



Washington State Energy Facility Site Evaluation Council AGENDA

MONTHLY MEETING

Wednesday November 20, 2024

1:30 PM

HYBRID MEETING

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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
 - October 16, 2024 Monthly 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
 - j. Horse Heaven Wind Farm
 - Project Updates Amy Moon, EFSEC Staff
 - k. Wautoma Solar
 - Project Updates Lance Caputo, EFSEC Staff
 - Recommendation to Governor Kathleen Drew, EFSEC Chair

The Council may take FINAL ACTION on the Wautoma Solar Site Certification Agreement.
 - l. Hop Hill Solar
 - Project Updates John Barnes, EFSEC Staff
 - Extension Request John Barnes, EFSEC Staff

The Council may take FINAL ACTION on the extension request for the Hop Hill Solar project.
 - m. Carriger Solar
 - Project Updates Joanne Snarski, EFSEC Staff
 - n. Wallula Gap
 - Project Updates John Barnes, EFSEC Staff
 - Land Use Order John Barnes, EFSEC Staff

The Council may take FINAL ACTION on the Land Use Order for the Wallula Gap project.

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

o. Goldeneye BESS

- Project Updates.....Zia Ahmed, EFSEC Staff

7. Adjourn.....Kathleen Drew, EFSEC Chair

WASHINGTON STATE

ENERGY FACILITY SITE EVALUATION COUNCIL

MONTHLY MEETING

October 16, 2024

Conducted Remotely via Teams Videoconference

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

Page 2	Page 4
<p>1 APPEARANCES</p> <p>2 (All parties appearing remotely.)</p> <p>3</p> <p>4 STATE AGENCY MEMBERS:</p> <p>5 Kathleen Drew, Chair</p> <p>6 Elizabeth Osborne, Department of Commerce</p> <p>7 Eli Levitt, Department of Ecology</p> <p>8 Mike Livingston, Dept. of Fish and Wildlife</p> <p>9 Lenny Young, Department of Natural Resources</p> <p>10 Stacey Brewster,</p> <p>11 Utilities & Transportation Commission</p> <p>12</p> <p>13 LOCAL GOVERNMENT AND OPTIONAL STATE AGENCIES:</p> <p>14 Horse Heaven:</p> <p>15 Ed Brost, Benton County</p> <p>16 Wautoma Solar:</p> <p>17 Dave Sharp, Benton County</p> <p>18 Hop Hill Solar:</p> <p>19 Paul Krupin, Benton County</p> <p>20 Carriger Solar:</p> <p>21 Matt Chiles, Klickitat County</p> <p>22 Wallula Gap:</p> <p>23 Adam Fyall, Benton County</p> <p>24 Goldeneye BESS:</p> <p>25 Robby Eckroth, Skagit County</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 Sara Randolph</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</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1 APPEARANCES (Continuing)</p> <p>2</p> <p>3 ASSISTANT ATTORNEY GENERAL:</p> <p>4 Jon Thompson</p> <p>5</p> <p>6 COUNCIL STAFF:</p> <p>7 Sonia Bumpus Alex Shiley</p> <p>8 Ami Hafkemeyer Ali Smith</p> <p>9 Stew Henderson Audra Allen</p> <p>10 Joan Owens Zia Ahmed</p> <p>11 Andrea Grantham Maria Belkina</p> <p>12 Sonja Skavland Lisa McLean</p> <p>13 Sara Randolph Catherine Taliaferro</p> <p>14 Sean Greene Alondra Zalewski</p> <p>15 Lance Caputo Sairy Reyes</p> <p>16 John Barnes Martin McMurray</p> <p>17 Joanne Snarski 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 Chris Sherin</p> <p>25 Grays Harbor Energy Center, Grays Harbor Energy</p> <p>Jeremy Smith</p> <p>Chehalis Generation Facility, PacifiCorp</p>	<p>1 MEETING INDEX</p> <p>2 EVENT: PAGE NO.</p> <p>3 Call to order 6</p> <p>4 Roll call 6</p> <p>5 Proposed agenda 10</p> <p>6 Minutes</p> <p>7 September 18, 2024, monthly meeting minutes 11</p> <p>8 September 13, 2024, Horse Heaven special meeting minutes 12</p> <p>9</p> <p>10 Projects</p> <p>11 Kittitas Valley Wind Project 14</p> <p>12 Wild Horse Wind Power Project 14</p> <p>13 Chehalis Generation Facility 15</p> <p>14 Grays Harbor Energy Center 15</p> <p>15 Columbia Solar 15</p> <p>16 Columbia Generating Station 15</p> <p>17 Goose Prairie Solar 18</p> <p>18 High Top & Ostrea 19</p> <p>19 Horse Heaven Wind Farm 21</p> <p>20 Hop Hill Solar 26</p> <p>21 Carriger Solar 27</p> <p>22 Wallula Gap 28</p> <p>23 Goldeneye BESS 29</p> <p>24 Cost allocation 30</p> <p>25 Adjournment 31</p>

<p style="text-align: right;">Page 6</p> <p>1 BE IT REMEMBERED that on Wednesday, 2 October 16, 2024, at 1:30 p.m. Pacific time, the 3 following Monthly Meeting of the Washington State 4 Energy Facility Site Evaluation Council was held, via 5 videoconference, to wit: 6 7 <<<<<< >>>>>> 8 9 CHAIR DREW: Good afternoon. This 10 is Kathleen Drew, chair of the Washington State 11 Energy Facility Site Evaluation Council, calling our 12 October monthly meeting to order. 13 Ms. Grantham, will you call the roll. 14 MS. GRANTHAM: Certainly, Chair 15 Drew. 16 Department of Commerce. 17 MS. OSBORNE: Elizabeth Osborne, 18 present. 19 MS. GRANTHAM: Department of 20 Ecology. 21 MR. LEVITT: Eli Levitt, present. 22 MS. GRANTHAM: Department of Fish 23 and Wildlife. 24 MR. LIVINGSTON: Mike Livingston, 25 present.</p>	<p style="text-align: right;">Page 8</p> <p>1 For assistant attorney generals: Jon Thompson. 2 MR. THOMPSON: Present. 3 MS. GRANTHAM: And Zack Packer. 4 Administrative law judges: Adam Torem. 5 Laura Bradley. 6 Dan Gerard. 7 And Travis Dupree. 8 And now we'll move on to Council staff. I'll 9 call those who are anticipated to speak today. 10 Sonia Bumpus. 11 MS. BUMPUS: Present. 12 MS. GRANTHAM: Ami Hafkemeyer. 13 MS. HAFKEMEYER: Present. 14 MS. GRANTHAM: Amy Moon. 15 Sara Randolph. 16 MS. RANDOLPH: Present. 17 MS. GRANTHAM: Lance Caputo. 18 MR. CAPUTO: Present. 19 MS. GRANTHAM: John Barnes. 20 MR. BARNES: Present. 21 MS. GRANTHAM: Joanne Snarski. 22 MS. SNARSKI: Present. 23 MS. GRANTHAM: And Zia Ahmed. 24 MR. AHMED: Present. 25 MS. GRANTHAM: For operational</p>
<p style="text-align: right;">Page 7</p> <p>1 MS. GRANTHAM: Department of 2 Natural Resources. 3 MR. YOUNG: Lenny Young, present. 4 MS. GRANTHAM: Utilities & 5 Transportation Commission. 6 MS. BREWSTER: Stacey Brewster, 7 present. 8 MS. GRANTHAM: For local government 9 and optional State agencies: For the Horse Heaven 10 project, for Benton County, Ed Brost. 11 MR. BROST: Ed Brost is present. 12 MS. GRANTHAM: Thank you. 13 For the Wautoma Solar Project: For Benton 14 County, Dave Sharp. 15 MR. SHARP: Dave Sharp, present. 16 MS. GRANTHAM: Washington State 17 Department of Transportation, Paul Gonseth. 18 For the Hop Hill Solar Project: For Benton 19 County, Paul Krupin. 20 MR. KRUPIN: Paul Krupin, present. 21 MS. GRANTHAM: For the Wallula Gap 22 project: For Benton County, Adam Fyall. 23 MR. FYALL: Adam Fyall is here. 24 MS. GRANTHAM: For the Goldeneye 25 BESS project: For Skagit County, Robby Eckroth.</p>	<p style="text-align: right;">Page 9</p> <p>1 updates: Kittitas Valley wind project. 2 MR. CASEDAY: Jarred Caseday, 3 present. 4 MS. GRANTHAM: Wild Horse Wind 5 Power Project. 6 MS. GALBRAITH: Jennifer Galbraith, 7 present. 8 MS. GRANTHAM: Grays Harbor Energy 9 Center. 10 MR. SHERIN: Chris Sherin is 11 present. 12 MS. GRANTHAM: Chehalis Generation 13 Facility. 14 MR. SMITH: Jeremy Smith, present. 15 MS. GRANTHAM: Columbia Generating 16 Station. 17 MR. MEHINAGIC: Denis Mehinagic, 18 present. 19 MS. GRANTHAM: Columbia Solar. 20 MR. CUSHING: Thomas Cushing, 21 present. 22 MS. GRANTHAM: And Goose Prairie 23 Solar. 24 MS. RANDOLPH: I believe he is 25 traveling today, so I will speak on his behalf. This</p>

<p style="text-align: right;">Page 10</p> <p>1 is Sara Randolph.</p> <p>2 MS. GRANTHAM: Thank you, Sara.</p> <p>3 And is there anyone here for the counsel for the</p> <p>4 environment?</p> <p>5 MS. REYNEVELD: Yes. Sarah</p> <p>6 Reyneveld is present.</p> <p>7 MS. GRANTHAM: And I'm going to</p> <p>8 circle back over to the local government and optional</p> <p>9 State agencies. Apologies. I did miss Carriger</p> <p>10 Solar, for Klickitat County, Matt Chiles.</p> <p>11 MR. CHILES: Matt Chiles, present.</p> <p>12 MS. GRANTHAM: Thank you.</p> <p>13 Chair, there is a quorum for all Council.</p> <p>14 CHAIR DREW: Thank you,</p> <p>15 Ms. Grantham.</p> <p>16 We'll move on to the proposed agenda. And I just</p> <p>17 want to alert folks that there was a revised agenda</p> <p>18 put out yesterday. And the only change between what</p> <p>19 was proposed and what I'm going to ask the Council to</p> <p>20 adopt for today's meeting is that we're no longer</p> <p>21 going to take up the Wallula Gap land-use order. So</p> <p>22 we're not going to be taking that up at this time.</p> <p>23 So that's the only difference between the two</p> <p>24 agendas.</p> <p>25 And with that, is there a motion to approve the</p>	<p style="text-align: right;">Page 12</p> <p>1 Did anyone else find any changes or corrections?</p> <p>2 MR. MEHINAGIC: This is Denis</p> <p>3 Mehinagic from Energy Northwest. On Page 13,</p> <p>4 Line 24, the value 300 should be changed to 30.</p> <p>5 CHAIR DREW: Oh. Thank you.</p> <p>6 Any other changes?</p> <p>7 With that, all those in favor of approving the</p> <p>8 minutes as amended, please say "aye."</p> <p>9 MULTIPLE SPEAKERS: Aye.</p> <p>10 CHAIR DREW: Opposed?</p> <p>11 The minutes are approved.</p> <p>12 Moving on to the September 13th, 2024, Horse</p> <p>13 Heaven special meeting minutes.</p> <p>14 Is there a motion to approve the Horse Heaven</p> <p>15 special meeting minutes?</p> <p>16 MR. LEVITT: Eli Levitt. Motion to</p> <p>17 approve.</p> <p>18 CHAIR DREW: Thank you.</p> <p>19 Second?</p> <p>20 MR. FYALL: Second the motion.</p> <p>21 Adam Fyall.</p> <p>22 CHAIR DREW: Thank you.</p> <p>23 The -- I have one change here. On Page 11,</p> <p>24 Line 17, the minutes say "opposed," and the word</p> <p>25 should be "proposed."</p>
<p style="text-align: right;">Page 11</p> <p>1 revised agenda, which is the one that appears before</p> <p>2 you on the screen?</p> <p>3 MR. YOUNG: Lenny Young. So moved.</p> <p>4 CHAIR DREW: Second?</p> <p>5 MS. OSBORNE: Elizabeth Osborne.</p> <p>6 Second.</p> <p>7 CHAIR DREW: Thank you.</p> <p>8 I said "approve." I think I meant "adopt."</p> <p>9 So all those in favor of adopting the revised</p> <p>10 agenda, please say "aye."</p> <p>11 MULTIPLE SPEAKERS: Aye.</p> <p>12 CHAIR DREW: Opposed?</p> <p>13 It is adopted. Thank you.</p> <p>14 Moving on to the meeting minutes. We have two</p> <p>15 sets.</p> <p>16 The September 18th monthly meeting minutes. Is</p> <p>17 there a motion to approve those monthly meeting</p> <p>18 minutes?</p> <p>19 MR. LIVINGSTON: Mike Livingston.</p> <p>20 So moved.</p> <p>21 CHAIR DREW: And second?</p> <p>22 MS. BREWSTER: Stacey Brewster.</p> <p>23 Second.</p> <p>24 CHAIR DREW: And I did not have any</p> <p>25 corrections in this set of minutes.</p>	<p style="text-align: right;">Page 13</p> <p>1 Are there other changes, suggested changes to the</p> <p>2 minutes?</p> <p>3 Stacey. Ms. Brewster.</p> <p>4 MS. BREWSTER: Yeah. On Page 7,</p> <p>5 Lines 12 and 13, it says "startup instruction." I</p> <p>6 believe it should probably say "start of</p> <p>7 construction."</p> <p>8 CHAIR DREW: Okay. Great. Thank</p> <p>9 you.</p> <p>10 MS. BREWSTER: And also on Page 12,</p> <p>11 Line 3, it says "litigation," and it should say</p> <p>12 "mitigation."</p> <p>13 CHAIR DREW: Thank you.</p> <p>14 Okay. Any other corrections?</p> <p>15 MS. GRANTHAM: Chair Drew --</p> <p>16 CHAIR DREW: So --</p> <p>17 MS. GRANTHAM: -- this is Andrea</p> <p>18 Grantham.</p> <p>19 CHAIR DREW: Yeah.</p> <p>20 MS. GRANTHAM: I just wanted to</p> <p>21 point out, on the cover page itself, it looks like</p> <p>22 the court reporter might have used a past cover page</p> <p>23 that says held Friday, March 10th, so I was going to</p> <p>24 go ahead and fix that as well.</p> <p>25 CHAIR DREW: Thank you very much.</p>

<p style="text-align: right;">Page 14</p> <p>1 I went right by the cover page. Thank you. 2 Okay. Those are the corrections. All those in 3 favor of approving the Horse Heaven special meeting 4 minutes as amended, please say "aye." 5 MULTIPLE SPEAKERS: Aye. 6 CHAIR DREW: Those opposed? 7 The meetings are approved. The minutes are 8 approved. Thank you. 9 Okay. Moving on to our next item, the facility 10 update for Kittitas Valley. Mr. Caseday. 11 MR. CASEDAY: Good afternoon, Chair 12 Drew, EFSEC Council, and staff. This is Jarred 13 Caseday with EDP Renewables for the Kittitas Valley 14 wind power project. 15 We had nothing nonroutine to report for the 16 period. 17 CHAIR DREW: Thank you. 18 MR. CASEDAY: Thank you. 19 CHAIR DREW: Wild Horse Wind Power 20 Project. Ms. Galbraith. 21 MS. GALBRAITH: Yes. Thank you, 22 Chair Drew, Council members, and staff. This is 23 Jennifer Galbraith with Puget Sound Energy 24 representing the Wild Horse wind facility. 25 And I have no nonroutine updates for the month of</p>	<p style="text-align: right;">Page 16</p> <p>1 MR. MEHINAGIC: Good afternoon, 2 Chair Drew -- 3 CHAIR DREW: Go ahead. 4 MR. MEHINAGIC: -- Council members, 5 EFSEC staff. This is Denis Mehinagic speaking on the 6 behalf of Energy Northwest, Columbia Generating 7 Station, and Washington Nuclear Projects 1 and 2. 8 On September 23rd, 2024, Columbia Generating 9 Station sent a National Pollutant Discharge 10 Elimination System, NPDES, five-day noncompliance 11 report for the potential release of lubricating oil 12 into the plant service water system due to a failure 13 in Heat Exchanger TO-HX-2 "Bravo" on Reactor Feed 14 Turbine "Alpha." However, after thorough 15 troubleshooting, Energy Northwest determined that the 16 heat exchanger had no indication of failure and no 17 oil from TO-HX-2 "Bravo" entered the TSW system or 18 the Columbia River. 19 The oil leak pathway was traced from the oil 20 reservoir to Reactor Feed Turbine "Alpha," passing 21 through a failed seal, and exiting the equipment to a 22 marine oil separator located adjacent to Reactor Feed 23 Turbine "Alpha." The volume of oil found in the 24 oil-water mixture from the marine oil separator 25 closely matched the total amount of oil added to the</p>
<p style="text-align: right;">Page 15</p> <p>1 September. 2 CHAIR DREW: Thank you. 3 Chehalis Generation Facility. Mr. Smith. 4 MR. SMITH: Good afternoon, Chair 5 Drew, EFSEC staff, and Council. This is Jeremy 6 Smith, the operations manager for Chehalis Generation 7 Facility. 8 I have nothing nonroutine to note for the 9 reporting period. 10 CHAIR DREW: Thank you. 11 Grays Harbor Energy Center. Mr. Sherin. 12 MR. SHERIN: Good afternoon, Chair 13 Drew, EFSEC Council, and staff. This is Chris 14 Sherin, the plant manager at Grays Harbor Energy 15 Center. 16 And for this September period, we also had 17 nothing nonroutine -- no nonroutine items to report. 18 CHAIR DREW: Thank you. 19 Columbia Solar. Mr. Cushing. 20 MR. CUSHING: Good afternoon, Chair 21 Drew, Council members, EFSEC staff. This is Thomas 22 Cushing speaking on behalf of Columbia Solar. 23 There are no nonroutine updates to report. 24 CHAIR DREW: Thank you. 25 Moving on to Columbia Generating Station.</p>	<p style="text-align: right;">Page 17</p> <p>1 reservoir given known losses external to Reactor Feed 2 Turbine "Alpha." 3 Both the excessive oil additions to the reservoir 4 and frequent removal of the oil-water mixture from 5 the separator began in June of 2023. The oil-water 6 mixture from the marine oil separator is collected 7 and separated, with the oil ultimately being sent off 8 as waste. 9 TO-HX-2 "Bravo" was taken out of service on 10 September 21st, 2024. Oil samples taken from the 11 heat exchanger showed no signs of an oil-water 12 mixture, ruling out the possibility of a leak in the 13 heat exchanger. Since there is a theoretical pathway 14 for oil to enter [sic] the heat exchanger while in 15 service, it would also be -- there would also be a 16 pathway for TSW to enter the heat exchanger when not 17 in service. 18 Based on the above analysis, the most likely 19 pathway for oil loss is through a seal within the 20 pump. This leak mixes with pump seal water and exits 21 through a marine oil separator, which is collected 22 into a barrel. Therefore, Energy Northwest is 23 providing a written retraction, which was already 24 submitted to EFSEC, of the oil spill which we 25 reported on September 18th, 2024.</p>

<p style="text-align: right;">Page 18</p> <p>1 In addition, Energy Northwest is evaluating 2 additional actions to prevent reoccurrence in the 3 future. Evaluation is being driven under the Energy 4 Northwest Corrective Action Program and is assigned 5 Condition Report No. 462562. 6 And that is all I have. 7 CHAIR DREW: Thank you. 8 I think we also have comments by staff. 9 Ms. Bumpus. 10 MS. HAFKEMEYER: Chair Drew, if I 11 might. 12 CHAIR DREW: Oh. Ms. Hafkemeyer. 13 Okay. Please go ahead. 14 MS. HAFKEMEYER: Thank you. 15 I wanted to add that staff are working with the 16 facility and Department of Ecology in coordination to 17 further investigate, and we will provide updates to 18 the Council as that investigation proceeds. 19 CHAIR DREW: Thank you. 20 Are there questions from Council members? 21 We will certainly thank you for keeping us 22 informed as any additional information comes 23 available. Thank you. 24 Moving on to the Goose Prairie Solar project. I 25 understand Mr. Crist is not available.</p>	<p style="text-align: right;">Page 20</p> <p>1 Chair Drew and Council members. For the record, this 2 is Sara Randolph, site specialist for Ostrea. 3 EFSEC staff are continuing to receive and review 4 documents being sent by the certificate holder for 5 pre-construction plans. Last month, we discussed the 6 construction stormwater general permit, or the CSWGP, 7 prior to construction and that EFSEC issues coverage 8 under the Department of Ecology general permit. In 9 your packet, you will find a letter of coverage. 10 At this time, EFSEC staff have not had any public 11 comments with the public comment ending period of 12 October 19th. Staff recommends the Council vote on a 13 permit issuance as long as no substantive comments 14 come in prior to the close of the comment period. If 15 none are received, we would move forward with issuing 16 the permit. If substantive comments are received, 17 the permit would not be issued, and staff would be 18 bringing the permit and comments to Council at the 19 November Council meeting for review for 20 consideration. 21 The certificate holder and their consultant are 22 on the phone if there are any questions. We have no 23 other updates at this time. 24 CHAIR DREW: Are there any 25 questions from Council members?</p>
<p style="text-align: right;">Page 19</p> <p>1 Ms. Randolph. 2 MS. RANDOLPH: Yes. Good 3 afternoon. Thank you, Chair Drew and Council 4 members. For the record, this is Sara Randolph, site 5 specialist for Goose Prairie. 6 The governor's site visit and red ribbon cutting 7 was on Monday this week. The facility update is 8 provided in your packet. There are no other updates 9 to report at this time. 10 CHAIR DREW: Thank you. 11 I would like to let the Council know that I did 12 attend the governor's visit to the Goose Prairie site 13 on Monday. It was very good to see Brookfield 14 Renewables and the contractor answering questions and 15 providing information to the governor and the first 16 lady as well. We're all really pleased with the work 17 that has gone on in developing this project and 18 getting it very close to operational and look forward 19 to it energizing and then the power being able to 20 flow onto the grid in the not-too-distant future. So 21 thanks to everybody who was involved in that event 22 and certainly everybody who has worked on the project 23 to date. 24 Moving on to High Top and Ostrea. Ms. Randolph. 25 MS. RANDOLPH: Thank you again,</p>	<p style="text-align: right;">Page 21</p> <p>1 If not, is there a motion to approve the 2 construction stormwater general permit pending no 3 substantive comments received before the close of the 4 hearing? 5 MR. YOUNG: Lenny Young. So moved. 6 CHAIR DREW: Second? 7 MS. OSBORNE: Elizabeth Osborne. 8 Second. 9 CHAIR DREW: Any discussion? 10 Hearing none. All those in favor, please say 11 "aye." 12 MULTIPLE SPEAKERS: Aye. 13 CHAIR DREW: Opposed? 14 Motion carries. Thank you. 15 Horse Heaven Wind Farm. Ms. Hafkemeyer. 16 MS. HAFKEMEYER: Excuse me. Thank 17 you, Chair Drew and Council members. For the record, 18 this is Ami Hafkemeyer providing an update for the 19 Horse Heaven wind project. 20 On September 13th, the Council held a special 21 meeting and deliberative session on the updated -- or 22 the revised Horse Heaven site certification 23 agreement, or SCA. The Council voted to approve the 24 adoption of changes to more narrowly tailor 25 mitigation in the SCA and submitted the revised SCA</p>

<p style="text-align: right;">Page 22</p> <p>1 to the governor.</p> <p>2 Following this, a summary of the proposed changes</p> <p>3 and Council reconsideration was submitted to Governor</p> <p>4 Inslee on September 17. Pursuant to Revised Code of</p> <p>5 Washington 80.50.100(3)(b), the governor shall within</p> <p>6 60 days of receipt either approve the application and</p> <p>7 execute the certification agreement or reject the</p> <p>8 application. The 60-day time period expires on</p> <p>9 November 16th, 2024.</p> <p>10 Per RCW 80.50.100, Sub 4, the governor's decision</p> <p>11 to either execute the SCA or reject the application</p> <p>12 for certification shall be final as to that</p> <p>13 publication.</p> <p>14 Are there any questions?</p> <p>15 CHAIR DREW: Thank you.</p> <p>16 I would remind the members of the public that the</p> <p>17 questions are to come from Council members. If you</p> <p>18 have a question about a project, please communicate</p> <p>19 directly with the staff through e-mail or through</p> <p>20 telephone calls, but we do not take public questions</p> <p>21 at this meeting.</p> <p>22 So are there any questions from Council members?</p> <p>23 Okay. Thank you.</p> <p>24 Moving on to the next subject, is the Wautoma</p> <p>25 Solar Project update.</p>	<p style="text-align: right;">Page 24</p> <p>1 Friday to discuss the evidence and testimony</p> <p>2 presented in the land-use adjudication. Those</p> <p>3 hearings -- those particular meetings for</p> <p>4 deliberation are not open to the public, but you will</p> <p>5 see the outcome of them as we develop our</p> <p>6 adjudicative order.</p> <p>7 The issues in the adjudication are whether the</p> <p>8 Council should recommend preemption of inconsistent</p> <p>9 local zoning, and if so, what conditions to include</p> <p>10 in a draft SCA to recognize the purposes of the</p> <p>11 preempted local zoning.</p> <p>12 The Council took a vote and tentatively decided</p> <p>13 in favor of recommending preemption subject to the</p> <p>14 land-use-related mitigation measures that are already</p> <p>15 in the MDNS. However, our initial findings and</p> <p>16 inclus- -- and conclusions from the ALJ are</p> <p>17 forthcoming, and the parties may petition for</p> <p>18 reconsideration of those.</p> <p>19 The Council and AAG will prepare a final</p> <p>20 adjudicative order explaining the Council's decision</p> <p>21 either prior to or at the same time as the Council</p> <p>22 makes its recommendation to the governor on the</p> <p>23 application for site certification.</p> <p>24 Council members, do you have any questions about</p> <p>25 this process?</p>
<p style="text-align: right;">Page 23</p> <p>1 MR. CAPUTO: Thank you, Chair --</p> <p>2 CHAIR DREW: Mr. Barnes.</p> <p>3 MR. CAPUTO: -- Drew and Council --</p> <p>4 CHAIR DREW: Oh. Mr. Caputo.</p> <p>5 MR. CAPUTO: Thank you, Chair</p> <p>6 Drew --</p> <p>7 CHAIR DREW: I'm sorry about that.</p> <p>8 MR. CAPUTO: -- and Council</p> <p>9 members. For the record, this is Lance Caputo,</p> <p>10 siting specialist for EFSEC.</p> <p>11 The Council held an adjudicative hearing on the</p> <p>12 subject of land use on September 25th followed by a</p> <p>13 public comment hearing on October 3rd. Pursuant to</p> <p>14 WAC 463-60-116, Subsection 3, we received an updated</p> <p>15 application for site certification, or ASC, on</p> <p>16 October the 9th, which is posted on the project</p> <p>17 website and made available for public and Council</p> <p>18 review.</p> <p>19 At this time, staff recommends that the Council</p> <p>20 consider the project record and request that the</p> <p>21 Council direct staff to prepare the appropriate</p> <p>22 documents for a recommendation to the governor.</p> <p>23 Thank you.</p> <p>24 CHAIR DREW: Thank you.</p> <p>25 So the Council, the Wautoma Council met last</p>	<p style="text-align: right;">Page 25</p> <p>1 I'm going to ask if there is a motion from the</p> <p>2 Council to direct the staff to prepare a</p> <p>3 recommendation for the governor to approve the</p> <p>4 application for site certification consisting with</p> <p>5 the -- consistent with the forthcoming adjudicative</p> <p>6 order and a draft site certification agreement</p> <p>7 including the mitigation measures included in the ASC</p> <p>8 and in the SEPA mitigated determination of</p> <p>9 nonsignificance.</p> <p>10 Let's put this on the table, Council members, and</p> <p>11 then we can have a discussion, if you wish.</p> <p>12 I'm looking for a Council member to offer the</p> <p>13 motion I just read.</p> <p>14 MS. BREWSTER: Stacey Brewster. So</p> <p>15 moved.</p> <p>16 CHAIR DREW: Thank you.</p> <p>17 Second?</p> <p>18 MR. SHARP: Dave Sharp. Second.</p> <p>19 CHAIR DREW: Thank you.</p> <p>20 So this is putting forward to the staff -- this</p> <p>21 is a request to the staff to prepare the documents so</p> <p>22 that the public has a chance to review them before a</p> <p>23 final vote is taken by the Council. And the</p> <p>24 documents will have -- will be a recommendation to</p> <p>25 the governor to approve the application for site</p>

<p style="text-align: right;">Page 26</p> <p>1 certification and a draft site certification. And 2 those two pieces will be drafted and then will go to 3 the public for review before our November meeting. 4 Are there any comments or questions on this? 5 Okay. Hearing none. 6 All those who approve the motion to direct staff 7 to prepare these documents, please say "aye." 8 MULTIPLE SPEAKERS: Aye. 9 CHAIR DREW: Anyone opposed? 10 Motion carries. Thank you. 11 So, again, to the public, this -- these documents 12 will be prepared for you to review and comment on 13 before our November meeting. So thank you very much. 14 And we will look forward to hearing what comments 15 people have on that. 16 Hop Hill Solar Project update. Mr. Barnes. 17 MR. BARNES: Thank you, Chair Drew 18 and Council members. For the record, this is John 19 Barnes, EFSEC staff, for the Hop Hill application. 20 On Friday, September 27th, 2024, EFSEC received 21 from the applicant additional application materials. 22 These materials include a transmission corridor and 23 wildlife habitat survey report for biological field 24 surveys conducted between 2023 and 2024 within the 25 project's 200-foot-wide transmission line corridor</p>	<p style="text-align: right;">Page 28</p> <p>1 Ms. Snarski. 2 MS. SNARSKI: Good afternoon, Chair 3 Drew and Council members. For the record, this is 4 Joanne Snarski, the siting specialist for Carriger 5 Solar. 6 In late September, we conducted a meeting with 7 the Department of Ecology and Cypress Creek 8 Renewables to review Ecology's comments on Cypress 9 Creek's revision of the wetlands report. Cypress 10 Creek has made the requested updates and provided 11 them to Ecology. We anticipate Ecology's concurrence 12 in the next week or two on the wetlands report. 13 Cypress Creek Renewables is also moving forward 14 with their -- with scoping of their traffic impact 15 analysis. Klickitat County has provided feedback on 16 the scope of work. We also anticipate receiving 17 Department of Transportation feedback on it as well. 18 May I answer any questions? 19 CHAIR DREW: Are there any 20 questions from Carriger Solar Council members for 21 staff? 22 Thank you. 23 Wallula Gap project update. Mr. Barnes. 24 MR. BARNES: Thank you, Chair Drew 25 and Council members. For the record, this is John</p>
<p style="text-align: right;">Page 27</p> <p>1 which will occupy 670 acres. 2 On October 15th, 2024, EFSEC also received from 3 the applicant wetland and waters delineation reports. 4 The wetland and waters delineation report, August 5 2024 report, supplements a previous wetland 6 delineation report on the project's initial 11,180 7 acres which originally occurred in 2022 study area. 8 The wetlands and waters delineation report 9 October 24 provides findings from the wetlands and 10 waters delineation -- wetlands and waters field 11 delineations conducted in May 2023 within the 12 project's 500 -- 566.1-acre transmission line 13 corridor. 14 Work is continuing with the applicant to complete 15 studies and reports needed to make a SEPA 16 determination. We continue to coordinate and review 17 the application with our contractor, contracted 18 agencies, and tribal governments. 19 Are there any questions? 20 CHAIR DREW: Are there any 21 questions from Hop Hill Solar Council members for 22 staff? 23 Thank you for the update. 24 MR. BARNES: Thank you. 25 CHAIR DREW: Carriger Solar.</p>	<p style="text-align: right;">Page 29</p> <p>1 Barnes, EFSEC staff, for the Wallula Gap application. 2 On October 27th -- 22nd -- excuse me -- 2024, 3 staff will accompany members of the Department of 4 Ecology as they conduct a review of the areas of 5 concern relating to the open waters and wetlands on 6 the site. Their questions are a result of the review 7 of the Wallula Gap application. This field visit is 8 needed to confirm these questions. Staff are 9 continuing to review the application with our 10 contractor, contracted agencies, and tribal 11 governments. 12 Are there any questions? 13 CHAIR DREW: Are there any 14 questions from Wallula Gap Council members? 15 Thank you. 16 MR. BARNES: Thank you. 17 CHAIR DREW: Goldeneye BESS project 18 update. Mr. Ahmed. 19 MR. AHMED: Thank you, Chair Drew 20 and Council members. For the record, this is Zia 21 Ahmed, the siting specialist for Goldeneye battery 22 energy storage project. 23 On September 27, EFSEC sent a data request and is 24 waiting for a response from the applicant. We are 25 continuing to review the application materials with</p>

<p style="text-align: right;">Page 30</p> <p>1 our contracted agencies. There are no other update 2 at this time. Let me know if there are any questions 3 for me.</p> <p>4 CHAIR DREW: Are there any 5 questions from Goldeneye BESS Council members? 6 Thank you very much. That concludes our project 7 and facility updates. 8 We now move on to the cost allocation for second 9 quarter. Ms. Bumpus.</p> <p>10 MS. BUMPUS: Thank you. 11 Good afternoon, Chair Drew and Council members. 12 For the record, this is Sonia Bumpus. 13 I'm providing an update to the Council for the 14 nondirect cost allocation. This is for second 15 quarter fiscal year 2025, October 1 through December 16 31, 2024.</p> <p>17 For Kittitas Valley: 4 percent. 18 Wild Horse: 4 percent. 19 Columbia Generating Station: 20 percent. 20 Columbia Solar: 4. 21 WNP-1: 2 percent. 22 Grays Harbor 1 and 2: 6 percent. 23 Chehalis: 6 percent. 24 Desert Claim: 4 percent. 25 Goose Prairie: 4 percent.</p>	<p style="text-align: right;">Page 32</p> <p>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 Monthly Meeting of the Washington 7 State Energy Facility Site Evaluation Council was conducted 8 remotely in my presence and adjourned on October 16, 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 30th day of October, 2024. 19 20 21 22 23 24 25</p> <p style="text-align: right;">/s/John M.S. Botelho, CCR, RPR Certified Court Reporter No. 2976 (Certification expires 5/26/2025.)</p> <p style="text-align: right;">32</p>
<p style="text-align: right;">Page 31</p> <p>1 Horse Heaven: 11 percent. 2 Badger Mountain is at 0 percent. 3 High Top: 4 percent. 4 Ostrea: 4 percent. 5 Wautoma: 7 percent. 6 Hop Hill: 5 percent. 7 Carriger Solar: 5 percent. 8 Wallula Gap: 5 percent. 9 And Goldeneye: 5 percent. 10 Are there any questions? 11 CHAIR DREW: Any questions? 12 Thank you very much. 13 MS. BUMPUS: Thank you. 14 CHAIR DREW: This brings us to the 15 end of our agenda. Thank you for your participation. 16 And this meeting is adjourned. 17 (Meeting adjourned at 18 2:02 p.m.) 19 20 21 22 23 24 25</p>	

EFSEC Monthly Council Meeting – Facility Update Format

Facility Name: Kittitas Valley Wind Power Project

Operator: EDP Renewables

Report Date: November 6, 2024

Reporting Period: October 2024

Site Contact: Jarred Caseday, Operations Manager

Facility SCA Status: Operational

Operations & Maintenance (only applicable for operating facilities)

- Power generated: 14,507.53 MWH.
 - Wind speed: 5.48m/s.
 - Capacity Factor: 20.13%.
-

Environmental Compliance

- No incidents

Safety Compliance

- Nothing to report

Current or Upcoming Projects

- Nothing to report

Other

- No sound complaints
- Shadow flicker, On October 24, 2024, we received a complaint from a neighboring property regarding early morning shadow flicker caused by one wind turbine. We promptly addressed the issue, and no further complaints have been reported since.

EFSEC Monthly Council Meeting – Facility Update

Facility Name: Wild Horse Wind Facility
Operator: Puget Sound Energy
Report Date: November 12, 2024
Report Period: October 2024
Site Contact: Jennifer Galbraith
SCA Status: Operational

Operations & Maintenance

October generation totaled 61,201 MWh for an average capacity factor of 30.18%.

Environmental Compliance

The general elk hunting season began on Oct 26 and ended on Nov 3. In accordance with the Wild Horse Hunting Plan additional security measures and enforcement were implemented to help ensure the safety and security of hunter's, the general public, wind project personnel, and wind project facilities.

Safety Compliance

Nothing to report.

Current or Upcoming Projects

Nothing to report.

Other

Nothing to report.

EFSEC Monthly Council Meeting – Facility Update

Facility Name: Chehalis Generation Facility
Operator: PacifiCorp
Report Date: November 1, 2024
Reporting Period: October 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.

- 280,141 net MW-hrs. generated in the reporting period for a capacity factor of 76.26%

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

Environmental Compliance

-Monthly Water Usage: 2,722,336 gallons

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

-Monthly Wastewater Returned: 1,103,352 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 3,380 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: November 20, 2024

Reporting Period: October 2024

Site Contact: Chris Sherin

Facility SCA Status: Operational

Operations & Maintenance

-GHEC generated 274,425MWh during the month and 2,572,766MWh 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).
 - Quarterly Emission Data Report (EDR).
 - Annual Relative Accuracy Test Audits (RATA) results.

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: November 18 2024

Reporting Period: 31 Days from October 1, 2024

Site Contact: Thomas Cushing

Facility SCA Status: Operation

Construction Status

- Penstemon
 - Currently operational
 - Total Generation during the month of October was 736 MWh
 - Camas
 - Currently operational
 - Total Generation during the month of October was 700 MWh
 - Urtica
 - Currently operational
 - Total Generation during the month of October was 716 MWh
-

EFSEC Monthly Council Meeting

Facility Name: **Columbia Generating Station and Washington Nuclear Project 1 and 4 (WNP-1/4)**
Operator: **Energy Northwest**
Report Date: **November 20th, 2024**
Reporting Period: **October 2024**
Site Contact: **Denis Mehinagic**
Facility SCA Status: **Operational**

CGS Net Electrical Generation for October 2024: **853,088 Mega Watt-Hours.**

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

Environmental Compliance:

No update.

Safety Compliance

No update.

Current or Upcoming Projects

No update.

Other

During the week of October 28, 2024, the Washington State Fire Marshal's Office conducted an inspection of the Columbia Generating Station non-power block buildings and the Industrial Development Complex. Several actions were identified in the inspection report. A reinspection to verify open actions have been resolved will occur in approximately 60-90 days.

On October 30th, 2024, Washington State Department of Ecology (Ecology) conducted a Synthetic Minor Air Permit inspection at Columbia Generating Station. The purpose of the inspection was to assess the station's compliance with EFSEC Order No. 873 (Order on Request to Operate Multiple Diesel-fired Combustion Units to Provide Steam and Emergency Power). The inspectors conducted a visual inspection/walk down of diesel generator 5 (FLEX-GEN-DG5) in building 600, diesel generators 1-3 (DG-GEN-DG1, DG-GEN-DG2, HPCS-GEN-DG3) and the auxiliary boiler (AS-BLR-1) inside the Radiologically Controlled Area. The inspectors noted the run time readings on the diesel generators 1, 2, 3, and 5. No deficiencies were noted by Ecology during the walk down and exit meeting.

In addition to the above inspection, Ecology, and the Energy Facility Site Evaluation Council (EFSEC) conducted an inspection of the Industrial Development Complex Water Treatment Facility, specifically, the backwash water which makes its way to the Sanitary Waste Treatment Facility. Energy Northwest gave the inspectors a high-level overview of the water treatment process and observed the backwash water existing water treatment system. No deficiencies were noted by Ecology or EFSEC during our discussions.

EFSEC Monthly Council Meeting – Facility Update Format

Facility Name: Goose Prairie Solar

Operator: Brookfield Renewable US

Report Date: 11/12/24

Reporting Period: 10/10/24 to 11/12/24

Site Contact: Jacob Crist, Nelson Jia

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

Construction Status (only applicable for projects under construction)

-On schedule or not. If not, provide additional information/explanation.

1. **Project remains on time with the contractual schedule.**
2. **Upcoming Milestone Dates for commissioning activities.**
 - a. **12/13/2024, Earliest possible COD/utility signoff**
 - b. **Targeting Substantial Completion in late December.**
 - c. **Capacity Testing scheduled to occur in early 2025, Availability Testing is scheduled to occur in late December 2024.**

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

1. **All major scope items are complete. Modules, racking, trackers, substation**
2. **Back feed of the substation is complete up to the inverters.**
3. **Hot commissioning complete.**
4. **BPA curtailment checks complete.**
5. **First grass cutting is complete.**

The current project early COD is delayed due to inverters. PCL is currently in the process of replacing all inverters and retesting for BPA utility signoff. The inverter swap will be nearing completion in early December. This will delay the early COD but is not expected to delay the contractual substantial completion scheduled for January 27, 2025.

Operations & Maintenance (only applicable for operating facilities)

-Energy generated for the reporting period.

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

O&M site certificate deliverables have been approved by EFSEC.

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

Environmental Compliance

-Permit status if any changes.

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

1. **No discharge on the site reported in October.**

-Any EFSEC-related inspections that occurred.

1. **Frequent Monitoring is occurring through WSP with no findings reported for October**
2. **EFSEC Staff was onsite for a SWPPP inspection. A Flood Action Plan was developed for operational use if needed. This was per John Barnes request.**

-Any EFSEC-related complaints or violations that occurred.

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

Safety Compliance

-Safety training or improvements that relate to SCA conditions.

Current or Upcoming Projects

-Planned site improvements.

-Upcoming permit renewals.

-Additional mitigation improvements or milestones.

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 is the asset manager for our operations team. Nelson will be providing the operational updates in December 2024 or January 2025 .

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

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

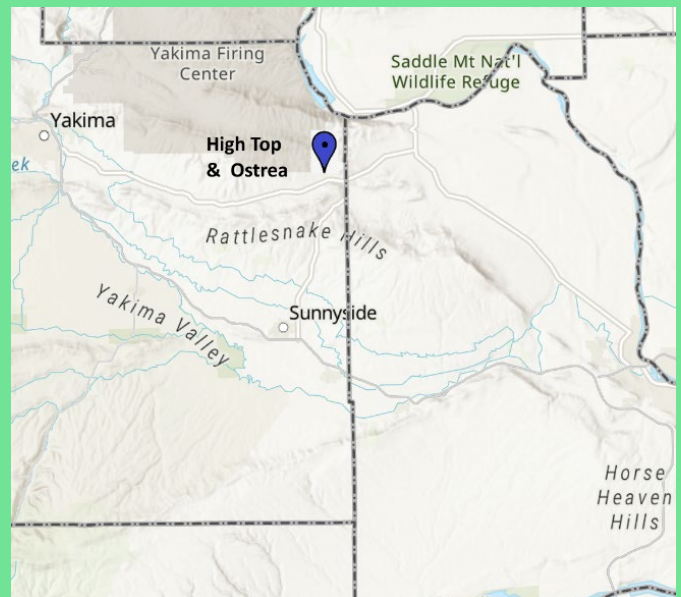
Milestone Dates:

- 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:



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.

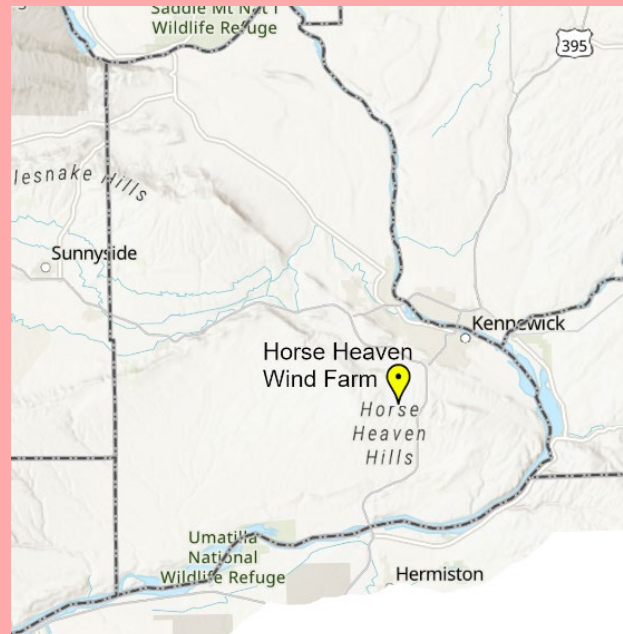
Milestone Dates:

- 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.
- October 18, 2024, Governor's Final Decision Received.

Status:

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

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.

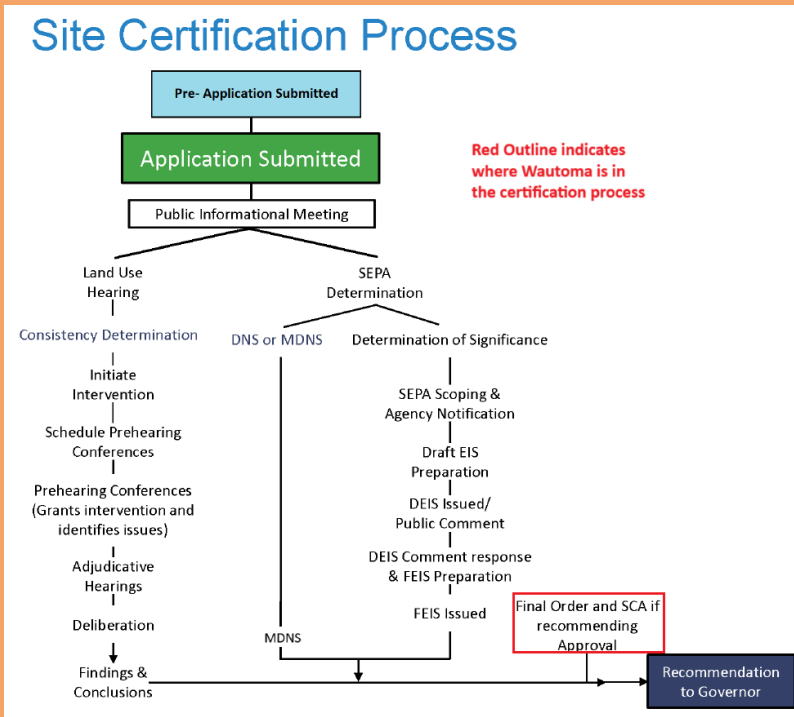
Applicant:

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
- September 25, 2024, Adjudicative Hearings

Status:



Location Map:



**SITE CERTIFICATION AGREEMENT
BETWEEN**

THE STATE OF WASHINGTON

AND

INNERGEX RENEWABLE DEVELOPMENT USA, LLC



For the

**WAUTOMA SOLAR ENERGY PROJECT
BENTON COUNTY, WASHINGTON
EXECUTED **MONTH, DAY, YEAR****

ENERGY FACILITY SITE EVALUATION COUNCIL

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DRAFT

**SITE CERTIFICATION AGREEMENT
FOR THE WAUTOMA SOLAR ENERGY PROJECT
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Attachments

1. Appendix 1: Report to the Governor, Recommendation on Application Docket No. 220355
2. Appendix 2: Revised MDNS
3. Appendix 3: Legal Description

DRAFT

**SITE CERTIFICATION AGREEMENT
FOR THE WAUTOMA SOLAR ENERGY PROJECT**

between

THE STATE OF WASHINGTON

and

INNERGEX RENEWABLE DEVELOPMENT USA, LLC

This Site Certification Agreement (Agreement or SCA) is made pursuant to Revised Code of Washington (RCW) 80.50 by and between the State of Washington, acting by and through the Governor of Washington State, and Innergex Renewable Development USA, LLC (Innergex or Certificate Holder).

Innergex Renewable Development, USA, LLC, filed as permitted by law an application with the Energy Facility Site Evaluation Council (EFSEC or Council) for site certification for the construction and operation of a solar powered generation and battery energy storage system facility to be sited in Benton County, Washington. The Council reviewed Application 220355 and recommended approval of the Revised Final Application dated October 9, 2024, and execution of a draft a Site Certification Agreement by the Governor. On [REDACTED], 202X, the Governor approved the Site Certification Agreement authorizing Innergex Renewable Development, USA, LLC to construct and operate the Wautoma Solar Energy Project (Project).

The parties hereby now desire to set forth all terms, conditions, and covenants in relation to such site certification in this Agreement pursuant to RCW 80.50.100(2).

ARTICLE I: SITE CERTIFICATION

A. Site Description

The Certificate Holder plans to construct and operate a solar photovoltaic (PV) project with an optional battery storage system on 35 parcels of privately owned, leased land in unincorporated Benton County 12.5 miles northeast of city of Sunnyside and one mile south of the State Route (SR) 241 and SR 24 interchange. The project lease boundary will not exceed 5,852 acres.

The solar PV system will consist of a series of solar PV panels mounted on a solar racking system and related electrical equipment. The system includes solar panels, tracker racking system, posts, collector lines, and power conversion systems (PCS), which consists of the Battery Energy Storage System (BESS), inverters, and transformers. The Project will have a combined maximum generating capacity of 470 megawatts alternating current (AC).

The Project also includes the following supporting components: Project substation, overhead 500-kilovolt (kV) generation-tie transmission line (gen-tie line), operations and maintenance (O&M) building, associated project access roads and perimeter fencing. Chain-link fencing will be installed around the perimeter of the solar array, project substation, and O&M building area. The Point of interconnection (POI) is the Bonneville Power Administration (BPA) transmission system at the BPA Wautoma Substation, which is located on BPA federal lands surrounded by the project area. An approximately 0.25-mile-long overhead 500-kV transmission line will extend from the project substation to the POI. The legal description is included in Appendix 3 to this Agreement.

B. Site Certification

The State of Washington hereby authorizes Innergex and any and all parent companies, and any and all assignees or successors approved by the Council, to construct and/or operate the Wautoma Solar Energy Project as described herein, subject to the terms and conditions set forth in the Council Report to the Governor Recommending Site Certification (Attachment 1 to this Agreement), and this Agreement.

The construction and operation authorized in this Agreement shall be located within the areas designated herein and in the Application for Site Certification (ASC) submitted by Innergex on June 9, 2022, as amended on August 23, 2024, and October 9, 2024.

This Agreement authorizes the Certificate Holder to construct the Wautoma Solar Energy Project within the terms provided in WAC 463-68-030, which subject to expiration as provided in WAC 463-68-080.

If the Certificate Holder does not begin construction of the Project within five (5) years of the effective date of the SCA and thereupon continue in a reasonably uninterrupted fashion toward project completion, then in accordance with WAC 463-68-060, at least ninety days prior to the end of the five year period, the Certificate Holder must report to the Council its intention to continue and will certify that the representations in the SCA, environmental conditions, pertinent technology, and regulatory conditions have remained current and applicable, or identify any changes and propose appropriate revisions to the Agreement to address changes. Construction may begin only upon prior Council authorization and approval of such certifications. If the Certificate Holder does not begin construction of the Project within ten (10) years of the effective date of the SCA all rights under this SCA will cease.

C. Project Description

The Wautoma Solar Energy Project will consist of the following components:

1. *Solar Photovoltaic System.* The solar PV system will consist of a series solar panels mounted on a solar tracker racking system and related electrical equipment. The system includes solar panels, tracker racking system, posts, collector lines, and PCS, which consists of the DC-coupled BESS, inverters, and transformers.
2. *Solar Panels and Racking Systems.* The solar PV panels, or modules, will be bifacial panels comprised of cells on mono-crystalline, poly-crystalline, cadmium telluride, or a combination therefore, used to generate electricity by converting sunlight into DC electrical energy. The cells are contained within antireflective glass panels and a metal frame and are linked together with factory-installed wire connectors. The row-to-row spacing will be approximately 36 feet (with approximately 15 to 21 feet of open space between adjacent rows). The panels themselves will be approximately 6.6 feet long by 4.1 feet wide and 2 inches thick. Once mounted on the racking system, the highest point of the panels is expected to extend approximately 9 to 14 feet above the ground surface, with an average of approximately 2 to 5 feet of ground clearance below the panels. The maximum number of panels anticipated is approximately 1.3 million.
3. *Direct Current Electrical Collector Lines.* The solar panels produce DC electricity at a low voltage. Within each solar array area, the DC electricity from the panels will be transmitted to one of the power conversion systems distributed throughout the solar array areas via electrical wiring mounted on the racking or buried underground. The underground DC electrical wiring will be installed within trenches approximately 3 feet wide and four feet deep depending upon thermal resistivity studies. In areas with bedrock close to the surface, the collector lines may be housed in above-ground cable trays or covered in concrete slurry.
4. *Power Conversion Systems.* The project layout includes 159 PCSs distributed throughout the solar array areas. Each PCS includes up to five DC-coupled BESS units and a step-up transformer installed on a foundation approximately 50 feet wide by 150 feet in length. A DC-coupled BESS unit is a self-contained and standalone unit that combines a battery system (such as nickel manganese cobalt, nickel cobalt aluminum, lithium-ion, or lithium phosphate), inverter, and controller that can either store electrical energy for future uses, or as required based on grid-demand, convert DC electricity into AC electricity and send the AC electricity to the step-up transformer. Each DC-coupled BESS unit is approximately 11 feet high by 6 feet wide by 30 feet long. The DC-coupled BESS will be positioned in groups of up to five around a single step-up transformer, which is approximately 12 feet high by 11 feet wide by 16 feet long.

An alternative to the 159 PCSs distributed throughout the solar array areas is to design a centralized AC-coupled BESS. Under this option, the BESS units will be placed in an 18–20-acre area located near the project substation. The final design of the PCS system will be reviewed and approved by EFSEC prior to construction.

5. *Alternating Current Medium Voltage Collector Network.* The AC medium-voltage (34.5 kV) collector network will convey the electricity from the medium voltage step-up transformers located at each PCS to the project substation where the electricity will be transformed to 500kV by one or more main power transformer(s) for final distribution to the grid via the project's gen-tie-line. Like the underground DC electric collector lines, the AC medium voltage collector lines will be installed underground within a trench approximately 3 feet wide and 4 feet deep, with final design determined by thermal resistivity studies.

6. *Project Substation.* The project substation will function to further increase the voltage to match the voltage of the BPA transmission system of 500kV. The project substation and associated interconnection infrastructure will include equipment such as free-standing steel switch-rack structures, one or more main power transformer(s), breakers, power meters, and associated electrical lines.
7. *Overhead Transmission Line.* An approximate 0.25-mile long overhead 500 kV transmission line will extend from the project substation to the point of interconnection with the existing BA transmission system at the BPA Wautoma substation.
8. *Operations and Maintenance Building.* The project will include an O&M building that will consist of a single-story structure with office space, warehousing space, a bathroom, and breakroom facilities. The O&M building will be up to 4,500 square feet in size on an approximately 1-acre area including an on-site 10,00 square-foot graveled parking area for employees and visitors (approximately 10 parking spaces) and an open staging area.
9. *Access Roads.* The project will be accessed primarily from SR 241 and Wautoma Road. A new approach from SR 241 will be constructed in the northwest corner of the project. The northern solar array blocks and the POI will be accessed via the existing Black Rock Substation access road.
10. *Fencing and Lighting.* Fencing will be installed around the perimeter(s) of the six identified areas of solar arrays for general security purposes and public safety. The fence will be a 7-foot-tall chain-link fence, or other fence meeting the requirements of the NEC. Fencing around the substation will extend to the ground and will be topped by barbed wire consistent with the fencing around the existing BPA substation. Solar array perimeter fencing will be designed to have an average gap between the bottom of the fence and the ground surface of 4 inches and will not be topped with barbed wire.
11. *Temporary Laydown Areas.* Six temporary laydown (i.e., staging) areas (approximately 5 acres each) will be established within the fenced solar array areas.

The location of Project facilities including, but not limited to, the solar panels, electrical collection and distribution system, electrical transformers, electrical generation tie lines, roadways, and other related infrastructure, is generally described in the ASC, as modified within the Agreement. The final location of the solar panels and other project facilities within the Project Footprint may vary from the locations shown on the conceptual drawings provided in the ASC but shall be consistent with the conditions of this Agreement and in accordance with the final construction plans approved by EFSEC pursuant to Article IV.S.

ARTICLE II: DEFINITIONS

Where used in this Site Certification Agreement, the following terms shall have the meaning set forth below:

1. “Application” or “ASC” means the Final Application for Site Certification, designated No. 220355, submitted by Innergex on June 9, 2022, as amended on August 23, 2024, and October 9, 2024.
2. “Approval” (by EFSEC) means an affirmative action by EFSEC or its authorized agents including those actions and consultations delegated to Council staff regarding documents, plans, designs, programs, or other similar requirements submitted pursuant to this Agreement.

3. “Commence Commercial Operation” means the time when the Project begins generating and delivering electricity to the electric power grid, other than electricity that may be delivered as a part of testing and startup of the Project.
4. “BMPs” means Best Management Practices.
5. “BPA” means Bonneville Power Administration.
6. “Certificate Holder” means Innergex Renewable Development, USA, LLC, any and all parent company(s), or an assignee or successor in interest authorized by the Council.
7. “Construction” means any of the following activities: Project Site clearing, grading, earth moving, cutting, or filling, excavation, preparation of roads and/or laydown areas, foundation construction including hole excavation, form work, rebar, excavation and pouring of concrete for the inverter pads and switchyard, or erection of any permanent, above-ground structures including any solar tracking assemblies, the transformer, transmission line poles, substation poles, or solar resource assessment stations.
8. “County” means Benton County, Washington.
9. “DAHP” means the Washington State Department of Archaeology and Historic Preservation.
10. “Ecology” means the Washington State Department of Ecology.
11. “Effective date” means the date on which the Governor executes this Agreement, although the Agreement must also be signed by the Applicant to become binding.
12. “EFSEC” or “Council” means the State of Washington Energy Facility Site Evaluation Council, or such other agency or agencies of the State of Washington as may hereafter succeed to the powers of EFSEC for the purposes of this Agreement.
13. “EFSEC Costs” means any and all reasonable costs, both direct and indirect, actually incurred by EFSEC with respect to this Site Certification Agreement (SCA), including but not limited to monitoring, staffing, and SCA maintenance.
14. “Micro-siting” or “micrositing” means the final technical and engineering process by which the Certificate Holder shall recommend to the Council the final location of solar project facilities on the Project Footprint.
15. “NPDES Permit” means National Pollutant Discharge Elimination System permit.
16. “Project Footprint” means that portion of the Project Site within the 5,852-acres where the facility infrastructure is planned to be located, as described in greater detail in Section 2.A.2 of the ASC.
17. “RCW” means the Revised Code of Washington.
18. “Revised MDNS” means the Revised Mitigated Determination of Non-Significance issued on June 14, 2024, by EFSEC.

19. “Site,” or “Project Site,” means the land on which the Wautoma Solar Energy Project is to be constructed and operated.
20. “Site Certification Agreement,” “SCA” or “Agreement” means this formal written agreement between the Certificate Holder and the State of Washington, including all attachments hereto and exhibits, modifications, amendments, and documents incorporated herein.
21. “State” or “state” means the State of Washington.
22. “TAC” means Technical Advisory Committee.
23. “WAC” means the Washington Administrative Code.
24. “Wautoma Solar Energy Project” or “Project” means those Wautoma Solar Energy Project facilities described in the ASC, including solar panels and their construction areas; electrical collection/interconnection and communication systems; electrical step-up and interconnection transformers; optional Battery Energy Storage System; access roadways; temporary construction-related facilities; and other related Project facilities. The specific components of the Project are identified in Article I.C.
25. “WDFW” means the Washington Department of Fish and Wildlife.
26. “WSDOT” means the Washington State Department of Transportation.

ARTICLE III: GENERAL CONDITIONS

A. Legal Relationship

1. This Agreement shall bind the Certificate Holder, and its successors in interest, and the State and any of its departments, agencies, divisions, bureaus, commissions, boards, and its political subdivisions, subject to all the terms and conditions set forth herein, as to the approval of, and all activities undertaken with respect to the Project or the Site. The Certificate Holder shall ensure that any activities undertaken with respect to the Project or the Project Footprint by its agents (including affiliates), contractors, and subcontractors comply with this Agreement and applicable provisions of Title 463 WAC. The term “affiliates” includes any other person or entity controlling, controlled by, or under common control of or with the Certificate Holder.
2. This Agreement, which includes those commitments made by the Certificate Holder in the ASC and mitigation requirements included in the Revised MDNS, issued June 14, 2024, constitutes the whole and complete agreement between the State of Washington and the Certificate Holder, and supersedes any other negotiations, representations, or agreements, either written or oral.

B. Enforcement

1. This Agreement may be enforced by resort to all remedies available at law or in equity.
2. This Agreement may be suspended or revoked by EFSEC pursuant to RCW 34.05 and RCW 80.50, for failure by the Certificate Holder to comply with the terms and conditions of this Agreement, for violations of RCW 80.50 and the rules promulgated thereunder, or for violation of any applicable resolutions or orders of EFSEC.

3. When any enforcement action of the Council is required by or authorized in this Site Certification Agreement, the Council may, but shall not be legally obligated to, conduct a hearing pursuant to RCW 34.05.

C. Notices and Filings

Filing of any documents or notices required by this Agreement with EFSEC shall be deemed to have been duly made when delivery is made to EFSEC's offices at the Energy Facility Site Evaluation Council, 621 Woodland Square Loop SE, Olympia, WA 98504-3172 or to PO Box 43172, Olympia, WA 98504-3172.

Notices to be served by EFSEC on the Certificate Holder shall be deemed to have been duly made when deposited in first class mail, postage prepaid, addressed to the Certificate Holder at Innergex Renewable Development USA, LLC, 3636 Noble Drive, Suite 260, San Diego, CA 92122 c/o Laura O'Neill, Environmental Manager.

D. Rights of Inspection

Throughout the duration of this Agreement, the Certificate Holder shall provide access to the Site, the Project structures, buildings and facilities, underground and overhead electrical lines, and all records relating to the construction and operation of the Project to designated representatives of EFSEC and EFSEC contractors in the performance of their official duties. Such duties include, but are not limited to, environmental monitoring as provided in this Agreement and monitoring and inspections to verify the Certificate Holder's compliance with this Agreement. EFSEC personnel or any designated representatives of EFSEC shall follow all worker safety requirements observed and enforced on the Project Site by the Certificate Holder and its contractors.

E. Retention of Records

The Certificate Holder shall retain such records as are necessary to demonstrate the Certificate Holder's compliance with this Agreement.

F. Consolidation of Plans and Submittals to EFSEC

Any plans required by this Agreement may be consolidated with other such plans if such consolidation is approved in advance by EFSEC. This Site Certification Agreement includes time periods for the Certificate Holder to provide certain plans and other information to EFSEC or its designees. The intent of these time periods is to provide sufficient time for EFSEC or its designees to review submittals without delay to the Project construction schedule, provided submittals made to EFSEC and/or its designees are complete.

G. Site Certification Agreement Compliance Monitoring and Costs

The Certificate Holder shall pay to the Council all EFSEC costs incurred during the construction and operation of the Project to assure compliance with the conditions of this Agreement, as required by RCW 80.50.071(2). The amount and manner of payment shall be prescribed by EFSEC pursuant to applicable procedures.

The Certificate Holder shall deposit with EFSEC a sum to guarantee payment of all EFSEC Costs as defined in Article II.13, consistent with RCW 80.50.071(2)(a), for the period commensurate with the activities of this Agreement.

H. Site Restoration

The Certificate Holder is responsible for site restoration pursuant to the Council's rules, WAC 463-72, in effect at the time of submittal of the Application.

The Certificate Holder shall develop an Initial Site Restoration Plan in accordance with the requirements set out in Article IV.F of this Agreement and submit it to EFSEC for approval. The Certificate Holder may not begin Site Preparation or Construction until the Council has approved the Initial Site Restoration Plan, and the required site restoration financial assurance.

The Certificate Holder shall submit a Detailed Site Restoration Plan to EFSEC for approval prior to decommissioning in accordance with the requirements of Article VIII.A of this Agreement.

I. EFSEC Liaison

No later than thirty (30) days from the effective date of this Agreement, the Certificate Holder shall designate a person to act as a liaison between EFSEC and the Certificate Holder.

J. Changes in Project Management Personnel

The Certificate Holder shall notify EFSEC of any change in the primary management personnel, or scope of responsibilities of such personnel, for the Project.

K. Amendment of Site Certification Agreement

1. This Agreement may be amended pursuant to EFSEC rules and procedures applicable at the time of the request for amendment. Any requests by the Certificate Holder for amendments to this Agreement shall be made in writing.
2. No change in ownership or control of the Project shall be effective without prior Council approval pursuant to EFSEC rules and procedures.
3. Repair, maintenance, and replacement of Project facilities:
 - a. The Certificate Holder is permitted, without any further amendment to this agreement, to repair and maintain Project Facilities described in Article I.C, consistent with the terms of this Agreement.
 - b. The Certificate Holder shall notify EFSEC of the replacement of any significant portion of the Project Facilities no later than thirty (30) days prior to the replacement occurring.
 - c. The Certificate Holder may replace any and all project facilities (including but not limited to equipment and structures) when necessary or to improve efficiency, without the need to amend this SCA, as long as the replacement facilities are within the physical dimensions authorized by this SCA, and do not present any environmental impacts greater than those evaluated in the MDNS. The fact that such replacements increase the generating capacity of the facility above 470 MW, shall not, by itself, require amendment of this SCA.
 - d. If facility replacements represent a significant departure from the originally approved construction plans, EFSEC may require the submission of new construction plans, in the same manner as for original construction plans.
4. In circumstances where the Project causes a significant adverse impact on the environment not previously analyzed or anticipated by this Agreement, or where such impacts are imminent, EFSEC shall take all steps it deems reasonably necessary, including imposition of specific conditions or requirements on the Certificate Holder as a consequence of such a situation in addition to the terms and conditions of this Agreement. Such additional conditions or requirements initially shall be effective for not more than ninety (90) days and may be extended once for an additional ninety (90) day period if deemed necessary by EFSEC to pursue ongoing,

or continuing temporary, arrangements under other authority, including but not limited to RCW 34.05, RCW 80.50 RCW, or Title 463 WAC.

L. Order of Precedence

In the event of an inconsistency or apparent ambiguity in this Agreement, the inconsistency or ambiguity shall be resolved by giving precedence in the following order:

1. Applicable Federal statutes and regulations.
2. Applicable State of Washington statutes and regulations.
3. The body of this Site Certification Agreement, including any other provision, term, or material incorporated herein by reference or otherwise attached to, or incorporated in, this Agreement.
4. The application of common sense to affect a result consistent with law and the principles effected in this document.

M. Review and Approval Process; Exceptions

1. Except for the Initial and Final Site Restoration Plans, prior to any site work, the Council may delegate to the EFSEC Director authority to approve or deny the construction and operational plans required by this Agreement. The EFSEC Director shall ensure that the construction and operational plans have been sufficiently reviewed prior to approval.
2. The EFSEC Director may allow temporary exceptions from plan requirements or provisions of the SCA when such exceptions are not contrary to the purposes of the SCA, provided that a record is kept, and Council members are immediately notified. Any Council member may, within seven (7) days of the notice, put the item on a Council meeting agenda for review.

ARTICLE IV: PLANS, APPROVALS AND ACTIONS REQUIRED PRIOR TO CONSTRUCTION

A. Plan Submission Requirements

All identified plans and submissions must adhere to the requirements and obligations set forth in relevant regulations, this Agreement, the Revised MDNS, and the ASC.

Unless otherwise noted, all plans and submissions required prior to beginning site construction activities are required to be filed with EFSEC ninety (90) days prior to the start of Construction. The Certificate Holder shall not begin Construction activities until all applicable elements of the required plans or commitments outlined in this Agreement, the Revised MDNS, and the ASC are in place, and Council approval of required plans and authorization to begin construction has been obtained.

B. Notice of Federal, State, and Local Permit Approvals

No later than thirty (30) days after the effective date of this Agreement, the Certificate Holder shall notify the Council of all Federal, State, and Local permits, not delegated to EFSEC, that are required for construction and operation of the Project, if any, and the anticipated date of permit issuance to the Certificate Holder. The Certificate Holder shall notify the Council when all required permits have been obtained, no later than ten (10) business days after the permit has been issued.

C. Mitigation Measures

During construction, operation, decommissioning, and site restoration of this Project, the Certificate Holder shall implement the mitigation measures set forth in this Agreement, including, but not limited to, those presented in the ASC and those identified in the Revised MDNS. For each of these mitigation measures, the Certificate Holder shall in the same filing further identify the Construction Plan and/or Operation Plan addressing the methodology for its achievement.

The specific plans and submittals listed in the remainder of this Article IV, and Articles V, VI, VII, and VIII, shall incorporate these mitigation measures as applicable.

D. Construction Stormwater Pollution Prevention Plan

1. Notice of Intent. No later than sixty (60) days prior to the beginning of Site Preparation, the Certificate Holder shall file with EFSEC a Notice of Intent to be covered by a General National Pollutant Discharge Elimination System (NPDES) Permit for Stormwater Discharges Associated with Construction Activities.
2. Construction Stormwater Pollution Prevention Plan. No later than sixty (60) days prior to the beginning of Site Preparation, the Certificate Holder shall submit to EFSEC a Construction Stormwater Pollution Prevention Plan (Construction SWPPP). The Construction SWPPP shall meet the requirements of the Ecology stormwater pollution prevention program (WAC 173-230), and the objectives and requirements in Special Condition S.9 of the *National Pollutant Discharge Elimination System and State Waste Discharge General Permit for Stormwater Discharges Associated with Construction Activities* issued by the Department of Ecology on January 1, 2021, or as revised. The Certificate Holder shall include measures for temporary erosion and sedimentation control in the Construction SWPPP as included in the Stormwater Management Manual for Eastern Washington.

E. Temporary Erosion and Sediment Control Plan

The Certificate Holder shall develop a Temporary Erosion and Sediment Control (TESC) Plan. No later than sixty (60) days prior to the beginning of Site Preparation, the Certificate Holder shall submit the TESC Plan to EFSEC. As an alternative to submitting a separate TESC Plan, the Certificate Holder may include measures for temporary erosion and sedimentation control in the Construction SWPPP required in Article IV.D.2, above.

F. Construction Spill Prevention, Control and Countermeasures Plan

The Certificate Holder shall develop a Construction Spill Prevention, Control, and Countermeasures Plan (Construction SPCCP) if quantities of materials maintained on site are of sufficient quantity to qualify, consistent with the requirements of 40 CFR Part 112 and shall adhere to requirements identified in this agreement and the ASC. The Construction SPCCP shall include the Project Footprint, and all access roads. The Certificate Holder shall require all contractors working on the facility to have a spill prevention and countermeasure program consistent with the above requirements.

G. Initial Site Restoration Plan

The Certificate Holder is responsible for Project decommissioning and site restoration pursuant to Council rules. The Certificate Holder shall develop an Initial Site Restoration Plan in consultation with EFSEC staff pursuant to the requirements of WAC 463-72-040 in effect on the date of Application. The objective of the Plan shall be to restore the Project Site to approximate pre-Project condition or better.

The Initial Site Restoration Plan shall be prepared in detail commensurate with the time until site restoration is to begin. The scope of proposed monitoring shall be addressed in the Initial Site Restoration Plan pursuant to the requirements of WAC 463-72-020.

The Plan shall include the following elements:

1. A detailed engineering estimate of the costs of the Certificate Holder or Transferee hiring a third party to carry out Site Restoration. The estimate may not be reduced for “net present value” and may not include any salvage value that may be realized from the sale of facility structures or equipment, property interests, or other assets associated with the facility at the time of decommissioning and Site Restoration.
2. Decommissioning Timing and Scope, as required by Article VIII.C of this Agreement.
3. Decommissioning Funding and Surety, as required by Article VIII.D of this Agreement.
4. Mitigation measures described in the Revised MDNS, the ASC, and this Agreement.
5. A plan that addresses both the possibility that site restoration will occur prior to, or at the end of, the useful life of the Project and the possibility of the Project being suspended or terminated during construction.
6. A description of the assumptions underlying the plan. For example, the plan should explain the anticipated useful life of the Project, the anticipated time frame of site restoration, and the anticipated future use of the Project Site.
7. An initial plan for demolishing facilities, salvaging equipment, and disposing of waste materials.
8. Performing an on-site audit and preparing an initial plan for disposing of hazardous materials (if any) present on the site and remediation of hazardous contamination (if any) at the site. If the Certificate Holder constructs the Project with solar panels incorporating hazardous materials, such as Cadmium Telluride, then the Certificate Holder shall use appropriate precautions during decommissioning and removal of the solar panels to safely dispose of and to avoid, and, if necessary, remediate any soil contamination resulting from the panels’ hazardous materials.

An initial plan for restoring the Project Site, including the removal of structures and foundations to a minimum of four feet below grade and the restoration of disturbed soils. This restoration should be informed by the soil monitoring conducted in accordance with the Revised MDNS during operations.

9. Provisions for preservation or removal of Project facilities if the Project is suspended or terminated during construction.

H. Habitat Restoration and Mitigation Plan

The Certificate Holder shall develop a Habitat Restoration and Mitigation Plan, in consultation with EFSEC staff and WDFW.

1. The Plan shall specify the Certificate Holder’s plan for meeting Compensatory Mitigation Obligations. The Certificate Holder’s Compensatory Mitigation Obligations will be met through the mechanisms identified in the Revised MDNS.

2. Pre-construction Project layout drawings will show expected permanent and temporary land disturbances.
3. The Plan shall include a process to determine the actual impacts to habitat following the completion of construction. If actual impacts to habitat exceed the expected impacts determined prior to construction, the Habitat Mitigation Plan will include a mechanism for the Certificate Holder to provide supplemental compensatory mitigation (Supplemental Mitigation). In the event of such determination, WDFW shall provide evidence of such exceedance of impacts. Supplemental Mitigation, if any, would be proportional to impacts and may take the form of additional on-site habitat enhancement or the payment of an additional fee equivalent to the value of permanently disturbed project acres to WDFW in lieu of mitigation. Any supplemental mitigation would be established in coordination with WDFW and reviewed and approved by the EFSEC prior to implementation.

I. Vegetation and Weed Management Plan

The Certificate Holder shall develop a Vegetation and Weed Management Plan, in consultation with EFSEC staff, WDFW, and Ecology.

1. The Plan must address vegetation management activities related to Project construction and operation.
2. The Certificate Holder shall develop the Plan to require all temporarily disturbed areas to be reseeded with an appropriate native seed mix selected in coordination with WDFW.
3. In consultation with WDFW, the Plan shall include a restoration schedule that identifies timing windows during which restoration should take place, and an overall timeline for when all restoration activities will be completed.
4. The Plan shall also include benchmarks and a timeline for revegetation success, and a plan for monitoring revegetation to ensure success.
5. This plan must address the requirements set forth in WAC 463-60-332(3).
6. The Plan must specify methods that will be implemented for effective noxious weed control and revegetation.

J. Construction Traffic Control Plan

The Certificate Holder shall develop a Construction Traffic Control Plan, in consultation with EFSEC and WSDOT.

1. The Traffic Control Plan must address traffic management during improvement of highway access.
2. The plan must contain measures to facilitate safe movement of vehicles in the vicinity of the construction zone and be in accordance with 23 CFR Part 655, Subpart F.

K. Cultural and Archaeological Resources Unanticipated Discovery Plan

With the assistance of an experienced archaeologist, and in consultation with EFSEC, Department of Archaeology and Historic Preservation (DAHP), and any concerned Tribes, the Certificate Holder shall develop a Cultural and Archaeological Resources Unanticipated Discovery Plan for monitoring

construction activities and responding to the discovery of archaeological resources or buried human remains.

1. Prior to construction, the Certificate Holder shall obtain any necessary DAHP permits and perform any additional necessary archaeological work to comply with RCW 27.53.
2. The Certificate Holder shall adhere to the proposed 100-foot buffers around identified site 45BN02212. Should work need to occur within these boundaries, or any sites newly discovered during construction activities, the Certificate Holder shall obtain all necessary DAHP permits and perform all necessary archaeological work to comply with RCW 27.53 prior to disturbing the site.
3. If ground disturbing activities are to occur in the vicinity of the above identified sites, a Cultural and Archaeological Resources Monitoring and Mitigation Plan is required to be developed in accordance with item 4 below.
4. The Certificate Holder shall provide copies of the draft Plan for comment to the Yakama Nation and other potentially affected tribes prior to EFSEC approval.
5. The Plan shall include, but not be limited to, the following:
 - a. A copy of the final construction and micro-siting plans for the Project and shall provide for the avoidance of archaeological sites where practical.
 - b. For sites to be avoided, the boundaries of identified cultural resources and buffer zones located within project boundaries shall be staked in the field and flagged as no-disturbance areas to avoid inadvertent disturbance during construction. These site markings will be removed following construction.
 - c. The Plan shall address alternative mitigation measures developed in coordination with DAHP and affected tribes to be implemented if it is not practical to avoid archaeological sites or isolates.
 - d. The Plan shall address the possibility of the unanticipated discovery of archaeological artifacts during construction.
 - e. If any archaeological artifacts, including but not limited to human remains, are observed during construction, then disturbance and/or excavation in that area will cease, and the Certificate Holder shall notify DAHP, EFSEC, and any affected Tribes and, in the case of human remains, the County Coroner or Medical Examiner.
 - i. At that time, appropriate treatment and mitigation measures shall be developed in coordination with the agencies and tribes cited above and implemented following approval by EFSEC.
 - ii. The Certificate Holder Shall develop a Cultural and Archaeological Resources Monitoring and Mitigation Plan in coordination with the Yakama Nation, other effected Tribes and DAHP and submit the plan for EFSEC for final approval.
 - iii. If Project facilities cannot be moved or re-routed to avoid the resources, the Certificate Holder shall contact EFSEC and DAHP for further guidance, which may require the implementation of a treatment plan. If a treatment plan is required, it shall be developed in consultation with DAHP and any affected Tribes.

L. Construction Emergency Plan

The Certificate Holder shall prepare and submit a Construction Emergency Plan:

1. The Certificate Holder shall coordinate development and implementation of the Plan with applicable local and state emergency services providers.
2. The Certificate Holder shall retain qualified contractors familiar with the general construction techniques and practices to be used for the Project and its related support facilities.
3. The construction specifications shall require contractors to implement a safety program that includes a Construction Emergency Plan.

M. Construction Fire Control Plan

The Certificate Holder shall develop and implement a Construction Fire Control Plan in coordination with state and local agencies to minimize the risk of accidental fire during construction and to ensure effective response to any fire that does occur on the Project Footprint at any time.

N. Construction Health and Safety Plan

The Certificate Holder shall develop and implement a Construction Health and Safety Plan in consultation with local and state organizations providing emergency response services to ensure timely response in the event of an emergency.

O. Construction Site Security Plan

The Certificate Holder shall develop and implement a Construction Site Security Plan in consultation with local and state organizations providing emergency response services.

P. Utilities

The Certificate Holder shall provide certification of water availability for process water used for site construction to include vegetation and dust management.

Q. Construction Schedule

No later than thirty (30) days prior to the beginning of Construction, the Certificate Holder shall submit to EFSEC an overall construction schedule. Thereafter, the Certificate Holder shall notify EFSEC of any significant changes in the construction schedule.

R. Construction Plans and Specifications

The Certificate Holder shall submit to EFSEC those construction plans, specifications, drawings, and design documents that demonstrate the Project design complies with the conditions of this Agreement.

1. The Certificate Holder shall also provide copies to WDFW, Ecology, DAHP and other agencies as EFSEC may direct, for comment.
2. The plans shall include the overall Project site plans, equipment, and material specifications.
3. The construction plans and specifications shall be in compliance with Benton County construction and building codes.
4. The plans shall identify any items relevant to the mitigation measures contained in this Agreement, the Revised MDNS, and the ASC.

5. The Certificate Holder shall consult with emergency services suppliers prior to preparing final road construction plans, to ensure that interior all-weather access roads are sufficient to provide reliable access by emergency vehicles.
6. In its final design for construction, the Certificate Holder shall maximize the use of existing roads and pathways and minimize the construction of new roads as much as reasonable and practical to minimize disturbance of existing habitat. The final design shall be subject to approval by EFSEC as part of the overall construction plans and specifications.

DRAFT

ARTICLE V: PROJECT CONSTRUCTION

A. Environmental Monitoring During Construction

1. Environmental Monitor (EM). EFSEC shall provide on-site environmental monitoring for the construction phase of the Project, at the Certificate Holder's cost. The EM shall be an independent, qualified engineering firm (or a person) selected by EFSEC and shall report directly to EFSEC.
2. Environmental Compliance Program for Construction Activities. The Certificate Holder shall identify and develop an Environmental Compliance Program in consultation with the EM and other EFSEC designees.
3. The Environmental Compliance Program shall cover avoidance of sensitive areas during construction, waste handling and storage, stormwater management, spill prevention and control, habitat restoration efforts begun during the construction phase of the Project, and other mitigation measures required by this Agreement, the Revised MDNS, and the ASC.
4. The Environmental Compliance Program shall develop inspection criteria used to ensure relevant mitigation commitments, approved plans, and sensitive area avoidance activities are adhered to. Inspection criteria shall include inspection checklist items, "stop work" criteria, and procedures for responding to stop work notices and program deficiencies. The Certificate Holder shall implement the program to ensure that construction activities meet the conditions, limits, and specifications set out in the Site Certification Agreement, all Attachments thereto, and all other applicable state and federal environmental regulations.
5. Copies of Plans and Permits Kept on Site. A copy of the Site Certification Agreement, Plans approved by the Council or its designees, and all applicable construction permits shall be kept at the Project Site. The lead Project construction personnel and construction project managers will be required to read, follow, and be responsible for all required compliance activities.
6. Environmental Violations and Stop-Work Orders. Upon identification of an environmental noncompliance issue, the EM will work with the responsible subcontractor or direct-hire workers to correct the violation. If non-compliance is not corrected in a reasonable period, the EM shall request that EFSEC issue a "stop-work" order for that portion of the work not in compliance with Project environmental requirements. EFSEC will promptly notify the EM of any "stop work" orders that have been issued. Failure to correct a violation at the request of the EM may be considered by EFSEC in exercising its authority under RCW 80.50.155 to issue penalties to persons who violate the SCA or an EFSEC issued permit.

B. Quarterly Construction Reports

The Certificate Holder shall submit quarterly construction progress reports to EFSEC no later than thirty (30) days after the end of each calendar quarter following the start of construction. Such reports shall describe the status of construction and identify any changes in the construction schedule.

C. Construction Inspection

EFSEC shall provide plan review and inspection of construction for all Project structures, underground and overhead electrical lines, and other Project facilities to ensure compliance with this Agreement. Construction shall be in accordance with the approved design and construction plans, and other

relevant regulations. EFSEC may contract with Benton County, another appropriate agency, or an independent firm to provide these services.

D. As-Built Drawings

The Certificate Holder must provide an as-built report documenting the amount of temporary and permanent disturbance associated with the Project within 60 days of completion of construction. The Certificate Holder shall maintain a complete set of as-built drawings on file for the life of the Project and shall allow the Council or its designated representative access to the drawings on request following reasonable notice.

E. Habitat, Vegetation, Fish and Wildlife

The Certificate Holder shall use construction techniques and BMPs to minimize potential impacts to habitat and wildlife. Construction of the Project shall be performed in accordance with mitigation measures identified in the Revised MDNS and the ASC.

F. Construction Noise

The Certificate Holder shall use construction techniques and BMPs to minimize potential impacts of construction related noise. Construction of the Project shall be performed in accordance with mitigation items identified in the Revised MDNS and the ASC.

G. Construction Safety and Security

1. Federal and State Safety Regulations. The Certificate Holder shall comply with applicable federal and state safety regulations (including regulations promulgated under the Federal Occupational Safety and Health Act and the Washington Industrial Safety and Health Act), as well as local and state industrial codes and standards (such as the Uniform Fire Code). The Certificate Holder, its general contractor, and all subcontractors shall make every reasonable effort to maximize safety for individuals working on the Project.
2. Visitors' Safety. Visitors shall be provided with safety equipment where and when appropriate.

H. Contaminated Soils

If contaminated soils are encountered during construction, the Certificate Holder shall notify EFSEC and Ecology as soon as possible. The Certificate Holder shall manage, handle, and dispose of contaminated soils in accordance with applicable local, state, and federal requirements.

I. Light, Glare, and Aesthetics Lighting

Lighting

1. The Certificate Holder shall implement mitigation measures to minimize light and glare impacts as described in the ASC and the Revised MDNS.
2. The Certificate Holder shall minimize outdoor lighting to meet safety and security requirements. The Certificate Holder shall avoid the use of high intensity lights and utilize downward-directed lighting.

Glare

1. Solar panels with an anti-reflective coating shall be utilized.

Aesthetics

1. The Certificate Holder must institute the measures identified in the Revised MDNS regarding potential visual and aesthetic impacts once a final project design has been completed.

J. Construction Wastes and Clean-Up

The Certificate Holder's waste disposal plans and schedule shall be included in the site construction plans and specifications for review and approval by EFSEC.

1. The Certificate Holder shall dispose of sanitary and other wastes generated during construction at facilities authorized to accept such wastes.
2. The Certificate Holder shall properly dispose of all temporary structures not intended for future use upon completion of construction.
3. The Certificate Holder also shall dispose of used timber, brush, refuse, or flammable materials resulting from the clearing of lands or from construction of the Project.

K. Technical Advisory Committee

The Certificate Holder, in consultation with EFSEC, shall establish a Technical Advisory Committee (TAC) as defined in the RMDNS. The TAC will provide advice on adaptive management and the development of any additional mitigation measures beyond those listed in this SCA. The ultimate authority to require implementation of additional mitigation measures, including any recommended by the TAC shall reside with EFSEC. The TAC shall be established prior to Project operation.

No later than ninety (90) days prior to the beginning of construction, the Certificate Holder shall contact the agencies and organizations identified in the Revised MDNS requesting that they designate a representative to the TAC, and that the agencies or organizations notify EFSEC in writing of their TAC representative and of their member's term of representation. The Certificate Holder shall also submit to EFSEC proposed Rules of Procedure describing how the TAC shall operate, including but not limited to a schedule for meetings, a meeting procedure, a process for recording meeting discussions, a process for making and presenting timely TAC recommendations to the Council, and other procedures that will assist the TAC to function properly and efficiently.

No later than sixty (60) days prior to the beginning of construction, the Certificate Holder shall convene the first meeting of the TAC. The Certificate Holder will provide a copy of the proposed Rules of Procedure at the first TAC meeting for review and comment. The TAC may suggest plan modifications; any such modifications must be approved by EFSEC.

The TAC will be convened for the life of the Project, except that EFSEC may terminate the TAC if:

1. The TAC has ceased to meet due to member attrition; or,
2. The TAC determines that all of the pre-permitting, operational and post-operational monitoring has been completed and further monitoring is not necessary; or
3. The TAC members recommend that it be terminated. If the TAC is terminated or dissolved, EFSEC may reconvene and reconstitute the TAC at its discretion.

ARTICLE VI: SUBMITTALS REQUIRED PRIOR TO THE BEGINNING OF COMMERCIAL OPERATION

A. Plan Submission Requirements

All identified plans and submissions must adhere to the requirements and obligations set forth in relevant regulations, this Agreement, the Revised MDNS, and the ASC.

Unless otherwise noted all plans and submissions required prior to the Beginning of Commercial Operation are required to be filed with EFSEC ninety (90) days prior to the Beginning of Commercial Operation. The Certificate Holder shall not begin operation until all applicable elements of the required plans or commitments outlined in this Agreement, the Revised MDNS, and the ASC are in place and Council approval of required plans and authorization to begin operation has been obtained.

B. Operations Stormwater Pollution Prevention Plan

The Certificate Holder shall prepare an Operations Stormwater Pollution Prevention Plan (Operations SWPPP) in consultation with Ecology.

1. The Operations SWPPP shall include an operation manual for permanent BMPs.
2. The Operations SWPPP shall be prepared in accordance with the guidance provided in the Ecology Stormwater Management Manual for Eastern Washington, July 2024 or as revised.
3. The Certificate Holder shall annually review the Operations SWPPP against the guidance provided in the applicable Ecology Stormwater Management Manual and make modifications as necessary to the Operations SWPPP to comply with current requirements for BMPs.
4. The Operations SWPPP shall specify that water used for washing of the solar panels is to not contain any solvents or other additives.

C. Operations Spill Prevention, Control and Countermeasure Plan

The Certificate Holder shall prepare an Operations Spill Prevention, Control and Countermeasures Plan (Operations SPCCP) in consultation with Ecology, if quantities of materials maintained on site are of sufficient quantity to qualify.

1. The Operations SPCCP shall be prepared pursuant to the requirements of 40 CFR Part 112, Sections 311 and 402 of the Clean Water Act, Section 402 (a)(1) of the Federal Water Pollution Control Act (FWPCA), and RCW 90.48.080.
2. The Operations SPCCP shall include the Project Footprint and all access roads as appropriate.
3. The Operations SPCCP shall be implemented within three (3) months of the beginning of Commercial Operation.
4. The Operations SPCCP must be updated and submitted to the EFSEC every two (2) years.

D. Vegetation and Weed Management Plan

The Certificate Holder shall develop an updated Vegetation and Weed Management Plan, in consultation with EFSEC staff, WDFW, and Ecology. The updated plan must address any relevant changes to the vegetation or weed management requirements and protocols identified prior to beginning site operation.

E. Operations Emergency Plan

The Certificate Holder shall submit an Operations Emergency Plan for the Project to provide for employee and public safety in the event of emergencies.

1. The Certificate Holder shall coordinate development of the plan with local and state agencies that provide emergency response services in the Project Footprint.
2. The Certificate Holder shall provide EFSEC with lists of emergency personnel, communication channels, and procedures and update them as needed.
3. The Operations Emergency Plan must be in compliance with WAC 463-60-352.

F. Operations Fire Control Plan


The Certificate Holder shall develop an Operations Fire Control Plan in coordination with state and local agencies to minimize the risk of accidental fire during operation and ensure effective response to any fire that does occur. The Fire Control Plan must consider and address potential wildfire risk minimization and response.

G. Operations Health and Safety Plan

The Certificate Holder shall develop and implement an Operations Health and Safety Plan. The Certificate Holder shall consult with local and state organizations providing emergency response services during the development of the plan to ensure timely response in the event of an emergency.

H. Operations Site Security Plan

The Certificate Holder shall develop and implement an Operations Phase Site Security Plan.

1. The Plan shall include, but shall not be limited to, the following elements:
2.  Controlling access to the site by any visitors, contractors, vendors, or suppliers.
3. Installing security lighting and fencing; and securing access to solar panels, pad transformers, pad-mounted switch panels and other outdoor facilities.
4. A copy of the final Security Plan shall be provided to EFSEC, and other agencies involved in emergency response.

ARTICLE VII: PROJECT OPERATION

A. Plan Implementation and Adherence

The Certificate Holder shall adhere to and implement the provisions of the required plans, submittals, permits, the Revised MDNS, the ASC, and any relevant regulation during project operation.

B. Water Discharge

The Certificate Holder shall ensure that all stormwater control measures and discharges are consistent with the Operations SWPPP, required by Article VI.B and the Ecology Stormwater Management Manual for Eastern Washington, July 2024 or as revised.

C. Noise Emissions

The Certificate Holder shall operate the Project in compliance with applicable Washington State environmental noise regulations WAC 173-60, WAC 463-62-030, WAC 173-58, and RCW 70A.20.

D. Fugitive Dust Emissions

The Certificate Holder shall continue to implement dust abatement measures as necessary.

E. Safety and Security

1. Personnel Safety. The safety of operating personnel is governed by regulations promulgated under the Federal Occupational Safety and Health Act and the Washington Industrial Safety and Health Act. The Certificate Holder shall comply with applicable federal and state safety laws and regulations (including regulations under the Federal Occupational Safety and Health Act and the Washington Industrial Safety and Health Act) as well as local and industrial codes and standards (such as the Uniform Fire Code).
2. Visitors' Safety. The Certificate Holder shall require visitors to observe the safety plans and shall provide them with safety equipment where and when appropriate.

F. Dangerous or Hazardous Materials

The Certificate Holder shall handle, treat, store, and dispose of all dangerous or hazardous materials including but not limited to those related to any battery backup power sources or the optional battery energy storage system in accordance with Washington state standards for hazardous and dangerous wastes, WAC 463-74, and WAC 173-303.

Following any abnormal seismic activity, volcanic eruption, severe weather activity, flooding, vandalism, or terrorist attacks the Certificate Holder shall inspect areas where hazardous materials are stored to verify that containment systems are operating as designed.

G. Utilities

The Certificate Holder shall provide certification of water availability for process waters used for site operation and maintenance to include potable water for site operations staff, vegetation management, and annual solar panel washing.

H. Neighboring Land Uses

Benton County is a "Right to Farm" County, codified in Benton County Code 14.05. This project is located within an agricultural area, and will be subject to impacts from nearby pre-existing agricultural practices including, but not limited to: marketed produce at roadside stands or farm markets, noise, odors, dust, fumes, operation of machinery and irrigation pumps, ground and aerial seeding and spraying, the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides and associated drift of such materials; and the employment and use of labor. Impacts resulting from these activities shall not be found to be a public or private nuisance if the farm operation was in existence before the date of this agreement.

ARTICLE VIII: PROJECT TERMINATION, DECOMMISSIONING AND SITE RESTORATION

A. Detailed Site Restoration Plan

The Certificate Holder shall submit a Detailed Site Restoration Plan to EFSEC for approval within ninety (90) days from the time the Council is notified of the termination of the Project. The Detailed Site Restoration Plan shall provide for restoration of the Project Site within the timeframe specified in Article VIII.C, considering the Initial Site Restoration Plan and the anticipated future use of the Project Site. The Detailed Site Restoration Plan shall address the elements required to be addressed by WAC 463-72-020, and the requirements of the Council approved Initial Site Restoration Plan pursuant to Article IV.F of this Agreement. The Certificate Holder shall not begin Site Restoration activities without prior approval from the Council. The Certificate Holder shall consult with WDFW, and Ecology in preparation of the Detailed Site Restoration Plan.

B. Project Termination

1. Termination of this Site Certification Agreement, except pursuant to its own terms, is an amendment of this Agreement.
2. The Certificate Holder shall notify EFSEC of its intent to terminate the Project, including by concluding the plant's operations, or by suspending construction and abandoning the Project.
3. The Council may terminate the SCA through the process described in WAC 463-66-090, and the Council may initiate that process where it has objective evidence that the certificate may be abandoned or when it deems such action to be necessary, including at the conclusion of the plant's operating life, or in the event the Project is suspended or abandoned during construction or before it has completed its useful operating life.

C. Site Restoration Timing and Scope

Site Restoration shall be conducted in accordance with the commitments made in the Detailed Site Restoration Plan required by Article VIII.A and in accordance with the following measures:

1. Timing. The Certificate Holder shall commence Site Restoration of the Project within twelve (12) months following the termination described in Article VIII.B above. The period to perform the Site Restoration may be extended if there is a delay caused by conditions beyond the control of the Certificate Holder including, but not limited to, inclement weather conditions, equipment failure, wildlife considerations, or the unavailability of cranes or other equipment to support decommissioning.
2. Scope. Site Restoration shall involve removal of the solar panels and mounting structures; removal of foundations or other Project facilities to a depth of four (4) feet below grade; restoration of any disturbed soil to pre-construction condition; and removal of Project access roads and overhead poles and transmission lines (except for any roads and/or overhead infrastructure that Project Footprint landowner wishes to retain) (all of which shall comprise "Site Restoration"). Site Restoration shall also include the use of appropriate precautions during decommissioning and removal of any hazardous material to safely dispose of and to avoid, and, if necessary, remediate any soil contamination resulting from the hazardous materials.

3. Monthly Reports. If requested by EFSEC, the Certificate Holder shall provide monthly status reports until this Site Restoration work is completed.
4. Restoration Oversight. At the time of Site Restoration, the Project Site will be evaluated by a qualified biologist to determine the extent of and type of vegetation existing on the site and a qualified soil scientist to determine the soil conditions on site. Success criteria for Site Restoration will be established prior to commencement of decommissioning activities, based on the documented preconstruction conditions, experience gained with re-vegetation during operation and the condition of the Project Site at the time of Site Restoration. The restoration success criteria will be established in the Detailed Site Restoration Plan approved by EFSEC in consultation with the designated biologist and soil scientist. Once restoration of the Project Site is determined to be complete, a final report of restoration activities and results will be submitted to EFSEC in consultation with the designated biologist and soil scientist, for review and approval.

D. Site Restoration Financial Assurance

1. Except as provided in Article VIII.D.3 below, the Certificate Holder or any Transferee shall provide financial assurance sufficient, based on detailed engineering estimates, for required Site Restoration costs in the form of a surety bond, irrevocable letter of credit, or guaranty. The Certificate Holder must also provide pollution liability insurance coverage at an amount justified for the project. The Certificate Holder shall include a detailed engineering estimate of the cost of Site Restoration in its Initial Site Restoration Plan submitted to EFSEC. The estimate must be based on the costs of EFSEC hiring a third party to carry out Site Restoration. The estimate may not be reduced for "net present value" and may not include any salvage value that may be realized from the sale of facility structures or equipment, property interests, or other assets associated with the facility at the time of decommissioning and Site Restoration. During the active life of the facility, the Certificate Holder or Transferee must adjust the Site Restoration cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument used to provide financial assurance and must increase the financial assurance amount accordingly to ensure sufficient funds for Site Restoration.
2. The duty to provide such financial assurance shall commence sixty (60) days prior to the beginning of Construction of the Project and shall be continuously maintained through to the completion of Site Restoration. Construction of the Project shall not commence until adequate financial assurance is provided. On or before the date on which financial assurance must be established, the Certificate Holder shall provide EFSEC with one of the following financial assurance mechanisms that is reasonably acceptable to EFSEC:
 - a. *Surety Bond*. The Certificate Holder or any Transferee shall provide financial security for the performance of its Site Restoration obligations through a Surety Bond issued by a surety listed as acceptable in Circular 570 of the U.S. Department of the Treasury. The Performance Bond shall be in an amount equal to the Site Restoration costs. A standby trust fund for Site Restoration shall also be established by the Certificate Holder or Transferee to receive any funds that may be paid by the surety to be used to complete Site Restoration. The surety shall become liable for the bond obligation if the Certificate Holder or Transferee fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least one hundred twenty days after the Certificate Holder or Transferee and EFSEC have received notice of cancellation. If the Certificate Holder or Transferee has not provided alternate financial assurance acceptable under this SCA within ninety days of the cancellation notice, the surety shall pay the amount of the bond into the standby Site Restoration trust: or

- b. *Irrevocable Letter of Credit.* The Certificate Holder or any Transferee shall provide financial security for the performance of its Site Restoration obligations through an irrevocable letter of credit payable to or at the direction of EFSEC, that is issued by an institution that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or State agency. The letter of credit shall be in an amount equal to the Site Restoration costs. A standby trust fund for Site Restoration shall also be established by Certificate Holder or Transferee to receive any funds deposited by the issuing institution resulting from a draw on the letter of credit. The letter of 30 credit shall be irrevocable and issued for a period of at least one year, and renewed annually, unless the issuing institution notifies the Certificate Holder or Transferee and EFSEC at least one hundred twenty days before the current expiration date. If the Certificate Holder or Transferee fails to perform Site Restoration, or if the Certificate Holder or Transferee fails to provide alternate financial assurance acceptable to EFSEC within ninety days after notification that the letter of credit will not be extended, EFSEC may require that the financial institution provide the funds from the letter of credit to be used to complete Site Restoration: or
- c. *Guaranty.* Certificate Holder or any Transferee, as the case may be, shall provide financial assurance for the performance of its Site Restoration obligations by delivering a guaranty to fund the Certificate Holder or Transferee's Site Restoration obligations hereunder from an entity that meets the following financial criteria:
- i. A current rating of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's.
 - ii. Tangible net worth at least six times the sum of the current Site Restoration cost estimates.
Tangible net worth of at least ten million dollars; and iv. Assets in the United States amounting to at least ninety percent of its total assets or at least six times the sum of the current Site Restoration cost estimates.
- d. The guarantor entity's chief financial officer shall provide a corporate guaranty that the corporation passes the financial test at the time the Initial Site Restoration Plan is filed. This corporate guaranty shall be reconfirmed annually ninety days after the end of the corporation's fiscal year by submitting to EFSEC a letter signed by the guaranteeing entity's chief financial officer that:
- i. Provides the information necessary to document that the entity passes the financial test.
 - ii. Guarantees that the funds to finance the required Site Restoration activities are available.
 - iii. Guarantees that the required Site Restoration activities will be completed.
 - iv. Guarantees that within thirty days if written notification is received from EFSEC that the entity no longer meets the above financial criteria, the entity shall provide an alternative form of financial assurance consistent with the requirements of this section.
 - v. Guarantees that the entity's chief financial officer will notify in writing the Certificate Holder or Transferee and EFSEC within fifteen days any time that the entity no longer meets the above financial criteria or is named as debtor in a voluntary or involuntary proceeding under Title 11 U.S.C., Bankruptcy.

- vi. Guarantees that the entity's chief financial officer will notify in writing the Certificate Holder or Transferee and EFSEC within fifteen days any time that the entity no longer meets the above financial criteria or is named as debtor in a voluntary or involuntary proceeding under Title 11 U.S.C., Bankruptcy.
 - vii. Attaches a copy of the independent certified public accountant's report on examination of the entity's financial statements for the latest completed fiscal year; and
 - viii. Attaches a special report from the entity's independent certified public accountant (CPA) stating that the CPA has reviewed the information in the letter from the entity's chief financial officer and has determined that the information is true and accurate.
- e. If the Certificate Holder or any Transferee fails to perform Site Restoration covered by the guaranty in accordance with the approved Initial or Final Site Restoration plan, the guarantor will be required to complete the appropriate activities. The guaranty will remain in force unless the guarantor sends notice of cancellation by certified mail to the Certificate Holder or Transferee and EFSEC. Cancellation may not occur, however, during the one hundred twenty days beginning on the date of receipt of the notice of cancellation by the Certificate Holder or Transferee and EFSEC. If the Certificate Holder or Transferee fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from EFSEC within ninety days after receipt of a notice of cancellation of the guaranty from the guarantor, the guarantor will provide such alternative financial assurance in the name of the Certificate Holder or Transferee.
3. If the SCA is transferred after its effective date, pursuant to applicable EFSEC laws and regulations, EFSEC has the right to require, consider, and approve other financial security that would provide for the Certificate Holder's performance of its Site Restoration obligations pursuant to Articles VIII.C and VIII.D of this Site Certification Agreement.

ARTICLE IX: SITE CERTIFICATION AGREEMENT - SIGNATURES

Dated and effective this _____ day of _____ 2024.

FOR THE STATE OF WASHINGTON

Jay Inslee,
Governor

FOR INNERGEX RENEWABLE DEVELOPMENT USA LLC

Colleen Giroux, Vice President Corporate Relations & Environment
Innergex Renewable Development USA, LLC

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

Application Docket No. EF-220355

In the Matter of:

Innergex Renewable Development USA,
LLC,

Wautoma Solar Energy Project
Applicant

REPORT TO THE GOVERNOR ON APPLICATION DOCKET NO. EF-220355

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I. Executive Summary

A. Application

Innergex Renewable Energy, USA, LLC (Innergex or Applicant) has applied under the Energy Facility Site Locations Act, RCW 80.50, for site certification to construct and operate the Wautoma Solar Energy Facility (Project or Facility) in unincorporated, northwest Benton County. Innergex proposes a 470 MW solar photovoltaic (PV) facility that would include a 470 MW battery energy storage system (BESS). The Project would interconnect with the Bonneville Power Administration (BPA) transmission system.

B. Recommendation

The Energy Facility Site Evaluation Council (EFSEC or Council) recommends the Governor approve the Wautoma Solar Energy Project. The Council also recommends that certain conditions be imposed if the application is approved, as detailed in this recommendation.

The Council carefully considered: (1) the policies set forth in RCW 80.50.010 regarding the need for abundant clean energy sources to meet the state's greenhouse gas reduction goals and to mitigate the effects of climate change while ensuring through reasonable methods that all energy facilities will produce minimal adverse impacts on the environment; (2) public comments; (3) the record, findings and conclusions of the Council's adjudicative order; (4) the agency's State Environmental Policy Act review and mitigated determination of nonsignificance; (5) the issues raised during staff-level coordination with affected federally recognized tribes; and (6) commitments made by the Applicant in its Application, at hearings, and in other relevant documents.

The Council concludes that the conditions identified in this report and set forth in the accompanying draft Site Certification Agreement (SCA) are reasonable methods to minimize the adverse impacts of the proposed Project on the environment and to consider the broad interests of the public including affected tribes. The Council finds that with the recommended mitigation measures, the proposed Project meets the requirements of applicable law and comports with the policies and intent of Chapter 80.50 RCW.

II. Detailed Summary of the Application and the Council's Review Process

A. Innergex Renewable Energy and the Wautoma Solar Energy Facility

The Application: Innergex filed its application for site certification for the Project on June 9, 2022, and amended it on August 23, 2024, and October 9, 2024.

The Applicant is a wholly owned subsidiary of Innergex Renewable Energy Inc., headquartered in Longueuil, Canada. Innergex operates 4,328 MW of gross installed capacity from its 88 facilities in Canada, the United States, France, and Chile. Its expertise is in hydroelectricity, wind power, solar energy, and energy storage.

The Project: The Facility is proposed to be located approximately 12.5 miles north of the city of Sunnyside and one mile south of the intersection of State Routes 241 and 24 in unincorporated northwest Benton County. It would be located on 35 privately owned, leased parcels of agriculturally zoned land known as Robert's Ranch. The leased boundary encompasses 5,852 acres. The lands are currently used for sheep grazing with limited crop cultivation.

The Application seeks authority to generate up to 470 MW of solar PV energy from approximately 1.3 million solar panels. A 470 MW battery energy storage system, along with ancillary equipment, is included in the project. The facility would connect to the on-site, BPA owned, Wautoma Substation, via a .25-mile overhead transmission line. The Project footprint will be 2,974 acres.

B. The Council and the Application review Process

EFSEC is an agency of the State of Washington established under RCW 80.50.010. One of the EFSEC Council's responsibilities is to review applications from private developers for authorization to construct and operate specified energy facilities, including alternative energy resource facilities that choose to apply for certification under RCW 80.50.060(1)(b). After reviewing the application and receiving information from the public, other agencies, and affected Tribes, the Council develops a recommendation for the Governor on whether to approve the application, and if so, on what conditions. If the Council recommends approval, it provides a draft site certification agreement that includes its recommended conditions for signature by the Governor and the applicant. In developing a recommendation, the Council's mandate is to balance the need for abundant energy at a reasonable cost with the broad interests of the public. RCW 80.50.010; see also WAC 463-47-110.

Council representatives participating in this process are Kathleen Drew, Council Chair; Elizabeth Osborne, Department of Commerce (Commerce); Eli Levitt, Department of Ecology (Ecology); Mike Livingston, Department of Fish and Wildlife, (WDFW); Lenny Young, Department of Natural Resources, (DNR); Stacey Brewster, Washington Utilities and Transportation Commission, (UTC); Paul Gonseth, Washington State Department of Transportation (WSDOT); and Dave Sharp, Benton County. Administrative Law Judge, Dan Gerrard, was appointed by the Office of Administrative Hearings, through an interagency agreement with EFSEC, to facilitate the adjudicative process.

The Council's review of Innergex's application for site certification consisted of multiple separate and distinct procedural steps. A detailed summary of the activities associated with each step is provided below.

C. Informational Public Hearing

EFSEC must conduct an informational public hearing in the County of the proposed project not later than sixty days following the receipt of an application.¹ This hearing shall consist of a

¹ RCW 80.50.090(1), WAC 463-26-025.

presentation of the proposed project by the applicant, and the general public shall be afforded an opportunity to provide written or oral comments.²

Consistent with this requirement, the Council conducted an informational public hearing on August 8, 2022, in Benton County. Pursuant to RCW 80.50.090(1) and WAC 436-26-025, the Applicant and EFSEC staff gave presentations about the Project proposal and EFSEC application review process, respectively. The Counsel for the Environment was introduced and provided a description of the duties of this position. EFSEC provided public notice and invited the public to comment at this hearing.

The Council received a total of 15 oral comments during the informational public hearing and an additional 17 written comments. The comments included both support and opposition to the Project. Comments expressed concern for wildlife, shrub-steppe habitat, zoning, agricultural lands, traffic, visual impacts, waste disposal, the EFSEC review process, and economic opportunities.

D. Land Use Consistency Hearing

Subsequent to the informational public hearing, EFSEC must conduct a land use consistency hearing pursuant to RCW 80.50.090(2) and WAC 463-26-050. The Council must then decide whether the proposed site is consistent and in compliance with local land use plans and zoning ordinances.³

The Council held a Land Use Consistency hearing on August 8, 2022, to determine whether the Project's use of the proposed site is consistent with local or regional land use plans and zoning ordinances in effect at the time the Application was submitted.⁴ Information was provided by both the Applicant and the County during this hearing. The Council determined the Project to be inconsistent with Benton County land use plans and zoning ordinances in effect as of June 8, 2022, the filing date of the application⁵.

E. Compliance with Chapter 80.50 RCW and State Environmental Policy Act

The Council must comply with State Environmental Policy Act (SEPA), Chapter 43.21C RCW, which requires consideration of probable significant adverse environmental impacts of certain government actions, including approval or denial of an application to site an energy facility, and possible mitigation. EFSEC SEPA rules are set out in Chapter 463-47-WAC. The Council's responsible SEPA official is the EFSEC Director.⁶ If the Council's SEPA official finds that any adverse environmental impacts can be mitigated to nonsignificant levels, they may issue a mitigated determination of non-significance.

² WAC 463- 26-025.

³ RCW 80.50.090(2); see also WAC 463-26-110.

⁴ RCW 80.50.090, WAC 463-14-030.

⁵ [EFSEC Order 886](#)

⁶ WAC 463-47-051.

On May 24, 2024, EFSEC's Director, Sonia Bumpus, issued a Mitigated Determination of Nonsignificance (MDNS) followed by a 14-day public comment period. On June 14, 2024, EFSEC finalized its SEPA threshold determination with minimal changes to the MDNS. All mitigation measures identified in the Revised MDNS (RMDNS) have been included within the draft Site Certification Agreement.⁷ Director Bumpus determined these measures can reduce all identified project impacts to a level of nonsignificance.

F. Tribal Engagement

Consistent with RCW 80.50.060(8), EFSEC seeks ways to avoid, minimize, or mitigate any adverse effects on tribal resources and rights and aims to include methods for increased protection of tribal cultural resources, archaeological sites, and sacred sites in its recommended conditions for energy facility siting. EFSEC recognizes that the Wautoma Solar project is located within the traditional territories of the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation) and the Wanapum Tribe, with periodic use of the area from the Nez Perce and Confederated Tribes of the Umatilla Indian Reservation as well.

RCW 80.50.060(8) requires EFSEC to provide early and meaningful participation and input from federally recognized tribal governments that possess resources, rights, or interests reserved or protected by federal treaty, statute, or executive order in the area where an energy facility is proposed, including early and meaningful participation and input during the siting review process and in ongoing compliance monitoring of proposed energy facilities.

Following the receipt of the Application for Site Certification on June 9, 2022, EFSEC notified affected tribal governments and provided directions for application review on July 18, 2022. Government-to-government consultation is distinct from the required regulatory public comment periods and staff-level engagement. For this Wautoma Solar Project, in response to EFSEC's invitation, neither the Yakama Nation nor other recognized Tribes requested formal government-to-government consultations; rather, technical-level staff coordination occurred. Feedback from the Yakama Nation Cultural Resource Program (CRP) staff was considered during the development of the mitigation measures identified in the Revised MDNS. EFSEC provided continued notifications to affected tribal governments throughout the process, including notices of public meetings, the land use consistency hearing, and the SEPA comment period.

The Department of Archeological and Historic Preservation's (DAHP) predictive model for cultural resources identified areas as having potential for cultural resources. EFSEC, DAHP, and Yakama Nation CRP staff engaged in coordination and technical level review. Yakama Nation CRP staff provided comments regarding the cultural resource surveys. Feedback from Yakama Nation CRP staff was considered into the SEPA threshold determination and issuance of the RMDNS. In their technical review of the applicant's cultural resources survey and in review of the project overall, Yakama Nation CRP staff requested full avoidance of precontact archaeological resources.

⁷ See Wautoma RMDNS, dated June 14, 2024.

The following mitigation measures included in the RMDNS, the ASC, and/or the draft SCA address some of the mitigation requests⁸ presented by Yakama Nation CRP:

- If a site identified as being avoided within the Wautoma Project Boundary Area is going to be altered during construction or operations, the Applicant must consult with DAHP, any concerned Tribes, and EFSEC. An archaeological excavation permit through DAHP is required prior to any alteration.
- Prior to the start of construction, the applicant must submit to EFSEC a Concurrence Letter from DAHP stating approval of the revised Cultural Resources Survey Reports.
- Prior to the start of construction, the Applicant must submit updated Unanticipated Discovery plans outlining steps taken to avoid precontact archaeological resources, including avoidance mechanisms proposed in the initial cultural resource reports. These plans must be developed in coordination with EFSEC, DAHP, and the Yakama Nation.
- Mitigation discussions must be ongoing once site impacts are fully assessed by EFSEC, the Yakama Nation, and DAHP. These discussions should occur on a case-by-case basis and include both the Yakama Nation and DAHP.

G. Adjudicative Proceeding

The Council's adjudicative process, its participants, and the Council's findings and conclusions regarding the contested issues are set out in detail in the Adjudicative Order, Order No. 896, Attachment 1 to this Recommendation.⁹

The Adjudicative Order, pursuant to RCW 34.05.461(4), confined its scope to two issues: (1) whether the Council should recommend that the state preempt, for the site, Benton County's zoning ordinances prohibiting major solar facilities on agricultural land, and (2) if so, what conditions the Council should include in a draft certification agreement to consider the purposes of the preempted ordinances.

Based on legal arguments and testimony presented by the Applicant and Benton County and public comments presented in the adjudication, the Council determined that it was appropriate to recommend preemption of Benton County's zoning ordinances as to the proposed Facility. The Council also determined that the conditions included in the Revised MDNS for decommissioning, gravel use, soil monitoring, and soil management sufficiently consider the purposes of the preempted Benton County zoning provisions that would be affected by the construction and operation of the Facility.

RCW 80.50.110 grants the Governor the authority to preempt state and local laws governing the regulation of energy facilities. This authority was upheld by *Residents Opposed to Kittitas Turbines v. EFSEC*, 165 Wn.2d 275, 197 P.3d 1153 (2008), and subsequently with *Friends of the Columbia Gorge, Inc. and Save our Scenic Area vs. Energy Facility Site Evaluation Council and Governor Gregoire, et. al.*, 178 Wash.2d 320 (2013) No. 88089-1, when the Court affirmed not only the Governor's authority to preempt local land use provisions but also unequivocally agreed

⁸ Yakima Nation CRP requested more mitigation for potential impacts to traditional cultural places and cumulative impacts than was incorporated. Please see the RMDNS and the associated staff memo for more detail on the EFSEC Director's reasoning for not including all Yakama Nation CRP's requests.

⁹ See Attachment 1, Order 892.

the Energy Facility Site Location Act (EFSLA – RCW 8.50) supersedes the Growth Management Act (GMA – RCW 36.70A). The Department of Commerce, the agency charged with administering the GMA, itself concluded that its regulations should accommodate situations where the state has explicitly preempted all local land use regulations, as for example, in the siting of major energy facilities under RCW 80.50.110. WAC 365-195-745(1).

III. RCW 80.50.010 STANDARD FOR RECOMMENDATION

State law establishes policies that inform how the Council is to exercise its authority to develop a recommendation to the Governor on an application for site certification.

With regard to the need for clean energy facilities and the interests of the public, RCW 80.50.010 provides as follows:

It is the policy of the state of Washington to reduce dependence on fossil fuels by recognizing the need for clean energy in order to strengthen the state's economy, meet the state's greenhouse gas reduction obligations, and mitigate the significant near-term and long-term impacts from climate change while conducting a public process that is transparent and inclusive to all with particular attention to overburdened communities. It is the policy of the state of Washington to recognize the pressing need for increased energy facilities, and to ensure through available and reasonable methods that the location and operation of all energy facilities . . . will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.

It is the intent to seek courses of action that will balance the increasing demands for energy facility location and operation in conjunction with the broad interests of the public.

State policy mandates the development of power that satisfies renewable energy requirements. Washington's greenhouse gas emissions reduction requirements include a statewide 45 percent reduction by 2030, 70 percent reduction by 2040, and 95 percent reduction by 2050.¹⁰ The Climate Commitment Act contemplates that meeting Washington's climate goals will require coordinated, comprehensive, and multisectoral implementation of policies, programs, and laws.¹¹ Among the State's economic and climate policies is the Clean Energy Transformation Act (CETA), which requires all electric utilities serving retail customers in Washington to be greenhouse gas neutral by 2030. By 2045, utilities cannot use offsets anymore and must supply Washington customers with electricity that is 100 percent renewable or non-emitting. It is amid this broader policy context, that the Washington legislature recognizes in RCW 80.50.010 the need for clean energy and has directed the Council to encourage the development of clean energy sources and the provision of abundant clean energy at reasonable cost.

¹⁰ RCW 70A.45.020(1)(a)(ii)–(iv).

¹¹ RCW 70A.65.005(2).

In summary, in its recommendation to the Governor, the Council must carefully consider the evidence in the record and seek a balance between the need for clean energy at a reasonable cost and the need to ensure that the location of energy facilities will produce minimal adverse effects on the environment.

IV. CONCLUSION AND RECOMMENDATION

The Council has considered the application for site certification, the adjudicative record, the RMDNS, the public comments, and staff coordination with Yakama Nation staff. As a result of this review, the Council finds that the Project should be approved as conditioned. The Council is persuaded that the Project presents no significant impacts to wildlife movement corridors, shrub-steppe habitat, agricultural lands, visual aesthetics, archaeological and architectural resources, traditional cultural properties, and water resources among other factors

The record before the Council supports the decision to recommend approval, subject to the restrictions and other mitigations, and protective measures identified in the SCA, RMDNS, and ASC. These elements will, in the Council's judgement, minimize the adverse local impacts of the Project as much as is reasonable consistent with the balancing of policies described in RCW 80.50.010.

Signatures

WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

Kathleen Drew, Chair

Elizabeth Osborne
Department of Commerce

Eli Levitt
Department of Ecology

Stacey Brewster
Utilities and Transportation Commission

Mike Livingston
Department of Fish and Wildlife

Lenny Young
Department of Natural Resources

Paul Gonseth
Department of Transportation

David Sharp
Benton County

NOTICE TO PARTIES: In accordance with WAC 463-30-335, administrative relief may be available through a petition for reconsideration of the Recommendation Package to the Governor. The Council requires requests for reconsideration to address all of the filing party's concerns raised by the Recommendation Package in a single petition. Petitions for reconsideration must be filed within 20 days of the service of this Order and the Recommendation Package to the Governor. If any such petition for reconsideration is filed timely, the deadline for answers is fourteen days after the date of service of each such petition. The formatting of petitions for reconsideration shall be governed by WAC 463-30-120 and shall be limited to 50 pages.

Attachment 1: Final Adjudicative Order

Attachment 2: Index of Supporting Documentation

Attachment 3: File Name Abbreviations and Acronyms

Attachment 4: Certificate of Service

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 micro-sited 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:

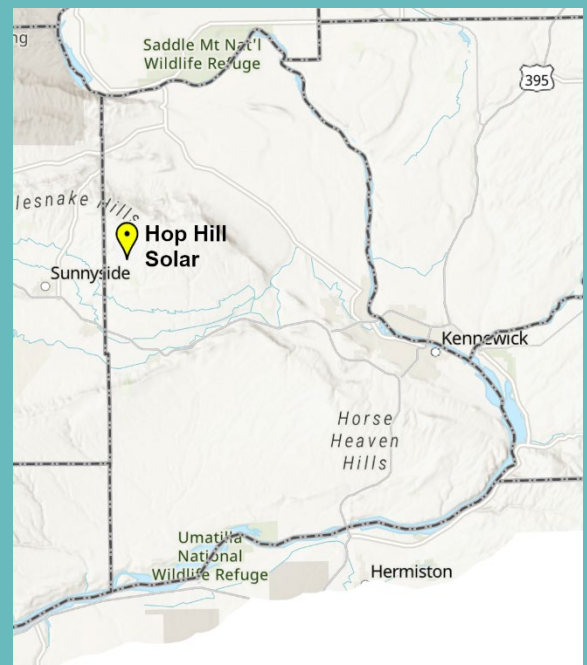
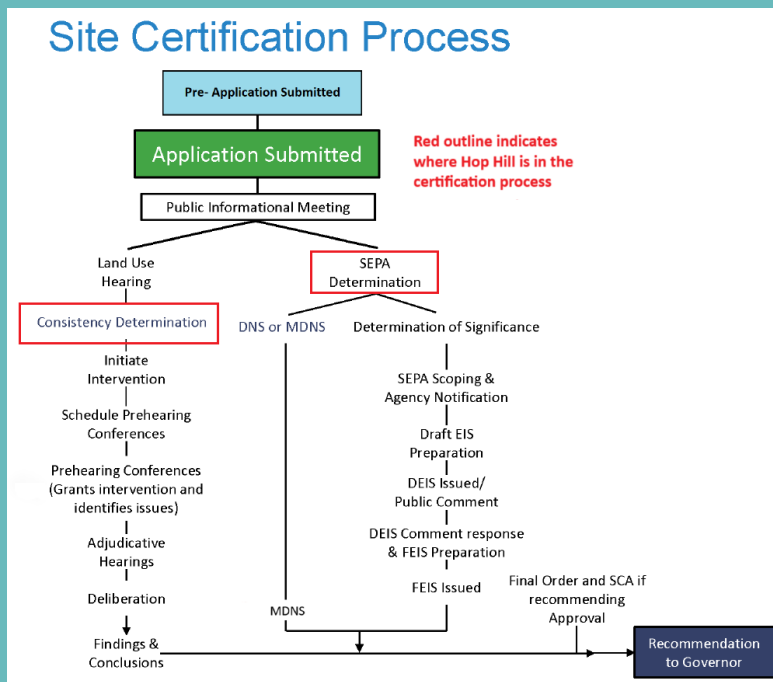
BrightNight, LLC.

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:





13123 E Emerald Coast Pkwy
Ste B#158
Inlet Beach, FL 32461
info@brightnightpower.com

To John Barnes
Washington Energy Facility Site Evaluation Council
621 Woodland Square Loop SE
Olympia, WA 98504-3172

Date: 11/12/24

Dear Mr. Barnes,

HOHI bn, LLC, a subsidiary of BNC DEVCO, LLC, which is a joint venture between BrightNight, LLC and Cordelio Power (Applicant), submitted the streamlined solar Application for Site Certification (ASC) for the Hop Hill Solar and Storage Project (Project) to the Washington Energy Facility Site Evaluation Council (EFSEC) on December 22, 2022. On November 3, 2023, the Applicant requested and was granted agreement from EFSEC that the processing time of the Project ASC be extended twelve months, to December 22, 2024.

This letter requests agreement from EFSEC that the processing time of the Project ASC be extended twelve months, to December 22, 2025, to allow for the review of additional studies provided by the Applicant to EFSEC in September and October 2024. The Applicant is also preparing a supplement to the ASC to evaluate the addition of approximately 2,900 acres to the Project's Solar Array Siting Area. We understand the Revised Code of Washington 80.50.100 requires that: "The council shall report to the governor its recommendations as to the approval or rejection of an application for certification within twelve months of receipt by the council of such an application, or such later time as is mutually agreed by the council and the applicant."

Through discussions with EFSEC staff, we understand that preparation of the draft State Environmental Policy Act (SEPA) threshold determination is ongoing to incorporate additional studies and collect supplemental information needed to make the determinations.

We appreciate EFSEC staff's continued efforts to review the Project ASC and respectfully request this extension to allow adequate time for all parties to review and process the ASC and supplemental materials or analysis requested by EFSEC staff.

If you have any questions, or require further information, please do not hesitate to contact us at kevin.martin@brightnightpower.com.

Sincerely,

A handwritten signature in black ink that reads "Kevin A. Martin".

Kevin Martin
Vice President, Permitting - BrightNight

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.

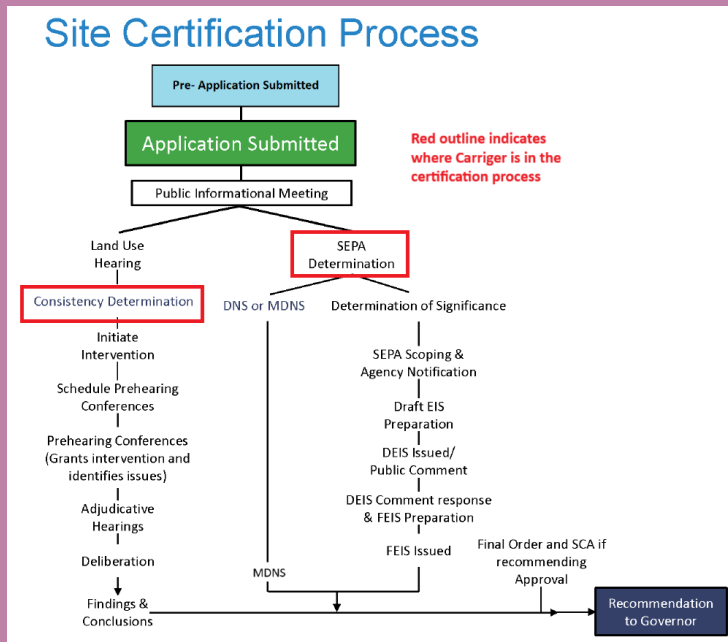
Applicant:

Cypress Creek Renewables, LLC.

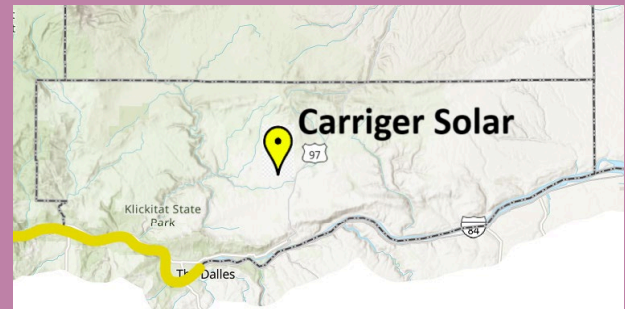
Milestone Dates:

- 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.

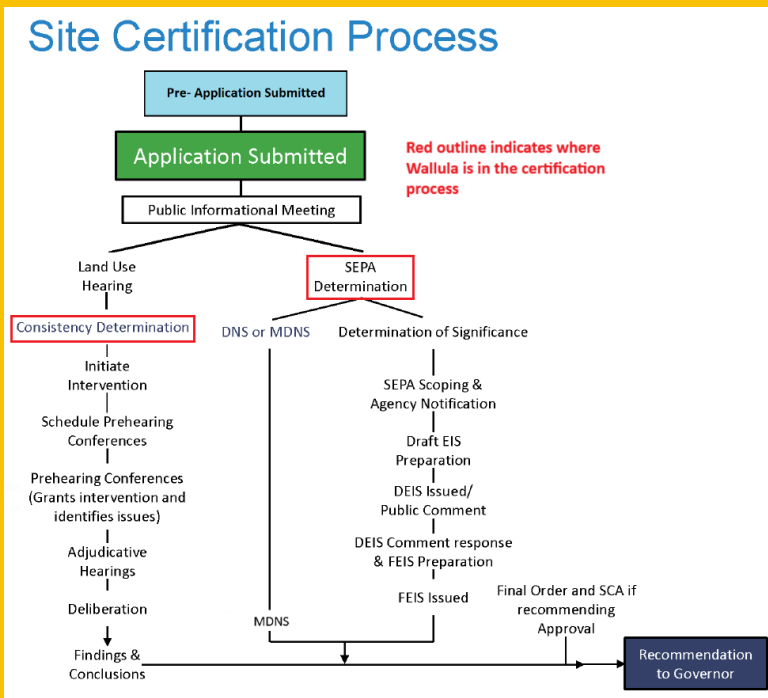
Applicant:

OneEnergy Development LLC

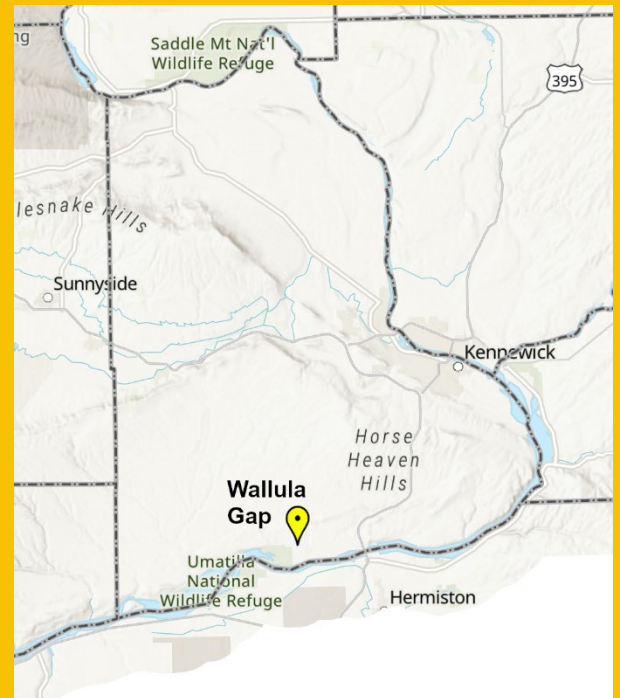
Milestone Dates:

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

Status:



Location Map:



BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Docket No. EF-240001

Aurora Solar, LLC for Wallula Gap
Solar Energy Project, Applicant

Council Order No. 895

ORDER FINDING PROJECT
INCONSISTENT WITH LAND
USE REGULATIONS

BACKGROUND

Synopsis. *Wallula Gap Solar LLC submitted an application to the Energy Facility Site Evaluation Council (EFSEC or Council) on February 23, 2024, for site certification of the proposed Wallula Gap Solar Energy Project site in Benton County. Under Benton County ordinances in effect on that date land use proposals meeting the definition of “solar power generation facility, major” are not permitted outright, nor are they among the list of uses allowed with a conditional use permit (CUP) in the Growth Management Act Agricultural District (GMAAD). The Applicant conceded that the project is not consistent with land use regulations. Because the proposed site would be a solar power generation facility, major, within the GMAAD zone, the Council has determined the proposed project was not consistent with current Benton County land use and zoning regulations at the time the application was filed. RCW 80.50.090(2). The Council will schedule an adjudicative proceeding to consider whether to submit a recommendation to the Governor to preempt inconsistent local land use plans and zoning ordinances.*

1. **Nature of Proceeding.** This matter involves an application for site certification (Application or ASC) filed on February 23, 2024, by Wallula Gap Solar LLC, a subsidiary owned by OneEnergy Renewables (the Applicant) to construct and operate Wallula Gap Solar Energy Project (the Facility), a 60-megawatt (MW) solar photovoltaic (PV) generation facility with optional battery storage. The Facility would be located in unincorporated Benton County approximately 4 miles northwest of the unincorporated community of Plymouth on parcels located north of SR-14, approximately 5 miles west of its intersection with Interstate 82. The Facility would have a maximum generating capacity of 60 MW and will utilize solar photovoltaic (PV) panels to convert solar energy into electric power which will then be delivered to the electric power grid.

2. **Land Use Consistency Hearing.** RCW 80.50.090(2) requires EFSEC to “conduct a public hearing to determine whether or not a proposed site is consistent and in compliance with city, county, or regional land use plans or zoning ordinances.” On April 12, 2024, EFSEC issued a Notice of Informational Public Hearing and Land Use Consistency Hearing and scheduled an in person hearing with the option for participation by Microsoft Teams for 5:30 p.m. on Tuesday, April 23, 2024.¹
3. On April 23, 2024, the Council conducted the in person and virtual Land Use Consistency Hearing, to receive testimony regarding whether the Facility was consistent and in compliance with Benton County’s local land use provisions. The following EFSEC members were present at the April 23, 2024, hearing: Mike Livingston (Department of Fish and Wildlife), Lenny Young (Department of Natural Resources), Stacey Brewster (Utilities and Transportation Commission) and Adam Fyall (Benton County). Kathleen Drew, EFSEC Chair, presided over the hearing.
4. Assistant Attorney General Yuriy Korol, Counsel for the Environment, was present for the Land Use Consistency Hearing. Also present was Michelle Mercer, Planning Manager, representing the Benton County Planning Division and speaking on the County’s behalf.
5. Timothy McMahan, Stoel Rives Law Firm, represented the Applicant and spoke on the Applicant’s behalf. Also present for the Applicant were Nathan Stottler, an associate director for project development, Tanner Gilllespie and Erin Lynch, associates on the project development team.
6. The Council allowed time for public testimony at the Land Use Hearing, however no members of the public or other interested parties gave comment.
7. ***Applicant’s Description of Proposed Facility.*** Wallula Gap Solar Energy Project, a proposed 60-megawatt (MW) solar photovoltaic (PV) generation facility with optional battery storage is proposed to be located in unincorporated Benton County. The project would be located approximately 4 miles northwest of the unincorporated community of Plymouth on parcels located north of SR-14, approximately 5 miles west of its intersection with Interstate 82.

¹ The Council sent this Notice to all interested persons on the distribution list and general mailing. Further, the Council sent this Notice in English and Spanish to the project mailing list on GovDelivery, as well as the Tri-City Herald, Yakima Herald, and the Columbia Basin Herald, the local daily newspapers of general circulation.

8. According to the application, the proposed solar project would be located entirely on land within the Benton County GMAAD zone. *Application for Site Certification, Attachment C: Land Use Consistency Review at Sec. 1.3.*
9. The three parcels on which the Facility will be located will together constitute the “Facility Parcels.” The owner of the parcels is listed in a table in Part 1, Section A3 of the initial application. The owner of all three parcels is Farmland Reserve, Inc. The Applicant has executed or is pursuing options to lease with the landowner for adequate acreage to accommodate the Facility long-term. *Application for Site Certification, Part 1, Section A.3.*
10. The Board of County Commissioners for Benton County (Commissioners) adopted Benton County Ordinance Amendment (OA) 2021-004, on December 21, 2021. OA 2021-004 removed the CUP option for commercial solar power generator facility, major from the GMAAD. The purpose of the removal of the CUP option for commercial solar power generator facility, major was to 1) protect long-term commercial agricultural lands, 2) limit incompatible and non-agricultural uses, 3) conserve critical areas and habitat, 4) protect visual resources, and 5) protect rural character. *Board of Benton County Commissioner’s Regular Board Meeting Minutes, December 21, 2021.*
11. The Applicant agrees that the site is not consistent with current land use regulations but would like to proceed with the application and is not seeking an expedited process.

DISCUSSION

Land Use Consistency Determination

12. The purpose of the land use hearing is “to determine whether at the time of application the proposed facility was consistent and in compliance with land use plans and zoning ordinances.”² In this order, the Council will refer to land use plans and zoning ordinances collectively as “land use provisions” and will refer to its decision as pertaining to “land use consistency.”
13. The Council’s evaluation of land use consistency is not dispositive of the Application and a determination of land use consistency or inconsistency is neither an endorsement nor an approval nor rejection of the Project.³ The evaluation pertains only to the general siting

² WAC 463-26-050.

³ *In re Whistling Ridge Energy Project*, Council Order No. 868 at 9 (October 6, 2011) (Whistling Ridge Order). A determination of land use inconsistency simply results in the Council’s further consideration of whether local land use provisions should be preempted. WAC 463-28-060(1), *see also* RCW 80.50.110(2) and WAC 463-28-020. If they are preempted, the Council will include in any proposed site certification agreement conditions designed to recognize the purpose of the preempted provisions. WAC 463-28-070.

of categories of uses, taking into account only the Site and not the Project's construction and operational conditions.

14. Whether a particular project will actually create on- or off-site impacts (including impacts to the environment) is considered separately through the State Environmental Policy Act (SEPA) process, during the Council's adjudication (if applicable), through the environmental permitting processes (if applicable), and through other Council processes (if applicable).⁴ The Council's ultimate recommendation to the Governor will be made after full and thorough consideration of all relevant issues.
15. **Definitions of "Land Use Plan" and "Zoning Ordinance."** The term "land use plan" is defined by statute as a "comprehensive plan or land use element thereof adopted ... pursuant to" one of the listed planning statutes.⁵ EFSEC interprets this definition as referring to the portions of a comprehensive plan that outline proposals for an area's development, typically by assigning general uses (such as housing) to land segments and specifying desired concentrations and design goals.⁶ The term "zoning ordinance" is defined by statute as an ordinance "regulating the use of land and adopted pursuant to" one of the listed planning statutes.⁷ EFSEC has interpreted this definition as referring to those ordinances that regulate land use by creating districts and restricting uses in the districts (i.e., number, size, location, type of structures, lot size) to promote compatible uses.
16. EFSEC has defined the phrase "consistent and in compliance" based on settled principles of land use law: "Zoning ordinances require compliance; they are regulatory provisions that mandate performance. Comprehensive plan provisions, however, are guides rather than mandates and seek consistency."⁸
17. **Proof of non-consistency and non-compliance.** EFSEC accepts the Applicant's concession that the project is not consistent or compliant with Benton County land use provisions.
18. Even when a project is non-compliant with local land use provisions, the Governor, upon recommendation from the Council, may preempt land use plans and zoning regulations to authorize the siting of an energy facility.⁹ In such cases, the Council will conduct an

⁴ RCW 80.50.090(3), RCW 80.50.040(9), (12), WAC 463-30, WAC 463-47, WAC 463-76, WAC 463-78.

⁵ RCW 80.50.020(18).

⁶ *In re Northern Tier Pipeline*, Council Order No. 579 at 9 (November 26, 1979) (Northern Tier Pipeline Order).

⁷ RCW 80.50.020(30).

⁸ Whistling Ridge Order at 10 n 15.

⁹ RCW 80.50.110; *Residents Opposed to Kittitas Turbines v. State Energy Facility Site Evaluation Council*, 165 Wn.2d 275, 285–86 (2008).

adjudication to consider whether to recommend that the state preempt local plans or regulations that would prohibit the site.¹⁰

FINDINGS OF FACT

1. On February 23, 2024, Wallula Gap Solar LLC, a subsidiary owned by OneEnergy Renewables, submitted an application for site certification to construct and operate Wallula Gap Solar Energy Project (the Facility), a 60-megawatt (MW) solar photovoltaic (PV) generation facility with optional battery storage located in unincorporated Benton County, Washington.
2. On April 23, 2024, the Council convened an in person and virtual land use consistency hearing, pursuant to due and proper notice. The Council received testimony from the Applicant's attorney. The Council also received testimony from Michelle Mercer on behalf of the Benton County.
3. The Site is located in unincorporated Benton County, Washington. The Site is located approximately 4 miles northwest of the unincorporated community of Plymouth on parcels located north of SR-14, approximately 5 miles west of its intersection with Interstate 82.

CONCLUSIONS OF LAW

1. The Council has jurisdiction over the subject matter of this proceeding and the parties to it pursuant to RCW 80.50.060 and WAC Title 463.
2. The Council provided adequate notice to interested parties, and the Council has adequate information to render a land use consistency decision.
3. "Solar Power Generator Facility, Major" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Major facilities are those that are developed as the primary land use for a parcel on which it is located and do not meet the siting criteria for a minor facility in BCC 11.03.010(168). Benton County Code (BCC) 11.03.010(167).
4. As the primary land use for the Project site would be for solar power generation and not primarily to offset part or all of the Applicant's requirement for electricity, the Facility is a solar power generator facility, major, as defined in BCC 11.03.010(167).

¹⁰ WAC 463-28-060.

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5. Effective December 21, 2021, solar power generator facilities, major, may not apply for a conditional use permit for lands contained within the GMAAD. Benton County Ordinance Amendment (OA) 2021-004.
6. The site is not in compliance with Benton County's applicable zoning ordinances in effect as of the date of the application.
7. Pursuant to WAC 463-28-060 and -070, the matter will be scheduled for an adjudication to consider whether the Council should recommend to the Governor that the state preempt Benton County's land use plans, zoning ordinances, or other development regulations for the site or portions of the site for the proposed facility, and if so, to determine conditions to be included in a draft certification agreement that consider local governmental or community interests affected by the construction or operation of the alternative energy resource and the purposes of the ordinances to be preempted pursuant to RCW 80.50.110(2).

ORDER

THE COUNCIL ORDERS:

Wallula Gap Solar LLC's application is not consistent with local zoning regulations. The matter shall be set for adjudication, concurrent with the general adjudication under RCW 80.50.090(4) if one is required, to consider whether to recommend preemption of Benton County's zoning regulations with which the proposed site is inconsistent. If the environmental impact of the proposed facility is determined by the EFSEC responsible official to be non-significant or if the facility's impacts will be mitigated to a non-significant level, the Council may limit the topic of the adjudicative proceeding to whether to recommend preemption of Benton County's zoning ordinances.

DATED at Olympia, Washington, and effective _____.

WASHINGTON STATE ENERGY
FACILITY SITE EVALUATION COUNCIL

Kathleen Drew, EFSEC Chair

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:

