.

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1 DEREK MALONEY: (Unintelligible.)
2 ALJ GERARD: Thank you, sir.
3 MS. BARKER: Jack Moore.
4 ALJ GERARD: Jack Moore, are you
5 either in person or online? If so, go ahead and
6 speak up, please.
7 Let's go ahead and move on, please.
8 MS. BARKER: Keith Weir.
9 KEITH WEIR: Good evening, Chair
10 Drew, members of the community. Can everybody hear
11 me?
12 ALJ GERARD: We can. Thank you.
13 KEITH WEIR: Okay. My name is
14 Keith Weir. Spelling is K-e-i-t-h W-e-i-r. I am
15 also an IBEW member; however, from the southern
16 local -- IBEW Local 46 -- representing four counties,
17 over 6,200 trained, skilled, licensed electricians
18 and apprentices that will be ensuring that this work
19 is put in safely, appropriately, and properly.
20 Many mentions. I could go over everything
21 that -- the grid, right? We are trying to save our
22 planet, save our environment. I'm hearing
23 everybody's concerns. That's why there are these
24 processes for everybody to be heard.
25 The work that we've done in the past several

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1 years around resiliency for communities rely on
2 backup storage. So when we do have a cataclysmic
3 climate event and power goes down and there is no
4 backup available, I've heard people mention the
5 schools and people who can least afford it and -- and
6 colleges and all these other -- nursing homes. And
7 this is what this is all about helping to provide
8 power for. This is one -- one leg of the stool to
9 try and mitigate what is coming in an impending
10 climate-related incident.
11 So please consider that, right? This is an
12 answer. It is available. It can be done safely. We
13 can all work together to make it work and ensure that
14 the community benefits, its done appropriately and
15 safely, and that everybody -- Heaven forbid that
16 climate event does come -- we will be much, much
17 better suited to handle that. Thank you very much
18 for your time this evening.
19 ALJ GERARD: Thank you, Mr. Weir.
20 Who's next?
21 MS. BARKER: Elly Wanambisi.
22 ELLY WANAMBISI: Good evening,
23 ladies and gentlemen. My name Elly Wanambisi,
24 W-a-n-a-m-b-i-s-i. I'm an organizer with the
25 Washington and Northern Idaho District Council of

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1 Laborers and Laborers Local 292.
2 As my colleagues have spoken before, I'm in favor
3 of this project because it's going to bring a lot of
4 skilled work for our area. We have 250 members that
5 live in this area, so this is going to be really good
6 for this community and for the future. We're all --
7 whether we like it or not, the future is coming, and
8 we have to be prepared for it, so this job will be
9 there to help us with the clean energy and the future
10 coming for this area and for our kids and the future
11 families. So that's all I have to say. I'm in favor
12 of this project. Thank you.
13 ALJ GERARD: Thank you,
14 Mr. Wanambisi.
15 Next, please.
16 MS. BARKER: Patty Boettcher.
17 PATTY BOETTCHER: Patty Boettcher.
18 P-a-t-t-y B-o-e-t-t-c-h-e-r.
19 I live directly across the street from this
20 proposal, and I've not heard one word about the
21 Williams pipeline. There are three major gas
22 pipeline within 1500 feet of this proposal. And in
23 some places, it's only 10 feet underground.
24 There is also a natural gas service line that
25 services the area that's on that side of the street.

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1 Again, less than a hundred yards.
2 There is a water main line that runs on that side
3 of the street as well. There's also the Bonneville
4 power line on the east -- or excuse me -- on the west
5 side that has not been addressed. I'm not sure if
6 there's a buffer zone for that is all.
7 Hansen Creek. We are going to -- there's another
8 person behind me that's going to discuss about the
9 flooding that has occurred in that area. We have
10 pictures, and we'll make sure that you get those.
11 There's also a nice new elk herd that loves to
12 live in my field. Again, how is it going to be
13 impacted?
14 I really oppose this simply because we are a
15 farming community, and this is definitely going to
16 impact the ability to continue to farm in that area.
17 Thank you.
18 (Applause.)
19
20 ALJ GERARD: Thank you,
21 Ms. Boettcher.
22 MS. BARKER: Virginia Good.
23 VIRGINIA GOOD VLAHOVICH: Virginia
24 Good Vlahovich. G-o-o-d capital V-l-a-h-o-v-i-c-h.
25 I live five minutes from the project. And I

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1 ranch cattle. And it's obvious that when big
2 companies come into these littler communities, that
3 farmland like pastureland gets swallowed up first
4 because it hasn't got wheat on it or potatoes or
5 broccoli or something like that, and we get it for a
6 little bit less money, versus building by the cities
7 that are going to take advantage of the rolling
8 blackouts they're going to have that we don't have.
9 So I -- I can't see how we truly benefit in this
10 area. We have an active volcano in our backyard,
11 Mt. Baker. If it erupts, what's going to flood?
12 It's coming right down the Skagit River. It's going
13 to take all that out. Sure, it's going to be
14 hazardous for a whole lot of things, but why add
15 another ingredient into the mix from all that?
16 The infrastructure of the road, handling all
17 these heavy batteries that want to come into our
18 community. Our roads are not prepared for that kind
19 of thing. I mean, you would have to really do some
20 roadwork to build this up and make it good.
21 And replacement of the batteries. How often do
22 they have to pull them out and bring in new ones? So
23 here's more big, heavy equipment on our roads that we
24 have little cars that go up and down them all day
25 long, not big trucks.

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1 Kids on bicycles still play on the roads here.
2 People walk on the roads here all the time. And I'd
3 hate to have to think that my cows might have to
4 drink that lithium water. Because I am a rancher,
5 and I'm just not for it. Thank you.
6 (Applause.)
7
8 ALJ GERARD: Thank you,
9 Ms. Vlahovich.
10 Next, please.
11 MS. BARKER: Kim O'Hara.
12 ALJ GERARD: Kim O'Hara, are you in
13 person or online? If so, go ahead and speak up.
14 Let's go ahead and move (unintelligible) so we
15 can call (unintelligible).
16 MS. BARKER: Erica Howell.
17 ERICA HOWELL: Okay. Erica Howell.
18 E-r-i-c-a -- E-r-i-c-a. Erica Howell, H-o-w-e-l-l.
19 So I'm not as prepared as everyone else. I
20 actually just found out about this today, and I live
21 five minutes away. So not as prepared. But a couple
22 notes. Okay?
23 Kids, small -- like, lots of kids, all the
24 schools. I'll just read what I've got here.
25 How much choice do we actually have in this

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1 matter? That's my first question. I spent my
2 afternoon studying, and all that I've learned has --
3 has me here to strongly oppose this project. My
4 family and I live just five minutes away. The risk
5 is too large to take on, in my opinion.
6 I've lived here all my life. I've never lost
7 power for more than 48 hours. It's never happened to
8 me personally. I don't find it as a major issue. I
9 don't hear any of my community members telling me
10 it's a major issue.
11 I'm not on board with the three-minute-to-death
12 toxic gas fumes that could be coming out if -- if
13 disaster strikes, which 60 have happened majorly in
14 the last, what, two, three years.
15 And then let's not get onto the science of this
16 supposed green energy. The mining, what it's doing
17 to our planet -- excuse me -- all of that. It's not
18 the way, not the solution, not the place.
19 And I would like to inquire also on the noise
20 impact, because you're guys's assessment is saying 40
21 decibels or less while the other resources I'm seeing
22 are saying between 70 to 92 decibels. So what is the
23 actual noise impact going to be?
24 And that's all I've got for you guys. Thank you.
25 ALJ GERARD: Thank you, Ms. Howell.

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1 MS. BARKER: Tina Champeaux.
2 TINA CHAMPEAUX: Tina, T-i-n-a,
3 Champeaux, C-h-a-m-p-e-a-u-x.
4 I live nine miles north of Sedro-Woolley. I'm a
5 property owner. I'm also engaged in the farm bureau.
6 I'm not representing the farm bureau, but I am a
7 voting member.
8 So I was raised in agriculture. I love Skagit
9 County. It's always been a farming community. We
10 stand behind our farmers mostly. Our farming
11 community is really under really serious problems
12 with the inflation and regulation, micromanaging, all
13 of that. The farmers are having to hard time.
14 What I really have a problem with is how this
15 company, Goldfinch Energy Storage, actually gets a
16 free pass on farming land. That just isn't okay. We
17 want to keep our farming community, and we want to
18 keep how it looks, and we want to make our farmers
19 prosperous. That's my main issue, is the farmland.
20 It's also interesting, and I just found this out
21 today. I appreciate what this other lady said,
22 because I haven't had a lot of time to research. But
23 it's interesting how a company in New York picked our
24 county. And I certainly would like to know how that
25 happened.

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1 Anyway, thank you for your time.
2 (Applause.)
3
4 ALJ GERARD: Thank you,
5 Ms. Champeaux.
6 MS. BARKER: Mike Rogers.
7 MIKE ROGERS: I am Mike Rogers.
8 M-i-k-e R-o-g-e-r-s.
9 I have dealt with several environmental and
10 safety concerns in my experiences.
11 Did you say something?
12 CHAIR DREW: Can we pause, please?
13 MIKE ROGERS: Pardon?
14 ALJ GERARD: (Unintelligible.)
15 MIKE ROGERS: I'm sorry. I can't
16 hear you.
17 ALJ GERARD: The alarm going off.
18 If you go ahead and start back over, we'll reset the
19 timer for you.
20 MIKE ROGERS: Okay.
21 ALJ GERARD: Thank you, sir.
22 MIKE ROGERS: The environmental
23 issues that I'm concerned with are -- are leakage,
24 explosions, fire, and contamination of the whole area
25 within this project. How are they going to be dealt

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1 with? Leakage: How are you going to deal with that?
2 In your write-ups, you say that you will have
3 water for fire suppression. Is that the only method
4 you will have? And like people have said, that's a
5 lot of water.
6 Otherwise, the safety issues and stuff have
7 really been dealt with with other people speaking.
8 But I have one -- one thing that I would like to
9 say. I've dealt with State environmental, State
10 safety people, and they seem to listen to what we
11 say, but they've already got their minds made up.
12 They don't want it. It doesn't make any difference
13 what you say. It's there. And hopefully this
14 Council will be able to listen and pass this
15 information on to an administration who is pro clean
16 environment. Thank you.
17 (Applause.)
18
19 ALJ GERARD: Thank you, Mr. Rogers.
20 MS. BARKER: Andrew Vander Stoep.
21 ALJ GERARD: Could you repeat the
22 name, please.
23 MS. BARKER: Andrew Vander Stoep.
24 ANDREW VANDER STOEP: Hey,
25 everybody. Andrew Vander Stoep. V-a-n-d-e-r, space,

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1 S-t-o-e-p.
2 I'm a resident of Mount Vernon. I'm a Mount
3 Vernon City Council member. And I'm an IBEW member.
4 And -- oh. Excuse me. IBEW member. Mount Vernon
5 City Council member. I'm not representing either of
6 those, 'cause I'm going to go off of what I had
7 written down.
8 I hear the concerns of everybody here, and I want
9 to acknowledge those. And this is a different
10 conversation than probably what people are interested
11 in having. But I think that the United States is
12 changing how manufacturing is going to be done. I
13 think that we're trying to bring jobs back to the
14 United States in a meaningful way, and I think that
15 to do that, we have to have some meaningful impact
16 and energy transition.
17 I don't know if this is the answer. I think it's
18 a part of the puzzle. I've lived in Skagit County
19 for 26 years, and we do not have good jobs here. We
20 have very few of them. We're one of the poorest
21 counties in the state. And my high school friends
22 and many of my family have struggled with that for
23 generations, and it's a real problem.
24 And it's a different county than other people in
25 this room are talking about, and so I feel like

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1 there's some conflict here. But a house ten years
2 ago used to be about 130K. You're going to not get
3 anything for less than 400-, \$500,000 now, and the --
4 the jobs aren't there to support that. Not in Skagit
5 County.
6 So that is why I'm in support of this project,
7 because I hope that this leads to manufacturing in
8 the ports and in other places in Skagit County to
9 bring good jobs here. Thank you.
10 ALJ GERARD: Thank you, sir.
11 Next, please.
12 MS. BARKER: Keith Wagoner.
13 KEITH WAGONER: Good evening. I'm
14 Keith Wagoner -- K-e-i-t-h W-a-g-o-n-e-r -- senator
15 from the 39th Legislative District, which you are
16 sitting in now.
17 First of all, I appreciate the acknowledgment
18 that this project does not create more power. And
19 that's what we actually need, is the creation of more
20 power. This is like filling up the bathtub because
21 the well might go dry, and then you've got a little
22 bit of water for a while. It's not the type of
23 solution we need to support our manufacturing
24 industries that are growing rapidly in this county.
25 I do want to see those good jobs that we're

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1 lacking here with our IBEW folks. They deserve good
2 jobs. I'd rather see them put in a facility,
3 particularly if we're sacrificing our valuable
4 agricultural land, something that's going to provide
5 energy. And there's lots of options out there. The
6 first one that comes to my mind -- thanks for
7 bringing up the natural gas lines are right there.
8 We could put in some natural gas generators,
9 which are far cheaper. They don't have a 20-year
10 lifespan with hazardous waste disposal at the end of
11 that lifespan. They're on line when you need them.
12 They're off-line when you don't. We understand the
13 dangers. And that would provide real power to our
14 grid. We do not suffer from power outages at the
15 main line. We get them when a tree falls down five
16 miles away or a transformer gets hit.
17 So you're asking the community to take on faith
18 that all of the hard lessons have already been
19 learned, but the thing about hard lessons are you
20 never know when it's your last one.
21 So here are my questions. You said you talked to
22 the tribes. I would like to know which tribes and
23 what their response is, because I represent three of
24 them. I don't think the 250 million is an altruistic
25 donation to our community, so I want to know what the

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1 business model is, how that gets paid, and does it
2 affect our rate payers.
3 And, lastly, which governor will make this
4 decision, the current governor or the next governor?
5 Thank you.
6 (Applause.)
7
8 ALJ GERARD: Thank you,
9 Mr. Wagoner.
10 Next, please.
11 MS. BARKER: John Torgerson.
12 ALJ GERARD: Would you go ahead and
13 repeat that, please.
14 MS. BARKER: John Torgerson.
15 JOHN TORGERSO: John Torgerson.
16 J-o-h-n T-o-r-g-e-r-s-o-n.
17 Little history. If the long-term residents
18 remember, Bacus Hill Nuclear Power Plant did not go
19 in because it could have raised the temperature of
20 the Skagit River and that Skagit River is the only
21 one in the nation that has all varieties of salmon.
22 Excuse me.
23 And for fire suppression, how are you going to
24 prevent this fire-water slurry from getting into --
25 are you building a berm around the entire area to

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1 contain all these millions of gallons? And if you're
2 going to build a berm, will it be a sound-deadening
3 berm that will protect the people from potential
4 90-decibel noise all night long as the batteries are
5 being drained?
6 Those are the questions. You know, it's changing
7 everybody's quality of life.
8 And also, what about the value of the people's
9 homes next to this that have to go and deal with
10 constant noise? Sure, it may be only 40, but that's
11 a lot more than just a few birds chirping. What has
12 more value?
13 Like he said, a bathtub or the power or the
14 sound? Children. It's peace and quiet. Noise
15 pollution. Can't get rid of noise. Thank you.
16 (Applause.)
17
18 ALJ GERARD: Thank you,
19 Mr. Torgerson.
20 MS. BARKER: Kim Rubenstein.
21 ALJ GERARD: Kim Rubenstein, are
22 you in person or online right now? If so, go ahead
23 and speak up, please.
24 UNIDENTIFIED SPEAKER: You can sign
25 up at the second part of the meeting?

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1 ALJ GERARD: You can sign up for
2 both. It's a possibility. We'll go ahead and just
3 move on.
4 MS. BARKER: Patrick Knapp.
5 PATRICK KNAPP: Patrick Knapp.
6 P-a-t-r-i-c-k K-n-a-p-p. First off, welcome to
7 Sedro-Woolley.
8 I came tonight. I didn't -- obviously don't have
9 anything prepared. I came to listen with an open
10 mind. I am certainly in favor of jobs, living-wage
11 jobs. That's very important. But I'm also adamant
12 about farmland. Once it's gone, we can't get it
13 back. I'm torn.
14 Also know that Hansen Creek is a place that I've
15 taken my kids and my grandkids to see salmon. It's a
16 jewel. That concerns me.
17 But I also have a history of railing against
18 those that say "not my backyard." You know, when we
19 need something, it's, like, I don't want it here,
20 because it's in my backyard. And I'm torn because
21 I'm three -- three properties away, so it's in my
22 backyard, and I'm concerned. I'm still weighing both
23 sides.
24 What kind of upset me and set me back tonight is
25 from -- I forgot the name of the company now. I'm

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1 sorry. Gold -- Golden -- yeah. A \$250 million
2 project, and you couldn't tell us how many you have
3 on line and operating, and you have no history of
4 these. That scares me. Thank you.
5 (Applause.)
6
7 ALJ GERARD: Thank you, Mr. Knapp.
8 MS. BARKER: Celeste Frisbee.
9 CELESTE FRISBEE: Celeste Frisbee.
10 C-e-l-e-s-t-e F-r-i-s-b-e-e.
11 I'm here on behalf of myself. I live within two
12 miles, on my grandparents' farm. And my mother,
13 Karen Frisbee, who lives on Minkler Road in the home
14 I lived in and grew up in, just down the street from
15 us.
16 I just want to address a few things. I heard the
17 comment this would be an LID project. And I just
18 want it to be known that this is not a low-impact
19 development for those of us who live in the immediate
20 vicinity. This is a major industrial infrastructure
21 project. This is sited on ag and rural lands, which
22 are protected, as you've heard. Because in Skagit
23 County, most people don't know this, but we have the
24 top 2 percent soils in the world. Okay?
25 We grow food here so that we can live. We need

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1 water, clean air, and food to survive. Those are
2 essential things. Power is not, actually. And if
3 you've lived in this region, you understand that the
4 whole I-5 corridor once was ag-producing and is no
5 longer. Skagit County is one of the only
6 ag-producing major producers on the west side of the
7 state now.
8 The creek, Hansen Creek. If you know any history
9 about that creek, it suffered major pollution from
10 the Northern State project, and only recently has it
11 seen any efforts to mitigate those pollutants.
12 Meanwhile, people like me grew up swimming in these
13 creeks. These creeks are also perennial. Oftentimes
14 they're not perennial any longer. They go dry. Last
15 year, they didn't -- our creek that I live on didn't
16 fill up until almost November. These are
17 salmon-bearing streams.
18 Many people on Minkler Road, including my mother,
19 have a well. Her point is only nine feet down.
20 We're dealing with drought. The County forbades
21 irrigation of crops. Water is a hot, contentious
22 issue.
23 The need. For whom is this need? Those who live
24 here? I think not. I only see a few of my neighbors
25 here. I find it egregious that we were not notified

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1 in any direct way --
2 ALJ GERARD: Ms. Frisbee.
3 CELESTE FRISBEE: -- about this
4 meeting. I heard about it by chance, and that tells
5 me wholly that there is not care or concern for the
6 people who live here and will have to live with this.
7 I've driven by this site --
8 ALJ GERARD: Ms. Frisbee.
9 CELESTE FRISBEE: -- every day for
10 the last 30 years.
11 ALJ GERARD: We're over now.
12 CELESTE FRISBEE: I have -- I'm
13 going to take the time that other people didn't use,
14 who will give me permission.
15 ALJ GERARD: We have two minutes
16 per person. Unfortunately, we have a land-use
17 meeting right after the meeting.
18 UNIDENTIFIED SPEAKER: You can
19 speak for me.
20 ALJ GERARD: You can actually
21 submit the comments online afterwards if you wish
22 them to consider.
23 CELESTE FRISBEE: (Unintelligible)
24 to speak here tonight (unintelligible).
25 ALJ GERARD: We've set the time

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1 limits for everybody. We have been consistent. I'm
2 not picking on you at all. We're now 45 minutes
3 afterwards. But thank you.
4 (Applause.)
5
6 MS. BARKER: The following are
7 recall names.
8 ALJ GERARD: Thank you.
9 MS. BARKER: Charles Johnson. Seth
10 Newsome. Jack Moore. Kim O'Hara.
11 ALJ GERARD: Wasn't that Rubenstein
12 also?
13 MS. BARKER: They're going to speak
14 later at the end of the meeting.
15 ALJ GERARD: Thank you.
16 CHAIR DREW: Thank you for all of
17 your time. We are 20 minutes late for our second
18 meeting. We will take a quick five-minute break, and
19 then we will start the land-use meeting. Thank you.
20 (Pause from 7:17 p.m. to
21 7:28 p.m.)
22
23 CHAIR DREW: Again, this is
24 Kathleen Drew, chair of the Energy Facility Site
25 Evaluation Council, bringing this land-use

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1 consistency hearing to order. This is required by
2 RCW 80.50.090, Sub 2, and Washington Administrative
3 Code 463-26-035.
4 During this hearing, we will have testimony
5 regarding the project's -- proposed project's
6 consistency and compliance with land-use plans and
7 zoning ordinances. That is the only subject that
8 will be allowed during this hearing. We've had the
9 general comments, and this is now very specifically
10 in order for the Council to create the record and
11 make a determination on land-use consistency and
12 compliance with land-use plans and zoning ordinances.
13 So with that, Ms. Grantham, will you call the
14 Council roll.
15 MS. GRANTHAM: Certainly, Chair
16 Drew.
17 Department of Commerce.
18 MS. OSBORNE: Elizabeth Osborne,
19 present.
20 MS. GRANTHAM: Department of
21 Ecology.
22 MR. LEVITT: Eli Levitt, present.
23 MS. GRANTHAM: Thank you,
24 Mr. Levitt.
25 Department of Fish and Wildlife.

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1 MR. LIVINGSTON: Mike Livingston
2 here.
3 MS. GRANTHAM: Department of
4 Natural Resources.
5 MR. YOUNG: Lenny Young, present.
6 MS. GRANTHAM: Utilities and
7 Transportation Commission.
8 MS. BREWSTER: Stacey Brewster,
9 present.
10 MS. GRANTHAM: For the local
11 government: For the Goldeneye BESS, for Skagit
12 County, Robby Eckroth.
13 MR. ECKROTH: Present.
14 MS. GRANTHAM: For administrative
15 law judge: Dan Gerard.
16 ALJ GERARD: Present.
17 MS. GRANTHAM: And for counsel for
18 the environment, Yuriy Korol.
19 MR. KOROL: Present.
20 MS. GRANTHAM: Chair, there is a
21 quorum.
22 CHAIR DREW: Thank you.
23 And with that, I will turn it over to Judge
24 Gerard.
25 ALJ GERARD: As Chair Drew said,

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1 this is the land-use consistency portion of the
2 hearing. We are going to start with the applicants
3 presenting a small brief presentation and then giving
4 their comments on that.
5 We will then segue into those speakers who had
6 signed up to make comments on the land-use -- I'm
7 sorry -- land-use plans and zoning ordinances. And
8 if we do have additional time, we'll then open the
9 floor to other participants who didn't sign up, if
10 they wish to make comments exclusively on the
11 land-use plans and zoning ordinances. We'll talk
12 about how much time we'll give each party once we see
13 where we are on that process.
14 So if the applicant would like to begin, please
15 go ahead and do so.
16 MR. McMAHON: Thank you. Can you
17 hear me okay? Good.
18 Thank you very much, Judge Gerard, Chair Drew,
19 Council members. Tim McMahan here, for the record,
20 representing the applicant in the land-use
21 consistency hearing. I'm here to my left with
22 Grace -- with Jordan Grace from Tetra Tech. He is
23 actually a fact witness. And should you wish to
24 swear him in, I think he's willing to do that. I
25 will be presenting argument. You can decide whether

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1 or not you need to swear me in for that. But I will
2 not be actually providing factual testimony. Jordan
3 will be, just so you kind of get the lay of the land
4 here.
5 We previously provided a land-use hearing
6 memorandum to the Council, and I believe
7 Ms. Hafkemeyer distributed that. If not, it's okay.
8 It's available in the record and in your packet.
9 So with that, I will turn this over to Jordan,
10 who will provide some testimony about consistency,
11 land-use consistency from his work in developing the
12 application materials, and then I'll finish up with
13 about four or five minutes of legal argument or
14 discussion. I think in total will be 10-ish minutes,
15 10, 11 minutes or so together. So thank you very
16 much. I'll pass the mike to Jordan.
17 MR. GRACE: Can everyone hear me?
18 Closer? Yeah? How's that? All right.
19 Good evening, Council Chair Drew and Council
20 members. My name is Jordan Grace, and I'll be giving
21 an approximately five-minute presentation on the
22 project's land-use consistency.
23 I'm an environmental planner at Tetra Tech with
24 nine years of professional experience. I have a
25 bachelor's degree in environmental science and

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1 planning, public policy and management from the
2 University of Oregon, with the majority of my
3 professional work focused in planning.
4 Over the last seven years, I've supported
5 preparation of state and local permit applications
6 for a variety of new energy and infrastructure
7 projects, with my main focus being land-use
8 compliance and consistency.
9 I'm here today because I prepared the land-use
10 consistency review, which is included as Attachment H
11 to the application for site certificate, which I'll
12 be referring to as the ASC.
13 I'll start by -- excuse me -- walking through a
14 relevant piece of project history. Prior to the
15 applicant seeking approval through the EFSEC process,
16 they met with Skagit County staff to discuss the
17 County's approach to permitting the project. One
18 topic of discussion was the project's use category
19 under the Skagit County Code, which determines
20 whether or not it would be an allowed use in the
21 proposed zone.
22 Skagit County Code Section 14.04.020 defines
23 three classifications of utility developments: Minor
24 utility, major utility, or major regional utility, as
25 listed here on this slide.

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1 Following a request from the applicant for an
2 administrative interpretation, Skagit County Planning
3 and Development Services issued a notice of decision,
4 concluding that this battery energy storage project
5 would be considered a major utility development. The
6 signed portion of the approval is included on this
7 slide, and the notification portion is included as
8 Appendix A in the land-use consistency review
9 document. The County's decision was based on the
10 project's lack of regionality, smaller scale, de
11 minimis impacts to built and natural environment, and
12 local nature of energy storage.
13 Since this administrative interpretation request
14 was approved in February 2023, the applicable -- the
15 applicable zoning code has not changed, and the
16 project, itself, has not substantively changed. It
17 remains a local energy storage facility that meets
18 the definition of a major utility development. It is
19 not designed to be regional in nature. It's proposed
20 on a smaller scale, and its impacts to the built and
21 natural environments will be de minimis.
22 In light of the County's administrative
23 interpretation, the standards addressed in the
24 land-use consistency review document are focused on
25 the project's classification as a major utility

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1 development.
2 Now I'll walk through the land-use consistency
3 piece. The project is located within the
4 agricultural natural resource land zone. According
5 to Skagit County Code 14.16.400, major utility
6 developments are allowed as a hearing examiner
7 special use in the zone. In other words, the County
8 would allow this project to proceed with conditions
9 to ensure the project complies with the applicable
10 criteria, such as setbacks.
11 Note that a segment of Skagit PUD water line will
12 need to be upgraded as part of project construction.
13 This water line upgrade is described in the ASC so
14 impacts can be evaluate, but it is not intended to be
15 included in or regulated by the site certification
16 agreement, because it will be reviewed and approved
17 through the PUD's processes and deeded over to Skagit
18 PUD following construction. This water line segment
19 is located in the rural reserve zone. Major utility
20 developments are also allowed as a hearing examiner
21 special use zone.
22 In Section 3 of the land-use consistency review,
23 the project's consistency with applicable goals and
24 policies of the Skagit County Comprehensive Plan is
25 demonstrated. And sorry. The goals and policies of

<p style="text-align: right;">Page 90</p> <p>1 the comprehensive plan are considered blueprints for 2 the zoning code. The Skagit County Comprehensive 3 Plan includes goals and policies for preservation of 4 agricultural land for agricultural uses. The main 5 project parcel where BESS facilities would be 6 constructed is approximately 14 acres in size. About 7 half of this parcel is currently developed with four 8 existing structures and three overhead transmission 9 lines. The remaining seven acres are disconnected 10 from larger agricultural production as Minkler Road 11 borders the south -- the northwestern portion of the 12 parcel and the underlying landowner does not own any 13 of the abutting parcels. Because the project would 14 impact wetlands and frequently flooded areas, the ASC 15 provides an analysis of impacts and proposes 16 mitigation accordingly. 17 Section 4 of the land-use consistency review 18 provides a detailed assessment of compliance with the 19 applicable provisions of the Skagit County Code. 20 Here are a few examples. 21 Setbacks of 35 feet in the front, 15 feet on the 22 sides, and 35 feet in the rear are required and are 23 met. A maximum height of 40 feet. The tallest 24 project component, the lightning mast, is estimated 25 to be about 30 feet in height.</p>	<p style="text-align: right;">Page 92</p> <p>1 counsel to the project. 2 Fundamentally, as the Council is aware, the 3 land-use consistency hearing's purpose is to 4 determine whether a project is consistent and in 5 compliance with land-use plans and zoning ordinances. 6 Goldeneye has requested that EFSEC use its expedited 7 review process for the application for site 8 certification. And to be eligible for expedited 9 review, EFSEC must find the project is consistent and 10 in compliance with the city, county, or regional 11 land-use plans or zoning ordinances. 12 The process then turns to SEPA -- State 13 Environmental Policy Act -- review to evaluate 14 eligibility for expedited permitting. The relevant 15 inquiry for EFSEC's land-use analysis is whether the 16 pertinent land-use provisions prohibit the proposed 17 project site, quote, expressly or by operation 18 clearly, convincingly, and unequivocally. So if a 19 project can be permitted either outright or 20 conditionally, it is consistent and in compliance 21 with the local land-use provisions for the purposes 22 of RCW 80.50.090(2). 23 For every EFSEC project, the rules contemplate 24 that EFSEC and the applicant will work with the 25 County to seek a certificate of land-use consistency.</p>
<p style="text-align: right;">Page 91</p> <p>1 New structures should be located within the 2 existing developed area of compatible structures in 3 the same ownership. This is met because the subject 4 property and adjacent properties contain existing 5 electrical utilities, including three transmission 6 lines and PSE's Sedro-Woolley substation. 7 Other code requirements, such as landscaping, 8 low-impact development, parking, and performance 9 standards, involving vibration, heat, glare, steam, 10 noise, and electrical disturbance are met. With 11 EFSEC's concurrence and the County's determination 12 that this project is an allowed use, EFSEC will need 13 to assess whether any conditions are required, such 14 as setbacks or maximal structure height. These 15 conditions would be included with the site 16 certification agreement to ensure compliance with the 17 applicable provisions of the Skagit County Code. 18 Specific conditions would be assessed by the Council 19 and staff as part of future processes. 20 Thank you very much for your time. Please let me 21 know if you have any questions. 22 ALJ GERARD: Thank you, sir. 23 Mr. McMahan. 24 MR. McMAHON: Tim McMahan, for the 25 record, with Stoel Rives law firm, and I am legal</p>	<p style="text-align: right;">Page 93</p> <p>1 If a local jurisdiction believes that a proposed 2 EFSEC project is consistent and in compliance with 3 its land-use plans and zoning ordinances, it may 4 provide and the applicant may enter a certificate 5 from local authorities attesting to the fact that the 6 proposal is consistent and in compliance with 7 land-use plans and zoning ordinances. 8 The certificate of consistency provides prima 9 facie proof of consistency and compliance with 10 applicable land-use plans and zoning ordinances, and 11 the inquiry ends there. No separate land-use 12 adjudication is needed under those circumstances. 13 And coupled with a favorable SEPA decision, the 14 project should be able to secure expedited 15 permitting. 16 And for this project, summer vacations, 17 unfortunately, and schedule pressures within the 18 60-day hearing window have challenged our ability to 19 roll up sleeves to discuss the work with the County 20 on a certificate of consistency. We intend and we 21 pledge to the Council that we will continue working 22 with the Council to achieve a certificate of 23 consistency if that is possible, and we think that we 24 should be able to do so based upon what Jordan's 25 indicated and what I'll continue to talk about here.</p>

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1 Absent a certificate of consistency, EFSEC issues
2 its decision regarding consistency after reviewing
3 the applicable land-use plans and zoning ordinances.
4 First, the applicant and local authorities are
5 directed to address compliance or noncompliance with
6 land-use plans or zoning ordinances, and then EFSEC
7 determines whether the proposed site is consistent
8 and in compliance with land-use plans and zoning
9 ordinances pursuant to RCW 80.50.090, Sub 2. I know
10 this is very exciting argument and information, so
11 bear with me as I continue through this.
12 EFSEC review does not consider all local land-use
13 plan provisions. As noted in the Columbia Solar
14 order, a land-use plan includes the portions of a
15 comprehensive plan that outline proposals for an
16 area's development typically by assigning general
17 uses, such as housing, to land-use segments and
18 specifically designed concentrations and design
19 goals.
20 Also as noted in the Columbia Solar order, a
21 zoning ordinance is a local government's ordinance
22 regulating the use of land adopted pursuant to
23 Washington law, and most specifically, the Growth
24 Management Act. Zoning ordinances include applicable
25 zoning maps, zoning map development restrictions, and

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1 associated definitions. As Jordan noted, the
2 applicable County land-use plan and zoning ordinance
3 provisions are found within the Skagit County Code
4 and the Skagit County Comprehensive Plan.
5 Unique to this project is an administrative
6 decision issued on February 1st, 2023, and Jordan
7 referenced this in his discussion. There, the County
8 confirmed land-use consistency and compliance with
9 the plan and zoning code. At the County's request,
10 Goldfinch Energy Storage, LLC, submitted a request
11 for an administrative official interpretation
12 declaring whether the project is a major utility
13 development versus a regional utility development.
14 The administrative decision concludes that the
15 project is consistent in compliance with the major
16 utility development use as defined in the Skagit
17 County Code.
18 That decision became final on February 16, 2023,
19 after a 14-day appeal period passed. So this
20 decision now constitutes prima facie evidence from
21 the County that the project is consistent and
22 compliant with code and comprehensive plan, allowing
23 EFSEC to -- excuse me -- end its inquiry into -- into
24 consistency.
25 Sorry. I'm recovering from COVID, but it's still

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1 stuck in my throat. So sorry for the scratchy
2 throat.
3 Even if the administrative decision is not a
4 certificate of consistency, the project is still
5 consistent with the code and the comprehensive plan.
6 Pursuant to Washington's Growth Management Act, a
7 comprehensive plan serves as a County's generalized
8 coordinated land-use policy statement. Local
9 development regulation, such as zoning codes, carry
10 out comprehensive plans' policies and must be
11 consistent with those policies. And by adopting the
12 Skagit County Code zoning ordinances and the
13 administrative decision, the County determined that
14 the project can be consistent with the code and the
15 comprehensive plan. The administrative decision,
16 therefore, is a final County determination that the
17 project is a major utility development and is
18 consistent with the code.
19 Siting a major development on property zoned ag,
20 dash, natural resource land, or NRL, is consistent
21 with the code and the comprehensive plan because a
22 major utility development is not a prohibited use in
23 these zoning districts. When adopting the code, the
24 County determined that a major utility development
25 could be permitted as a special-use permit in the

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1 ag-NRL zone. That decision should be accorded
2 significant weight in EFSEC's analysis.
3 Pursuant to -- pursuant to EFSEC's process, EFSEC
4 will decide compliance with the special-use criteria
5 and other development standards. And for the process
6 of complying with RCW 80.20.090, Sub 2, it is
7 sufficient that the project siting/zoning, which is
8 ag-NRL, does not prohibit a major utility
9 development.
10 Finally, in issuing the site certificate, we do
11 anticipate that EFSEC will work with the County and
12 the applicant to include conditions in the draft site
13 certification agreement, which considers state,
14 local, and community interests affected by the
15 construction and operation of the facility, and the
16 applicant is fully committed to achieving those
17 objectives with Skagit County.
18 Thank you for your attention.
19 CHAIR DREW: I do have a question.
20 Since February 2023, has the project changed in
21 any substantial way?
22 MR. McMAHON: I'm going to ask my
23 colleague to the right to answer that.
24 MR. NELSON: No. No substantive
25 changes.

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1 CHAIR DREW: With that, we will
2 ask: Is there anyone else signed up to speak?
3 MS. BARKER: (Unintelligible.)
4 ALJ GERARD: Yes. If we do go
5 ahead, we're going to move on to the land-use
6 consistency public comment section. We will call the
7 participants who have signed up, as I stated before.
8 Let's try to keep the comments about two to three
9 minutes, so I won't be as strident as I was with the
10 earlier portion. And if we do have time leftover,
11 we'll go ahead and open the floor to other people who
12 wish to make land-use or zoning ordinance comments.
13 Go ahead, please.
14 MS. BARKER: Kim Rubenstein.
15 ALJ GERARD: Ms. Rubenstein, again,
16 if you go ahead and state and spell your name, as
17 we'd ask other participants.
18 KIM RUBENSTEIN: Couldn't hear what
19 you said. Sorry.
20 ALJ GERARD: State and spell your
21 name just so we have it correct.
22 KIM GOOD RUBENSTEIN: Kim Good
23 Rubenstein. That's K-i-m G-o-o-d
24 R-u-b-e-n-s-t-e-i-n.
25 Okay. On behalf of Skagitonians to Preserve

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1 Farmland, I am here to express our opposition to the
2 proposal of the Golden battery storage project.
3 Skagitonians to Preserve Farmland opposes the use of
4 agricultural land for purposes that negatively impact
5 farmland in Skagit County. Ag-NRL lands were
6 designated by the County as a means of protecting a
7 critical mass of productive agricultural land.
8 Goldeneye project seeks to take advantage of the
9 economic investment made by Skagit County and its
10 farmland preservation while degrading the county's
11 base of arable land.
12 Skagit County has protected farmland through
13 strict zoning and purchasing development rights. As
14 a result, the assessed value of ag-NRL land is
15 relatively low. Nonagricultural uses, particularly
16 those incentivized by outside sources of funding,
17 alter the economics of this -- of this source of
18 funding -- alter the economics of this designation.
19 The project proposal dismisses several local outside
20 of the ag-NRL as being cost-prohibitive. We
21 disagree. The project proposal fails to do a full
22 accounting of the value of ag-NRL lands.
23 The proposal erroneously dismisses the
24 agricultural value of the -- of the project parcel.
25 SPF Farmlands disagrees with this assessment. The

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1 land in question is suitable for agricultural
2 activities, and that is why it is in the ag-NRL. To
3 discount the acreage currently available for
4 agricultural activities ignores Skagit County's
5 five-acre threshold for designating agricultural
6 lands. EFSEC steps outside of its authority and its
7 area of expertise when it uses -- when it makes a
8 determination about what is valuable as arable land
9 and what is not.
10 The proposal does not align with the Skagit
11 County's Comprehensive Plan. Under Section 3.2 of
12 Appendix H, the Goldeneye project not only fails to
13 advance any of the comp plan's goal and policies
14 cited; the proposal's -- the proposal's facility
15 would actively and negatively impact each of the
16 items cited below despite Goldeneye's assurance to
17 the contrary. It does not -- does not do -- it does
18 nothing to promote preservation of agricultural lands
19 for agricultural use. It undermines long-term
20 designation of agricultural land. And it advances
21 farmland -- and it advances farmland's conversion of
22 development on ag lands.
23 The Goldeneye project demonstrates a
24 disappointing lack of understanding of the Skagit
25 agricultural economy. We would like to see EFSEC

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1 recognize and -- the value of preserving arable land
2 and take measures to offset the loss of acreage
3 impacted by this proposal. Thank you.
4 (Applause.)
5
6 ALJ GERARD: Thank you,
7 Ms. Rubenstein.
8 MS. BARKER: Randy Good.
9 RANDY GOOD: R-a-n-d-y G-o-o-d.
10 I was a member of the Hansen Creek Flood Control
11 Zone Advisory Committee and well aware of the
12 flooding events on Hansen Creek. The zone was
13 designed to protect life and property of landowners
14 from damages resulting from floods and drainage
15 waters in the watershed.
16 Hansen Creek has a history of major rain flooding
17 affecting most properties adjacent to or near Hansen
18 Creek. In 1990, Minkler Road was washed out because
19 of the volume and force of the water one mile east of
20 the creek. This creek can become a raging river.
21 Several years ago, a cement bridge on Hansen
22 Creek near the Northern State buildings was removed
23 by someone, which provided flood control. This
24 helped hold back major flooding downstream. Without
25 the bridge holding back waters, there's no way to

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1 prevent the property proposed for this project from
2 being -- from facing flood damages until possibly
3 some bridges are installed at both Hansen Creek /
4 Minkler Road and Hansen Creek / Horn Road crossings.
5 A large sum of money would be necessary to do that.
6 Portions of this property proposed here have been
7 under floodwaters during flooding events. I have two
8 photos to put into record showing waters flowing
9 across Minkler Road into this proposed site. This
10 proposed property will face full force from future
11 flooding events from now after having that cement
12 bridge removed.
13 The proposed project is on agricultural land.
14 Let's not forget that. This proposed project would
15 be a noncompliance with all local and State GMA
16 requirements. You talk about abiding by GMA
17 requirements on your presentation, but yet you're
18 completely disregarding State and GMA requirements
19 now.
20 There's no changes necessary in our County
21 zoning. Please consider these historical rainwater
22 flooding events of this watershed. Above all, abide
23 by the Skagit County Code's comp plan policies and
24 GMA requirements.
25 And I'll attach to my comments two pictures

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1 that -- that I talked about.
2 Thank you.
3 (Applause.)
4
5 ALJ GERARD: Thank you, Mr. Good.
6 I do believe that was the last of our speakers,
7 or do we have another one?
8 MS. BARKER: No, we have three
9 more.
10 ALJ GERARD: Always. Please call
11 the next one.
12 MS. BARKER: Keith Wagoner.
13 KEITH WAGONER: Keith Wagoner --
14 K-e-i-t-h W-a-g-o-n-e-r -- senator for the 39th
15 Legislative District.
16 I am not an attorney, and I'm certainly not a
17 land-use expert. Don't have a résumé like Jordan
18 Grace had, which was truly impressive. I was
19 impressed by that.
20 But I would like to remind people in
21 decision-making positions that just because you can
22 do something doesn't mean you should. And I think
23 Commissioner Janicki kind of set the tone in her
24 first remarks that just how important maintaining
25 agricultural land for agricultural use is in this

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1 county. And I want to give you a yardstick by which
2 your decision is probably going to be measured. A
3 couple of examples actually.
4 We nearly went -- let our school district in
5 Burlington-Edison go broke over a land purchase that
6 they made, wishing to expand our school, that
7 happened to be on agricultural land. It almost
8 brought the school down, but the County did not
9 budge, because agriculture is that important.
10 We've seen uses -- and sometimes it goes against
11 what I would like, but the County has been firm on
12 this. Farm-to-restaurant proposals out in
13 agricultural areas, things that I think would be
14 great for the economy. They're great ideas. They
15 don't meet the high standard that the County has set
16 for agricultural use, and they have been denied
17 consistently.
18 So when you're making this decision, I think you
19 should consider what -- like I said, I'm not an
20 attorney, but I live in the world of the court of
21 public opinion. That's a real court as well. So
22 consider carefully. You may be able to do it, but I
23 advise that you should not. Thank you.
24 (Applause.)
25 ///

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1 ALJ GERARD: Thank you,
2 Mr. Wagoner.
3 Next.
4 MS. BARKER: Bonnie Helms.
5 BONNIE HELMS: Hi again. Bonnie
6 Helms. B-o-n-n-i-e H-e-l-m-s.
7 In regards to the land use, in their presentation
8 to Black Diamond City Council, PSE noted that the
9 greatest increase and demand on the grid was from
10 data centers. So I'm wondering how -- is this
11 consistent use for ag land, or is it just kind of to
12 justify changing the zoning?
13 There are forever chemicals contained in these
14 batteries, in metals attached to the particulate
15 matter, and the toxic pollutants that have been
16 measured at levels much higher than the action level
17 in a recent study of a lithium BESS fire. Is this
18 consistent with ag zoning, or is that going to damage
19 future agriculture land?
20 Technology advances, yes, but since that
21 advancement seems to be coming largely from data
22 centers, I'd ask them to find their own local
23 solutions and preserve ag land. It is an excellent
24 question about why not in Seattle. Who needs a
25 gigawatt of energy? I was told by IPA. Rural areas

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1 should not be compromised to feed urban issues. To
2 reference The Seattle Times, to quote, a forecast by
3 the Northwest Power and Conservation Council
4 highlights a looming conflict between an increasingly
5 digital world and utilities' capacity to meet surging
6 power demand. The forecast cautioned that data
7 centers could consume as much as 4,000 average
8 megawatts of electricity by 2029, enough to power the
9 entire city of Seattle five times over.
10 So please be transparent about what the land is
11 being used for. This should require a NEPA -- that's
12 N with -- NEPA. "N" as in "Nancy." It's a review at
13 the federal level before going forward, unless there
14 is strict assurance that no energy will be used out
15 of state. Otherwise, this isn't a utility. It's
16 just basically a gas station. Thank you.
17 (Applause.)
18
19 ALJ GERARD: Thank you, Ms. Helms.
20 MS. BARKER: Kim Torgerson.
21 KIM TORGERSON: Kim Torgerson.
22 K-i-m T-o-r-g-e-r-s-o-n.
23 I'm coming up here because I'm really disturbed.
24 We've got a lot of community people here that love
25 their land, but they -- our whole community has not

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1 been notified. I have two properties in the county:
2 One over by Independence and one right here at
3 Greenstreet, which is really close to this.
4 Greenstreet did not get notified. This has been
5 going on since February 23.
6 ALJ GERARD: Ms. Torgerson, I don't
7 mean to belay your concerns. That would have been
8 for the public information session, not the land-use
9 consistency. If you wish to speak on that point,
10 you're certainly welcome to. Otherwise, those
11 comments should have been reserved for the original
12 portion, or you can make them online.
13 KIM TORGERSON: So the land use is
14 not something that we are notified of?
15 ALJ GERARD: Then that's the
16 notification portion more than it is the land-use
17 argument either for or against the project. You can
18 certainly make those comments about the notification,
19 which is an ancillary issue, in the comments section
20 afterwards.
21 KIM TORGERSON: Okay. That's what
22 I was trying to do. I apologize.
23 I got notified at Independence, not at
24 Greenstreet. And so there's many people that did not
25 get notified about this project. And it was done,

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1 approved in '23. I recommend you notify the public.
2 Let the community come and hear what's going on. And
3 everybody should be notified.
4 (Applause.)
5
6 MS. BARKER: James Delay.
7 JAMES DELAY: Hi. Can you hear me?
8 Hello. Can you hear me?
9 ALJ GERARD: Yes, we can. Go
10 ahead, please.
11 JAMES DELAY: All right. Thank
12 you.
13 The presentation by Tenaska and their hired army
14 of people to say good things about them was awesome
15 and very entertaining.
16 First point I want to make is the approval letter
17 that was provided by Skagit County was based off of a
18 whole bunch of missed-out or withheld information.
19 The County made that decision based off of the sales
20 pitch that Tenaska gave them that said, oh, this is a
21 wonderful green energy facility. It's going to help
22 everything that they've said. I'm not going to
23 repeat all their sales points.
24 But it withheld all the risk of fire. They
25 omitted to say that lithium batteries can't be

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1 extinguished. And they failed to mention that the
2 noise levels that these produce is absolutely
3 unacceptable for any residential, agricultural, or
4 anywhere else outside of a heavy industrial zoned
5 area.
6 With that said, that decision should be
7 considered voided just because of the lack of
8 information, and further proof of that -- or lack of
9 providing facts. Further proof of that is in just
10 one tidbit that I have -- because I don't have a lot
11 of time -- is on their application to the EFS -- the
12 EFSEC, they withheld the actual sound levels created
13 by this battery energy storage system. What they did
14 was they asked -- I think it was Dudek or -- was the
15 company, the engineering firm that they paid money to
16 do the sound engineering study. They said, Hey, we
17 want you to run this test as if our HVAC units, which
18 are one of the many loud parts of a BESS facility --
19 we want you to run it at 40 percent fan speed.
20 As you may have learned or you may not know,
21 lithium batteries spontaneously combust because
22 they -- and enter thermal runaway because they
23 overheat. So the cooling systems are basically your
24 one stop. It's your one chance of stopping a fire by
25 keeping the lithium batteries cool.

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1 So what they did was they said, Hey, engineering
2 firm, can you please issue this study at 40 percent
3 of the fan's capacity. So it gave false numbers that
4 were somewhere down -- I had it in front of me, but I
5 think they said that it was, like, 56 decibels. And
6 I can send you a whole bunch of other BESS sound
7 studies where it basically says that -- like, I had
8 one from Tesla that basically says, Here's our fan --
9 our HVAC system noise at 40 percent, and here it is
10 at a hundred percent.
11 Because a hundred percent fan operation capacity
12 is what these are going to be running at all but on
13 the coldest winter nights.
14 Just from the noise perspective, Tenaska
15 basically is lying, and they're making the report fit
16 what you guys want it to fit for the land use.
17 Furthermore, the fire risks and dangers, they're
18 all belittled. Just as you saw Tenaska do tonight,
19 they say, Oh, they're very uncommon. They're
20 infrequent. We're using the best technology. We
21 follow all the latest codes.
22 None of this applies. They basically lied
23 throughout their -- the majority of their application
24 to make it fit and make it sound like this is a good
25 fitting solution, but the end of it is basically this

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1 is an industrial facility being sited in agricultural
2 land that has an extreme risk of basically
3 contaminating the whole entire environment, causing
4 evacuations.
5 And I'm out of time. So this is -- should be in
6 heavy industrial zoned area only, and it does not
7 meet any of these land-use things. So I hope the
8 EF -- the EFSEC will really dig in and compare even
9 their own energy facility sound studies, compare them
10 to what Tenaska has presented, operating as Goldfinch
11 Energy, and really see if -- if there are -- there's
12 a hidden -- hidden information that should have been
13 presented. So, yeah, this is definitely not fitting,
14 no matter what they say. It's just not the right
15 location. I mean, just think of the catastrophic --
16 ALJ GERARD: Thank you, Mr. Delay.
17 You're about a minute over your allotted time.
18 JAMES DELAY: Okay.
19 ALJ GERARD: So thank you, sir.
20 JAMES DELAY: All right. Thank
21 you.
22 (Applause.)
23
24 MS. BARKER: I have no other
25 speakers signed up.

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1 CHAIR DREW: Thank you, all. It is
2 now past 8:00, and we'll be closing this hearing.
3 SUZANNE ROHNER: He said, if there
4 was time, that we could go over a little bit. I have
5 a comment I would like to make, please.
6 CHAIR DREW: Go ahead.
7 SUZANNE ROHNER: Suzanne Rohner.
8 S-u-z-a-n-n-e R-o-h-n-e-r.
9 This is Skagit County Code 14.16.400,
10 Agricultural--Natural Resource Lands. "Purpose: The
11 purpose of Agricultural--Natural Resource Lands
12 district is to provide land for continued farming
13 activities, conserve agricultural land, and reaffirm
14 agricultural use, activities and operations as the
15 primary use of the district. Non-agricultural uses
16 are only allowed as accessory uses to the primary use
17 of the land for agriculture use. The district is
18 composed mainly" -- I'm sorry; I'm out of breath.
19 "The district is composed mainly of low flat land
20 with highly productive soil and is the very essence
21 of the county's farming heritage and character."
22 I heard several times, as justification for
23 putting this facility on agricultural land, is
24 because the code didn't state you couldn't do it;
25 that meant that you could. And I take exception to

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1 that. And I really think that was something that --
2 that just 'cause it's not on the list doesn't give
3 you permission to do it. Thank you.
4 (Applause.)
5
6 CELESTE FRISBEE: I have a final
7 comment, and I respect the time. Celeste Frisbee.
8 CHAIR DREW: On land use, please.
9 CELESTE FRISBEE: Yes.
10 So my feeling is: Right place, right project.
11 And I believe firmly that this is not the right place
12 nor the right project. I would echo what Keith
13 Wagoner said earlier. We are a working-class
14 community and have always been. We really value
15 needing good-paying jobs here.
16 I attended, about ten years ago, an all-day
17 conference at North Carolina State University on
18 solar. And of all the presentations I witnessed, the
19 one that stuck with me to this day was by a
20 representative of the U.S. Department of Defense who
21 announced that the U.S. Department of Defense would
22 be doing trial projects on military bases, installing
23 solar installations on residential houses. And this
24 was considered an act of protecting the U.S. from
25 major attack.

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1 The reasoning that was given was that currently
 2 our energy production in the U.S. is centralized.
 3 And, for example, a map he gave was of the Coast, the
 4 Pacific Coast of the country in California where six
 5 to seven nuclear energy facilities were located
 6 within a hundred to 200 acre -- or miles of the major
 7 food production regions for our country. What he was
 8 describing was an effort to decentralize our energy
 9 production and to move it into residences and
 10 buildings and place-based energy production.
 11 ALJ GERARD: Can you break it down
 12 (unintelligible) the land-use consistency ordinance
 13 (unintelligible)?
 14 CELESTE FRISBEE: Yes. Because I
 15 believe that this project is trying to centralize a
 16 lot of energy capacity in addition to the substation
 17 that we already have here, and that becomes a target.
 18 So everyone today has talked about the
 19 inappropriate land use for ag-NRL because of the
 20 potential for pollutions if there's a catastrophic
 21 natural event that occurs or a meltdown, but that
 22 ignores the other possibility of it being a location,
 23 a single location that could be targeted, and it will
 24 be unmanned. Thank you.
 25 (Applause.)

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1 CHAIR DREW: With that, our meeting
 2 is adjourned. Thank you, all, for participating.
 3 (Adjournment at 8:09 p.m.)
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1 STATE OF WASHINGTON) I, John M.S. Botelho, CCR, RPR,
) ss a certified court reporter
 2 County of Pierce) in the State of Washington, do
 hereby certify:
 3
 4
 5 That the foregoing Public Informational Meeting and
 Land-Use Hearing of the Washington State Energy Facility
 Site Evaluation Council were conducted in my presence and
 6 adjourned on August 13, 2024, and thereafter were
 transcribed under my direction; that the transcript is a
 7 full, true and complete transcript of the said meeting and
 hearing, transcribed to the best of my ability;
 8
 9 That I am not a relative, employee, attorney or counsel
 of any party to this matter or relative or employee of any
 such attorney or counsel and that I am not financially
 10 interested in the said matter or the outcome thereof;
 11 IN WITNESS WHEREOF, I have hereunto set my hand
 this 31st day of August, 2024.
 12
 13
 14
 15
 16
 17 /s/John M.S. Botelho, CCR, RPR
 18 Certified Court Reporter No. 2976
 19 (Certification expires 5/26/2025.)
 20
 21
 22
 23
 24
 25

WASHINGTON STATE

ENERGY FACILITY SITE EVALUATION COUNCIL

MONTHLY MEETING

August 21, 2024

Lacey, Washington

Reporter: John M.S. Botelho, CCR, RPR

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 STATE AGENCY MEMBERS:</p> <p>4 Kathleen Drew, Chair</p> <p>5 Elizabeth Osborne, Department of Commerce (*)</p> <p>6 Mike Livingston, Dept. of Fish and Wildlife (*)</p> <p>7 Lenny Young, Department of Natural Resources (*)</p> <p>8 Stacey Brewster,</p> <p>9 Utilities & Transportation Commission</p> <p>10 LOCAL GOVERNMENT AND OPTIONAL STATE AGENCIES:</p> <p>11 Horse Heaven:</p> <p>12 Ed Brost, Benton County (*)</p> <p>13 Wautoma Solar:</p> <p>14 Dave Sharp, Benton County (*)</p> <p>15 Paul Gonseth, WA Dept. of Transportation (*)</p> <p>16 Hop Hill Solar:</p> <p>17 Paul Krupin, Benton County (*)</p> <p>18 Carriger Solar:</p> <p>19 Matt Chiles, Klickitat County (*)</p> <p>20 Goldeneye BESS:</p> <p>21 Robby Eckroth, Skagit County (*)</p> <p>22</p> <p>23 ASSISTANT ATTORNEY GENERAL:</p> <p>24 Jon Thompson</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES (Continuing)</p> <p>2</p> <p>3 OPERATIONAL UPDATES (Continuing):</p> <p>4 Denis Mehinagic (*)</p> <p>5 Columbia Generating Station & WNP-1/4, Energy Northwest</p> <p>6 Thomas Cushing (*)</p> <p>7 Columbia Solar, Tuusso Energy</p> <p>8 Jacob Crist (*)</p> <p>9 Goose Prairie Solar, Brookfield Renewable</p> <p>10</p> <p>11 COUNSEL FOR THE ENVIRONMENT:</p> <p>12 Sarah Reyneveld (*)</p> <p>13</p> <p>14 Yuriy Korol (*)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (*) indicates remote attendee</p> <p>23</p> <p>24</p> <p>25</p>																																																
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES (Continuing)</p> <p>2</p> <p>3 ADMINISTRATIVE LAW JUDGE:</p> <p>4 Adam Torem (*)</p> <p>5</p> <p>6 COUNCIL STAFF:</p> <p>7 Ami Hafkemeyer Karl Holappa (*)</p> <p>8 Amy Moon Audra Allen (*)</p> <p>9 Stew Henderson Zia Ahmed (*)</p> <p>10 Andrea Grantham Maria Belkina</p> <p>11 Sonja Skavland (*) Lisa McLean (*)</p> <p>12 Sean Greene Adrienne Barker</p> <p>13 Lance Caputo Catherine Taliaferro (*)</p> <p>14 John Barnes Alondra Zalewski (*)</p> <p>15 Joanne Snarski Sairy Reyes (*)</p> <p>16 Alex Shiley (*) Martin McMurray</p> <p>17 Ali Smith (*) Trevin Taylor</p> <p>18</p> <p>19 OPERATIONAL UPDATES:</p> <p>20 Jarred Caseday (*)</p> <p>21 Kittitas Valley Wind, EDP Renewables</p> <p>22 Jennifer Galbraith (*)</p> <p>23 Wild Horse Wind Power Project, Puget Sound Energy</p> <p>24</p> <p>25 Chris Sherin (*)</p> <p>Grays Harbor Energy Center, Grays Harbor Energy</p> <p>Jeremy Smith (*)</p> <p>Chehalis Generation Facility, PacifiCorp</p>	<p style="text-align: right;">Page 5</p> <p>1 MEETING INDEX</p> <p>2</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">EVENT:</th> <th style="text-align: right;">PAGE NO.</th> </tr> </thead> <tbody> <tr> <td>3 Call to order</td> <td style="text-align: right;">6</td> </tr> <tr> <td>4 Roll call</td> <td style="text-align: right;">6</td> </tr> <tr> <td>5 Proposed agenda</td> <td style="text-align: right;">10</td> </tr> <tr> <td>6 Minutes</td> <td></td> </tr> <tr> <td>7 July 17, 2024, monthly Council meeting</td> <td style="text-align: right;">10</td> </tr> <tr> <td>8 Projects</td> <td></td> </tr> <tr> <td>9 Kittitas Valley Wind Project</td> <td style="text-align: right;">11</td> </tr> <tr> <td>10 Wild Horse Wind Power Project</td> <td style="text-align: right;">11</td> </tr> <tr> <td>11 Chehalis Generation Facility</td> <td style="text-align: right;">12</td> </tr> <tr> <td>12 Grays Harbor Energy Center</td> <td style="text-align: right;">12</td> </tr> <tr> <td>13 Columbia Solar</td> <td style="text-align: right;">13</td> </tr> <tr> <td>14 Columbia Generating Station and WNP-1/4</td> <td style="text-align: right;">13</td> </tr> <tr> <td>15 Goose Prairie Solar</td> <td style="text-align: right;">16</td> </tr> <tr> <td>16 High Top and Ostrea</td> <td style="text-align: right;">20</td> </tr> <tr> <td>17 Horse Heaven Wind Farm</td> <td style="text-align: right;">22</td> </tr> <tr> <td>18 Wautoma Solar</td> <td style="text-align: right;">22</td> </tr> <tr> <td>19 Hop Hill Solar</td> <td style="text-align: right;">23</td> </tr> <tr> <td>20 Carriger Solar</td> <td style="text-align: right;">23</td> </tr> <tr> <td>21 Wallula Gap</td> <td style="text-align: right;">24</td> </tr> <tr> <td>22 Goldeneye BESS</td> <td style="text-align: right;">25</td> </tr> <tr> <td>23 Adjournment</td> <td style="text-align: right;">26</td> </tr> <tr> <td>24</td> <td></td> </tr> <tr> <td>25</td> <td></td> </tr> </tbody> </table>	EVENT:	PAGE NO.	3 Call to order	6	4 Roll call	6	5 Proposed agenda	10	6 Minutes		7 July 17, 2024, monthly Council meeting	10	8 Projects		9 Kittitas Valley Wind Project	11	10 Wild Horse Wind Power Project	11	11 Chehalis Generation Facility	12	12 Grays Harbor Energy Center	12	13 Columbia Solar	13	14 Columbia Generating Station and WNP-1/4	13	15 Goose Prairie Solar	16	16 High Top and Ostrea	20	17 Horse Heaven Wind Farm	22	18 Wautoma Solar	22	19 Hop Hill Solar	23	20 Carriger Solar	23	21 Wallula Gap	24	22 Goldeneye BESS	25	23 Adjournment	26	24		25	
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<p style="text-align: right;">Page 6</p> <p>1 BE IT REMEMBERED that on Wednesday, 2 August 21, 2024, at 621 Woodland Square Loop 3 Southeast, Lacey, Washington, at 1:30 p.m., the 4 following Monthly Meeting of the Washington State 5 Energy Facility Site Evaluation Council was held, to 6 wit: 7 8 <<<<<< >>>>>> 9 10 CHAIR DREW: Good afternoon. This 11 is Kathleen Drew, chair of the Washington Energy 12 Facility Site Evaluation Council, bringing our August 13 meeting to order. 14 Ms. Grantham, would you call the roll. 15 MS. GRANTHAM: Certainly, Chair 16 Drew. 17 Department of Commerce. 18 MS. OSBORNE: Elizabeth Osborne, 19 present. 20 MS. GRANTHAM: Department of 21 Ecology. 22 Department of Fish and Wildlife. 23 MR. LIVINGSTON: Mike Livingston, 24 present. 25 MS. GRANTHAM: Department of</p>	<p style="text-align: right;">Page 8</p> <p>1 MR. ECKROTH: Robby Eckroth, 2 present. 3 MS. GRANTHAM: Assistant attorney 4 generals: Jon Thompson. 5 MR. THOMPSON: Present. 6 MS. GRANTHAM: And Zack Packer. 7 Administrative law judges: Adam Torem. 8 ALJ TOREM: This is Judge Torem. 9 MS. GRANTHAM: Laura Bradley. 10 Dan Gerard. 11 And Travis Dupree. 12 For Council staff, I will call those who will be 13 anticipated to speak today. 14 Ami Hafkemeyer. 15 MS. HAFKEMEYER: Present. 16 MS. GRANTHAM: Amy Moon. 17 MS. MOON: Present. 18 MS. GRANTHAM: Sara Randolph. 19 Lance Caputo. 20 MR. CAPUTO: Present. 21 MS. GRANTHAM: John Barnes. 22 MR. BARNES: Present. 23 MS. GRANTHAM: Joanne Snarski. 24 MS. SNARSKI: Present. 25 MS. GRANTHAM: And Zia Ahmed.</p>
<p style="text-align: right;">Page 7</p> <p>1 Natural Resources. 2 MR. YOUNG: Lenny Young, present. 3 MS. GRANTHAM: Utilities and 4 Transportation Commission. 5 MS. BREWSTER: Stacey Brewster, 6 present. 7 MS. GRANTHAM: For local government 8 and optional State agencies: For the Horse Heaven 9 project, for Benton County, Ed Brost. 10 MR. BROST: Ed is here. 11 MS. GRANTHAM: For the -- excuse me. 12 We will not be calling Badger Mountain. 13 For Wautoma Solar, for Benton County, Dave Sharp. 14 MR. SHARP: Dave Sharp, present. 15 MS. GRANTHAM: Washington State 16 Department of Transportation, Paul Gonseth. 17 MR. GONSETH: Paul Gonseth, present. 18 MS. GRANTHAM: For the Hop Hill 19 Solar project, for Benton County, Paul Krupin. 20 For the Carriger Solar project, for Klickitat 21 County, Matt Chiles. 22 For the Wallula Gap project, for Benton County, 23 Adam Fyall. 24 And for the Goldeneye BESS project, for Skagit 25 County, Rob Eckroth.</p>	<p style="text-align: right;">Page 9</p> <p>1 MR. AHMED: Present. 2 MS. GRANTHAM: For operational 3 updates: Kittitas Valley wind project. 4 MR. CASEDAY: Jarred Caseday, 5 present. 6 MS. GRANTHAM: Wild Horse Wind Power 7 Project. 8 MS. GALBRAITH: Jennifer Galbraith, 9 present. 10 MS. GRANTHAM: Grays Harbor Energy 11 Center. 12 Chehalis Generation Facility. 13 MR. SMITH: Jeremy Smith, present. 14 MS. GRANTHAM: Columbia Generating 15 Station. 16 MR. MEHINAGIC: Denis Mehinagic, 17 present. 18 MS. GRANTHAM: Columbia Solar. 19 MR. CUSHING: Thomas Cushing, 20 present. 21 MS. GRANTHAM: And Goose Prairie 22 Solar. 23 MR. CRIST: Jacob Crist, present. 24 MS. GRANTHAM: And do we have anyone 25 present for the counsel for the environment?</p>

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1 MS. REYNEVELD: Yes. Sarah
 2 Reyneveld and Yuriy Korol are present.
 3 MS. GRANTHAM: Thank you.
 4 Chair, there is a quorum for all councils.
 5 CHAIR DREW: Thank you.
 6 Moving on to the proposed agenda. Council
 7 members, you have that in front of us.
 8 Is there a motion to adopt the proposed agenda?
 9 MR. YOUNG: Lenny Young. So moved.
 10 CHAIR DREW: Second?
 11 MS. OSBORNE: Elizabeth Osborne.
 12 Second.
 13 CHAIR DREW: Thank you.
 14 Any discussion?
 15 All those in favor, say "aye."
 16 MULTIPLE SPEAKERS: Aye.
 17 CHAIR DREW: Opposed? The agenda is
 18 adopted.
 19 Moving on to the monthly meeting minutes. Is
 20 there a motion to approve the monthly meeting minutes?
 21 MS. BREWSTER: Stacey Brewster. So
 22 moved.
 23 CHAIR DREW: Second?
 24 MR. LIVINGSTON: Mike Livingston.
 25 Second.

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1 CHAIR DREW: Thank you.
 2 I have a few minor changes.
 3 First of all, on Page 14, Line 9, "star" should be
 4 "start."
 5 On Page 33, Line 13, delete the word "date."
 6 On Page 53, Line 3, delete the word "from."
 7 And on Page 55, Line 6, the word "engage" should
 8 be "engagement."
 9 Does anyone else have any corrections to the
 10 minutes?
 11 Hearing none, all those in favor of the --
 12 approving the amended minutes, please say "aye."
 13 MULTIPLE SPEAKERS: Aye.
 14 CHAIR DREW: Opposed?
 15 The July minutes, as amended, are approved.
 16 Moving on to our agenda for operational updates.
 17 Kittitas Valley wind project. Mr. Caseday.
 18 MR. CASEDAY: Yeah, good afternoon,
 19 Chair Drew, EFSEC Council, and staff. This is Jarred
 20 Caseday with EDP Renewables for the Kittitas Valley
 21 wind power project.
 22 We had nothing nonroutine to report for the
 23 period.
 24 CHAIR DREW: Thank you.
 25 Wild Horse Wind Power Project. Ms. Galbraith.

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1 MS. GALBRAITH: Yes. Thank you,
 2 Chair Drew, Council members, and EFSEC staff. For the
 3 record, this is Jennifer Galbraith representing Puget
 4 Sound Energy for the Wild Horse wind facility.
 5 For the month of July, I have no nonroutine
 6 updates. However, we did get the opportunity to meet
 7 with EFSEC site specialist Sara Randolph, who visited
 8 Wild Horse on August 15th, and it was great to meet her
 9 in person and to show her around the facility and
 10 introduce her to staff.
 11 CHAIR DREW: Thank you.
 12 MS. GALBRAITH: So thank you.
 13 CHAIR DREW: Thank you.
 14 Chehalis Generation Facility. Jeremy Smith.
 15 MR. SMITH: Good afternoon, Chair
 16 Drew, Council members, and EFSEC staff. This is Jeremy
 17 Smith, the operations manager representing the Chehalis
 18 Generation Facility.
 19 I do not have anything nonroutine to note for the
 20 month of July.
 21 CHAIR DREW: Thank you.
 22 Grays Harbor Energy Center. Mr. Sherin.
 23 MR. SHERIN: Good afternoon, Chair
 24 Drew, Council members, and EFSEC staff. This is Chris
 25 Sherin, plant manager, Grays Harbor Energy Center.

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1 And I do not have anything that was -- that
 2 wasn't -- everything was routine for the month of July.
 3 CHAIR DREW: Thank you.
 4 Columbia Solar. Mr. Cushing.
 5 MR. CUSHING: Good afternoon, Chair
 6 Drew, Council members, EFSEC staff. This is Thomas
 7 Cushing speaking on behalf of Columbia Solar.
 8 There are no nonroutine updates to report.
 9 CHAIR DREW: Thank you.
 10 Columbia Generating Station and WNP-1 and -4.
 11 Mr. Mehinagic.
 12 MR. MEHINAGIC: Good afternoon,
 13 Chair Drew, Council members, EFSEC staff. This is
 14 Denis Mehinagic speaking on behalf of Energy Northwest,
 15 Columbia Generating Station, and Washington Nuclear
 16 Projects 1 and 2.
 17 Energy Northwest has been requested to update the
 18 Council regarding an event which occurred in June of
 19 2023.
 20 On Tuesday, June 13th, 2023, while Columbia
 21 Generating Station was shut down for a refueling and
 22 maintenance outage, the facility experienced an
 23 unintended loss conservatively estimated at no more
 24 than 300 gallons of oil from a turbine oil heat
 25 exchanger when a tube failed during routine

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1 maintenance. The oil was introduced to the site
 2 cooling system. The oil, Mobil DTE 732, is not a
 3 hazardous substance according to the safety data sheet.
 4 **A comprehensive overview of this event was given during**
 5 **the June 21st, 2023, Council meeting.**
 6 **In a letter received from the Energy Facility Site**
 7 **Evaluation Council on July 7th, 2023, EFSEC concluded**
 8 **that the event was reported in accordance with the**
 9 **requirements of the National Pollutant Discharge**
 10 **Elimination System permit. In addition, since the lube**
 11 **oil cleanup has been completed, no further corrective**
 12 **actions or penalties would be imposed. In a follow-up**
 13 **letter from EFSEC on May 7th, 2024, the incident was**
 14 **officially considered closed.**
 15 **The Department of Ecology's Resource Damage**
 16 **Assessment Committee conducted a comprehensive**
 17 **evaluation of the June 2023 event. On July 22nd, 2024,**
 18 **the committee issued an invoice to Energy Northwest,**
 19 **which has since been paid.**
 20 CHAIR DREW: Thank you.
 21 So this concludes all activities around that
 22 incident; is that correct?
 23 MR. MEHINAGIC: That is correct.
 24 CHAIR DREW: Okay. Thank you.
 25 MS. MOON: Chair Drew, this is Amy

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1 Moon, a siting specialist. And I just have a couple
 2 follow-up things to report to the Council on that just
 3 to give a little bit more information about that
 4 resource damage assessment.
 5 That committee is headed by Ecology. It meets
 6 once per month to conduct pre-assessment screenings for
 7 oil spills into Washington State waters. The committee
 8 consists of Department of Ecology -- that's the
 9 chair -- Department of Fish and Wildlife, Department of
 10 Natural Resources, State Parks and Recreation
 11 Commission, Department of Health, and the Department of
 12 Archaeology and Historic Preservation.
 13 EFSEC is not a member of that RDA Committee, and
 14 the committee has no requirements to report to EFSEC,
 15 but this update is to keep the EFSEC Council informed
 16 regarding that 2023 lube oil incident.
 17 The RDA Committee discussed the release and
 18 cleanup in their meeting that they had on September
 19 13th, 2023, and the committee authorized a -- the use
 20 of a compensation schedule to calculate the damages.
 21 The meeting minutes are on the resource damage
 22 assessment website that the Council can -- and the
 23 public can access.
 24 And I spoke with Sam Hunn at Ecology about an
 25 overall enforcement packet that goes with the resource

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1 damage assessment, and he said that there's three parts
 2 to that. There's a natural resource damage where
 3 there's an assessment for impacts to the natural
 4 resources, and that I believe is the invoice that Denis
 5 spoke of.
 6 Then there's a cost recovery for the spill
 7 response, and it's my understanding that Ecology was
 8 the spill response. Sometimes there's Fish and
 9 Wildlife is called in. And that monetary recovery
 10 amount is coming from the Ecology budget office, and
 11 it's not yet ready.
 12 And then the third part is a penalty part, and
 13 that has not been issued as well. That's, like,
 14 their -- the enforcement piece.
 15 So that is -- Energy Northwest doesn't have that
 16 yet. It's not been finalized. But the Department of
 17 Ecology did reach out to EFSEC just to ask about the
 18 compliance with the NPDES and wanted just some
 19 information on the overall spill, itself, and response.
 20 Is there -- have any questions?
 21 CHAIR DREW: Thank you.
 22 Are there any questions from any Council members?
 23 Thank you for that.
 24 Okay. Moving on to Goose Prairie Solar project.
 25 Mr. Crist.

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1 MR. CRIST: Yeah, good afternoon
 2 Chair Drew, EFSEC Council, and staff. This is Jacob
 3 Crist, senior project manager on behalf of Brookfield
 4 Renewable North America, providing the Goose Prairie
 5 Solar update for the month of July.
 6 The project remained on contractual schedule.
 7 Some of our upcoming milestone dates for commissioning
 8 activities are in the past as of this meeting. Yeah.
 9 However, we did -- we did meet the dates. I don't -- I
 10 don't think that we can necessarily consider the start
 11 of our 90-day soak and hot commissioning of inverters
 12 as of the 21st yet. We -- we're going through
 13 commissioning activities, running into some issues that
 14 are not unexpected, and we're working through those
 15 issues before we can get sync with the utility.
 16 Were considered mechanically complete
 17 contractually. We are still expecting on or around the
 18 22nd of November to receive utility sign-off and be
 19 considered commercial operational -- commercially
 20 operational. And then substantial completion, we are
 21 tracking right now for Christmas Eve of this year.
 22 Hopefully we can pull that back a few days.
 23 All major scope items are complete from a
 24 construction standpoint. Again, we're in the
 25 commissioning phase at this point.

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1 Cleanup items and current punch list items that we
2 were tracking are complete. And all that remains are
3 the back-feeding of the substation -- or the hot
4 commissioning and the BPA testing along with some minor
5 punch list items that will come from the hot
6 commissioning activities and the BPA testing pieces.
7 We have submitted, that I'm aware of, all of our
8 O&M site certificate deliverables that are required
9 prior -- 90 days prior to COD and that they are in with
10 the Council for review. And then no discharge was
11 reported on-site in the month of July, and we did
12 have -- continue with the frequent monitoring through
13 WSP with no findings reported for July.
14 Any questions?
15 CHAIR DREW: What I understand you
16 to say is that you're going through the final
17 preparation for completion with the utility, and you
18 expect that to be done November 20th to 22nd and to be
19 fully operational by the end of the year; is that
20 correct?
21 MR. CRIST: Yes. So -- yes. Our
22 utility sign-off date is expected around November 22nd.
23 And that is -- that is a 90-day built-in requirement
24 with BPA.
25 CHAIR DREW: Okay.

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1 MR. CRIST: And then from an offtake
2 perspective --
3 CHAIR DREW: Yes.
4 MR. CRIST: -- yeah, our expectation
5 is that we can declare commercial operation -- we can
6 declare COD from an offtaker on the 22nd of November.
7 However, our project will not be substantially complete
8 from a contractual standpoint with our contractor until
9 December 24th. There are two tests that they have to
10 meet, an availability test and a capacity test, that
11 they have to basically prove that the site can generate
12 what they said it could when they built it and that it
13 is available -- it has a high percentage of
14 availability in the month or months of the year that it
15 will be tested in.
16 CHAIR DREW: Okay. And can you --
17 I'm not bringing to mind who is going to be the
18 offtaker for your project.
19 MR. CRIST: Yeah, I would have to
20 get back to you, the Council, on that one.
21 CHAIR DREW: Okay.
22 MR. CRIST: I can work through Sara,
23 Sara Randolph, and provide that information.
24 CHAIR DREW: That would be great.
25 Thank you.

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1 Any other questions --
2 MR. CRIST: Thank you.
3 CHAIR DREW: -- from Council
4 members?
5 Okay. High Top and Ostrea. We have them
6 together.
7 Project updates. Is Ms. Randolph...? Mr. Barnes.
8 MR. BARNES: Thank you, Chair Drew.
9 For the record, this is John Barnes on behalf of
10 Sara Randolph, site specialist for the High Top and
11 Ostrea project.
12 EFSEC staff received a draft of the initial site
13 restoration plan, or ISRP, from the certificate holder,
14 which is available to you in your packet. Staff has
15 reviewed the draft in consultation with our independent
16 contractor and our attorney general, determined that
17 the plan complies with the facility site certification
18 agreement, or SCA, and in accordance with Washington
19 Administrative Code, or WAC, 463-72.
20 The ISRP was posted to the comments section of the
21 EFSEC website for a public comment period from August
22 14th, 2024, to August 18th, 2024. We did not receive
23 any public comments.
24 The ISRP is required to be approved by the Council
25 per WAC 463-72-030. At this time, staff recommend the

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1 Council vote to approve the ISRP as provided.
2 We have no other updates at this time.
3 CHAIR DREW: Thank you.
4 So, Council members, you have received the copy of
5 the initial site restoration plan. And this we're
6 talking about is for Ostrea as the one going forward at
7 this point in time. High Top's a little bit longer in
8 its -- it hasn't come up to this point yet, so -- as
9 they're two separate projects.
10 What I'm looking for is a motion to approve the
11 initial site restoration plan.
12 Is there a motion to do so?
13 MR. YOUNG: Lenny Young. I move
14 approval of the Ostrea ISRP.
15 CHAIR DREW: Thank you.
16 MS. BREWSTER: Stacey Brewster.
17 Second. Thanks.
18 CHAIR DREW: Are there any comments
19 or questions for staff?
20 Hearing none. All those in favor, signify by
21 saying "aye."
22 MULTIPLE SPEAKERS: Aye.
23 CHAIR DREW: The motion is approved
24 for the initial site restoration plan for the Ostrea
25 project. Thank you.

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1 Horse Heaven Wind Farm project update. Ms. Moon.
 2 MS. MOON: Good afternoon, Council
 3 Chair Drew and EFSEC Council members. Once again, for
 4 the record, this is Amy Moon reporting on the Horse
 5 Heaven wind project.
 6 As requested, EFSEC staff have prepared language
 7 as discussed by the Council at the July 17th, 2024,
 8 Council meeting to address feedback and comments
 9 provided by the governor's office on that draft SCA and
 10 recommendation.
 11 Proposed changes to the draft site certification
 12 agreement documents reflecting Council direction on
 13 mitigation measures have been provided to Council for
 14 review and are currently out for public comment. That
 15 comment period was -- is August 19th through the 25th.
 16 It closes at 11:59 p.m. on the 25th.
 17 Comments will be provided to the Council ahead of
 18 a special meeting that is scheduled for August 29th at
 19 3 p.m.
 20 Does the Council have any questions?
 21 CHAIR DREW: Are there any questions
 22 from Council members?
 23 Okay. Thank you.
 24 Moving on to the Wautoma project update.
 25 Mr. Caputo.

Page 23

1 MR. CAPUTO: Thank you, Chair Drew
 2 and Council members.
 3 The adjudicative hearing for the Wautoma Solar
 4 energy project is scheduled for next month, on
 5 Wednesday, September 25th, 2024, beginning at 9 a.m.
 6 and lasting until 5 p.m., if necessary. Staff are
 7 working to schedule the public comment portion of the
 8 adjudication. Thank you.
 9 May I answer any questions?
 10 CHAIR DREW: Are there any questions
 11 for Mr. Caputo?
 12 Thank you.
 13 Hop Hill Solar project. Mr. Barnes.
 14 MR. BARNES: Thank you, Chair Drew
 15 and Council members. For the record, this is John
 16 Barnes, EFSEC staff, for the Hop Hill application.
 17 Work is continuing with the applicant to complete
 18 studies and reports needed to make a SEPA
 19 determination. We continue to coordinate and review
 20 the application with our contractor, contracted
 21 agencies, and tribal governments.
 22 Are there any questions?
 23 CHAIR DREW: Any questions?
 24 Thank you.
 25 Carriger Solar project update. Ms. Snarski.

Page 24

1 MS. SNARSKI: Thank you, Chair Drew
 2 and Council members. This is Joanne Snarski, for the
 3 record, the siting specialist for Carriger Solar.
 4 On August 1st, we received an updated amendment to
 5 the wetland and water bodies delineation reports
 6 previously submitted in 2023. This amendment was in
 7 response to comments received from Department of
 8 Ecology, both in writing and during a field visit
 9 conducted earlier this spring. We anticipate final
 10 comments from Ecology in early September.
 11 Finally, in anticipation of the completion of the
 12 traditional and cultural properties study by the Yakama
 13 Nation Cultural Resources Program in December of 2024,
 14 Chair Drew has initiated a formal government-to-
 15 government consultation request with the tribe. We
 16 hope to proceed the formal consultation with more
 17 informal discussions to address process and timelines.
 18 Any questions?
 19 CHAIR DREW: Are there any
 20 questions?
 21 Thank you.
 22 Wallula Gap. Mr. Barnes.
 23 MR. BARNES: Thank you, Chair Drew
 24 and Council members.
 25 For the record, this is John Barnes, EFSEC staff,

Page 25

1 for the Wallula Gap application.
 2 The applicant, OneEnergy, has partnered with SWCA
 3 Environmental Consultants to conduct and complete a
 4 cultural resource survey for the Wallula Gap
 5 application. Work is scheduled for August of 2024.
 6 Staff are continuing to review the application with our
 7 contractor, contracted agencies, and tribal
 8 governments.
 9 Are there any questions?
 10 CHAIR DREW: Did you say that
 11 they've contracted for the survey beginning this month?
 12 MR. BARNES: Yes.
 13 CHAIR DREW: Okay.
 14 MR. BARNES: Well, it's not at the
 15 beginning, but during this month, yes.
 16 CHAIR DREW: Okay. Making sure that
 17 that's what I heard. Thank you.
 18 Any other questions?
 19 Goldeneye BESS project update. Mr. Ahmed.
 20 MR. AHMED: Thank you, Chair Drew
 21 and Council members. For the record, this is Zia
 22 Ahmed, siting specialist for the Goldeneye battery
 23 energy storage project.
 24 On August 13, 2024, EFSEC arranged a public
 25 information hearing and the land-use consistency

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1 hearing as required by RCW 80.50.090, WAC 463-26-025,
 2 WAC 463-26-035, and WAC 463-26-050 in the Skagit
 3 County, Washington.

4 During the public information hearing, comments
 5 were recorded. And at the land-use hearing, the
 6 applicant and the public provided testimony regarding
 7 proposed project consistency and compliance with the
 8 land-use planning and zoning ordinances.

9 There were 28 speakers at the public information
 10 hearing and seven at the land-use consistency hearing.
 11 There were 37 total public comments, including written
 12 comments, which include comments from the Skagit County
 13 Planning & Development Services, one comment from the
 14 Snoqualmie Tribe, and one comment from the Squaxin
 15 Tribe.

16 That's all the update I have for now. Let me know
 17 if you have any questions.

18 CHAIR DREW: Thank you.

19 Are there any questions from Council members?
 20 Thank you very much.

21 And that is our agenda for today's meeting. If
 22 there are no other subjects to come before us, which
 23 there are not, this meeting is adjourned. Thank you,
 24 all.
 25 ////

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1 (Meeting adjourned at
 2 1:56 p.m.)
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1 STATE OF WASHINGTON) I, John M.S. Botelho, CCR, RPR,
) ss a certified court reporter
 2 County of Pierce) in the State of Washington, do
 hereby certify:

3
 4

5 That the foregoing Monthly Meeting of the Washington
 State Energy Facility Site Evaluation Council was conducted
 in my presence and adjourned on August 21, 2024, and
 6 thereafter was transcribed under my direction; that the
 transcript is a full, true and complete transcript of the
 7 said meeting, transcribed to the best of my ability;
 8 That I am not a relative, employee, attorney or counsel
 of any party to this matter or relative or employee of any
 9 such attorney or counsel and that I am not financially
 interested in the said matter or the outcome thereof;

10

11 IN WITNESS WHEREOF, I have hereunto set my hand
 this 5th day of September, 2024.
 12
 13
 14
 15

 /s/John M.S. Botelho, CCR, RPR
 Certified Court Reporter No. 2976
 (Certification expires 5/26/2025.)

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WASHINGTON STATE

ENERGY FACILITY SITE EVALUATION COUNCIL

HORSE HEAVEN SPECIAL MEETING

August 29, 2024

Lacey, Washington

Reporter: John M.S. Botelho, CCR, RPR

Page 2

1 APPEARANCES

2

3 STATE AGENCY MEMBERS:

4 Kathleen Drew, Chair

5 Eli Levitt, Department of Ecology (*)

6 Mike Livingston, Dept. of Fish and Wildlife (*)

7 Lenny Young, Department of Natural Resources (*)

8 Stacey Brewster,

9 Utilities & Transportation Commission (*)

10 LOCAL GOVERNMENT AND OPTIONAL STATE AGENCIES:

11 Horse Heaven:

12 Ed Brost, Benton County (*)

13

14 ASSISTANT ATTORNEYS GENERAL:

15 Jon Thompson (*)

16 Zack Packer (*)

17

18 ADMINISTRATIVE LAW JUDGE:

19 Adam Torem (*)

20

21 COUNCIL STAFF:

22 Sonia Bumpus (*) Alex Shiley (*)

23 Ami Hafkemeyer Karl Holappa (*)

24 Amy Moon (*) Audra Allen (*)

25 Joan Owens (*) Lisa McLean (*)

Page 3

1 APPEARANCES (Continuing)

2

3 COUNCIL STAFF (Continuing):

4 Andrea Grantham Adrienne Barker

5 Sean Greene Catherine Taliaferro (*)

6 Lance Caputo (*)

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8 COUNSEL FOR THE ENVIRONMENT:

9 Sarah Reyneveld (*)

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23 (*) indicates remote attendee

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Page 4

1 BE IT REMEMBERED that on Thursday,

2 August 29, 2024, at 621 Woodland Square Loop

3 Southeast, Lacey, Washington, at 3:01 p.m., the

4 following Horse Heaven Special Meeting of the

5 Washington State Energy Facility Site Evaluation

6 Council was held, to wit:

7

8 <<<<<< >>>>>>

9

10 CHAIR DREW: Good afternoon. This

11 is Kathleen Drew, Chair of the Energy Facility Site

12 Evaluation meeting, calling our special meeting on

13 the Horse Heaven Wind Farm to order.

14 Ms. Grantham, will you call the roll.

15 MS. GRANTHAM: Certainly, Chair

16 Drew.

17 Department of Commerce.

18 Department of Ecology.

19 MR. LEVITT: Eli Levitt, present.

20 MS. GRANTHAM: Department of Fish

21 and Wildlife.

22 MR. LIVINGSTON: Mike Livingston,

23 present.

24 MS. GRANTHAM: Department of

25 Natural Resources.

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1 MR. YOUNG: Lenny Young, present.

2 MS. GRANTHAM: Utilities and

3 Transportation Commission.

4 MS. BREWSTER: Stacey Brewster,

5 present.

6 MS. GRANTHAM: For local government

7 and optional State agency: For the Horse Heaven

8 project, for Benton County, Ed Brost.

9 MR. BROST: Ed Brost is present.

10 MS. GRANTHAM: Assistant attorney

11 generals. Jon Thompson.

12 MR. THOMPSON: Present.

13 MS. GRANTHAM: And Zack Packer.

14 MR. PACKER: Present.

15 MS. GRANTHAM: Administrative law

16 judge: Adam Torem. He has informed me that he is

17 online and present.

18 And I will call Council staff who may speak today.

19 Sonia Bumpus.

20 MS. BUMPUS: Present.

21 MS. GRANTHAM: Ami Hafkemeyer.

22 MS. HAFKEMEYER: Present.

23 MS. GRANTHAM: Amy Moon.

24 MS. MOON: Amy Moon, present.

25 MS. GRANTHAM: And Sean Greene.

<p style="text-align: right;">Page 6</p> <p>1 MR. GREENE: Present. 2 MS. GRANTHAM: And is there anyone 3 here for the counsel for the environment? 4 MS. REYNEVELD: Yes. Sarah 5 Reyneveld is present. 6 MS. GRANTHAM: Thank you. 7 Chair, there is a quorum. 8 CHAIR DREW: Thank you, all. 9 My first announcement is that since we are 10 unable -- even though we had expected to have all our 11 Council members here, we will be scheduling a meeting 12 next week to take a vote. I'm very sorry, but one 13 member was unexpectedly unavailable at the last minute. 14 So in order to give her the opportunity to vote as 15 well, we will be having a short meeting to conduct a 16 vote when all members are available. 17 However, we will go ahead and have our discussion 18 today. And just to remind everybody where we are in 19 this process, I don't -- I think we all know that 20 Governor Inslee directed the Council to reconsider the 21 conditions and mitigation in its recommendation in 22 favor of an approach to mitigation that is more 23 narrowly tailored to the specific impacts identified. 24 That is what we have been working the past couple 25 of months forward to. I know that he also stated that</p>	<p style="text-align: right;">Page 8</p> <p>1 see. There were essentially four changes to mitigation 2 measures from the initial draft SCA that was submitted 3 to the governor's office to the current version 4 provided to the Council and the public. 5 The first is the Habitat 1 mitigation measure 6 where the original draft version had included a 7 requirement that project components be sited outside of 8 medium-or-higher linkage wildlife movement corridors. 9 That version has been reverted to the version of 10 Habitat 1 that was -- that was included in the F -- the 11 final environmental impact statement, which is a 12 requirement that the applicant provide a corridor 13 mitigation plan for any components sited in those -- 14 those same movement corridors, and this plan would 15 include features to accommodate wildlife movement 16 across linear project components, impact reduction 17 measures, restoration monitoring, and adaptive 18 management but does not include the exclusion areas 19 associated. 20 CHAIR DREW: Okay. Let's pause 21 right there to see if Council members have any 22 questions or would like to discuss that. 23 Okay. Seeing none, let's go on to the Species -- 24 MS. GRANTHAM: Mr. Livingston raised 25 his hand.</p>
<p style="text-align: right;">Page 7</p> <p>1 the record is robust and satisfactory from my 2 perspective for the purposes of siting and permitting 3 the proposed project. 4 And I do want to say at this point that we've 5 heard a lot from multiple parties about taking up the 6 issue of need for the project, which was not considered 7 in the project adjudication. And we are not taking 8 that up. We are focusing our response on approaching 9 the mitigation more narrowly tailored to specific 10 impacts. So I wanted to make that statement on the 11 record. We did not take up the issue of need. We are 12 not taking it up in this proceeding. 13 So at this point, I want to ask the staff to 14 summarize the information that went out to all the 15 Council members and that the public had a chance to 16 review for changes in the Council -- in the proposed 17 changes to the SCA for Council reconsideration. The 18 Council at our last meeting on this subject directed 19 the staff to draft proposed changes to the SCA. 20 So with that, I will hand it over to Mr. Greene 21 and Ms. Hafkemeyer to maybe give us a brief overview of 22 what those changes in the SCA are. 23 MR. GREENE: Okay. 24 CHAIR DREW: Sorry about that. 25 MR. GREENE: There were -- let's</p>	<p style="text-align: right;">Page 9</p> <p>1 CHAIR DREW: Who did? Oh. Mike. 2 MR. LIVINGSTON: Yeah -- 3 CHAIR DREW: Mr. Livingston. 4 MR. LIVINGSTON: -- Chair Drew. 5 CHAIR DREW: Yeah. 6 MR. LIVINGSTON: Thanks. 7 So the -- this pullback from the protection levels 8 that we had put in the original SCA for medium- to 9 high-quality habitat corridors is certainly one that 10 concerns me given the limited amount of habitat 11 connectivity that we do have in the Horse Heaven Hills, 12 and some of these areas are the last remaining 13 connection. 14 So though I appreciate, you know, going back to 15 the -- the EIS and what's in there -- and I trust that 16 there'll be a lot of hard work going into making sure 17 that there's a good plan put in place in the event that 18 there has to be some diminishment of those corridors -- 19 I just wanted to express that that is a -- that is a 20 concern of mine, veering away from what the -- the SCA 21 that we had recommended to the governor back in the 22 spring. So just wanted to share that. Thank you. 23 CHAIR DREW: I do. So let's talk 24 about that a little bit. And I appreciate that. 25 So as we look at this corridor mitigation plan, my</p>

<p style="text-align: right;">Page 10</p> <p>1 understanding is that that will be developed with the 2 PTAG; is that correct? Or is this something that the 3 applicant would put forward to that group for review? 4 MR. GREENE: I'm not sure whether 5 the PTAG is explicitly mentioned in this mitigation 6 measure, but it is a plan that the applicant would 7 develop and submit to EFSEC for approval. 8 CHAIR DREW: To EFSEC. 9 MR. GREENE: Correct. 10 CHAIR DREW: Okay. So that would 11 then involve our EFSEC staff reviewing it in 12 consultation with our agencies that usually give us 13 input as well as with consultants who are on board to 14 help us review that. Is that how you see that process 15 moving forward? 16 MR. GREENE: Yes, that's correct. 17 We would consult with subject matter experts from other 18 State agencies as well as consultants that have -- are 19 employed by EFSEC. 20 CHAIR DREW: And will it include the 21 intent that there will be a path through the project 22 for wildlife? 23 MR. GREENE: Yes. The goal is to 24 reduce project impacts as much as possible or as much 25 as practical for barriers to wildlife movement, and</p>	<p style="text-align: right;">Page 12</p> <p>1 additional two nests that were identified in applicant 2 surveys. 3 The version of Specie- -- or the version of 4 Species 5 included in the draft SCA available to the 5 Council today reduces that two-mile exclusion area to a 6 0.6-mile exclusion area, or one kilometer, but 7 additionally takes language from the final 8 environmental impact statement version of this measure, 9 wherein any historic -- or any identified nest that 10 is where the nesting site is still available and 11 sufficient foraging habitat is viable within that 12 two-mile buffer, those nests would be provided the full 13 two-mile buffer from the original vers- -- or from the 14 governor's version, the version of the SCA submitted to 15 the governor. 16 So to reiterate, all documented nests are provided 17 at least a 0.6-mile buffer. Nests where the nesting 18 site is still available and foraging habitat is viable 19 are provided the two-mile buffer. And that applies to 20 primary project components, which are wind turbines, 21 solar arrays, and BESSes. Apart from the eastern BESS, 22 where language was added to specifically exclude that 23 one from this version of Species 5 as relocating it 24 away from where it is currently located on disturbed 25 habitat would increase habitat impacts with no</p>
<p style="text-align: right;">Page 11</p> <p>1 that can include requirements to install specific 2 components that would allow for easier wildlife 3 movement, such as larger culverts or potentially 4 bridges or road crossings. 5 CHAIR DREW: Okay. I just wanted to 6 get on the record what -- our expectations as an agency 7 for how that process would occur. How we would conduct 8 the process, let me say. 9 I hear -- I do hear your concerns, and I 10 understand them. 11 Are there comments other people would like to 12 make, or questions? 13 Okay. Let's go on to the next -- 14 MR. GREENE: Sure. 15 CHAIR DREW: -- item that is 16 changed. 17 MR. GREENE: The next mitigation 18 measure that is changed from the initial SCA draft is 19 Species 5, which is specific to the ferruginous hawk. 20 The original ver- -- or the version of Species 5 21 that was submitted to the governor's office included a 22 two-mile buffer for all primary project components to 23 all documented ferruginous hawk nests within two miles 24 of the project lease area. This included 56 nests from 25 the WDFW priority habitat and species data set and an</p>	<p style="text-align: right;">Page 13</p> <p>1 discernible mitigative effect as a result. So in that 2 case, it was better to leave it where it is. 3 CHAIR DREW: Okay. Are there 4 questions from Council members, or comments? 5 I want to talk a little bit about the process for 6 this measure. How would this measure be implemented? 7 MR. GREENE: So the process that it 8 would go through is a pre-operational technical 9 advisory group would be founded, composed of subject 10 matter experts from other State agencies as well as 11 independent experts and other potentially tribal 12 individuals or individuals from local government, if 13 it's deemed justifiable. 14 And that -- that PTAG would work with the -- work 15 with EFSEC and the applicant to identify a process for 16 determining habitat viability. And the PTAG and the 17 applicant would work to identify which of the -- which 18 of the documented nests meet or don't meet the two 19 criteria for providing the full two-mile buffer, submit 20 that guidance to EFSEC for consideration. 21 EFSEC would make the final determination on which 22 nests would receive a .6-mile buffer and which nests 23 would receive a full two-mile buffer. 24 CHAIR DREW: So the PTAG is not 25 making any decisions; is that correct?</p>

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1 MR. GREENE: That is correct. The
2 PTAG is an advisory body. It has no decision-making
3 authority.
4 CHAIR DREW: EFSEC will make the
5 decisions.
6 MR. GREENE: Correct.
7 CHAIR DREW: And, secondly, I'll ask
8 Ms. Hafkemeyer: Is this a new concept that we've never
9 implemented before? Has this been implemented before
10 by EFSEC?
11 MS. HAFKEMEYER: It has a slightly
12 different name. But EFSEC has used what is
13 functionally a preconstruction, still technical
14 advisory group, or -- I'm sorry -- technical advisory
15 committee, or TAC, for multiple projects, and multiple
16 projects have had these groups convene prior to the
17 start of construction.
18 Some of the public comments that were received
19 prior in the review of this project raised concerns
20 about whether or not the TAC started before or after
21 operations of the facility. But EFSEC has a history of
22 requiring these groups to provide advice and guidance
23 to EFSEC, as the decision-maker, starting prior to the
24 start of construction for several projects.
25 CHAIR DREW: Okay. So this is not

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1 at all unusual in its makeup or use or implementation
2 in this project.
3 Mr. Young.
4 MR. YOUNG: Would there be a single
5 PTAG that would be addressing different aspects of the
6 project, or would there be more than one PTAG with a
7 PTAG -- for example, ferruginous hawk -- focused just
8 on ferruginous hawk?
9 MR. GREENE: So the intention is
10 that there's a single body that operates as the PTAG.
11 It's possible that membership may change, depending on
12 which of the mitigation measures that the PTAG is
13 working on at any one time. For instance, a
14 ferruginous hawk expert might not be as needed for some
15 of the other mitigation measures that the PTAG will be
16 considering. But it is -- it is the goal to only have
17 a single body that may have some rotating numbers.
18 MR. YOUNG: How would the PTAG
19 members be selected?
20 MR. GREENE: It would be selected by
21 EFSEC essentially as the decision-maker, but we would
22 take into consideration where expertise might be
23 necessary. Where it's possible, we would include
24 subject matter experts from other State agencies where
25 there may be a lack of expertise or a lack of

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1 availability. We would contract independent experts.
2 MS. HAFKEMEYER: And if I could jump
3 in here. Historically we have required that the
4 facilities put together and convene their technical --
5 their TACs, but that is with EFSEC concurrence on
6 membership.
7 MR. YOUNG: Could you clarify that?
8 When you say the facilities do the selection, who are
9 the facilities?
10 MS. HAFKEMEYER: So, for example,
11 Columbia Solar, Wild Horse have active TACs, and they
12 send out meeting invites, do the scheduling, lead the
13 meeting, send out minutes, and so they sort of take the
14 lead in the scheduling and agendas and whatnot, and
15 EFSEC still retains participation and oversight of
16 decisions.
17 MR. YOUNG: That sounds more --
18 MS. HAFKEMEYER: Does that answer
19 your question?
20 MR. YOUNG: Sort of. That sounds
21 more like mechanics of operating the TAG after the TAG
22 has been selected.
23 Who would actually select -- how would -- how
24 would the "SAG" (phonetic) members actually be
25 selected?

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1 MS. HAFKEMEYER: So generally we
2 request participation from the desired entities; for
3 example, DFW, U.S. Fish, Ecology. And then within
4 those agencies, they decide who to appoint for the
5 project, and we have left that up to those bodies'
6 discretion as to who their actual member is.
7 MR. YOUNG: Okay. So it'd be more
8 contacting organizations that EFSEC feels should be
9 represented on the TAG, and those organizations would
10 then select the individuals that would represent them
11 on the TAG?
12 MS. HAFKEMEYER: Correct.
13 MR. YOUNG: Okay. And then, again,
14 on the -- sort of the managerial aspect of the TAG,
15 when you refer to the facilities in this case, would
16 the facilities mean the applicant, Scout Clean Energy?
17 MS. HAFKEMEYER: Correct.
18 MR. YOUNG: Okay.
19 CHAIR DREW: I think it's a term
20 that, if approved, the applicant becomes a certificated
21 facility in our EFSEC language. So --
22 MR. YOUNG: Okay. Great.
23 CHAIR DREW: That's the comparison.
24 Yes.
25 MR. YOUNG: Understood. And thank

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1 you for answers to my questions.
2 CHAIR DREW: Okay. Certainly.
3 Are there other questions?
4 Mr. Livingston.
5 MR. LIVINGSTON: Yeah. Thanks,
6 Chair.
7 You know, from the beginning of this, the PTAG
8 approach has concerned me, just 'cause it leaves a lot
9 of questions unanswered. Interesting reading through
10 comments in the last couple of days. I've seen some --
11 some concerns expressed on both sides of this issue.
12 And so I'm curious: If this goes forward as the
13 new draft has described it, one of the questions has
14 been how do we develop the criteria to determine the
15 viability or the suitability of foraging habitat and
16 nesting habitat? What's -- what's the thought on
17 staff's approach to that? Obviously we're going to
18 need wildlife experts adding to that conversation, but
19 how would you go about that?
20 MR. GREENE: Yeah, so that process
21 is -- is certainly going to be involved, and that's why
22 we wanted to wait until the PTAG was operational before
23 we got too deep in the weeds on that.
24 The language within Species 5 includes a couple of
25 examples of foraging habitat that might be considered

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1 no longer viable, such as those that have experienced
2 large -- large landscape scale conversion into
3 residential or agricultural. But that -- the
4 development of that viability criteria for foraging
5 habitat is something that the subject matter experts
6 within the PTAG will be very helpful in determining.
7 Ultimately it will be EFSEC's decision as to what those
8 criteria are and how they are applied to the BESS, but
9 we will certainly give credence to guidance that we
10 receive from the PTAG.
11 MR. LIVINGSTON: Okay. Thank you.
12 That's it for me. Well, let me ask one more
13 question. I'm sorry.
14 CHAIR DREW: No.
15 MR. LIVINGSTON: Councilman Young
16 there.
17 MR. YOUNG: No. Go ahead.
18 MR. LIVINGSTON: So, you know, one
19 of the things that has --
20 CHAIR DREW: You're muted.
21 Accidentally.
22 MR. LIVINGSTON: I apologize. Sorry
23 about that.
24 CHAIR DREW: No worries.
25 MR. LIVINGSTON: How does that

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1 happen? All this time using Teams, and I don't know
2 how to do it.
3 Anyway, so one of the things I was stating was
4 that some of the other values that we've been working
5 on to protect, that have been inclusive of a two-mile
6 buffer around ferruginous hawk nests, including TCPs
7 and viewshed, you know, as we go through this, this
8 leaves just this big question mark.
9 If we use the best available science for assessing
10 ferruginous hawk territories and conclude -- you know,
11 I don't know what percentage of these. I have no idea.
12 It could be zero. It could be 10, 20 percent of them.
13 I don't know. But then that leaves a question, the
14 other values that we've discussed as important,
15 particularly in our findings and in our draft SCA to
16 the governor back in April. It seems like it just
17 leaves a lot of questions for us and what those values
18 will be protected or not going forward.
19 So I guess I'm just expressing the concern of not
20 addressing those other issues with this approach.
21 Thank you.
22 CHAIR DREW: Thanks.
23 I will briefly say -- and then I'll get to
24 Mr. Young's next question -- that, frankly, as Chair of
25 this Council, in working with the staff on developing

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1 this set of narrowing the mitigations, I thought about
2 that quite a bit to determine how to approach each of
3 these impacts individually. And so we do -- I -- don't
4 have the same extent as we had before as we looked at
5 the combination, but there is some mitigation for
6 many -- for a few of those issues. I think the visual
7 one is more dependent on the others, and perhaps that
8 final determination of the viability of the hawks. But
9 I would still say that the way this is structured will
10 eliminate some of the most visible turbines.
11 Is that something that -- I won't ask Sean to
12 comment on that. That's my opinion -- I'll leave it at
13 that -- and certainly what I was striving to
14 accomplish.
15 Mr. Young.
16 MR. YOUNG: I don't have any other
17 question at this time.
18 CHAIR DREW: Okay.
19 Sorry about that.
20 MR. GREENE: You want to move to the
21 next measure?
22 CHAIR DREW: Okay. Let's go on to
23 the next measure.
24 MR. GREENE: Okay. The next change
25 in mitigation from the previous version of the SCA is a

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1 new measure that was incorporated into this version.
2 It is labeled as Cultural Resources 3. And it is a
3 requirement that all wind turbines be precluded from
4 being sited within one mile of the geographic drop-off
5 at the top of Webber Canyon. This was done in response
6 to TCP concerns that were identified by the Yakama
7 Nation associated with Webber Canyon. And 17 of the
8 proposed turbines would be affected by this mitigation
9 measure, and they would need to either be relocated
10 elsewhere within the wind siting micro-corridor -- wind
11 micro-siting corridor or removed from the project.
12 CHAIR DREW: So let me make a
13 comment about this.
14 Again, Governor Inslee asked the Council to,
15 quote, reconsider the conditions and mitigation in its
16 recommendation in favor of an approach to mitigation
17 that is more narrowly tailored to the specific impacts
18 identified.
19 And then specifically regarding cultural
20 resources, the governor asked the Council to consider,
21 quote, physical traditional cultural resources within
22 the leased property boundary.
23 So I did ask the staff to look at physical
24 traditional cultural resources within the leased
25 property boundary and identified specifically that

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1 found -- and that we found the Yakama Nation
2 specifically identified the Webber Canyon as an area of
3 particular concern in an early letter from March 2nd,
4 '21.
5 I recognize that the Yakama Nation has
6 communicated that the project overall will
7 substantially impact Yakama Nation traditional cultural
8 properties. I still wanted to ensure that there was a
9 specific mitigation prohibiting turbines on the
10 physical property of the leased property boundary.
11 So this is separating -- you know, I see it as
12 separating the mitigation and identifying it as a
13 narrower mitigation but also to reduce some impact to
14 the Yakama Nation. I am no way saying that it will be
15 considered in any way as sufficient by the Yakama
16 Nation, but I did want to give that explanation.
17 Mr. Young.
18 MR. YOUNG: Did I understand it to
19 be said that the applicant would have the option of
20 resituating those 17 turbines elsewhere within the
21 project area?
22 MR. GREENE: Yes. So the locations
23 of the turbines that have been shown in the project
24 layout are representative examples. The way that this
25 project has -- or is going for approval is approving

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1 the number of turbines that are outlined in the
2 application anywhere within the wind micro-siting
3 corridor, which is shown on the project layout.
4 So the exact locations where the turbines are
5 shown right now is not necessarily where they would
6 eventually be sited. They could be sited anywhere
7 within the wind micro-siting corridor pending the
8 exclusion areas that would be imposed by measures
9 like -- like Cultural Resources 3.
10 So this measure would not exclude those 17
11 turbines. It would exclude the area where those 17
12 turbines are currently being proposed as well as other
13 areas of the wind micro-siting corridor where there is
14 currently no turbines proposed, but it would prohibit
15 them in the future from being relocated there.
16 MR. YOUNG: Okay.
17 CHAIR DREW: If I could add, that's
18 the same way we described all of the exclusion zones
19 that we have put forward throughout this project.
20 MR. GREENE: Yes.
21 CHAIR DREW: As turbines would be
22 allowed except for in these areas.
23 MR. YOUNG: Right.
24 MR. GREENE: It's excluding areas,
25 not necessarily individual turbines.

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1 CHAIR DREW: It's not any different
2 than what we've said before on that.
3 MR. YOUNG: Okay. But I -- I just
4 want to make sure I understood it, that it would -- it
5 would not necessarily result in the total number of
6 turbines for the project being reduced by 17. It --
7 again, as you -- as you've described it, it's a -- it's
8 a protection of an area, not a direct numerical
9 reduction in the number of turbines; is that correct?
10 MR. GREENE: That's correct. It
11 would be, I guess, accurate to say that it would result
12 in a maximum of 17 turbines being --
13 MR. YOUNG: Right.
14 MR. GREENE: -- removed from --
15 MR. YOUNG: Right.
16 MR. GREENE: -- the project but
17 not --
18 MR. YOUNG: Right.
19 MR. GREENE: If they can find the
20 engineering to relocate those elsewhere within the wind
21 micro-siting corridor, there could be no reduction in
22 production potential --
23 CHAIR DREW: That is not mitigated
24 in other ways.
25 MR. GREENE: Correct.

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1 MR. YOUNG: Right.
2 CHAIR DREW: So, you know, the EIS
3 looked at the whole -- the whole project and the
4 micro-siting corridor, and there are several things
5 which affects areas within the micro-siting corridor.
6 MR. GREENE: Correct.
7 MR. YOUNG: Okay. And then --
8 CHAIR DREW: Yeah.
9 MR. YOUNG: -- and one other
10 question is comparing the original -- the original
11 recommendation to the governor, the original SCA with
12 the revision. How many of those 17 turbines that would
13 be excluded by the buffer at Webber Canyon, how many of
14 those 17 would have been allowed to have been built
15 under the original recommendation to the governor?
16 MR. GREENE: Zero.
17 CHAIR DREW: But it's the same --
18 MR. YOUNG: Zero.
19 CHAIR DREW: The same is true. It
20 wouldn't be the turbines built. It would have been an
21 area of exclusion.
22 MR. YOUNG: Yeah. But it's sort of
23 a wash, then, between -- between the original
24 recommendation and the revision that's being
25 considered. In the original, those 17 would have been

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1 excluded for --
2 CHAIR DREW: Right.
3 MR. YOUNG: -- I guess, other --
4 other reasons, because in the original version, there
5 was not a specific exclusion for Webber Canyon. And so
6 in the revision, that area would -- those 17 proposed
7 sites wouldn't be affected by the Webber Canyon buffer,
8 but in the original, they would have been affected by
9 something else and would have been excluded by one of
10 the other considerations?
11 MR. GREENE: That's correct. They
12 would have been excluded by the version of Species 5,
13 the ferruginous hawk mitigation --
14 MR. YOUNG: Okay.
15 MR. GREENE: -- which was at that
16 point intended to cover a variety of resource impacts.
17 MR. YOUNG: Okay. Thank you.
18 CHAIR DREW: For those who haven't
19 followed specifically who is talking -- although it's
20 clear on my screen -- that it was Mr. Lenny Young from
21 the Department of Natural Resources, and it was Sean
22 Greene on our staff, who were introduced as they began
23 speaking.
24 Are there any other questions?
25 MR. YOUNG: Yeah, my -- my little

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1 hand icon seems to automatically go down after about
2 ten seconds, so I just -- I disappear. And thank you
3 for those answers to my questions.
4 CHAIR DREW: Yes.
5 Okay. Is there more that we want to -- anyone
6 else have questions on this particular mitigation on
7 the Webber Canyon? Okay.
8 Let's move on to --
9 MR. BROST: Chair Drew.
10 CHAIR DREW: Yes.
11 MR. BROST: Chair Drew, it's Ed
12 Brost. Could I ask a question related to turbines
13 before we leave that question? And this goes back to
14 the original. There was -- in the original proposal,
15 there was taller turbines versus the shorter turbines.
16 When we're talking number of turbines, we still aren't
17 talking which specific type of turbines we're talking
18 about, are we?
19 MR. GREENE: So -- I'm sorry.
20 MR. BROST: And do we ever -- do we
21 ever decide on the shorter versus the taller?
22 CHAIR DREW: So the applicant's
23 proposal to us, as is relatively common with any wind
24 facility that comes to EFSEC, has an option of a taller
25 and a shorter turbine. They also need to be looking at

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1 what the latest technology is.
2 So in our process, the EIS covers both options but
3 does not require the applicant to settle into one
4 option. Because things change in this industry quite a
5 bit and some turbines that they have used as examples
6 will be out of production, so there's a number of
7 different factors as is -- so it actually made a very
8 complicated review process, because we did look in the
9 EIS at the proposal for both numbers. And you will see
10 that broken out through everything.
11 We kind of revert to looking at the proposal with
12 the most number of turbines that is shorter, because it
13 would have -- the mitigations have more impact per
14 turbine, and so we tend to only show that, but it is
15 considering either option.
16 Is that more or less correct, Mr. Greene?
17 MR. GREENE: Yes. And I would say
18 specific to the most recent mitigation measure that we
19 were discussing, the 17 turbines, that is 17 for both
20 Option 1 and Option 2. So there are more Option 1
21 turbines, the shorter ones, that are proposed, but in
22 this case, the number is equivalent for both options.
23 MS. HAFKEMEYER: And if I could jump
24 in. For the record, this is Ami Hafkemeyer.
25 Just to reiterate, the exclusion area would remain

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1 the same regardless of the turbine type for each of
2 these mitigation measures. And so related to Council
3 Member Young's question, the language in the draft as
4 presented to Council is focused more on an exclusion
5 area rather than a specific number of turbines.
6 CHAIR DREW: Okay. Let's move on to
7 the next difference between the original SCA and the
8 proposed changes.
9 MR. GREENE: Sure. And, again, for
10 the record, this is Sean Greene, the SEPA specialist
11 for EFSEC.
12 The final mitigation change that is included in
13 this updated version of the SCA is labeled as Public
14 Health and Safety 2. It has been put in to mitigate
15 project effects on aerial firefighting abilities within
16 the area.
17 The Department of Natural Resources has informed
18 EFSEC that their aircraft provide a standard corridor
19 mile standoff area for any tall structures when in
20 operation, when the aircraft are in operation. So this
21 measure would provide a quarter-mile buffer around the
22 maximum extent of any wildfire that has occurred within
23 the proximity of the project lease boundary since the
24 year 2000, since January 1st, 2000. Yeah.
25 CHAIR DREW: So couple of questions

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1 on this.
2 MR. GREENE: Mm-hmm.
3 CHAIR DREW: First, when we had an
4 interaction with the Department of Natural Resources,
5 we were talking with them about the aircraft that they
6 use.
7 MR. GREENE: That's correct. They
8 describe that both their helicopter and fixed-wing
9 aircraft are provided with the same quarter-mile buffer
10 as standoff distance.
11 CHAIR DREW: Thank you.
12 Are there other questions from Council members?
13 Mr. Young.
14 MR. YOUNG: Yeah, I think the only
15 place where Mr. Lane hedged a little bit on that was,
16 he was referring to most of the aircraft that DNR uses:
17 Helicopters, the Air Tractor / Fire Bosses, probably
18 the scoopers, and the twin jets -- or excuse me --
19 twin-turbine planes, the Q-400s. But he was not
20 referring to the what are known as VLATs, the very
21 large air tankers, like the converted DC-10s, in terms
22 of the quarter-mile buffer.
23 CHAIR DREW: Okay. Thank you for
24 that clarification.
25 MR. GREENE: And DNR did also state

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1 to us that, when it comes to an operational basis, the
2 pilots have full ability to increase that standoff
3 distance based on what they feel would be safe. So the
4 .25 miles is the minimum that DNR mandates, but if the
5 pilots in operation phase want to increase that
6 standoff distance, they can do it to any distance that
7 they feel comfortable.
8 CHAIR DREW: Okay. Thank you for
9 those clarifications.
10 Are there any other questions?
11 Mr. Young.
12 MR. YOUNG: I recognize very much
13 what was just explained really well about how the --
14 the mitigations are protecting areas and not
15 specifically turbines. But we've got a lot of maps
16 with dots on them that we've been using for comparison.
17 And so if you look at the number of proposed
18 turbine locations that would have been viable under the
19 original recommendation to the governor and then the
20 number that would be viable and available to the
21 applicant under the revised recommendation to the
22 governor that's being considered, what's the
23 difference? How many more turbines of those original
24 turbine locations come back on line and become
25 available under the revision compared to the original

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1 recommendation to the governor?
2 MR. GREENE: So the issue with that
3 is it's dependent on the availability and viability
4 standards in the new version of Species 5. It is
5 potentially the case that the exclusion area from the
6 version of the SCA submitted to the governor does not
7 change. If the determination is made that all of the
8 historic ferruginous hawk nests are -- their nesting
9 sites are available and there's viable habitat, then
10 they would all retain that two-mile buffer, and there
11 would be no change.
12 The exact number of turbines or exact acreage of
13 the wind micro-siting corridor that is now newly or
14 re-available to the applicant for siting, I can't give
15 you an answer. For -- for this specific measure,
16 Public Health and Safety 2, seven of the proposed
17 locations both for Option 1 and Option 2 would be
18 excluded by this measure, and those were both
19 excluded -- or all seven would have been excluded by
20 the original version of Species 5.
21 CHAIR DREW: So there's a hard
22 exclusion, if you will, and then there's the exclusion
23 if -- dependent upon the viability of the ferruginous
24 hawk nests and the habitat. I'm kind of shortening the
25 words a little bit there --

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1 MR. GREENE: Sure.
2 CHAIR DREW: -- just for the sake of
3 making it easier to talk about.
4 So then is there an overall number of what you
5 would see on the map now in the exclusion zone other
6 than those which might be eliminated because we find
7 there is -- there are viable nests and viable habitat?
8 MR. GREENE: I have that information
9 available in percentages of the number of proposed
10 turbines. I don't have the exact number of turbines.
11 But the version of Species 5 that was submitted to
12 the governor would have eliminated the -- the locations
13 of 48 percent, approximately, of the turbines and about
14 12 percent of the solar arrays. The hard buffer -- the
15 hard exclusion area for Species 5 now would eliminate
16 about 5 and a half percent of the turbines and 6
17 percent of the solar array footprint.
18 The -- the difference between those two numbers,
19 again -- the current exclusion area could increase
20 depending on that definition of available nesting sites
21 and viable foraging habitat.
22 CHAIR DREW: So let's take it to a
23 broader level to answer this question, if we can.
24 As we look at these four measures -- well,
25 let's -- the measures that eliminate -- have -- exclude

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1 major components; that is, ferruginous hawk, the Webber
2 Canyon, and the Public Health and Safety 2, the aerial
3 firefighting.
4 If you were to look at them in total -- and I'm
5 talking about only the .6 mile for the ferruginous
6 hawk -- some of those overlap.
7 MR. GREENE: Correct.
8 CHAIR DREW: So if we were looking
9 at the total number -- I'm hoping I'm getting to the
10 answer to your question, Mr. Young, by the way. The
11 total number that would be eliminated on those, leaving
12 out the future determination of the viability of the
13 nests in the foraging area, how many would that be?
14 MR. GREENE: I don't have that
15 number available right now. It's displayed in the
16 figure that the Council had access to from the July
17 Council meeting. I could -- I could refer to that
18 figure and come up with a number, but I don't have it
19 available right now.
20 CHAIR DREW: Okay. Okay.
21 MR. YOUNG: Could I throw something
22 out and see if this makes any sense at all --
23 CHAIR DREW: Yes.
24 MR. YOUNG: -- based on what I just
25 heard?

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1 CHAIR DREW: Yes.
2 MR. YOUNG: If we took, like, a
3 starting-point number of turbines in the original
4 proposal, I think the max that was proposed was
5 something like 222. And I think you said that under
6 the original recommendation to the governor, 48 percent
7 of those would have been excluded. That's 106. And
8 that's down to 5 and a half percent under the revision.
9 That's 12.
10 So the difference, to me, looks to be -- just
11 ballpark numbers -- is that there would be 94
12 additional turbines that were not available under the
13 original recommendation that would be available under
14 the revised recommendation.
15 Does that sound ballpark? Am I on the right track
16 with that?
17 MR. GREENE: So two points on that.
18 One, some of that -- that 94, or approximate,
19 would potentially be excluded by Cultural Resources 3
20 and Public Health and Safety 2, the -- the measures
21 that talk about TCPs and aerial firefighting. There
22 might be some overlap there, so I can't give you exact
23 numbers on how many turbines.
24 And then the second part is, of those 94 turbines,
25 they are not necessarily being allowed with this

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1 current version of Species 5. They may be allowed,
2 depending on the determination --
3 MR. YOUNG: Right.
4 MR. GREENE: -- that EFSEC makes --
5 MR. YOUNG: Correct.
6 MR. GREENE: -- with the PTAG's
7 guidance.
8 MR. YOUNG: So the number -- the
9 numbers you gave me, or gave there, the 48 percent and
10 the 5 and a half percent, that just -- that just flowed
11 from ferruginous hawk protections?
12 MR. GREENE: I'm sorry. Could you
13 say that last bit again?
14 MR. YOUNG: Yeah. The 48 percent,
15 was that a -- was that a percent of the originally
16 proposed turbines under the original proposal to the
17 governor that would have been excluded for all reasons
18 or just for ferruginous hawk reasons?
19 MR. GREENE: So that 48 percent
20 would have been excluded by Species 5, which was --
21 MR. YOUNG: Okay.
22 MR. GREENE: -- ostensibly a
23 ferruginous hawk mitigation measure, but it was being
24 used to --
25 MR. YOUNG: Yeah.

<p style="text-align: right;">Page 38</p> <p>1 MR. GREENE: -- address multiple 2 resource impacts. 3 MR. YOUNG: That's right. 4 And then the 5 and a half percent, is that also -- 5 under the revision, the 5 and a half, was that -- would 6 that also flow only from Species 5? Because it seems 7 like you added the Webber Canyon -- 8 CHAIR DREW: Yes. 9 MR. YOUNG: -- turbines onto the top 10 of that 5 and a half percent. 11 MR. GREENE: Correct. That was a 12 desire by the Council to -- 13 MR. YOUNG: Okay. 14 MR. GREENE: -- kind of split up the 15 mitigation to address specific resource impacts. So 16 the 5 and a half percent is from the current version of 17 Species 5, and that is -- 18 MR. YOUNG: Yeah. 19 MR. GREENE: -- intended only for 20 reduction of ferruginous hawk impacts. It would have 21 mitigative effect to other resources, such as visual 22 and TCPs and all that, but that is not the intent of 23 that measure. 24 CHAIR DREW: I think there are -- 25 MR. YOUNG: Sure. I understand</p>	<p style="text-align: right;">Page 40</p> <p>1 MR. YOUNG: -- just for my own 2 understanding. 3 CHAIR DREW: Yes. 4 MR. YOUNG: A better comparison 5 would have been that for the way that the original 6 recommendation went in, 106 turbines would have been 7 excluded, and now 30 -- 36 would have been ex- -- or be 8 excluded, so the difference is about 70, 70 turbines, 9 and you compare that to what we -- what we started out 10 for. I'm getting an idea -- 11 CHAIR DREW: Yeah. 12 MR. YOUNG: -- of the difference 13 between -- 14 CHAIR DREW: Yeah. 15 MR. YOUNG: -- between the first 16 recommendation and the revision being considered. So 17 thank you for walking me through that. I really 18 appreciate it. 19 CHAIR DREW: And, again, that's -- 20 that's total exclusion. It's not taking into 21 consideration what the actual review of the site and 22 the viability of ferruginous hawk nests are. So that 23 would be -- 24 MR. YOUNG: And what I -- what I -- 25 CHAIR DREW: -- added to that.</p>
<p style="text-align: right;">Page 39</p> <p>1 that. 2 CHAIR DREW: If I could just chime 3 in here. I think there are specific turbine numbers 4 for each of these three measures on some information 5 that we received. Some of them overlap. But as I 6 recall -- can you pull -- can somebody pull that up? 7 Ms. Moon, are you tracking me? 8 MS. HAFKEMEYER: What is it that 9 you're looking to be pulled up? 10 CHAIR DREW: I'm looking for the 11 specific numbers -- I can -- I know you're trying to 12 get how many still remain, but I have an easier time 13 finding out -- remembering the numbers that are -- how 14 many would be -- are in areas that would be excluded. 15 And I think it's about 35. 16 MR. GREENE: Yeah, so if you -- so 17 there's about 12 turbines being excluded by Species 5. 18 There are 17 being excluded by Webber Canyon mitigation 19 and seven turbines by the aerial firefighting. 20 Combined, that number is 36. But, again, there's some 21 overlap there. So it's probably a little bit less than 22 36, but somewhere around that number would be excluded. 23 MR. YOUNG: Okay. So a better 24 comparison -- again, if I'm trying to integrate this -- 25 CHAIR DREW: Yes.</p>	<p style="text-align: right;">Page 41</p> <p>1 Yeah. 2 MR. YOUNG: Yeah. What I -- what I 3 also heard is that number, 36, could go up, depending 4 upon the status that was determined for the total array 5 of ferruginous hawk nests that are out there on the 6 land. That number could go up significantly, depending 7 upon how the status of each of those nests was 8 determined to be. 9 CHAIR DREW: Correct. 10 MR. GREENE: Yeah, I would say -- 11 MR. YOUNG: Thank you. 12 MR. GREENE: -- it's almost 13 certainly going to go up. Just the extent of how -- 14 how much it goes up is -- is still to be determined. 15 MR. YOUNG: Great. Thanks. 16 CHAIR DREW: Okay. Where are we? 17 Is that the last? 18 MR. GREENE: That is all the 19 changes -- 20 CHAIR DREW: Okay. 21 MR. GREENE: -- to the mitigation. 22 CHAIR DREW: Thank you. 23 A lot to discuss. And I think all of this is 24 good, because these are questions that everybody has. 25 Are there any other questions from Council</p>

<p style="text-align: right;">Page 42</p> <p>1 members?</p> <p>2 MR. LEVITT: I just want to also</p> <p>3 mention -- this is Eli Levitt, Ecology -- that, you</p> <p>4 know, to me, the number of turbines is important, but</p> <p>5 it's certainly not the only factor in weighing our</p> <p>6 decision. So I was also one of the people that</p> <p>7 asked -- asked to look at Webber Canyon, for example.</p> <p>8 So if we're more narrowly scoping the mitigation</p> <p>9 measures, they're just different between Choice A and</p> <p>10 Choice B, and I think it falls on us as the Council to</p> <p>11 provide the suite of mitigation measures that we think</p> <p>12 does the best job to meet the spirit and intent of what</p> <p>13 EFSEC and all of us do to protect human health and the</p> <p>14 environment and, you know, make sure there's a viable</p> <p>15 energy pool in the state, moving to cleaner energy</p> <p>16 sources, et cetera.</p> <p>17 So, me, it's a little bit apples and oranges in</p> <p>18 big picture to compare the two. It's we as a Council</p> <p>19 need to -- right now my mission is to make sure we --</p> <p>20 we provide better mitigation measures that will do the</p> <p>21 best job to make the project viable and to protect</p> <p>22 those resources we're trying to look at carefully. You</p> <p>23 know, so, for example, that's one reason I wanted to</p> <p>24 look more closely at Webber Canyon.</p> <p>25 CHAIR DREW: Thank you. I</p>	<p style="text-align: right;">Page 44</p> <p>1 particular approach is -- is the unknowns and the</p> <p>2 effects of it. So it's -- it's really hard to gauge</p> <p>3 the impact we'll have when it's unknown whether a</p> <p>4 particular nest eliminates a number of -- excludes a</p> <p>5 number of turbines that are particularly visually</p> <p>6 impactful since -- that we don't really address it --</p> <p>7 visual impact specifically with this. So I guess</p> <p>8 I'll -- I'm just throwing that concern out there as I'm</p> <p>9 considering.</p> <p>10 Beyond that, I would like to express my</p> <p>11 appreciation for staff and all the work that you've put</p> <p>12 into the original proposal and this reconsidered</p> <p>13 proposal. I really do appreciate all that you have</p> <p>14 done. So thank you for that.</p> <p>15 CHAIR DREW: Thank you.</p> <p>16 Ms. Bumpus.</p> <p>17 MS. BUMPUS: Thank you, Chair Drew</p> <p>18 and Council members. For the record, this is Sonia</p> <p>19 Bumpus.</p> <p>20 This is just a comment, a general comment after</p> <p>21 listening to the discussion today, very good discussion</p> <p>22 today between Council members about what's before you.</p> <p>23 As the SEPA responsible official, I just wanted to</p> <p>24 comment that I am hearing that there's just a lot of</p> <p>25 concern and question around the -- sort of the</p>
<p style="text-align: right;">Page 43</p> <p>1 appreciate that.</p> <p>2 And that's true. As we've separated out to look</p> <p>3 at the mitigation members more specifically, we are</p> <p>4 dialing in on what those impacts are. And I do think</p> <p>5 that specifically on the ferruginous hawk, what we're</p> <p>6 looking at is really trying to establish -- and, in</p> <p>7 fact, in much of the environmental ones -- an approach</p> <p>8 which is adaptive management.</p> <p>9 And it's very hard to dial in specifically at this</p> <p>10 stage, before micro-siting is done, on the final</p> <p>11 determination and the adaptive management that's really</p> <p>12 best practice, if you will, in this type of</p> <p>13 environment. I think an agency has a much easier -- an</p> <p>14 agency without this type of process has -- has a lot</p> <p>15 more, not -- it's just very difficult to pinpoint, I</p> <p>16 guess I'll say, at this point in time.</p> <p>17 But the intent of adaptive management is a</p> <p>18 high-level concept that's throughout our environmental</p> <p>19 process. And that's what we're trying to achieve here</p> <p>20 as well as meeting the goals of the future that is the</p> <p>21 balancing act within our statute.</p> <p>22 Are there other comments or questions?</p> <p>23 Ms. Brewster.</p> <p>24 MS. BREWSTER: Thanks.</p> <p>25 I guess one of the -- one of my concerns with this</p>	<p style="text-align: right;">Page 45</p> <p>1 deficiency and certitude -- right? -- around number of</p> <p>2 turbines that are permitted, number that actually get</p> <p>3 put into use and these kinds of things after the</p> <p>4 micro-siting process is complete.</p> <p>5 And I thought of a section of SEPA, in the SEPA</p> <p>6 rules, where it talks about -- it's in SEPA Rule /</p> <p>7 Washington Administrative Code 197-11-660. And it</p> <p>8 talks about the substantive authority and mitigation</p> <p>9 that an agency does in considering an action, a</p> <p>10 proposed action.</p> <p>11 And one of the things that's interesting is that</p> <p>12 it talks about identifying adverse environmental</p> <p>13 impacts but also ensuring, to the extent that you can,</p> <p>14 you know, that you are developing and applying</p> <p>15 mitigation that's effective but that is also</p> <p>16 attributable in terms of the adverse impact from the</p> <p>17 action, itself, right?</p> <p>18 So I thought of that, because I think the -- this</p> <p>19 sort of adaptive and management approach that's baked</p> <p>20 into the mitigation before you, it helps us to achieve</p> <p>21 that. It looks at the area after these criteria are</p> <p>22 developed -- talking about Species 5, right? -- and</p> <p>23 you're able to then determine what is going to</p> <p>24 specifically trigger that criteria, and then of course</p> <p>25 we all know we've already talked at length about how</p>

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1 that -- you know, how that plays out with PTAG and
2 such.
3 But it's actually in the SEPA rules. And I think
4 that while there are some unanswered questions about
5 this right now, that adaptive management approach, the
6 use of the PTAG allows us to get down to the impacts
7 that -- that we identify once we're able to in the
8 micro-siting process in these particular locations.
9 So I hope that's helpful.
10 CHAIR DREW: Thank you.
11 I'm reminded that, at the beginning of the
12 meeting, we didn't ask the staff to go over the public
13 comments that had come in. Or do you have a summary of
14 the comments? I know that all the Council members have
15 read them, because I can tell from our conversation
16 that they have. Because I've read all of them.
17 So I know that there were -- do we have an exact
18 count of the number of comments?
19 MS. GRANTHAM: I can look really
20 quick.
21 CHAIR DREW: Okay.
22 MS. GRANTHAM: So we received from
23 the public 123.
24 This is Andrea Grantham, for the record, by the
25 way.

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1 CHAIR DREW: Thank you.
2 MS. GRANTHAM: And then for -- we
3 received one comment from the Yakama Nation, one
4 comment from the applicant, and three comments from
5 party member TCC.
6 CHAIR DREW: That is Tri-City --
7 MS. GRANTHAM: That's Tri-City
8 C.A.R.E.S.
9 CHAIR DREW: That's Tri-City
10 C.A.R.E.S. And those are the adjudicative parties.
11 So I am quite sure that all the Council members
12 have read them. But for the record, I will make sure
13 and state that those are the comments that we received.
14 So are there further questions or comments?
15 Again, our intent is to find a time, because we had --
16 it was unexpected that we had one Council member
17 unavailable today. And so we will be looking to have a
18 time next week where we will actually conduct a vote on
19 this SCA amendment. Okay?
20 Any other questions or comments? If not -- oh,
21 Mr. Young.
22 MR. YOUNG: Yeah, I'd just like to
23 add my thanks to staff for doing a lot of work in a
24 really short time. Very high-quality what we got.
25 Appreciated the good communication. So thank you for

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1 the great staff work as always.
2 CHAIR DREW: Thank you. Agree.
3 Okay. With that, this meeting is adjourned.
4 Thank you.
5 (Meeting adjourned at
6 4:00 p.m.)
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1 STATE OF WASHINGTON) I, John M.S. Botelho, CCR, RPR,
2) ss a certified court reporter
3 County of Pierce) in the State of Washington, do
4 hereby certify:
5
6 That the foregoing Horse Heaven Special Meeting of the
7 Washington State Energy Facility Site Evaluation Council was
8 conducted in my presence and adjourned on August 29, 2024,
9 and thereafter was transcribed under my direction; that the
10 transcript is a full, true and complete transcript of the
11 said meeting, transcribed to the best of my ability;
12 That I am not a relative, employee, attorney or counsel
13 of any party to this matter or relative or employee of any
14 such attorney or counsel and that I am not financially
15 interested in the said matter or the outcome thereof;
16
17 IN WITNESS WHEREOF, I have hereunto set my hand
18 this 6th day of September, 2024.
19
20
21
22
23
24
25

/s/John M.S. Botelho, CCR, RPR
Certified Court Reporter No. 2976
(Certification expires 5/26/2025.)

EFSEC Monthly Council Meeting – Facility Update Format

Facility Name: Kittitas Valley Wind Power Project

Operator: EDP Renewables

Report Date: September 5, 2024

Reporting Period: August 2024

Site Contact: Jarred Caseday, Operations Manager

Facility SCA Status: Operational

Operations & Maintenance (only applicable for operating facilities)

- Power generated: 29,370.15 MWH.
 - Wind speed: 6.94m/s.
 - Capacity Factor: 39.47%.
-

Environmental Compliance

- No incidents

Safety Compliance

- Nothing to report

Current or Upcoming Projects

- Nothing to report

Other

- No sound complaints
- No shadow flicker complaints

EFSEC Monthly Council Meeting – Facility Update

Facility Name: Wild Horse Wind Facility
Operator: Puget Sound Energy
Report Date: September 11, 2024
Report Period: August 2024
Site Contact: Jennifer Galbraith
SCA Status: Operational

Operations & Maintenance

August generation totaled 38,044 MWh for an average capacity factor of 18.76%.

Environmental Compliance

Nothing to report.

Safety Compliance

Nothing to report.

Current or Upcoming Projects

Nothing to report.

Other

Nothing to report.

EFSEC Monthly Council Meeting – Facility Update

Facility Name: Chehalis Generation Facility
Operator: PacifiCorp
Report Date: September 13, 2024
Reporting Period: August 2024
Site Contact: Jeremy Smith, Operations Manager
Facility SCA Status: Operational

Operations & Maintenance

-Relevant energy generation information, such as wind speed, number of windy or sunny days, gas line supply updates, etc.

- 248,899 net MW-hrs. generated in the reporting period for a capacity factor of 70.50%
-

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

Environmental Compliance

-Monthly Water Usage: 1,709,345 gallons

- Both of the City of Chehalis water meters are out of commission. Chehalis utility district has replacements on order.

-Monthly Wastewater Returned: 1,006,763 gallons

-Permit status if any changes.

- No changes.

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

- Nothing to report

-Any EFSEC-related inspections that occurred.

- Nothing to report.

-Any EFSEC-related complaints or violations that occurred.

- Nothing to report

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

- Nothing to report

Safety Compliance

-Safety training or improvements that relate to SCA conditions.

- Zero injuries this reporting period for a total of 3,319 days without a Lost Time Accident.

Current or Upcoming Projects

-Planned site improvements.

- No planned changes.

-Upcoming permit renewals.

- Nothing to report.

-Additional mitigation improvements or milestones.

- Nothing to report.

Other

-Current events of note (e.g., Covid response updates, seasonal concerns due to inclement weather, etc.).

- Nothing to report.

-Personnel changes as they may relate to EFSEC facility contacts (e.g., introducing a new staff member who may provide facility updates to the Council).

- Nothing to report.

-Public outreach of interest (e.g., schools, public, facility outreach).

- Nothing to report.

Respectfully,



Jeremy Smith
Gas Plant Operations Manager
Chehalis Generation Facility

EFSEC Monthly Council Meeting – Facility Update

Facility Name: Grays Harbor Energy Center

Operator: Grays Harbor Energy LLC

Report Date: September 18, 2024

Reporting Period: August 2024

Site Contact: Chris Sherin

Facility SCA Status: Operational

Operations & Maintenance

-GHEC generated 361,393MWh during the month and 1,929,426MWh YTD.

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

Environmental Compliance

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

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

- Monthly Outfall Discharge Monitor Report (DMR).

-Notified EFSEC Staff of the Outfall Inspection results from the prior month.

Safety Compliance

- None.

Current or Upcoming Projects

- Submitted the Acid Rain Permit Application for permit renewal in accordance with Permit Requirements 1(i) of Acid Rain Permit No. EFSEC/10-01-AR.

-NPDES permit renewal application submitted to EFSEC in December 2023 in accordance with Section S6.A of NPDES Permit No. WA0024961.

Other

-None.

EFSEC Monthly Council Meeting Facility Update

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

Operator: Tuusso Energy, LLC

Report Date: September 15th, 2024

Reporting Period: 31 Days from August 1, 2024

Site Contact: Thomas Cushing

Facility SCA Status: Operation

Construction Status

- Penstemon
 - Currently operational
 - Total Generation during the month of August was 1.309 GWh

 - Camas
 - Currently operational
 - Total Generation during the month of August was 1.255 GWh

 - Urtica
 - Currently operational
 - Total Generation during the month of July was 1.290 GWh
-

EFSEC Monthly Council Meeting

Facility Name: **Columbia Generating Station and Washington Nuclear Project 1 and 4 (WNP-1/4)**

Operator: **Energy Northwest**

Report Date: **September 18th, 2024**

Reporting Period: **August 2024**

Site Contact: **Denis Mehinagic**

Facility SCA Status: **Operational**

CGS Net Electrical Generation for August 2024: **841,568 Mega Watt-Hours.**

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

Environmental Compliance:

On September 10, 2024, at approximately 2:35 PM Energy Northwest became aware that no more than 30 gallons of silicone compressor fluid, Sullair 24KT, had potentially leaked through the service air compressor (SA-C-1) heat exchanger (SA-HX-2) and entered the Plant Service Water (TSW) system.

SA-C-1 was removed from service on September 3rd due to excessive oil consumption. Despite the lowered oil level, the best information at the time indicated no loss of oil to the TSW had occurred. The heat exchanger remained out of service and was pressure tested on September 10 and confirmed to have a leak that would allow the silicone compressor fluid to migrate into TSW.

TSW cools the service air compressor and other non-radioactive loads in the facility before returning to the Circulating Water (CW) basin, where it is mixed with circulating water and may enter a system again such as TSW, CW, or Fire Protection (FP) water. Because TSW returns to the CW basin, it can be discharged to the Columbia River with circulating water blowdown.

An investigation is being conducted into what caused the failure of the heat exchanger. All damaged heat exchanger equipment was replaced and tested before the air compressor was returned to service. The evaluation is being driven by the Energy Northwest Corrective Action Program (CAP) and is assigned Condition Report number 461715.

Energy Northwest completed a report within 24 hours pursuant to National Pollutant Discharge Elimination System (NPDES) permit condition S3.F.2.b(i), which involved notification via telephone to the Energy Facility Site Evaluation Council (EFSEC) phone number listed on the NPDES permit. This notification occurred at approximately 8:35 PM on September 10, 2024. Energy Northwest followed up by phone call with EFSEC the morning of September 11, 2024, to ensure the notification was received. The United States Coast Guard, and the Washington State Emergency Management Division were also immediately notified of the event.

Energy Northwest submitted a NPDES 5-day noncompliance report to the EFSEC on September 12, 2024.

Safety Compliance

No update.

Current or Upcoming Projects

Energy Northwest submitted a revised Industrial Development Complex (IDC) Landfill Closure and Post-Closure Plan to EFSEC on August 15, 2024. This revised plan has been updated to include comments from EFSEC Comment Response Matrix received on July 2, 2024.

EFSEC Monthly Council Meeting – Facility Update Format

Facility Name: Goose Prairie Solar

Operator: Brookfield Renewable US

Report Date: 09/09/24

Reporting Period: 08/10/24 to 09/09/24

Site Contact: Jacob Crist

Facility SCA Status: (Pre-construction/**Construction**/Operational/Decommission)

Construction Status (only applicable for projects under construction)

1. Project remains ahead of the contractual schedule.
2. Upcoming Milestone Dates for commissioning activities.
 - a. 8/26/2024, Actual Start of BPA 90 Day Soak
 - b. Hot commissioning of inverters completed on 9/6 including all punch list items.
 - c. Targeting Substantial Completion around early October.
 - d. Utility Sign off and COD expected on or around 11/25/24.

-Phase/Brief update on status/month in review.

1. All major scope items are complete. Modules, racking, trackers, substation
2. Clean up items and current punchlist items are complete.
3. Back feed of the substation is complete up to the inverters.
4. Hot commissioning complete.
5. BPA curtailment checks in progress.
6. Capacity and Availability testing schedule for Mid September
7. First grass cutting commenced in late August per the vegetation and weed management plan.

Operations & Maintenance (only applicable for operating facilities)

-Relevant energy generation information, such as wind speed, number of windy or sunny days, gas line supply updates, etc.

O&M site certificate deliverables are in w/ EFSEC for approval.

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

Environmental Compliance

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

1. No discharge on the site reported in August.

-Any EFSEC-related inspections that occurred.

1. Frequent Monitoring is occurring through WSP with no findings reported for August

Safety Compliance

-Safety training or improvements that relate to SCA conditions.

Current or Upcoming Projects

-Planned site improvements.

-Upcoming permit renewals.

Other

-Current events of note (e.g., Covid response updates, seasonal concerns due to inclement weather, etc.).

-Personnel changes as they may relate to EFSEC facility contacts (e.g., introducing a new staff member who may provide facility updates to the Council).

Nelson Jia will join the October Meeting and start providing the operational updates in November.

High Top and Ostrea Solar Projects

General Description:

Ostrea Solar is an 80 MW solar photovoltaic (PV) project complete with an optional battery storage system (BESS) on eight parcels of land within the Agricultural Zoning District, near the city of Moxee, not to exceed 811.3 acres. The Project will consist of PV panels, single axis tracking PV modules and inverters, an electrical collection system, a Battery Energy Storage System (BESS), an operation and maintenance building, access roads, interior roads, security fencing, a collector substation, and electrical interconnection infrastructure.

Location:

Unincorporated Yakima County, WA. 22 miles east of Moxee.

Applicant:

Cypress Creek Renewables

Milestone Dates:

- November 30, 2021, Original ASC Submitted
- April 6, 2023, SCA Executed and Signed by Governor Jay Inslee
- August 21, 2024, Council Approved Ostrea ISRP

Status:

Application Approved
SCA Signed
Pre-Construction
Construction
Prior to Commercial Operations
Operations
Termination, Decommissioning and Site Restoration

Location Map:





STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

September XX, 2024

John Hanks
Cypress Creek Renewables
3402 Pico Blvd
Santa Monica, CA 90405

RE: Coverage under the Construction Stormwater General Permit (CSWGP) for the Ostrea Solar facility

Dear Mr. Hanks:

The Energy Facility Site Evaluation Council (EFSEC) received your Notice of Intent (NOI) for coverage under the Washington State Department of Ecology (Ecology) National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit (CSWGP). Revised Code of Washington (RCW) 80.50 and RCW 90.48, and Washington Administrative Code (WAC) 463-76-005 and WAC 463-76-010(27), authorize EFSEC to grant coverage under this general permit issued by Ecology. Permit compliance will be governed by applicable provisions of RCW 80.50, RCW 90.48, WAC 173-201A, WAC 463-76, and WAC 463-70. This is your letter of coverage. Your CSWGP coverage is effective **XX/XX/2024**.

Please retain this permit coverage letter with your permit, stormwater pollution prevention plan (SWPPP), and site log book. These materials are the official record of permit coverage for your site.

Except where noted below, all references to “Ecology” or “the department” within the CSWGP mean “EFSEC” or “the Council.” All references to the “Director” mean the “the Council”. This includes any instances of reporting, documentation requirements, and permissions.

All conditions of the CSWGP apply except as specifically modified below for compliance with EFSEC’s authorities and regulations. Please take time to read the entire permit and contact EFSEC if you have any questions.

Special Conditions Modifications

S2 Application Requirements

1. EFSEC received CCR's NOI as part of an application for site certification under RCW 80.50.060 and WAC 463-76-031. RCW 80.50 governs this application therefore the procedural requirements of **Condition S2** do not apply to this initial coverage. Permittee will follow the requirements in WAC 463-76-061 to reapply for coverage.
2. **Condition S2.A.2** does not apply to this permit coverage.
3. The following sentence is substituted for Condition S2.B in its entirety:
Public notice for this permit coverage is governed by the site certification procedure in RCW 80.50, and, in the case of reissuance, WAC 463-76-041 & 042.

S3.C.2 Compliance with Standards

For the purposes of Special Conditions S3.C.2, S4.B.1, S9.C, and S9.D.13.d; General Condition G25.A.1; as well as for the Definitions in this permit, the referenced stormwater management manuals are those approved by the Ecology.

S4.C.5.b. Monitoring Requirements, Benchmarks, and Reporting Triggers

The following requirement is added to Condition S4.C.5.b.:

When phone reporting is required, dual notification shall be made to both EFSEC and Ecology. Notification to Ecology shall be made in accordance with Special Conditions S4.C.5.b.i. Notification to EFSEC shall be made via phone at (360) 664-1345.

S5.A High Turbidity Reporting

The following requirement is added to Condition S5.A.:

Whenever a report is required under this condition, dual notification to both EFSEC and Ecology shall be made. Notification to EFSEC shall be made via phone at (360) 664-1345. Notification to Ecology shall be made in accordance with Special Condition S5.A.

S5.B Discharge Monitoring Reports

The following requirement is substituted for Condition S5.B. in its entirety:

Permittees required to conduct water quality sampling in accordance with Special Conditions S4.C (Turbidity/Transparency), S4.D (pH), S8 (303(d)/TMDL sampling), and/or G13 (Additional Sampling) must submit the results to both Ecology and EFSEC. The first monitoring period begins at the commencement of construction of the facility. The falsification of information submitted to the Council shall constitute a violation of the terms and conditions of the Site Certification Agreement.

Permittees must submit monitoring data to Ecology electronically using Ecology's WQWebDMR web application accessed through Ecology's Water Quality Permitting Portal. To find out more information and to sign up for WQWebDMR go to: <http://www.ecy.wa.gov/programs/wq/permits/paris/portal.html>.

In addition to reporting through WQWebDMR, permittee must submit a signed paper copy of the DMR to the Council at the following address:

EFSEC
P.O. Box 43172
Olympia, WA 98504-3172

Permittees shall submit DMR forms to be received by EFSEC within 15 days following the end of each month.

If there was no discharge during a given monitoring period, all Permittees must submit a DMR as required with "no discharge" entered in place of the monitoring results. DMRs are required for the full duration of permit coverage (from issuance date to termination).

S5.F Noncompliance Notification

The following requirements are **added** to **Condition S5.F.:**

All notifications under this condition shall be made to both Ecology and EFSEC. Notifications to Ecology should follow the procedures in S5.F.1 and S5.F.3.

4. All phone notifications required by this section must also be made to EFSEC via phone at (360) 664-1345. Any notification required to be sent to Ecology via paper copy or via WQWebPortal must also be sent via paper copy to EFSEC at:
EFSEC
P.O. Box 43172
Olympia, WA 98504-3172
5. Sampling and analysis of any violation must be repeated and results submitted to the EFSEC within 30 days of the permittee becoming aware of the violation;
6. A detailed written report must be submitted to EFSEC within 30 days, unless requested earlier by the Council, describing the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of the resampling, and any other pertinent information.

S6. Permit Fees

Condition S6 does not apply to this permit coverage.

S10.B Notice of Termination

The following requirement is **substituted** for **Condition S10.B** in its entirety:

When the site is eligible for termination, the Permittee must submit a complete and accurate Notice of Termination (NOT) form, signed in accordance with General Condition G2, to:

EFSEC
P.O. Box 43172
Olympia, WA 98504-3172

EFSEC will review the NOT for consistency with the requirements of Condition S10.A and notify the Permittee if the NOT is approved or denied.

Permittee is required to comply with all conditions and effluent limitations in the permit until the permit has been terminated.

Transfer of coverage may only be authorized by the Council.

General Conditions Modifications

G2. Signatory Requirements

For the purpose of compliance with Condition G2.B, all reports and information requested must be provided to both EFSEC and Ecology, and shall be signed by a person described in Condition G2.A, or by a duly authorized representative of that person. Authorization of a representative is made in writing, and submitted to both EFSEC and Ecology and specifies an individual or position as described in G2.B.2.

For the purpose of compliance with Condition G2.C, in the event of a change in personnel or organization such that the above authorization is no longer accurate, new authorization must be submitted to both EFSEC and Ecology either prior to or together with any reports, information, or applications signed by an authorized representative.

G3. Right of Inspection and Entry

For the purpose of compliance with Condition G3, the permittee must allow inspection and entry by an authorized representative of either Ecology or EFSEC, upon presentation of credentials and other such documents as may be required by law.

G.5 Revocation of Coverage under the Permit

The following is substituted for Condition G5 in its entirety:

Coverage under this permit may be modified, revoked and reissued, or terminated in accordance with the provisions of Washington Administrative Code (WAC) 463-76-062 applicable to individual permit modification, revocation and termination. Grounds for modification, revocation and reissuance, or termination of coverage include, but are not limited to, the causes listed in WAC 463-76-055(2).

G8. Duty to Reapply

For the purpose of compliance with Condition G8, the Permittee must reapply by submitting an NOI to EFSEC, not Ecology, and follow the requirements of WAC 463-76-061.

G13. Penalties for Violating Permit Conditions

The following is **substituted** for **Condition G13** in its entirety:

Enforcement actions for violations of this permit, including the issuance of penalties, shall be consistent with RCW 80.50.150, RCW 80.50.155, RCW 90.48, WAC 463-70 and WAC 463-76.

G23. Appeals

The following is **substituted** for **Condition G23** in its entirety:

The terms and conditions of coverage under this permit, prepared as part of an application for site certification, are subject to judicial review pursuant to RCW 80.50.140. The Council's reissuance, modification, or revocation of the permit is subject to judicial review pursuant to the provisions of RCW 34.05 (WAC 463-76-063).

Questions or Additional Information

If you have questions regarding stormwater management at your construction site, please contact Sara Randolph of EFSEC at (360) 485-1594 or by email.

Sincerely,

Kathleen Drew
Chair
Energy Facility Site Evaluation Council

Attachment: Department of Ecology - Construction Stormwater General Permit

cc: Sonia Bumpus, EFSEC
Ami Hafkemeyer, EFEC
Sara Randolph, EFSEC
John Barnes, EFSEC
Lloyd Stevens, ECY
Mark Peterschmidt, ECY
Nicole Flournoy, CCR
Meredith Weatherly, CCR

Issuance Date: November 18, 2020
Effective Date: January 1, 2021
Expiration Date: December 31, 2025

CONSTRUCTION STORMWATER GENERAL PERMIT

National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge
General Permit for Stormwater Discharges Associated with Construction Activity

State of Washington
Department of Ecology
Olympia, Washington 98504

In compliance with the provisions of
Chapter 90.48 Revised Code of Washington
(State of Washington Water Pollution Control Act)
and
Title 33 United States Code, Section 1251 et seq.
The Federal Water Pollution Control Act (The Clean Water Act)

Until this permit expires, is modified, or revoked, Permittees that have properly
obtained coverage under this general permit are authorized to discharge in accordance
with the special and general conditions that follow.



Vincent McGowan, P.E.
Water Quality Program Manager
Washington State Department of Ecology

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SUMMARY OF PERMIT REPORT SUBMITTALS

Refer to the Special and General Conditions within this permit for additional submittal requirements. Appendix A provides a list of definitions. Appendix B provides a list of acronyms.

Table 1 Summary of Required Submittals

Permit Section	Submittal	Frequency	First Submittal Date
S5.A and S8	High Turbidity/Transparency Phone Reporting	As Necessary	Within 24 hours
S5.B	Discharge Monitoring Report	Monthly*	Within 15 days following the end of each month
S5.F and S8	Noncompliance Notification – Telephone Notification	As necessary	Within 24 hours
S5.F	Noncompliance Notification – Written Report	As necessary	Within 5 Days of non-compliance
S9.D	Request for Chemical Treatment Form	As necessary	Written approval from Ecology is required prior to using chemical treatment (with the exception of dry ice, CO ₂ or food grade vinegar to adjust pH)
G2	Notice of Change in Authorization	As necessary	
G6	Permit Application for Substantive Changes to the Discharge	As necessary	
G8	Application for Permit Renewal	1/permit cycle	No later than 180 days before expiration
S2.A	Notice of Permit Transfer	As necessary	
G19	Notice of Planned Changes	As necessary	
G21	Reporting Anticipated Non-compliance	As necessary	

NOTE: *Permittees must submit electronic Discharge Monitoring Reports (DMRs) to the Washington State Department of Ecology monthly, regardless of site discharge, for the full duration of permit coverage. Refer to Section S5.B of this General Permit for more specific information regarding DMRs.

Table 2 Summary of Required On-site Documentation

Document Title	Permit Conditions
Permit Coverage Letter	See Conditions S2, S5
Construction Stormwater General Permit (CSWGP)	See Conditions S2, S5
Site Log Book	See Conditions S4, S5
Stormwater Pollution Prevention Plan (SWPPP)	See Conditions S5, S9
Site Map	See Conditions S5, S9

SPECIAL CONDITIONS

S1. PERMIT COVERAGE

A. Permit Area

This Construction Stormwater General Permit (CSWGP) covers all areas of Washington State, except for federal operators and Indian Country as specified in Special Condition S1.E.3 and 4.

B. Operators Required to Seek Coverage Under this General Permit

1. Operators of the following construction activities are required to seek coverage under this CSWGP:
 - a. Clearing, grading and/or excavation that results in the disturbance of one or more acres (including off-site disturbance acreage related to construction-support activity as authorized in S1.C.2) and discharges stormwater to surface waters of the State; and clearing, grading and/or excavation on sites smaller than one acre that are part of a larger common plan of development or sale, if the common plan of development or sale will ultimately disturb one acre or more and discharge stormwater to surface waters of the State.
 - i. This category includes forest practices (including, but not limited to, class IV conversions) that are part of a construction activity that will result in the disturbance of one or more acres, and discharge to surface waters of the State (that is, forest practices that prepare a site for construction activities); and
 - b. Any size construction activity discharging stormwater to waters of the State that the Washington State Department of Ecology (Ecology):
 - i. Determines to be a significant contributor of pollutants to waters of the State of Washington.
 - ii. Reasonably expects to cause a violation of any water quality standard.
2. Operators of the following activities are not required to seek coverage under this CSWGP (unless specifically required under Special Condition S1.B.1.b, above):
 - a. Construction activities that discharge all stormwater and non-stormwater to groundwater, sanitary sewer, or combined sewer, and have no point source discharge to either surface water or a storm sewer system that drains to surface waters of the State.
 - b. Construction activities covered under an Erosivity Waiver (Special Condition S1.F).
 - c. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility.

C. Authorized Discharges

1. **Stormwater Associated with Construction Activity.** Subject to compliance with the terms and conditions of this permit, Permittees are authorized to discharge stormwater associated with construction activity to surface waters of the State or to a storm sewer system that drains to surface waters of the State. (Note that “surface waters of the

State” may exist on a construction site as well as off site; for example, a creek running through a site.)

2. **Stormwater Associated with Construction Support Activity.** This permit also authorizes stormwater discharge from support activities related to the permitted construction site (for example, an on-site portable rock crusher, off-site equipment staging yards, material storage areas, borrow areas, etc.) provided:
 - a. The support activity relates directly to the permitted construction site that is required to have an NPDES permit; and
 - b. The support activity is not a commercial operation serving multiple unrelated construction projects, and does not operate beyond the completion of the construction activity; and
 - c. Appropriate controls and measures are identified in the Stormwater Pollution Prevention Plan (SWPPP) for the discharges from the support activity areas.
3. **Non-Stormwater Discharges.** The categories and sources of non-stormwater discharges identified below are authorized conditionally, provided the discharge is consistent with the terms and conditions of this permit:
 - a. Discharges from fire-fighting activities.
 - b. Fire hydrant system flushing.
 - c. Potable water, including uncontaminated water line flushing.
 - d. Hydrostatic test water.
 - e. Uncontaminated air conditioning or compressor condensate.
 - f. Uncontaminated groundwater or spring water.
 - g. Uncontaminated excavation dewatering water (in accordance with S9.D.10).
 - h. Uncontaminated discharges from foundation or footing drains.
 - i. Uncontaminated or potable water used to control dust. Permittees must minimize the amount of dust control water used.
 - j. Routine external building wash down that does not use detergents.
 - k. Landscape irrigation water.

The SWPPP must adequately address all authorized non-stormwater discharges, except for discharges from fire-fighting activities, and must comply with Special Condition S3. At a minimum, discharges from potable water (including water line flushing), fire hydrant system flushing, and pipeline hydrostatic test water must undergo the following: dechlorination to a concentration of 0.1 parts per million (ppm) or less, and pH adjustment to within 6.5 – 8.5 standard units (su), if necessary.

D. Prohibited Discharges

The following discharges to waters of the State, including groundwater, are prohibited:

1. Concrete wastewater
2. Wastewater from washout and clean-up of stucco, paint, form release oils, curing compounds and other construction materials.
3. Process wastewater as defined by 40 Code of Federal Regulations (CFR) 122.2 (See Appendix A of this permit).
4. Slurry materials and waste from shaft drilling, including process wastewater from shaft drilling for construction of building, road, and bridge foundations unless managed according to Special Condition S9.D.9.j.
5. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.
6. Soaps or solvents used in vehicle and equipment washing.
7. Wheel wash wastewater, unless managed according to Special Condition S9.D.9.
8. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed according to Special Condition S9.D.10.

E. Limits on Coverage

Ecology may require any discharger to apply for and obtain coverage under an individual permit or another more specific general permit. Such alternative coverage will be required when Ecology determines that this CSWGP does not provide adequate assurance that water quality will be protected, or there is a reasonable potential for the project to cause or contribute to a violation of water quality standards.

The following stormwater discharges are not covered by this permit:

1. Post-construction stormwater discharges that originate from the site after completion of construction activities and the site has undergone final stabilization.
2. Non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance, from which there is natural runoff as excluded in 40 CFR Subpart 122.
3. Stormwater from any federal operator.
4. Stormwater from facilities located on **Indian Country** as defined in 18 U.S.C. §1151, except portions of the Puyallup Reservation as noted below.

Indian Country includes:

- a. All land within any Indian Reservation notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation. This includes all federal, tribal, and Indian and non-Indian privately owned land within the reservation.
- b. All off-reservation Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.
- c. All off-reservation federal trust lands held for Native American Tribes.

Puyallup Exception: Following the *Puyallup Tribes of Indians Land Settlement Act of 1989*, 25 U.S.C. §1773; the permit does apply to land within the Puyallup Reservation except for discharges to surface water on land held in trust by the federal government.

5. Stormwater from any site covered under an existing NPDES individual permit in which stormwater management and/or treatment requirements are included for all stormwater discharges associated with construction activity.
6. Stormwater from a site where an applicable Total Maximum Daily Load (TMDL) requirement specifically precludes or prohibits discharges from construction activity.

F. Erosivity Waiver

Construction site operators may qualify for an Erosivity Waiver from the CSWGP if the following conditions are met:

1. The site will result in the disturbance of fewer than five (5) acres and the site is not a portion of a common plan of development or sale that will disturb five (5) acres or greater.
2. Calculation of Erosivity “R” Factor and Regional Timeframe:
 - a. The project’s calculated rainfall erosivity factor (“R” Factor) must be less than five (5) during the period of construction activity, (See the CSWGP homepage <http://www.ecy.wa.gov/programs/wq/stormwater/construction/index.html> for a link to the EPA’s calculator and step by step instructions on computing the “R” Factor in the *EPA Erosivity Waiver Fact Sheet*). The period of construction activity starts when the land is first disturbed and ends with final stabilization. In addition:
 - b. The entire period of construction activity must fall within the following timeframes:
 - i. For sites west of the Cascades Crest: June 15 – September 15.
 - ii. For sites east of the Cascades Crest, excluding the Central Basin: June 15 – October 15.
 - iii. For sites east of the Cascades Crest, within the Central Basin: no timeframe restrictions apply. The Central Basin is defined as the portions of Eastern Washington with mean annual precipitation of less than 12 inches. For a map of the Central Basin (Average Annual Precipitation Region 2), refer to: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/resourcesguidance.html>.
3. Construction site operators must submit a complete Erosivity Waiver certification form at least one week before disturbing the land. Certification must include statements that the operator will:
 - a. Comply with applicable local stormwater requirements; and
 - b. Implement appropriate erosion and sediment control BMPs to prevent violations of water quality standards.
4. This waiver is not available for facilities declared significant contributors of pollutants as defined in Special Condition S1.B.1.b or for any size construction activity that could

reasonably expect to cause a violation of any water quality standard as defined in Special Condition S1.B.1.b.ii.

5. This waiver does not apply to construction activities which include non-stormwater discharges listed in Special Condition S1.C.3.
6. If construction activity extends beyond the certified waiver period for any reason, the operator must either:
 - a. Recalculate the rainfall erosivity “R” factor using the original start date and a new projected ending date and, if the “R” factor is still under 5 *and* the entire project falls within the applicable regional timeframe in Special Condition S1.F.2.b, complete and submit an amended waiver certification form before the original waiver expires; *or*
 - b. Submit a complete permit application to Ecology in accordance with Special Condition S2.A and B before the end of the certified waiver period.

S2. APPLICATION REQUIREMENTS

A. Permit Application Forms

1. *Notice of Intent Form*

- a. Operators of new or previously unpermitted construction activities must submit a complete and accurate permit application (Notice of Intent, or NOI) to Ecology.
- b. Operators must apply using the electronic application form (NOI) available on Ecology’s website (<http://ecy.wa.gov/programs/wq/stormwater/construction/index.html>). Permittees unable to submit electronically (for example, those who do not have an internet connection) must contact Ecology to request a waiver and obtain instructions on how to obtain a paper NOI.

Department of Ecology
Water Quality Program - Construction Stormwater
PO Box 47696
Olympia, Washington 98504-7696

- c. The operator must submit the NOI at least 60 days before discharging stormwater from construction activities and must submit it prior to the date of the first public notice (See Special Condition S2.B, below, for details). The 30-day public comment period begins on the publication date of the second public notice. Unless Ecology responds to the complete application in writing, coverage under the general permit will automatically commence on the 31st day following receipt by Ecology of a *completed* NOI, or the issuance date of this permit, whichever is later; unless Ecology specifies a later date in writing as required by WAC173-226-200(2). See S8.B for Limits on Coverage for New Discharges to TMDL or 303(d)-Listed Waters.
- d. If an applicant intends to use a Best Management Practice (BMP) selected on the basis of Special Condition S9.C.4 (“demonstrably equivalent” BMPs), the applicant must notify Ecology of its selection as part of the NOI. In the event the applicant selects BMPs after submission of the NOI, the applicant must provide notice of the

selection of an equivalent BMP to Ecology at least 60 days before intended use of the equivalent BMP.

- e. Applicants must notify Ecology if they are aware of contaminated soils and/or groundwater associated with the construction activity. Provide detailed information with the NOI (as known and readily available) on the nature and extent of the contamination (concentrations, locations, and depth), as well as pollution prevention and/or treatment BMPs proposed to control the discharge of soil and/or groundwater contaminants in stormwater. Examples of such detail may include, but are not limited to:
 - i. List or table of all known contaminants with laboratory test results showing concentration and depth,
 - ii. Map with sample locations,
 - iii. Related portions of the Stormwater Pollution Prevention Plan (SWPPP) that address the management of contaminated and potentially contaminated construction stormwater and dewatering water,
 - iv. Dewatering plan and/or dewatering contingency plan.

2. ***Transfer of Coverage Form***

The Permittee can transfer current coverage under this permit to one or more new operators, including operators of sites within a Common Plan of Development, provided:

- i. The Permittee submits a complete Transfer of Coverage Form to Ecology, signed by the current and new discharger and containing a specific date for transfer of permit responsibility, coverage and liability (including any Administrative Orders associated with the permit); and
- ii. Ecology does not notify the current discharger and new discharger of intent to revoke coverage under the general permit. If this notice is not given, the transfer is effective on the date specified in the written agreement.

When a current discharger (Permittee) transfers a portion of a permitted site, the current discharger must also indicate the remaining permitted acreage after the transfer. Transfers do not require public notice.

3. ***Modification of Coverage Form***

Permittees must notify Ecology regarding any changes to the information provided on the NOI by submitting an Update/Modification of Permit Coverage form in accordance with General Conditions G6 and G19. Examples of such changes include, but are not limited to:

- i. Changes to the Permittee's mailing address,
- ii. Changes to the on-site contact person information, and
- iii. Changes to the area/acreage affected by construction activity.

B. Public Notice

For new or previously unpermitted construction activities, the applicant must publish a public notice at least one time each week for two consecutive weeks, at least 7 days apart, in a newspaper with general circulation in the county where the construction is to take place. The notice must be run after the NOI has been submitted and must contain:

1. A statement that *“The applicant is seeking coverage under the Washington State Department of Ecology’s Construction Stormwater NPDES and State Waste Discharge General Permit.”*
2. The name, address, and location of the construction site.
3. The name and address of the applicant.
4. The type of construction activity that will result in a discharge (for example, residential construction, commercial construction, etc.), and the total number of acres to be disturbed over the lifetime of the project.
5. The name of the receiving water(s) (that is, the surface water(s) to which the site will discharge), or, if the discharge is through a storm sewer system, the name of the operator of the system and the receiving water(s) the system discharges to.
6. The statement: *Any persons desiring to present their views to the Washington State Department of Ecology regarding this application, or interested in Ecology’s action on this application, may notify Ecology in writing no later than 30 days of the last date of publication of this notice. Ecology reviews public comments and considers whether discharges from this project would cause a measurable change in receiving water quality, and, if so, whether the project is necessary and in the overriding public interest according to Tier II antidegradation requirements under WAC 173-201A-320. Comments can be submitted to: Department of Ecology, PO Box 47696, Olympia, Washington 98504-7696 Attn: Water Quality Program, Construction Stormwater.*

S3. COMPLIANCE WITH STANDARDS

- A. **Discharges must not** cause or contribute to a violation of surface water quality standards (Chapter 173-201A WAC), groundwater quality standards (Chapter 173-200 WAC), sediment management standards (Chapter 173-204 WAC), and human health-based criteria in the Federal water quality criteria applicable to Washington. (40 CFR Part 131.45) Discharges that are not in compliance with these standards are prohibited.
- B. **Prior to the discharge** of stormwater and non-stormwater to waters of the State, the Permittee must apply All Known, Available, and Reasonable methods of prevention, control, and Treatment (AKART). This includes the preparation and implementation of an adequate SWPPP, with all appropriate BMPs installed and maintained in accordance with the SWPPP and the terms and conditions of this permit.
- C. **Ecology presumes** that a Permittee complies with water quality standards unless discharge monitoring data or other site-specific information demonstrates that a discharge causes or contributes to a violation of water quality standards, when the Permittee complies with the following conditions. The Permittee must fully:

1. Comply with all permit conditions, including; planning, sampling, monitoring, reporting, and recordkeeping conditions.
 2. Implement stormwater BMPs contained in stormwater management manuals published or approved by Ecology, or BMPs that are demonstrably equivalent to BMPs contained in stormwater management manuals published or approved by Ecology, including the proper selection, implementation, and maintenance of all applicable and appropriate BMPs for on-site pollution control. (For purposes of this section, the stormwater manuals listed in Appendix 10 of the *Phase I Municipal Stormwater Permit* are approved by Ecology.)
- D. Where construction sites** also discharge to groundwater, the groundwater discharges must also meet the terms and conditions of this CSWGP. Permittees who discharge to groundwater through an injection well must also comply with any applicable requirements of the Underground Injection Control (UIC) regulations, Chapter 173-218 WAC.

S4. MONITORING REQUIREMENTS, BENCHMARKS, AND REPORTING TRIGGERS

A. Site Log Book

The Permittee must maintain a site log book that contains a record of the implementation of the SWPPP and other permit requirements, including the installation and maintenance of BMPs, site inspections, and stormwater monitoring.

B. Site Inspections

Construction sites one (1) acre or larger that discharge stormwater to surface waters of the State must have site inspections conducted by a Certified Erosion and Sediment Control Lead (CESCL). Sites less than one (1) acre may have a person without CESCL certification conduct inspections. (See Special Conditions S4.B.3 and B.4, below, for detailed requirements of the Permittee's CESCL.)

Site inspections must include all areas disturbed by construction activities, all BMPs, and all stormwater discharge points under the Permittee's operational control.

1. The Permittee must have staff knowledgeable in the principles and practices of erosion and sediment control. The CESCL (sites one acre or more) or inspector (sites less than one acre) must have the skills to assess the:
 - a. Site conditions and construction activities that could impact the quality of stormwater; and
 - b. Effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges. The SWPPP must identify the CESCL or inspector, who must be present on site or on-call at all times. The CESCL (sites one (1) acre or more) must obtain this certification through an approved erosion and sediment control training program that meets the minimum training standards established by Ecology. (See BMP C160 in the manual, referred to in Special Condition S9.C.1 and 2.)
2. The CESCL or inspector must examine stormwater visually for the presence of suspended sediment, turbidity, discoloration, and oil sheen. BMP effectiveness must be evaluated to

determine if it is necessary to install, maintain, or repair BMPs to improve the quality of stormwater discharges.

Based on the results of the inspection, the Permittee must correct the problems identified, by:

- a. Reviewing the SWPPP for compliance with Special Condition S9 and making appropriate revisions within 7 days of the inspection.
 - b. Immediately beginning the process of fully implementing and maintaining appropriate source control and/or treatment BMPs, within 10 days of the inspection. If installation of necessary treatment BMPs is not feasible within 10 days, Ecology may approve additional time when an extension is requested by a Permittee within the initial 10-day response period.
 - c. Documenting BMP implementation and maintenance in the site log book.
3. The CESCL or inspector must inspect all areas disturbed by construction activities, all BMPs, and all stormwater discharge points at least once every calendar week and within 24 hours of any discharge from the site. (For purposes of this condition, individual discharge events that last more than one (1) day do not require daily inspections. For example, if a stormwater pond discharges continuously over the course of a week, only one (1) inspection is required that week.) Inspection frequency may be reduced to once every calendar month for inactive sites that are temporarily stabilized.
4. The Permittee must summarize the results of each inspection in an inspection report or checklist and enter the report/checklist into, or attach it to, the site log book. At a minimum, each inspection report or checklist must include:
- a. Inspection date and time.
 - b. Weather information.
 - c. The general conditions during inspection.
 - d. The approximate amount of precipitation since the last inspection.
 - e. The approximate amount of precipitation within the last 24 hours.
 - f. A summary or list of all implemented BMPs, including observations of all erosion/sediment control structures or practices.
 - g. A description of:
 - i. BMPs inspected (including location).
 - ii. BMPs that need maintenance and why.
 - iii. BMPs that failed to operate as designed or intended, and
 - iv. Where additional or different BMPs are needed, and why.
 - h. A description of stormwater discharged from the site. The Permittee must note the presence of suspended sediment, turbidity, discoloration, and oil sheen, as applicable.

- i. Any water quality monitoring performed during inspection.
- j. General comments and notes, including a brief description of any BMP repairs, maintenance, or installations made following the inspection.
- k. An implementation schedule for the remedial actions that the Permittee plans to take if the site inspection indicates that the site is out of compliance. The remedial actions taken must meet the requirements of the SWPPP and the permit.
- l. A summary report of the inspection.
- m. The name, title, and signature of the person conducting the site inspection, a phone number or other reliable method to reach this person, and the following statement:
I certify that this report is true, accurate, and complete to the best of my knowledge and belief.

Table 3 Summary of Primary Monitoring Requirements

Size of Soil Disturbance ¹	Weekly Site Inspections	Weekly Sampling w/ Turbidity Meter	Weekly Sampling w/ Transparency Tube	Weekly pH Sampling ²	CESCL Required for Inspections?
Sites that disturb less than 1 acre, but are part of a larger Common Plan of Development	Required	Not Required	Not Required	Not Required	No
Sites that disturb 1 acre or more, but fewer than 5 acres	Required	Sampling Required – either method ³		Required	Yes
Sites that disturb 5 acres or more	Required	Required	Not Required ⁴	Required	Yes

¹ Soil disturbance is calculated by adding together all areas that will be affected by construction activity. Construction activity means clearing, grading, excavation, and any other activity that disturbs the surface of the land, including ingress/egress from the site.

² If construction activity results in the disturbance of 1 acre or more, and involves significant concrete work (1,000 cubic yards of concrete or recycled concrete placed or poured over the life of a project) or the use of engineered soils (soil amendments including but not limited to Portland cement-treated base [CTB], cement kiln dust [CKD], or fly ash), and stormwater from the affected area drains to surface waters of the State or to a storm sewer stormwater collection system that drains to other surface waters of the State, the Permittee must conduct pH sampling in accordance with Special Condition S4.D.

³ Sites with one or more acres, but fewer than 5 acres of soil disturbance, must conduct turbidity or transparency sampling in accordance with Special Condition S4.C.4.a or b.

⁴ Sites equal to or greater than 5 acres of soil disturbance must conduct turbidity sampling using a turbidity meter in accordance with Special Condition S4.C.4.a.

C. Turbidity/Transparency Sampling Requirements

1. Sampling Methods

- a. If construction activity involves the disturbance of five (5) acres or more, the Permittee must conduct turbidity sampling per Special Condition S4.C.4.a, below.
- b. If construction activity involves one (1) acre or more but fewer than five (5) acres of soil disturbance, the Permittee must conduct either transparency sampling *or* turbidity sampling per Special Condition S4.C.4.a or b, below.

2. Sampling Frequency

- a. The Permittee must sample all discharge points at least once every calendar week when stormwater (or authorized non-stormwater) discharges from the site or enters any on-site surface waters of the state (for example, a creek running through a site); sampling is not required on sites that disturb less than an acre.
- b. Samples must be representative of the flow and characteristics of the discharge.
- c. Sampling is not required when there is no discharge during a calendar week.
- d. Sampling is not required outside of normal working hours or during unsafe conditions.
- e. If the Permittee is unable to sample during a monitoring period, the Permittee must include a brief explanation in the monthly Discharge Monitoring Report (DMR).
- f. Sampling is not required before construction activity begins.
- g. The Permittee may reduce the sampling frequency for temporarily stabilized, inactive sites to once every calendar month.

3. Sampling Locations

- a. Sampling is required at all points where stormwater associated with construction activity (or authorized non-stormwater) is discharged off site, including where it enters any on-site surface waters of the state (for example, a creek running through a site).
- b. The Permittee may discontinue sampling at discharge points that drain areas of the project that are fully stabilized to prevent erosion.
- c. The Permittee must identify all sampling point(s) in the SWPPP and on the site map and clearly mark these points in the field with a flag, tape, stake or other visible marker.
- d. Sampling is not required for discharge that is sent directly to sanitary or combined sewer systems.
- e. The Permittee may discontinue sampling at discharge points in areas of the project where the Permittee no longer has operational control of the construction activity.

4. Sampling and Analysis Methods

- a. The Permittee performs turbidity analysis with a calibrated turbidity meter (turbidimeter) either on site or at an accredited lab. The Permittee must record the results in the site log book in nephelometric turbidity units (NTUs).
- b. The Permittee performs transparency analysis on site with a 1¾ inch diameter, 60 centimeter (cm)-long transparency tube. The Permittee will record the results in the site log book in centimeters (cm).

Table 4 Monitoring and Reporting Requirements

Parameter	Unit	Analytical Method	Sampling Frequency	Benchmark Value
Turbidity	NTU	SM2130	Weekly, if discharging	25 NTUs
Transparency	Cm	Manufacturer instructions, or Ecology guidance	Weekly, if discharging	33 cm

5. Turbidity/Transparency Benchmark Values and Reporting Triggers

The benchmark value for turbidity is 25 NTUs. The benchmark value for transparency is 33 centimeters (cm). Note: Benchmark values do not apply to discharges to segments of water bodies on Washington State’s 303(d) list (Category 5) for turbidity, fine sediment, or phosphorus; these discharges are subject to a numeric effluent limit for turbidity. Refer to Special Condition S8 for more information and follow S5.F – Noncompliance Notification for reporting requirements applicable to discharges which exceed the numeric effluent limit for turbidity.

- a. Turbidity 26 – 249 NTUs, or Transparency 32 – 7 cm:

If the discharge turbidity is 26 to 249 NTUs; or if discharge transparency is 32 to 7 cm, the Permittee must:

- i. Immediately begin the process to fully implement and maintain appropriate source control and/or treatment BMPs, and no later than 10 days of the date the discharge exceeded the benchmark. If installation of necessary treatment BMPs is not feasible within 10 days, Ecology may approve additional time when the Permittee requests an extension within the initial 10-day response period.
- ii. Review the SWPPP for compliance with Special Condition S9 and make appropriate revisions within 7 days of the date the discharge exceeded the benchmark.
- iii. Document BMP implementation and maintenance in the site log book.

- b. Turbidity 250 NTUs or greater, or Transparency 6 cm or less:

If a discharge point’s turbidity is 250 NTUs or greater, or if discharge transparency is less than or equal to 6 cm, the Permittee must complete the reporting and adaptive

management process described below. For discharges which are subject to a numeric effluent limit for turbidity, see S5.F – Noncompliance Notification.

- i. Within 24 hours, telephone or submit an electronic report to the applicable Ecology Region’s Environmental Report Tracking System (ERTS) number (or through Ecology’s Water Quality Permitting Portal [WQWebPortal] – Permit Submittals when the form is available), in accordance with Special Condition S5.A.
 - **Central Region** (Okanogan, Chelan, Douglas, Kittitas, Yakima, Klickitat, Benton): (509) 575-2490
 - **Eastern Region** (Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman): (509) 329-3400
 - **Northwest Region** (Kitsap, Snohomish, Island, King, San Juan, Skagit, Whatcom): (425) 649-7000
 - **Southwest Region** (Grays Harbor, Lewis, Mason, Thurston, Pierce, Clark, Cowlitz, Skamania, Wahkiakum, Clallam, Jefferson, Pacific): (360) 407-6300

These numbers and a link to the ERTS reporting page are also listed at the following website: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/index.html>.

- ii. Immediately begin the process to fully implement and maintain appropriate source control and/or treatment BMPs as soon as possible, addressing the problems within 10 days of the date the discharge exceeded the benchmark. If installation of necessary treatment BMPs is not feasible within 10 days, Ecology may approve additional time when the Permittee requests an extension within the initial 10-day response period.
- iii. Sample discharges daily until:
 - a) Turbidity is 25 NTUs (or lower); or
 - b) Transparency is 33 cm (or greater); or
 - c) The Permittee has demonstrated compliance with the water quality standard for turbidity:
 - 1) No more than 5 NTUs over background turbidity, if background is less than 50 NTUs, or
 - 2) No more than 10% over background turbidity, if background is 50 NTUs or greater; or

*Note: background turbidity in the receiving water must be measured immediately upstream (upgradient) or outside of the area of influence of the discharge.
 - d) The discharge stops or is eliminated.
- iv. Review the SWPPP for compliance with Special Condition S9 and make appropriate revisions within seven (7) days of the date the discharge exceeded the benchmark.

- v. Document BMP implementation and maintenance in the site log book.

Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with permit benchmarks.

D. pH Sampling Requirements – Significant Concrete Work or Engineered Soils

If construction activity results in the disturbance of 1 acre or more, *and* involves significant concrete work (significant concrete work means greater than 1000 cubic yards placed or poured concrete or recycled concrete used over the life of a project) or the use of engineered soils (soil amendments including but not limited to Portland cement-treated base [CTB], cement kiln dust [CKD], or fly ash), and stormwater from the affected area drains to surface waters of the State or to a storm sewer system that drains to surface waters of the State, the Permittee must conduct pH sampling as set forth below. Note: In addition, discharges to segments of water bodies on Washington State's 303(d) list (Category 5) for high pH are subject to a numeric effluent limit for pH; refer to Special Condition S8.

1. The Permittee must perform pH analysis on site with a calibrated pH meter, pH test kit, or wide range pH indicator paper. The Permittee must record pH sampling results in the site log book.
2. During the applicable pH monitoring period defined below, the Permittee must obtain a representative sample of stormwater and conduct pH analysis at least once per week.
 - a. For sites with significant concrete work, the Permittee must begin the pH sampling period when the concrete is first placed or poured and exposed to precipitation, and continue weekly throughout and after the concrete placement, pour and curing period, until stormwater pH is in the range of 6.5 to 8.5 (su).
 - b. For sites with recycled concrete where monitoring is required, the Permittee must begin the weekly pH sampling period when the recycled concrete is first exposed to precipitation and must continue until the recycled concrete is fully stabilized with the stormwater pH in the range of 6.5 to 8.5 (su).
 - c. For sites with engineered soils, the Permittee must begin the pH sampling period when the soil amendments are first exposed to precipitation and must continue until the area of engineered soils is fully stabilized.
3. The Permittee must sample pH in the sediment trap/pond(s) or other locations that receive stormwater runoff from the area of significant concrete work or engineered soils before the stormwater discharges to surface waters.
4. The benchmark value for pH is 8.5 standard units. Anytime sampling indicates that pH is 8.5 or greater, the Permittee must either:
 - a. Prevent the high pH water (8.5 or above) from entering storm sewer systems or surface waters of the state; *or*
 - b. If necessary, adjust or neutralize the high pH water until it is in the range of pH 6.5 to 8.5 (su) using an appropriate treatment BMP such as carbon dioxide (CO₂) sparging, dry ice or food grade vinegar. The Permittee must obtain written approval from Ecology before using any form of chemical treatment other than CO₂ sparging, dry ice or food grade vinegar.

S5. REPORTING AND RECORDKEEPING REQUIREMENTS

A. High Turbidity Reporting

Anytime sampling performed in accordance with Special Condition S4.C indicates turbidity has reached the 250 NTUs or more (or transparency less than or equal to 6 cm), high turbidity reporting level, the Permittee must notify Ecology within 24 hours of analysis either by calling the applicable Ecology Region's Environmental Report Tracking System (ERTS) number by phone or by submitting an electronic ERTS report (through Ecology's Water Quality Permitting Portal (WQWebPortal) – Permit Submittals when the form is available). See the CSWGP website for links to ERTS and the WQWebPortal. (<http://www.ecy.wa.gov/programs/wq/stormwater/construction/index.html>) Also, see phone numbers in Special Condition S4.C.5.b.i.

B. Discharge Monitoring Reports (DMRs)

Permittees required to conduct water quality sampling in accordance with Special Conditions S4.C (Turbidity/Transparency), S4.D (pH), S8 (303[d]/TMDL sampling), and/or G12 (Additional Sampling) must submit the results to Ecology.

Permittees must submit monitoring data using Ecology's WQWebDMR web application accessed through Ecology's Water Quality Permitting Portal.

Permittees unable to submit electronically (for example, those who do not have an internet connection) must contact Ecology to request a waiver and obtain instructions on how to obtain a paper copy DMR at:

Department of Ecology
Water Quality Program - Construction Stormwater
PO Box 47696
Olympia, WA 98504-7696

Permittees who obtain a waiver not to use WQWebDMR must use the forms provided to them by Ecology; submittals must be mailed to the address above. Permittees must submit DMR forms to be received by Ecology within 15 days following the end of each month.

If there was no discharge during a given monitoring period, all Permittees must submit a DMR as required with "no discharge" entered in place of the monitoring results. DMRs are required for the full duration of permit coverage (from the first full month following the effective date of permit coverage up until Ecology has approved termination of the coverage). For more information, contact Ecology staff using information provided at the following website: www.ecy.wa.gov/programs/wq/permits/paris/contacts.html.

C. Records Retention

The Permittee must retain records of all monitoring information (site log book, sampling results, inspection reports/checklists, etc.), Stormwater Pollution Prevention Plan, copy of the permit coverage letter (including Transfer of Coverage documentation) and any other documentation of compliance with permit requirements for the entire life of the construction project and for a minimum of five (5) years following the termination of permit coverage. Such information must include all calibration and maintenance records, and records of all data used to complete the application for this permit. This period of retention must be extended during

the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by Ecology.

D. Recording Results

For each measurement or sample taken, the Permittee must record the following information:

1. Date, place, method, and time of sampling or measurement.
2. The first and last name of the individual who performed the sampling or measurement.
3. The date(s) the analyses were performed.
4. The first and last name of the individual who performed the analyses.
5. The analytical techniques or methods used.
6. The results of all analyses.

E. Additional Monitoring by the Permittee

If the Permittee samples or monitors any pollutant more frequently than required by this permit using test procedures specified by Special Condition S4 of this permit, the sampling results for this monitoring must be included in the calculation and reporting of the data submitted in the Permittee's DMR.

F. Noncompliance Notification

In the event the Permittee is unable to comply with any part of the terms and conditions of this permit, and the resulting noncompliance may cause a threat to human health or the environment (such as but not limited to spills or fuels or other materials, catastrophic pond or slope failure, and discharges that violate water quality standards), or exceed numeric effluent limitations (see S8 – Discharges to 303(d) or TMDL Waterbodies), the Permittee must, upon becoming aware of the circumstance:

1. Notify Ecology within 24 hours of the failure to comply by calling the applicable Regional office ERTS phone number (refer to Special Condition S4.C.5.b.i, or go to <https://ecology.wa.gov/About-us/Get-involved/Report-an-environmental-issue> to find contact information for the regional offices.)
2. Immediately take action to prevent the discharge/pollution, or otherwise stop or correct the noncompliance, and, if applicable, repeat sampling and analysis of any noncompliance immediately and submit the results to Ecology within five (5) days of becoming aware of the violation (See S5.F.3, below, for details on submitting results in a report).
3. Submit a detailed written report to Ecology within five (5) days of the time the Permittee becomes aware of the circumstances, unless requested earlier by Ecology. The report must be submitted using Ecology's Water Quality Permitting Portal (WQWebPortal) – Permit Submittals, unless a waiver from electronic reporting has been granted according to S5.B. The report must contain a description of the noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The Permittee must report any unanticipated bypass and/or upset that exceeds any effluent limit in the permit in accordance with the 24-hour reporting requirement contained in 40 C.F.R. 122.41(l)(6).

Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply. Upon request of the Permittee, Ecology may waive the requirement for a written report on a case-by-case basis, if the immediate notification is received by Ecology within 24 hours.

G. Access to Plans and Records

1. The Permittee must retain the following permit documentation (plans and records) on site, or within reasonable access to the site, for use by the operator or for on-site review by Ecology or the local jurisdiction:
 - a. General Permit
 - b. Permit Coverage Letter
 - c. Stormwater Pollution Prevention Plan (SWPPP)
 - d. Site Log Book
 - e. Erosivity Waiver (if applicable)
2. The Permittee must address written requests for plans and records listed above (Special Condition S5.G.1) as follows:
 - a. The Permittee must provide a copy of plans and records to Ecology within 14 days of receipt of a written request from Ecology.
 - b. The Permittee must provide a copy of plans and records to the public when requested in writing. Upon receiving a written request from the public for the Permittee's plans and records, the Permittee must either:
 - i. Provide a copy of the plans and records to the requester within 14 days of a receipt of the written request; *or*
 - ii. Notify the requester within 10 days of receipt of the written request of the location and times within normal business hours when the plans and records may be viewed; and provide access to the plans and records within 14 days of receipt of the written request; *or*

Within 14 days of receipt of the written request, the Permittee may submit a copy of the plans and records to Ecology for viewing and/or copying by the requester at an Ecology office, or a mutually agreed location. If plans and records are viewed and/or copied at a location other than at an Ecology office, the Permittee will provide reasonable access to copying services for which a reasonable fee may be charged. The Permittee must notify the requester within 10 days of receipt of the request where the plans and records may be viewed and/or copied.

S6. PERMIT FEES

The Permittee must pay permit fees assessed by Ecology. Fees for stormwater discharges covered under this permit are established by Chapter 173-224 WAC. Ecology continues to assess permit fees until the permit is terminated in accordance with Special Condition S10 or revoked in accordance with General Condition G5.

S7. SOLID AND LIQUID WASTE DISPOSAL

The Permittee must handle and dispose of solid and liquid wastes generated by construction activity, such as demolition debris, construction materials, contaminated materials, and waste materials from maintenance activities, including liquids and solids from cleaning catch basins and other stormwater facilities, in accordance with:

- A. Special Condition S3, Compliance with Standards.
- B. WAC 173-216-110.
- C. Other applicable regulations.

S8. DISCHARGES TO 303(d) OR TMDL WATERBODIES

A. Sampling and Numeric Effluent Limits For Certain Discharges to 303(d)-Listed Water Bodies

1. Permittees who discharge to segments of water bodies listed as impaired by the State of Washington under Section 303(d) of the Clean Water Act for turbidity, fine sediment, high pH, or phosphorus, must conduct water quality sampling according to the requirements of this section, and Special Conditions S4.C.2.b-f and S4.C.3.b-d, and must comply with the applicable numeric effluent limitations in S8.C and S8.D.
2. All references and requirements associated with Section 303(d) of the Clean Water Act mean the most current listing by Ecology of impaired waters (Category 5) that exists on January 1, 2021, or the date when the operator's complete permit application is received by Ecology, whichever is later.

B. Limits on Coverage for New Discharges to TMDL or 303(d)-Listed Waters

Construction sites that discharge to a TMDL or 303(d)-listed waterbody are not eligible for coverage under this permit *unless* the operator:

1. Prevents exposing stormwater to pollutants for which the waterbody is impaired, and retains documentation in the SWPPP that details procedures taken to prevent exposure on site; *or*
2. Documents that the pollutants for which the waterbody is impaired are not present at the site, and retains documentation of this finding within the SWPPP; *or*
3. Provides Ecology with data indicating the discharge is not expected to cause or contribute to an exceedance of a water quality standard, and retains such data on site with the SWPPP. The operator must provide data and other technical information to Ecology that sufficiently demonstrate:
 - a. For discharges to waters without an EPA-approved or -established TMDL, that the discharge of the pollutant for which the water is impaired will meet in-stream water quality criteria at the point of discharge to the waterbody; *or*
 - b. For discharges to waters with an EPA-approved or -established TMDL, that there is sufficient remaining wasteload allocation in the TMDL to allow construction stormwater discharge and that existing dischargers to the waterbody are subject to compliance schedules designed to bring the waterbody into attainment with water quality standards.

Operators of construction sites are eligible for coverage under this permit only after Ecology makes an affirmative determination that the *discharge will not cause or contribute to the existing impairment or exceed the TMDL*.

C. Sampling and Numeric Effluent Limits for Discharges to Water Bodies on the 303(d) List for Turbidity, Fine Sediment, or Phosphorus

1. Permittees who discharge to segments of water bodies on the 303(d) list (Category 5) for turbidity, fine sediment, or phosphorus must conduct turbidity sampling in accordance with Special Condition S4.C.2 and comply with either of the numeric effluent limits noted in Table 5 below.
2. As an alternative to the 25 NTUs effluent limit noted in Table 5 below (applied at the point where stormwater [or authorized non-stormwater] is discharged off-site), Permittees may choose to comply with the surface water quality standard for turbidity. The standard is: no more than 5 NTUs over background turbidity when the background turbidity is 50 NTUs or less, or no more than a 10% increase in turbidity when the background turbidity is more than 50 NTUs. In order to use the water quality standard requirement, the sampling must take place at the following locations:
 - a. Background turbidity in the 303(d)-listed receiving water immediately upstream (upgradient) or outside the area of influence of the discharge.
 - b. Turbidity at the point of discharge into the 303(d)-listed receiving water, inside the area of influence of the discharge.
3. Discharges that exceed the numeric effluent limit for turbidity constitute a violation of this permit.
4. Permittees whose discharges exceed the numeric effluent limit must sample discharges daily until the violation is corrected and comply with the non-compliance notification requirements in Special Condition S5.F.

Table 5 Turbidity, Fine Sediment & Phosphorus Sampling and Limits for 303(d)-Listed Waters

Parameter identified in 303(d) listing	Parameter Sampled	Unit	Analytical Method	Sampling Frequency	Numeric Effluent Limit ¹
<ul style="list-style-type: none"> • Turbidity • Fine Sediment • Phosphorus 	Turbidity	NTU	SM2130	Weekly, if discharging	25 NTUs, at the point where stormwater is discharged from the site; <i>OR</i> In compliance with the surface water quality standard for turbidity (S8.C.2.a)

¹ Permittees subject to a numeric effluent limit for turbidity may, at their discretion, choose either numeric effluent limitation based on site-specific considerations including, but not limited to, safety, access and convenience.

D. Discharges to Water Bodies on the 303(d) List for High pH

1. Permittees who discharge to segments of water bodies on the 303(d) list (Category 5) for high pH must conduct pH sampling in accordance with the table below, and comply with the numeric effluent limit of pH 6.5 to 8.5 su (Table 6).

Table 6 pH Sampling and Limits for 303(d)-Listed Waters

Parameter identified in 303(d) listing	Parameter Sampled/Units	Analytical Method	Sampling Frequency	Numeric Effluent Limit
High pH	pH /Standard Units	pH meter	Weekly, if discharging	In the range of 6.5 – 8.5 su

2. At the Permittee’s discretion, compliance with the limit shall be assessed at one of the following locations:
 - a. Directly in the 303(d)-listed waterbody segment, inside the immediate area of influence of the discharge; *or*
 - b. Alternatively, the Permittee may measure pH at the point where the discharge leaves the construction site, rather than in the receiving water.
3. Discharges that exceed the numeric effluent limit for pH (outside the range of 6.5 – 8.5 su) constitute a violation of this permit.
4. Permittees whose discharges exceed the numeric effluent limit must sample discharges daily until the violation is corrected and comply with the non-compliance notification requirements in Special Condition S5.F.

E. Sampling and Limits for Sites Discharging to Waters Covered by a TMDL or another Pollution Control Plan

1. Discharges to a waterbody that is subject to a Total Maximum Daily Load (TMDL) for turbidity, fine sediment, high pH, or phosphorus must be consistent with the TMDL. Refer to <http://www.ecy.wa.gov/programs/wq/tmdl/TMDLsbyWria/TMDLbyWria.html> for more information on TMDLs.
 - a. Where an applicable TMDL sets specific waste load allocations or requirements for discharges covered by this permit, discharges must be consistent with any specific waste load allocations or requirements established by the applicable TMDL.
 - i. The Permittee must sample discharges weekly, unless otherwise specified by the TMDL, to evaluate compliance with the specific waste load allocations or requirements.
 - ii. Analytical methods used to meet the monitoring requirements must conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136.
 - iii. Turbidity and pH methods need not be accredited or registered unless conducted at a laboratory which must otherwise be accredited or registered.
 - b. Where an applicable TMDL has established a general waste load allocation for construction stormwater discharges, but has not identified specific requirements, compliance with Special Conditions S4 (Monitoring) and S9 (SWPPPs) will constitute compliance with the approved TMDL.
 - c. Where an applicable TMDL has not specified a waste load allocation for construction stormwater discharges, but has not excluded these discharges, compliance with Special Conditions S4 (Monitoring) and S9 (SWPPPs) will constitute compliance with the approved TMDL.
 - d. Where an applicable TMDL specifically precludes or prohibits discharges from construction activity, the operator is not eligible for coverage under this permit.

S9. STORMWATER POLLUTION PREVENTION PLAN

The Permittee must prepare and properly implement an adequate Stormwater Pollution Prevention Plan (SWPPP) for construction activity in accordance with the requirements of this permit beginning with initial soil disturbance and until final stabilization.

A. The Permittee's SWPPP must meet the following objectives:

1. To identify best management practices (BMPs) which prevent erosion and sedimentation, and to reduce, eliminate or prevent stormwater contamination and water pollution from construction activity.
2. To prevent violations of surface water quality, groundwater quality, or sediment management standards.
3. To control peak volumetric flow rates and velocities of stormwater discharges.

B. General Requirements

1. The SWPPP must include a narrative and drawings. All BMPs must be clearly referenced in the narrative and marked on the drawings. The SWPPP narrative must include documentation to explain and justify the pollution prevention decisions made for the project. Documentation must include:
 - a. Information about existing site conditions (topography, drainage, soils, vegetation, etc.).
 - b. Potential erosion problem areas.
 - c. The 13 elements of a SWPPP in Special Condition S9.D.1-13, including BMPs used to address each element.
 - d. Construction phasing/sequence and general BMP implementation schedule.
 - e. The actions to be taken if BMP performance goals are not achieved—for example, a contingency plan for additional treatment and/or storage of stormwater that would violate the water quality standards if discharged.
 - f. Engineering calculations for ponds, treatment systems, and any other designed structures. When a treatment system requires engineering calculations, these calculations must be included in the SWPPP. Engineering calculations do not need to be included in the SWPPP for treatment systems that do not require such calculations.
2. The Permittee must modify the SWPPP if, during inspections or investigations conducted by the owner/operator, or the applicable local or state regulatory authority, it is determined that the SWPPP is, or would be, ineffective in eliminating or significantly minimizing pollutants in stormwater discharges from the site. The Permittee must then:
 - a. Review the SWPPP for compliance with Special Condition S9 and make appropriate revisions within 7 days of the inspection or investigation.
 - b. Immediately begin the process to fully implement and maintain appropriate source control and/or treatment BMPs as soon as possible, addressing the problems no later than 10 days from the inspection or investigation. If installation of necessary treatment BMPs is not feasible within 10 days, Ecology may approve additional time when an extension is requested by a Permittee within the initial 10-day response period.
 - c. Document BMP implementation and maintenance in the site log book.

The Permittee must modify the SWPPP whenever there is a change in design, construction, operation, or maintenance at the construction site that has, or could have, a significant effect on the discharge of pollutants to waters of the State.

C. Stormwater Best Management Practices (BMPs)

BMPs must be consistent with:

1. *Stormwater Management Manual for Western Washington* (most current approved edition at the time this permit was issued), for sites west of the crest of the Cascade Mountains; or

2. *Stormwater Management Manual for Eastern Washington* (most current approved edition at the time this permit was issued), for sites east of the crest of the Cascade Mountains; *or*
3. Revisions to the manuals listed in Special Condition S9.C.1 & 2, or other stormwater management guidance documents or manuals which provide an equivalent level of pollution prevention, that are approved by Ecology and incorporated into this permit in accordance with the permit modification requirements of WAC 173-226-230; *or*
4. Documentation in the SWPPP that the BMPs selected provide an equivalent level of pollution prevention, compared to the applicable stormwater management manuals, including:
 - a. The technical basis for the selection of all stormwater BMPs (scientific, technical studies, and/or modeling) that support the performance claims for the BMPs being selected.
 - b. An assessment of how the selected BMP will satisfy AKART requirements and the applicable federal technology-based treatment requirements under 40 CFR part 125.3.

D. SWPPP – Narrative Contents and Requirements

The Permittee must include each of the 13 elements below in Special Condition S9.D.1-13 in the narrative of the SWPPP and implement them unless site conditions render the element unnecessary and the exemption from that element is clearly justified in the SWPPP.

1. Preserve Vegetation/Mark Clearing Limits
 - a. Before beginning land-disturbing activities, including clearing and grading, clearly mark all clearing limits, sensitive areas and their buffers, and trees that are to be preserved within the construction area.
 - b. Retain the duff layer, native topsoil, and natural vegetation in an undisturbed state to the maximum degree practicable.
2. Establish Construction Access
 - a. Limit construction vehicle access and exit to one route, if possible.
 - b. Stabilize access points with a pad of quarry spalls, crushed rock, or other equivalent BMPs, to minimize tracking sediment onto roads.
 - c. Locate wheel wash or tire baths on site, if the stabilized construction entrance is not effective in preventing tracking sediment onto roads.
 - d. If sediment is tracked off site, clean the affected roadway thoroughly at the end of each day, or more frequently as necessary (for example, during wet weather). Remove sediment from roads by shoveling, sweeping, or pickup and transport of the sediment to a controlled sediment disposal area.
 - e. Conduct street washing only after sediment removal in accordance with Special Condition S9.D.2.d.
 - f. Control street wash wastewater by pumping back on site or otherwise preventing it from discharging into systems tributary to waters of the State.

3. Control Flow Rates

- a. Protect properties and waterways downstream of construction sites from erosion and the associated discharge of turbid waters due to increases in the velocity and peak volumetric flow rate of stormwater runoff from the project site, as required by local plan approval authority.
- b. Where necessary to comply with Special Condition S9.D.3.a, construct stormwater infiltration or detention BMPs as one of the first steps in grading. Assure that detention BMPs function properly before constructing site improvements (for example, impervious surfaces).
- c. If permanent infiltration ponds are used for flow control during construction, protect these facilities from sedimentation during the construction phase.

4. Install Sediment Controls

The Permittee must design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. At a minimum, the Permittee must:

- a. Construct sediment control BMPs (sediment ponds, traps, filters, infiltration facilities, etc.) as one of the first steps in grading. These BMPs must be functional before other land disturbing activities take place.
- b. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site.
- c. Direct stormwater runoff from disturbed areas through a sediment pond or other appropriate sediment removal BMP, before the runoff leaves a construction site or before discharge to an infiltration facility. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but must meet the flow control performance standard of Special Condition S9.D.3.a.
- d. Locate BMPs intended to trap sediment on site in a manner to avoid interference with the movement of juvenile salmonids attempting to enter off-channel areas or drainages.
- e. Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible.
- f. Where feasible, design outlet structures that withdraw impounded stormwater from the surface to avoid discharging sediment that is still suspended lower in the water column.

5. Stabilize Soils

- a. The Permittee must stabilize exposed and unworked soils by application of effective BMPs that prevent erosion. Applicable BMPs include, but are not limited to: temporary and permanent seeding, sodding, mulching, plastic covering, erosion

control fabrics and matting, soil application of polyacrylamide (PAM), the early application of gravel base on areas to be paved, and dust control.

- b. The Permittee must control stormwater volume and velocity within the site to minimize soil erosion.
- c. The Permittee must control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion.
- d. Depending on the geographic location of the project, the Permittee must not allow soils to remain exposed and unworked for more than the time periods set forth below to prevent erosion.

West of the Cascade Mountains Crest

During the dry season (May 1 - September 30): 7 days

During the wet season (October 1 - April 30): 2 days

East of the Cascade Mountains Crest, except for Central Basin*

During the dry season (July 1 - September 30): 10 days

During the wet season (October 1 - June 30): 5 days

The Central Basin*, East of the Cascade Mountains Crest

During the dry Season (July 1 - September 30): 30 days

During the wet season (October 1 - June 30): 15 days

***Note: The Central Basin** is defined as the portions of Eastern Washington with mean annual precipitation of less than 12 inches.

- e. The Permittee must stabilize soils at the end of the shift before a holiday or weekend if needed based on the weather forecast.
- f. The Permittee must stabilize soil stockpiles from erosion, protected with sediment trapping measures, and where possible, be located away from storm drain inlets, waterways, and drainage channels.
- g. The Permittee must minimize the amount of soil exposed during construction activity.
- h. The Permittee must minimize the disturbance of steep slopes.
- i. The Permittee must minimize soil compaction and, unless infeasible, preserve topsoil.

6. Protect Slopes

- a. The Permittee must design and construct cut-and-fill slopes in a manner to minimize erosion. Applicable practices include, but are not limited to, reducing continuous length of slope with terracing and diversions, reducing slope steepness, and roughening slope surfaces (for example, track walking).
- b. The Permittee must divert off-site stormwater (run-on) or groundwater away from slopes and disturbed areas with interceptor dikes, pipes, and/or swales. Off-site stormwater should be managed separately from stormwater generated on the site.
- c. At the top of slopes, collect drainage in pipe slope drains or protected channels to prevent erosion.

- i. West of the Cascade Mountains Crest: Temporary pipe slope drains must handle the peak 10-minute flow rate from a Type 1A, 10-year, 24-hour frequency storm for the developed condition. Alternatively, the 10-year, 1-hour flow rate predicted by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis must use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis must use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the Western Washington Hydrology Model (WWHM) to predict flows, bare soil areas should be modeled as "landscaped area."
 - ii. East of the Cascade Mountains Crest: Temporary pipe slope drains must handle the expected peak flow rate from a 6-month, 3-hour storm for the developed condition, referred to as the short duration storm.
 - d. Place excavated material on the uphill side of trenches, consistent with safety and space considerations.
 - e. Place check dams at regular intervals within constructed channels that are cut down a slope.
7. Protect Drain Inlets
- a. Protect all storm drain inlets made operable during construction so that stormwater runoff does not enter the conveyance system without first being filtered or treated to remove sediment.
 - b. Clean or remove and replace inlet protection devices when sediment has filled one-third of the available storage (unless a different standard is specified by the product manufacturer).
8. Stabilize Channels and Outlets
- a. Design, construct and stabilize all on-site conveyance channels to prevent erosion from the following expected peak flows:
 - i. West of the Cascade Mountains Crest: Channels must handle the peak 10-minute flow rate from a Type 1A, 10-year, 24-hour frequency storm for the developed condition. Alternatively, the 10-year, 1-hour flow rate indicated by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis must use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis must use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the WWHM to predict flows, bare soil areas should be modeled as "landscaped area."
 - ii. East of the Cascade Mountains Crest: Channels must handle the expected peak flow rate from a 6-month, 3-hour storm for the developed condition, referred to as the short duration storm.
 - b. Provide stabilization, including armoring material, adequate to prevent erosion of outlets, adjacent stream banks, slopes, and downstream reaches at the outlets of all conveyance systems.

9. Control Pollutants

Design, install, implement and maintain effective pollution prevention measures to minimize the discharge of pollutants. The Permittee must:

- a. Handle and dispose of all pollutants, including waste materials and demolition debris that occur on site in a manner that does not cause contamination of stormwater.
- b. Provide cover, containment, and protection from vandalism for all chemicals, liquid products, petroleum products, and other materials that have the potential to pose a threat to human health or the environment. Minimize storage of hazardous materials on-site. Safety Data Sheets (SDS) should be supplied for all materials stored. Chemicals should be kept in their original labeled containers. On-site fueling tanks must include secondary containment. Secondary containment means placing tanks or containers within an impervious structure capable of containing 110% of the volume of the largest tank within the containment structure. Double-walled tanks do not require additional secondary containment.
- c. Conduct maintenance, fueling, and repair of heavy equipment and vehicles using spill prevention and control measures. Clean contaminated surfaces immediately following any spill incident.
- d. Discharge wheel wash or tire bath wastewater to a separate on-site treatment system that prevents discharge to surface water, such as closed-loop recirculation or upland land application, or to the sanitary sewer with local sewer district approval.
- e. Apply fertilizers and pesticides in a manner and at application rates that will not result in loss of chemical to stormwater runoff. Follow manufacturers' label requirements for application rates and procedures.
- f. Use BMPs to prevent contamination of stormwater runoff by pH-modifying sources. The sources for this contamination include, but are not limited to: bulk cement, cement kiln dust, fly ash, new concrete washing and curing waters, recycled concrete stockpiles, waste streams generated from concrete grinding and sawing, exposed aggregate processes, dewatering concrete vaults, concrete pumping and mixer washout waters. (Also refer to the definition for "concrete wastewater" in Appendix A – Definitions.)
- g. Adjust the pH of stormwater or authorized non-stormwater if necessary to prevent an exceedance of groundwater and/or surface water quality standards.
- h. Assure that washout of concrete trucks is performed off-site or in designated concrete washout areas only. Do not wash out concrete truck drums onto the ground, or into storm drains, open ditches, streets, or streams. Washout of small concrete handling equipment may be disposed of in a formed area awaiting concrete where it will not contaminate surface or groundwater. Do not dump excess concrete on site, except in designated concrete washout areas. Concrete spillage or concrete discharge directly to groundwater or surface waters of the State is

prohibited. At no time shall concrete be washed off into the footprint of an area where an infiltration BMP will be installed.

- i. Obtain written approval from Ecology before using any chemical treatment, with the exception of CO₂, dry ice or food grade vinegar, to adjust pH.
- j. Uncontaminated water from water-only based shaft drilling for construction of building, road, and bridge foundations may be infiltrated provided the wastewater is managed in a way that prohibits discharge to surface waters. Prior to infiltration, water from water-only based shaft drilling that comes into contact with curing concrete must be neutralized until pH is in the range of 6.5 to 8.5 (su).

10. Control Dewatering

- a. Permittees must discharge foundation, vault, and trench dewatering water, which have characteristics similar to stormwater runoff at the site, in conjunction with BMPs to reduce sedimentation before discharge to a sediment trap or sediment pond.
- b. Permittees may discharge clean, non-turbid dewatering water, such as well-point groundwater, to systems tributary to, or directly into surface waters of the State, as specified in Special Condition S9.D.8, provided the dewatering flow does not cause erosion or flooding of receiving waters. Do not route clean dewatering water through stormwater sediment ponds. Note that "surface waters of the State" may exist on a construction site as well as off site; for example, a creek running through a site.
- c. Other dewatering treatment or disposal options may include:
 - i. Infiltration
 - ii. Transport off site in a vehicle, such as a vacuum flush truck, for legal disposal in a manner that does not pollute state waters.
 - iii. Ecology-approved on-site chemical treatment or other suitable treatment technologies (See S9.D.9.i, regarding chemical treatment written approval).
 - iv. Sanitary or combined sewer discharge with local sewer district approval, if there is no other option.
 - v. Use of a sedimentation bag with discharge to a ditch or swale for small volumes of localized dewatering.
- d. Permittees must handle highly turbid or contaminated dewatering water separately from stormwater.

11. Maintain BMPs

- a. Permittees must maintain and repair all temporary and permanent erosion and sediment control BMPs as needed to assure continued performance of their intended function in accordance with BMP specifications.
- b. Permittees must remove all temporary erosion and sediment control BMPs within 30 days after achieving final site stabilization or after the temporary BMPs are no longer needed.

12. Manage the Project

- a. Phase development projects to the maximum degree practicable and take into account seasonal work limitations.
- b. Inspect, maintain and repair all BMPs as needed to assure continued performance of their intended function. Conduct site inspections and monitoring in accordance with Special Condition S4.
- c. Maintain, update, and implement the SWPPP in accordance with Special Conditions S3, S4, and S9.

13. Protect Low Impact Development (LID) BMPs

The primary purpose of on-site LID Stormwater Management is to reduce the disruption of the natural site hydrology through infiltration. LID BMPs are permanent facilities.

- a. Permittees must protect all LID BMPs (including, but not limited to, Bioretention and Rain Garden facilities) from sedimentation through installation and maintenance of erosion and sediment control BMPs on portions of the site that drain into the Bioretention and/or Rain Garden facilities. Restore the BMPs to their fully functioning condition if they accumulate sediment during construction. Restoring the facility must include removal of sediment and any sediment-laden bioretention/ rain garden soils, and replacing the removed soils with soils meeting the design specification.
- b. Permittees must maintain the infiltration capabilities of LID BMPs by protecting against compaction by construction equipment and foot traffic. Protect completed lawn and landscaped areas from compaction due to construction equipment.
- c. Permittees must control erosion and avoid introducing sediment from surrounding land uses onto permeable pavements. Do not allow muddy construction equipment on the base material or pavement. Do not allow sediment-laden runoff onto permeable pavements or base materials.
- d. Permittees must clean permeable pavements fouled with sediments or no longer passing an initial infiltration test using local stormwater manual methodology or the manufacturer's procedures.
- e. Permittees must keep all heavy equipment off existing soils under LID BMPs that have been excavated to final grade to retain the infiltration rate of the soils.

E. SWPPP – Map Contents and Requirements

The Permittee's SWPPP must also include a vicinity map or general location map (for example, a USGS quadrangle map, a portion of a county or city map, or other appropriate map) with enough detail to identify the location of the construction site and receiving waters within one mile of the site.

The SWPPP must also include a legible site map (or maps) showing the entire construction site. The following features must be identified, unless not applicable due to site conditions.

1. The direction of north, property lines, and existing structures and roads.
2. Cut and fill slopes indicating the top and bottom of slope catch lines.

3. Approximate slopes, contours, and direction of stormwater flow before and after major grading activities.
4. Areas of soil disturbance and areas that will not be disturbed.
5. Locations of structural and nonstructural controls (BMPs) identified in the SWPPP.
6. Locations of off-site material, stockpiles, waste storage, borrow areas, and vehicle/equipment storage areas.
7. Locations of all surface water bodies, including wetlands.
8. Locations where stormwater or non-stormwater discharges off-site and/or to a surface waterbody, including wetlands.
9. Location of water quality sampling station(s), if sampling is required by state or local permitting authority.
10. Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.
11. Location or proposed location of LID facilities.

S10. NOTICE OF TERMINATION

Partial terminations of permit coverage are not authorized.

- A.** The site is eligible for termination of coverage when it has met any of the following conditions:
 1. The site has undergone final stabilization, the Permittee has removed all temporary BMPs (except biodegradable BMPs clearly manufactured with the intention for the material to be left in place and not interfere with maintenance or land use), and all stormwater discharges associated with construction activity have been eliminated; *or*
 2. All portions of the site that have not undergone final stabilization per Special Condition S10.A.1 have been sold and/or transferred (per Special Condition S2.A), and the Permittee no longer has operational control of the construction activity; *or*
 3. For residential construction only, the Permittee has completed temporary stabilization and the homeowners have taken possession of the residences.
- B.** When the site is eligible for termination, the Permittee must submit a complete and accurate Notice of Termination (NOT) form, signed in accordance with General Condition G2, to:

Department of Ecology
Water Quality Program - Construction Stormwater
PO Box 47696
Olympia, WA 98504-7696

When an electronic termination form is available, the Permittee may choose to submit a complete and accurate Notice of Termination (NOT) form through the Water Quality Permitting Portal rather than mailing a hardcopy as noted above.

The termination is effective on the 31st calendar day following the date Ecology receives a complete NOT form, unless Ecology notifies the Permittee that termination request is denied because the Permittee has not met the eligibility requirements in Special Condition S10.A.

Permittees are required to comply with all conditions and effluent limitations in the permit until the permit has been terminated.

Permittees transferring the property to a new property owner or operator/Permittee are required to complete and submit the Notice of Transfer form to Ecology, but are not required to submit a Notice of Termination form for this type of transaction.

GENERAL CONDITIONS

G1. DISCHARGE VIOLATIONS

All discharges and activities authorized by this general permit must be consistent with the terms and conditions of this general permit. Any discharge of any pollutant more frequent than or at a level in excess of that identified and authorized by the general permit must constitute a violation of the terms and conditions of this permit.

G2. SIGNATORY REQUIREMENTS

- A.** All permit applications must bear a certification of correctness to be signed:
1. In the case of corporations, by a responsible corporate officer.
 2. In the case of a partnership, by a general partner of a partnership.
 3. In the case of sole proprietorship, by the proprietor.
 4. In the case of a municipal, state, or other public facility, by either a principal executive officer or ranking elected official.
- B.** All reports required by this permit and other information requested by Ecology (including NOIs, NOTs, and Transfer of Coverage forms) must be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
1. The authorization is made in writing by a person described above and submitted to Ecology.
 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.
- C.** Changes to authorization. If an authorization under paragraph G2.B.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph G2.B.2 above must be submitted to Ecology prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D.** Certification. Any person signing a document under this section must make the following certification:

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

G3. RIGHT OF INSPECTION AND ENTRY

The Permittee must allow an authorized representative of Ecology, upon the presentation of credentials and such other documents as may be required by law:

- A.** To enter upon the premises where a discharge is located or where any records are kept under the terms and conditions of this permit.
- B.** To have access to and copy, at reasonable times and at reasonable cost, any records required to be kept under the terms and conditions of this permit.
- C.** To inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D.** To sample or monitor, at reasonable times, any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

G4. GENERAL PERMIT MODIFICATION AND REVOCATION

This permit may be modified, revoked and reissued, or terminated in accordance with the provisions of Chapter 173-226 WAC. Grounds for modification, revocation and reissuance, or termination include, but are not limited to, the following:

- A.** When a change occurs in the technology or practices for control or abatement of pollutants applicable to the category of dischargers covered under this permit.
- B.** When effluent limitation guidelines or standards are promulgated pursuant to the CWA or Chapter 90.48 RCW, for the category of dischargers covered under this permit.
- C.** When a water quality management plan containing requirements applicable to the category of dischargers covered under this permit is approved, or
- D.** When information is obtained that indicates cumulative effects on the environment from dischargers covered under this permit are unacceptable.

G5. REVOCATION OF COVERAGE UNDER THE PERMIT

Pursuant to Chapter 43.21B RCW and Chapter 173-226 WAC, the Director may terminate coverage for any discharger under this permit for cause. Cases where coverage may be terminated include, but are not limited to, the following:

- A.** Violation of any term or condition of this permit.
- B.** Obtaining coverage under this permit by misrepresentation or failure to disclose fully all relevant facts.
- C.** A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- D.** Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090.
- E.** A determination that the permitted activity endangers human health or the environment, or contributes to water quality standards violations.
- F.** Nonpayment of permit fees or penalties assessed pursuant to RCW 90.48.465 and Chapter 173-224 WAC.

- G.** Failure of the Permittee to satisfy the public notice requirements of WAC 173-226-130(5), when applicable.

The Director may require any discharger under this permit to apply for and obtain coverage under an individual permit or another more specific general permit. Permittees who have their coverage revoked for cause according to WAC 173-226-240 may request temporary coverage under this permit during the time an individual permit is being developed, provided the request is made within ninety (90) days from the time of revocation and is submitted along with a complete individual permit application form.

G6. REPORTING A CAUSE FOR MODIFICATION

The Permittee must submit a new application, or a supplement to the previous application, whenever a material change to the construction activity or in the quantity or type of discharge is anticipated which is not specifically authorized by this permit. This application must be submitted at least sixty (60) days prior to any proposed changes. Filing a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not relieve the Permittee of the duty to comply with the existing permit until it is modified or reissued.

G7. COMPLIANCE WITH OTHER LAWS AND STATUTES

Nothing in this permit will be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

G8. DUTY TO REAPPLY

The Permittee must apply for permit renewal at least 180 days prior to the specified expiration date of this permit. The Permittee must reapply using the electronic application form (NOI) available on Ecology's website. Permittees unable to submit electronically (for example, those who do not have an internet connection) must contact Ecology to request a waiver and obtain instructions on how to obtain a paper NOI.

Department of Ecology
Water Quality Program - Construction Stormwater
PO Box 47696
Olympia, WA 98504-7696

G9. REMOVED SUBSTANCE

The Permittee must not re-suspend or reintroduce collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of stormwater to the final effluent stream for discharge to state waters.

G10. DUTY TO PROVIDE INFORMATION

The Permittee must submit to Ecology, within a reasonable time, all information that Ecology may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee must also submit to Ecology, upon request, copies of records required to be kept by this permit [40 CFR 122.41(h)].

G11. OTHER REQUIREMENTS OF 40 CFR

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

G12. ADDITIONAL MONITORING

Ecology may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

G13. PENALTIES FOR VIOLATING PERMIT CONDITIONS

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars (\$10,000) and costs of prosecution, or by imprisonment at the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars (\$10,000) for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

G14. UPSET

Definition – "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that: 1) an upset occurred and that the Permittee can identify the cause(s) of the upset; 2) the permitted facility was being properly operated at the time of the upset; 3) the Permittee submitted notice of the upset as required in Special Condition S5.F, and; 4) the Permittee complied with any remedial measures required under this permit.

In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

G15. PROPERTY RIGHTS

This permit does not convey any property rights of any sort, or any exclusive privilege.

G16. DUTY TO COMPLY

The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

G17. TOXIC POLLUTANTS

The Permittee must comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

G18. PENALTIES FOR TAMPERING

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this condition, punishment shall be a fine of not more than \$20,000 per day of violation, or imprisonment of not more than four (4) years, or both.

G19. REPORTING PLANNED CHANGES

The Permittee must, as soon as possible, give notice to Ecology of planned physical alterations, modifications or additions to the permitted construction activity. The Permittee should be aware that, depending on the nature and size of the changes to the original permit, a new public notice and other permit process requirements may be required. Changes in activities that require reporting to Ecology include those that will result in:

- A.** The permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b).
- B.** A significant change in the nature or an increase in quantity of pollutants discharged, including but not limited to: a 20% or greater increase in acreage disturbed by construction activity.
- C.** A change in or addition of surface water(s) receiving stormwater or non-stormwater from the construction activity.
- D.** A change in the construction plans and/or activity that affects the Permittee's monitoring requirements in Special Condition S4.

Following such notice, permit coverage may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

G20. REPORTING OTHER INFORMATION

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to Ecology, it must promptly submit such facts or information.

G21. REPORTING ANTICIPATED NON-COMPLIANCE

The Permittee must give advance notice to Ecology by submission of a new application or supplement thereto at least forty-five (45) days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of

operation and degradation of effluent quality, must be scheduled during non-critical water quality periods and carried out in a manner approved by Ecology.

G22. REQUESTS TO BE EXCLUDED FROM COVERAGE UNDER THE PERMIT

Any discharger authorized by this permit may request to be excluded from coverage under the general permit by applying for an individual permit. The discharger must submit to the Director an application as described in WAC 173-220-040 or WAC 173-216-070, whichever is applicable, with reasons supporting the request. These reasons will fully document how an individual permit will apply to the applicant in a way that the general permit cannot. Ecology may make specific requests for information to support the request. The Director will either issue an individual permit or deny the request with a statement explaining the reason for the denial. When an individual permit is issued to a discharger otherwise subject to the construction stormwater general permit, the applicability of the construction stormwater general permit to that Permittee is automatically terminated on the effective date of the individual permit.

G23. APPEALS

- A.** The terms and conditions of this general permit, as they apply to the appropriate class of dischargers, are subject to appeal by any person within 30 days of issuance of this general permit, in accordance with Chapter 43.21B RCW, and Chapter 173-226 WAC.
- B.** The terms and conditions of this general permit, as they apply to an individual discharger, are appealable in accordance with Chapter 43.21B RCW within 30 days of the effective date of coverage of that discharger. Consideration of an appeal of general permit coverage of an individual discharger is limited to the general permit's applicability or nonapplicability to that individual discharger.
- C.** The appeal of general permit coverage of an individual discharger does not affect any other dischargers covered under this general permit. If the terms and conditions of this general permit are found to be inapplicable to any individual discharger(s), the matter shall be remanded to Ecology for consideration of issuance of an individual permit or permits.

G24. SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit, or application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

G25. BYPASS PROHIBITED

A. Bypass Procedures

Bypass, which is the intentional diversion of waste streams from any portion of a treatment facility, is prohibited for stormwater events below the design criteria for stormwater management. Ecology may take enforcement action against a Permittee for bypass unless one of the following circumstances (1, 2, 3 or 4) is applicable.

- 1. Bypass of stormwater is consistent with the design criteria and part of an approved management practice in the applicable stormwater management manual.
- 2. Bypass for essential maintenance without the potential to cause violation of permit limits or conditions.

Bypass is authorized if it is for essential maintenance and does not have the potential to cause violations of limitations or other conditions of this permit, or adversely impact public health.

3. Bypass of stormwater is unavoidable, unanticipated, and results in noncompliance of this permit.

This bypass is permitted only if:

- a. Bypass is unavoidable to prevent loss of life, personal injury, or severe property damage. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.
 - b. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, maintenance during normal periods of equipment downtime (but not if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance), or transport of untreated wastes to another treatment facility.
 - c. Ecology is properly notified of the bypass as required in Special Condition S5.F of this permit.
4. A planned action that would cause bypass of stormwater and has the potential to result in noncompliance of this permit during a storm event.

The Permittee must notify Ecology at least thirty (30) days before the planned date of bypass. The notice must contain:

- a. A description of the bypass and its cause
 - b. An analysis of all known alternatives which would eliminate, reduce, or mitigate the need for bypassing.
 - c. A cost-effectiveness analysis of alternatives including comparative resource damage assessment.
 - d. The minimum and maximum duration of bypass under each alternative.
 - e. A recommendation as to the preferred alternative for conducting the bypass.
 - f. The projected date of bypass initiation.
 - g. A statement of compliance with SEPA.
 - h. A request for modification of water quality standards as provided for in WAC 173-201A-110, if an exceedance of any water quality standard is anticipated.
 - i. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.
5. For probable construction bypasses, the need to bypass is to be identified as early in the planning process as possible. The analysis required above must be considered during

preparation of the Stormwater Pollution Prevention Plan (SWPPP) and must be included to the extent practical. In cases where the probable need to bypass is determined early, continued analysis is necessary up to and including the construction period in an effort to minimize or eliminate the bypass.

Ecology will consider the following before issuing an administrative order for this type bypass:

- a. If the bypass is necessary to perform construction or maintenance-related activities essential to meet the requirements of this permit.
- b. If there are feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment down time, or transport of untreated wastes to another treatment facility.
- c. If the bypass is planned and scheduled to minimize adverse effects on the public and the environment.

After consideration of the above and the adverse effects of the proposed bypass and any other relevant factors, Ecology will approve, conditionally approve, or deny the request. The public must be notified and given an opportunity to comment on bypass incidents of significant duration, to the extent feasible. Approval of a request to bypass will be by administrative order issued by Ecology under RCW 90.48.120.

B. Duty to Mitigate

The Permittee is required to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

APPENDIX A – DEFINITIONS

AKART is an acronym for “All Known, Available, and Reasonable methods of prevention, control, and Treatment.” AKART represents the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants and controlling pollution associated with a discharge.

Applicable TMDL means a TMDL for turbidity, fine sediment, high pH, or phosphorus, which was completed and approved by EPA before January 1, 2021, or before the date the operator’s complete permit application is received by Ecology, whichever is later. TMDLs completed after a complete permit application is received by Ecology become applicable to the Permittee only if they are imposed through an administrative order by Ecology, or through a modification of permit coverage.

Applicant means an *operator* seeking coverage under this permit.

Benchmark means a pollutant concentration used as a permit threshold, below which a pollutant is considered unlikely to cause a water quality violation, and above which it may. When pollutant concentrations exceed benchmarks, corrective action requirements take effect. Benchmark values are not water quality standards and are not numeric effluent limitations; they are indicator values.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural and/or managerial practices to prevent or reduce the pollution of waters of the State. BMPs include treatment systems, operating procedures, and practices to control stormwater associated with construction activity, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Buffer means an area designated by a local jurisdiction that is contiguous to and intended to protect a sensitive area.

Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

Calendar Day A period of 24 consecutive hours starting at 12:00 midnight and ending the following 12:00 midnight.

Calendar Week (same as **Week**) means a period of seven consecutive days starting at 12:01 a.m. (0:01 hours) on Sunday.

Certified Erosion and Sediment Control Lead (CESCL) means a person who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by Ecology (See BMP C160 in the SWMM).

Chemical Treatment means the addition of chemicals to stormwater and/or authorized non-stormwater prior to filtration and discharge to surface waters.

Clean Water Act (CWA) means the Federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483, and 97-117; USC 1251 et seq.

Combined Sewer means a sewer which has been designed to serve as a sanitary sewer and a storm sewer, and into which inflow is allowed by local ordinance.

Common Plan of Development or Sale means a site where multiple separate and distinct construction activities may be taking place at different times on different schedules and/or by different contractors, but still under a single plan. Examples include: 1) phased projects and projects with multiple filings or lots, even if the separate phases or filings/lots will be constructed under separate contract or by separate owners (e.g., a development where lots are sold to separate builders); 2) a development plan that may be phased over multiple years, but is still under a consistent plan for long-term development; 3) projects in a contiguous area that may be unrelated but still under the same contract, such as construction of a building extension and a new parking lot at the same facility; and 4) linear projects such as roads, pipelines, or utilities. If the project is part of a common plan of development or sale, the disturbed area of the entire plan must be used in determining permit requirements.

Composite Sample means a mixture of grab samples collected at the same sampling point at different times, formed either by continuous sampling or by mixing discrete samples. May be "time-composite" (collected at constant time intervals) or "flow-proportional" (collected either as a constant sample volume at time intervals proportional to stream flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots).

Concrete Wastewater means any water used in the production, pouring and/or clean-up of concrete or concrete products, and any water used to cut, grind, wash, or otherwise modify concrete or concrete products. Examples include water used for or resulting from concrete truck/mixer/pumper/tool/chute rinsing or washing, concrete saw cutting and surfacing (sawing, coring, grinding, roughening, hydro-demolition, bridge and road surfacing). When stormwater combines with concrete wastewater, the resulting water is considered concrete wastewater and must be managed to prevent discharge to waters of the State, including groundwater.

Construction Activity means land disturbing operations including clearing, grading or excavation which disturbs the surface of the land (including off-site disturbance acreage related to construction-support activity). Such activities may include road construction, construction of residential houses, office buildings, or industrial buildings, site preparation, soil compaction, movement and stockpiling of topsoils, and demolition activity.

Construction Support Activity means off-site acreage that will be disturbed as a direct result of the construction project and will discharge stormwater. For example, off-site equipment staging yards, material storage areas, borrow areas, and parking areas.

Contaminant means any hazardous substance that does not occur naturally or occurs at greater than natural background levels. See definition of "hazardous substance" and WAC 173-340-200.

Contaminated soil means soil which contains contaminants, pollutants, or hazardous substances that do not occur naturally or occur at levels greater than natural background.

Contaminated groundwater means groundwater which contains contaminants, pollutants, or hazardous substances that do not occur naturally or occur at levels greater than natural background.

Demonstrably Equivalent means that the technical basis for the selection of all stormwater BMPs is documented within a SWPPP, including:

1. The method and reasons for choosing the stormwater BMPs selected.
2. The pollutant removal performance expected from the BMPs selected.

3. The technical basis supporting the performance claims for the BMPs selected, including any available data concerning field performance of the BMPs selected.
4. An assessment of how the selected BMPs will comply with state water quality standards.
5. An assessment of how the selected BMPs will satisfy both applicable federal technology-based treatment requirements and state requirements to use all known, available, and reasonable methods of prevention, control, and treatment (AKART).

Department means the Washington State Department of Ecology.

Detention means the temporary storage of stormwater to improve quality and/or to reduce the mass flow rate of discharge.

Dewatering means the act of pumping groundwater or stormwater away from an active construction site.

Director means the Director of the Washington State Department of Ecology or his/her authorized representative.

Discharger means an owner or operator of any facility or activity subject to regulation under Chapter 90.48 RCW or the Federal Clean Water Act.

Domestic Wastewater means water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments, or other places, together with such groundwater infiltration or surface waters as may be present.

Ecology means the Washington State Department of Ecology.

Engineered Soils means the use of soil amendments including, but not limited, to Portland cement treated base (CTB), cement kiln dust (CKD), or fly ash to achieve certain desirable soil characteristics.

Equivalent BMPs means operational, source control, treatment, or innovative BMPs which result in equal or better quality of stormwater discharge to surface water or to groundwater than BMPs selected from the SWMM.

Erosion means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep.

Erosion and Sediment Control BMPs means BMPs intended to prevent erosion and sedimentation, such as preserving natural vegetation, seeding, mulching and matting, plastic covering, filter fences, sediment traps, and ponds. Erosion and sediment control BMPs are synonymous with stabilization and structural BMPs.

Federal Operator is an entity that meets the definition of "Operator" in this permit and is either any department, agency or instrumentality of the executive, legislative, and judicial branches of the Federal government of the United States, or another entity, such as a private contractor, performing construction activity for any such department, agency, or instrumentality.

Final Stabilization (same as **fully stabilized** or **full stabilization**) means the completion of all soil disturbing activities at the site and the establishment of permanent vegetative cover, or equivalent permanent stabilization measures (such as pavement, riprap, gabions, or geotextiles) which will prevent erosion. See the applicable Stormwater Management Manual for more information on vegetative cover expectations and equivalent permanent stabilization measures.

Groundwater means water in a saturated zone or stratum beneath the land surface or a surface waterbody.

Hazardous Substance means any dangerous or extremely hazardous waste as defined in RCW 70.105.010 (5) and (6), or any dangerous or extremely dangerous waste as designated by rule under chapter 70.105 RCW; any hazardous sub-stance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule under chapter 70.105 RCW; any substance that, on the effective date of this section, is a hazardous substance under section 101(14) of the federal cleanup law, 42U.S.C., Sec. 9601(14); petroleum or petroleum products; and any substance or category of substances, including solid waste decomposition products, determined by the director by rule to present a threat to human health or the environment if released into the environment. The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law.

Injection Well means a well that is used for the subsurface emplacement of fluids. (See **Well**.)

Jurisdiction means a political unit such as a city, town or county; incorporated for local self-government.

National Pollutant Discharge Elimination System (NPDES) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Federal Clean Water Act, for the discharge of pollutants to surface waters of the State from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington State Department of Ecology.

Notice of Intent (NOI) means the application for, or a request for coverage under this general permit pursuant to WAC 173-226-200.

Notice of Termination (NOT) means a request for termination of coverage under this general permit as specified by Special Condition S10 of this permit.

Operator means any party associated with a construction project that meets either of the following two criteria:

- The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
- The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).

Permittee means individual or entity that receives notice of coverage under this general permit.

pH means a liquid's measure of acidity or alkalinity. A pH of 7 is defined as neutral. Large variations above or below this value are considered harmful to most aquatic life.

pH Monitoring Period means the time period in which the pH of stormwater runoff from a site must be tested a minimum of once every seven days to determine if stormwater pH is between 6.5 and 8.5.

Point Source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, and container from which pollutants are or may be discharged to surface waters of the State. This term does not include return flows from irrigated agriculture. (See the Fact Sheet for further explanation)

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, domestic sewage sludge (biosolids), munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste. This term does not include sewage from vessels within the meaning of section 312 of the CWA, nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the CWA.

Pollution means contamination or other alteration of the physical, chemical, or biological properties of waters of the State; including change in temperature, taste, color, turbidity, or odor of the waters; or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the State as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare; or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wild animals, birds, fish or other aquatic life.

Process Wastewater means any non-stormwater which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. If stormwater commingles with process wastewater, the commingled water is considered process wastewater.

Receiving Water means the waterbody at the point of discharge. If the discharge is to a storm sewer system, either surface or subsurface, the receiving water is the waterbody to which the storm system discharges. Systems designed primarily for other purposes such as for groundwater drainage, redirecting stream natural flows, or for conveyance of irrigation water/return flows that coincidentally convey stormwater are considered the receiving water.

Representative means a stormwater or wastewater sample which represents the flow and characteristics of the discharge. Representative samples may be a grab sample, a time-proportionate *composite sample*, or a flow proportionate sample. Ecology's Construction Stormwater Monitoring Manual provides guidance on representative sampling.

Responsible Corporate Officer for the purpose of signatory authority means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures (40 CFR 122.22).

Sanitary Sewer means a sewer which is designed to convey domestic wastewater.

Sediment means the fragmented material that originates from the weathering and erosion of rocks or unconsolidated deposits, and is transported by, suspended in, or deposited by water.

Sedimentation means the depositing or formation of sediment.

Sensitive Area means a waterbody, wetland, stream, aquifer recharge area, or channel migration zone.

SEPA (State Environmental Policy Act) means the Washington State Law, RCW 43.21C.020, intended to prevent or eliminate damage to the environment.

Significant Amount means an amount of a pollutant in a discharge that is amenable to available and reasonable methods of prevention or treatment; or an amount of a pollutant that has a reasonable potential to cause a violation of surface or groundwater quality or sediment management standards.

Significant Concrete Work means greater than 1000 cubic yards placed or poured concrete or recycled concrete used over the life of a project.

Significant Contributor of Pollutants means a facility determined by Ecology to be a contributor of a significant amount(s) of a pollutant(s) to waters of the State of Washington.

Site means the land or water area where any "facility or activity" is physically located or conducted.

Source Control BMPs means physical, structural or mechanical devices or facilities that are intended to prevent pollutants from entering stormwater. A few examples of source control BMPs are erosion control practices, maintenance of stormwater facilities, constructing roofs over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead end sump.

Stabilization means the application of appropriate BMPs to prevent the erosion of soils, such as, temporary and permanent seeding, vegetative covers, mulching and matting, plastic covering and sodding. See also the definition of Erosion and Sediment Control BMPs.

Storm Drain means any drain which drains directly into a *storm sewer system*, usually found along roadways or in parking lots.

Storm Sewer System means a means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains designed or used for collecting or conveying stormwater. This does not include systems which are part of a *combined sewer* or Publicly Owned Treatment Works (POTW), as defined at 40 CFR 122.2.

Stormwater means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a stormwater drainage system into a defined surface waterbody, or a constructed infiltration facility.

Stormwater Management Manual (SWMM) or Manual means the technical Manual published by Ecology for use by local governments that contain descriptions of and design criteria for BMPs to prevent, control, or treat pollutants in stormwater.

Stormwater Pollution Prevention Plan (SWPPP) means a documented plan to implement measures to identify, prevent, and control the contamination of point source discharges of stormwater.

Surface Waters of the State includes lakes, rivers, ponds, streams, inland waters, salt waters, and all other surface waters and water courses within the jurisdiction of the state of Washington.

Temporary Stabilization means the exposed ground surface has been covered with appropriate materials to provide temporary stabilization of the surface from water or wind erosion. Materials include, but are not limited to, mulch, riprap, erosion control mats or blankets and temporary cover crops. Seeding alone is not considered stabilization. Temporary stabilization is not a substitute for the more permanent "final stabilization."

Total Maximum Daily Load (TMDL) means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet state water quality standards. Percentages of the total maximum daily load are allocated to the various pollutant sources. A TMDL is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. The TMDL calculations must include a "margin of safety" to ensure that the waterbody can be protected in case there are unforeseen events or unknown sources of the pollutant. The calculation must also account for seasonable variation in water quality.

Transfer of Coverage (TOC) means a request for transfer of coverage under this general permit as specified by Special Condition S2.A of this permit.

Treatment BMPs means BMPs that are intended to remove pollutants from stormwater. A few examples of treatment BMPs are detention ponds, oil/water separators, biofiltration, and constructed wetlands.

Transparency means a measurement of water clarity in centimeters (cm), using a 60 cm transparency tube. The transparency tube is used to estimate the relative clarity or transparency of water by noting the depth at which a black and white Secchi disc becomes visible when water is released from a value in the bottom of the tube. A transparency tube is sometimes referred to as a "turbidity tube."

Turbidity means the clarity of water expressed as nephelometric turbidity units (NTUs) and measured with a calibrated turbidimeter.

Uncontaminated means free from any contaminant. See definition of "contaminant" and WAC 173-340-200.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

Waste Load Allocation (WLA) means the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality based effluent limitation (40 CFR 130.2[h]).

Water-Only Based Shaft Drilling is a shaft drilling process that uses water only and no additives are involved in the drilling of shafts for construction of building, road, or bridge foundations.

Water Quality means the chemical, physical, and biological characteristics of water, usually with respect to its suitability for a particular purpose.

Waters of the State includes those waters as defined as "waters of the United States" in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and "waters of the State" as defined in Chapter 90.48 RCW, which include lakes, rivers, ponds, streams, inland waters, underground waters, salt

waters, and all other surface waters and water courses within the jurisdiction of the state of Washington.

Well means a bored, drilled or driven shaft, or dug hole whose depth is greater than the largest surface dimension. (See **Injection Well**.)

Wheel Wash Wastewater means any water used in, or resulting from the operation of, a tire bath or wheel wash (BMP C106: Wheel Wash), or other structure or practice that uses water to physically remove mud and debris from vehicles leaving a construction site and prevent track-out onto roads. When stormwater combines with wheel wash wastewater, the resulting water is considered wheel wash wastewater and must be managed according to Special Condition S9.D.9.

APPENDIX B – ACRONYMS

AKART	All Known, Available, and Reasonable Methods of Prevention, Control, and Treatment
BMP	Best Management Practice
CESCL	Certified Erosion and Sediment Control Lead
CFR	Code of Federal Regulations
CKD	Cement Kiln Dust
cm	Centimeters
CPD	Common Plan of Development
CTB	Cement-Treated Base
CWA	Clean Water Act
DMR	Discharge Monitoring Report
EPA	Environmental Protection Agency
ERTS	Environmental Report Tracking System
ESC	Erosion and Sediment Control
FR	Federal Register
LID	Low Impact Development
NOI	Notice of Intent
NOT	Notice of Termination
NPDES	National Pollutant Discharge Elimination System
NTU	Nephelometric Turbidity Unit
RCW	Revised Code of Washington
SEPA	State Environmental Policy Act
SWMM	Stormwater Management Manual
SWPPP	Stormwater Pollution Prevention Plan
TMDL	Total Maximum Daily Load
UIC	Underground Injection Control
USC	United States Code
USEPA	United States Environmental Protection Agency
WAC	Washington Administrative Code
WQ	Water Quality
WWHM	Western Washington Hydrology Model

Horse Heaven Wind Project

General Description:

Proposed construction of a renewable energy facility that would have a nameplate energy generating capacity of up to 1,150 megawatts (MWs) for a combination of wind and solar facilities as well as battery energy storage systems (BESS). Meteorological Towers (MET), overhead transmission lines, and Operations and Maintenance (O&M) Facilities are also proposed.

Project area: 72,428 acres, privately owned land in which five DNR parcels are located within.

Location:

Unincorporated Central Benton County south of the Tri-Cities.

Applicant:

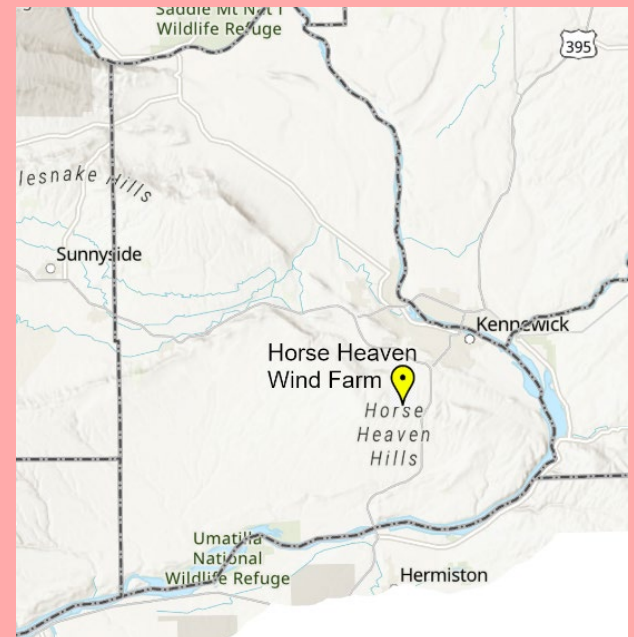
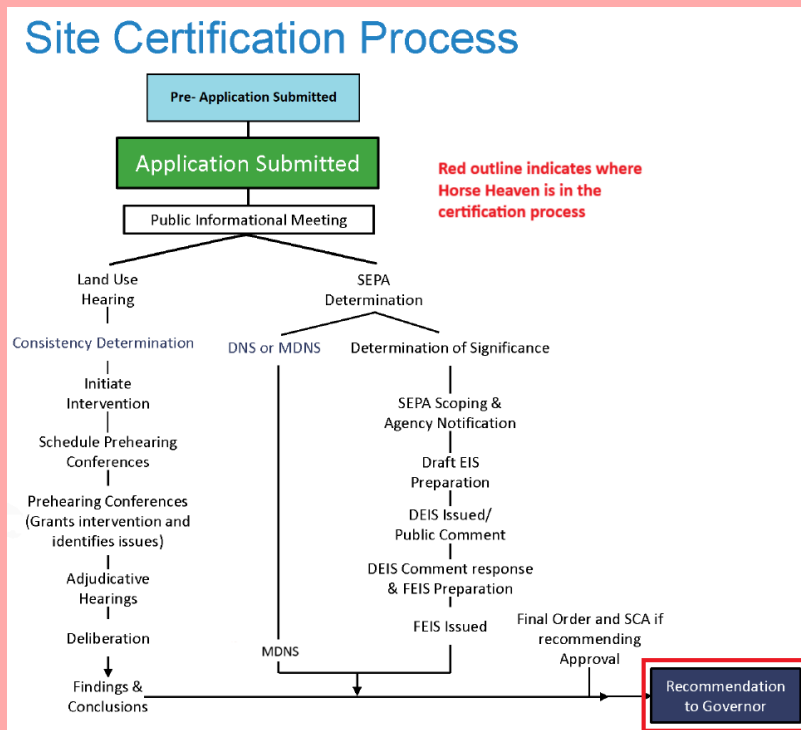
Horse Heaven Wind Farm, LLC.

Milestone Dates:

- February 8, 2021, Original ASC Submitted
- May 17, 2022, Council issues Order No. 883 of Land Use Consistency – Finding Proposed Site Consistent with Land Use Regulations.
- October 31, 2023, Final Environmental Impact Statement Issued.
- April 17, 2024, Adjudicative Order Resolving Contested Issues.
- April 29, 2024, Recommendation to the Governor Submitted.
- May 25, 2024, Governor Remanded the Council’s Recommendation.
- September 17, 2024, Final Recommendation to the Governor Submitted.

Status:

Location Map:



Wautoma Solar Energy Project

General Description:

A 470 MW solar PV facility complete with four-hour, 470 MW battery energy storage system. Includes 0.25-mile overhead transmission line connecting to BPA substation. Project area: 4,573 acres, privately owned land.

Location:

Unincorporated NW Benton County.

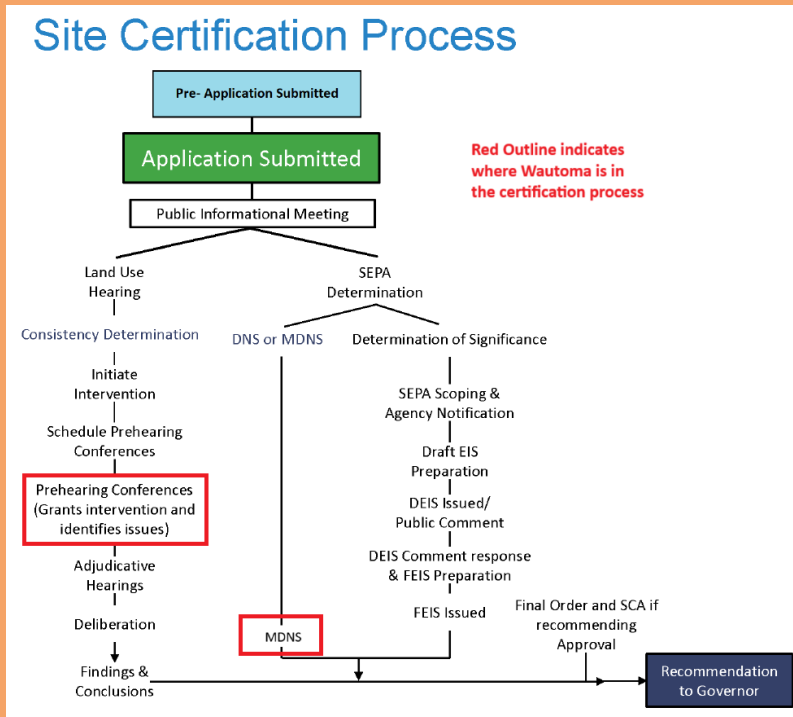
Applicant:

Innergex Renewable Development USA, LLC.

Milestone Dates:

- June 9, 2022, Original ASC Submitted
- November 16, 2022, Council issues order of Inconsistent Land Use
- May 20, 2024, MDNS Issued
- July 22, 2024, Prehearing Conference for Adjudication on Preemption

Status:



Location Map:



Hop Hill Solar Energy Project

General Description:

HOHI bn, LLC (Applicant), a subsidiary of BNC DEVCO, LLC, which is a joint venture between BrightNight, LLC and Cordelio Power. Hop Hill Solar project is an up to 500-megawatt² (MW) solar photovoltaic (PV) generation facility coupled with an up to 500-MW battery energy storage system (BESS). The Solar Array Siting Area encompasses approximately 11,179 buildable acres and the overhead 230-kV gen-tie line will be developed within a 150-foot-wide corridor and microsited within the approximately 10,841-acre Transmission Line Corridor Siting Area). The final solar array area anticipated to be approximately 6,000 acres.

Location:

Benton County, Washington.

Applicant:

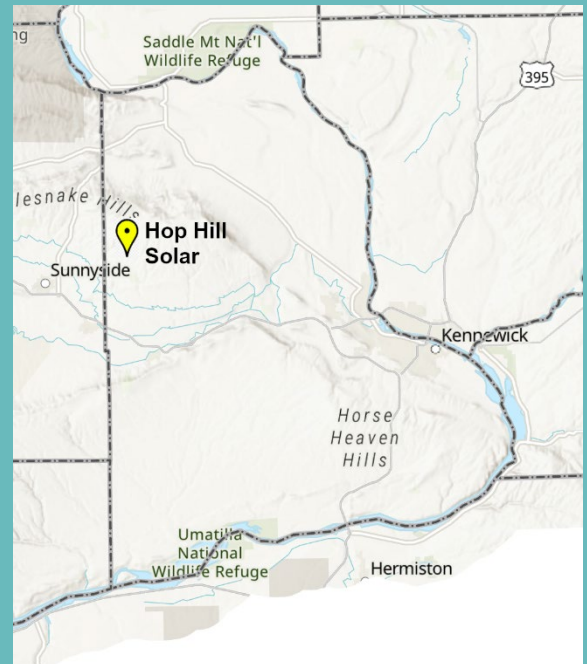
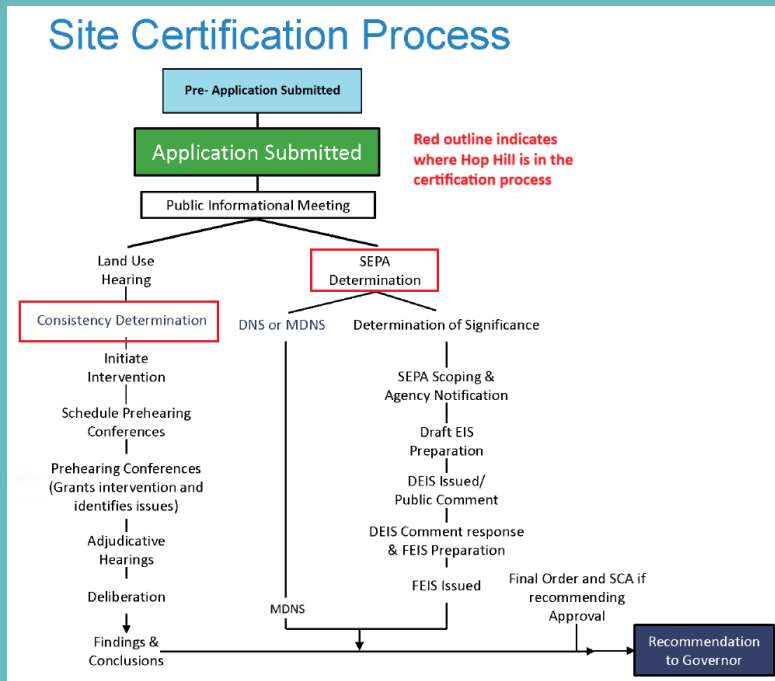
BrightNight, LLC.

Milestone Dates:

- December 22, 2022, Original ASC Submitted
- February 23, 2023, Public Comment Hearing, Land Use Consistency Hearing
- November 3, 2023, Brightnight requests application review extension (original date:12/22/23 to 12/22/24)
- November 15, 2023, Order finding Project Inconsistent with Land Use (Benton County) Regulations, setting the matter for adjudication.

Status:

Location Map:



Carriger Solar Project

General Description:

A proposed 160 megawatts (MW) solar photovoltaic (PV) electric generating facility. Includes a proposed 63 MW of battery energy storage system (BESS). Project area: 2,108- acres of privately owned land.

Location:

Unincorporated Klickitat County. Approximately 2 miles west of Goldendale.

Applicant:

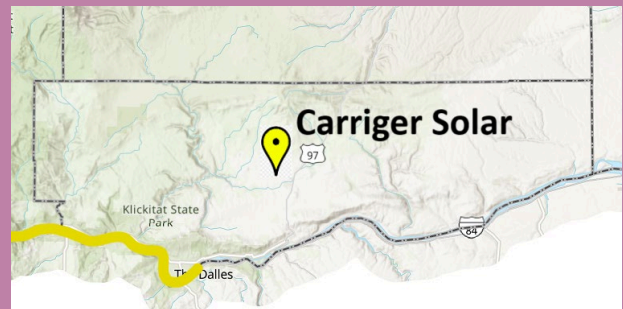
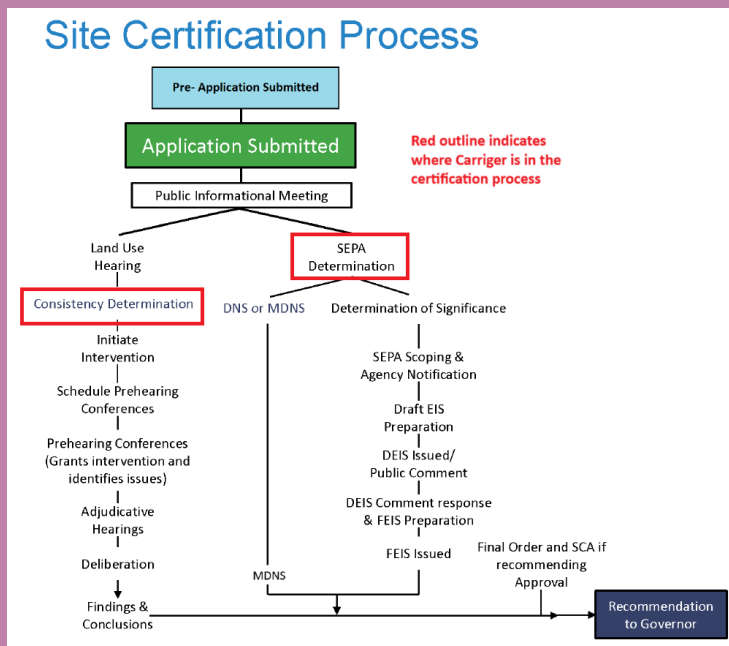
Cypress Creek Renewables, LLC.

Milestone Dates:

- February 10, 2023, Original ASC Submitted
- September 25, 2023, Council issues Order No. 889 Granting a Finding of Land Use Consistency.

Status:

Location Map:



Wallula Gap Solar Energy Project

General Description:

Wallula Gap Solar, a 60-megawatt (MW) solar photovoltaic (PV) project with an optional battery energy storage system (BESS). The Facility would be located across a portion (approximately 437 acres) of three parcels. The optional BESS would not exceed the nominal 60-MW capacity of the Facility. Facility would interconnect through a line tap to Benton Public Utility District's (PUD) 115-kV line near the Prior #2 substation. The generation would then be connected to the Bonneville Power Administration's (BPA) facilities at the Plymouth tap (aka Paterson Tap), where Benton PUD and BPA facilities connect at BPA's McNary substation.

Location:

Unincorporated community of Plymouth, Benton County, Washington.

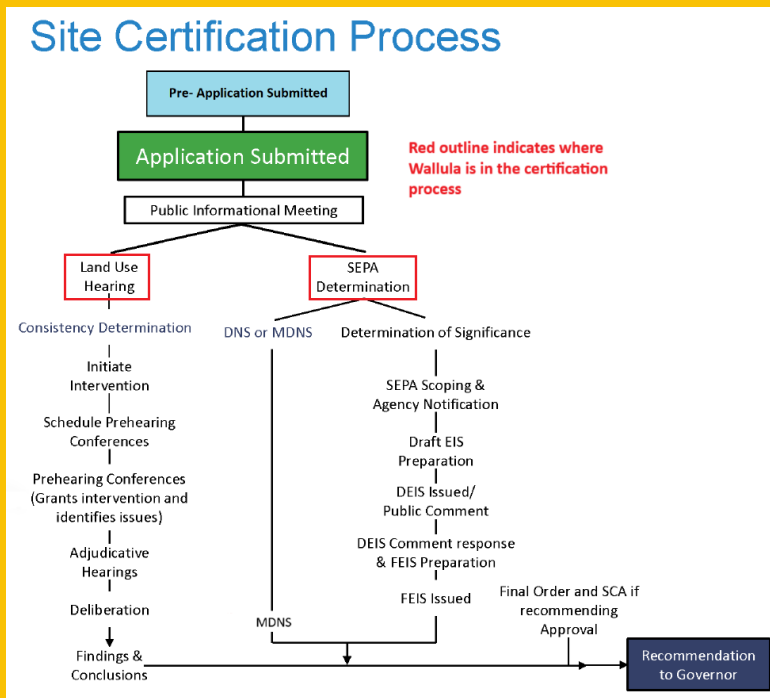
Applicant:

OneEnergy Development LLC

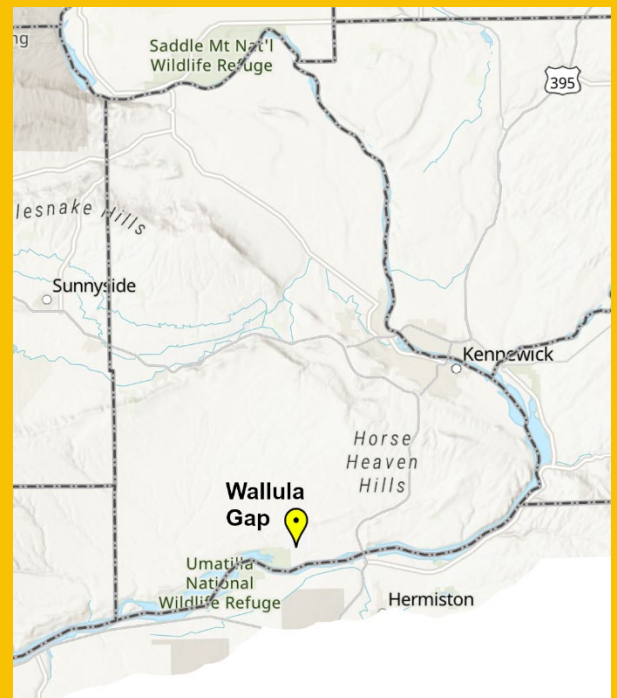
Milestone Dates:

- February 23, 2024, Original ASC Submitted
- April 23, 2024, Public Comment Hearing, Land Use Consistency Hearing

Status:



Location Map:



Goldeneye Battery Energy Storage Project

General Description:

A 200-megawatt (MW)/800-megawatt hour (MWh) battery energy storage system (BESS) project. The Project will not generate electricity, but instead provide a buffer for Skagit County's (County) electrical grid. The Project will accomplish this by receiving energy (charging) from the Puget Sound Energy (PSE) electric transmission system, storing energy on site, and then later delivering energy (discharging) back to the point of interconnection Project area: approximately 16 acres, privately owned land.

Location:

Unincorporated Skagit County, Washington.

Applicant:

GOLDFINCH ENERGY STORAGE, LLC, 412 West 15th Street, 15th Floor. New York, New York 10011

Milestone Dates:

- June 27, 2024, Original ASC Submitted
- August 13, 2024, Public Information Meeting and Land Use Consistency Hearing

Status:

Location Map:

