



# ONE-WEEK TRANSCRIPT TURNAROUND

Digital Transcripts • Internet Realtime • HD Legal Video • Picture-in-Picture Depositions  
Remote Depositions • Designation Editing • Nationwide Scheduling • HD Videoconferencing

## Transcript of Proceedings

*May 16, 2023*

### Energy Facility Site Evaluation Council v.

Thank you for choosing BA Litigation Services for your court reporting, legal video, and deposition technology needs. It is always our goal to provide you with exceptional service. If there is anything we can do to assist you, please don't hesitate to let us know.

**Sarah Fitzgibbon, CCR**  
Vice President



The Premier Advantage™  
PDF transcript bundle contains:

- Full-size and condensed transcripts
- Printable word index
- Hyperlinked selectable word index
- Embedded printable exhibit scans
- Hyperlinked selectable exhibit viewing
- Common file formats: txt, lrf, mdb accessed via *paperclip* icon

1 ENERGY FACILITY SITE EVALUATION COUNCIL

2  
3 Carriger Solar Project  
4 Land Use Consistency Hearing

5  
6  
7 May 16, 2023

8  
9  
10  
11 Via Teams Video Conferencing

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24 Reported by: STEVEN B. CRANDALL, CER  
25 Certified Electronic Reporter #1198

1 (Meeting called to order at 5:00 p.m.)

2  
3 CHAIR DREW: This is Kathleen Drew, Chair  
4 of the Washington Energy Facility Site Evaluation  
5 Council calling our meeting on the Land Use Hearing for  
6 Carriger Solar Project to order. Ms. Grantham will you  
7 please call the role for the Carriger council?

8 STAFF GRANTHAM: Certainly. Department of  
9 Commerce.

10 KATE KELLY: Kate Kelly, present.

11 STAFF GRANTHAM: Department of Ecology.

12 ELI LEVITT: Eli Levitt, present.

13 STAFF GRANTHAM: Department of Fish and  
14 Wildlife.

15 MIKE LIVINGSTON: Mike Livingston,  
16 present.

17 STAFF GRANTHAM: Department of Natural  
18 Resources.

19 LENNY YOUNG: Lenny Young, present.

20 STAFF GRANTHAM: Utilities and  
21 Transportation Commission.

22 STACEY BREWSTER: Stacey Brewster,  
23 present.

24 STAFF GRANTHAM: For local government and  
25 optional state agencies for the Carriger Solar Project.

1 Klickitat County, Matt Chiles.

2 MATT CHILES: Matt Chiles, present.

3 STAFF GRANTHAM: The Assistant Attorney  
4 Generals, Jenna Slocum.

5 JENNA SLOCUM: Jenna Slocum, present.

6 STAFF GRANTHAM: Jon Thompson.

7 (No response.)

8 For our Administrative Law Judge, Micah  
9 Larippa.

10 JUDGE LARRIPA: Present.

11 STAFF GRANTHAM: For EFSEC Council staff.

12 Sonia Bumpus.

13 SONIA BUMPUS: Present.

14 STAFF GRANTHAM: Ami Hafkemeyer.

15 AMI HAFKEMEYER: Present.

16 STAFF GRANTHAM: Amy Moon.

17 (No response.)

18 Stew Henderson.

19 STEW HENDERSON: Present.

20 STAFF GRANTHAM: Joan Owens.

21 JOAN OWENS: Present.

22 STAFF GRANTHAM: Dave Walker.

23 (No response.)

24 Sonja Skavland.

25 (No response.)

1 Lisa Masengale.  
2 LISA MASENGALE: Present.  
3 STAFF GRANTHAM: Sara Randolph.  
4 (No response.)  
5 Sean Greene.  
6 (No response.)  
7 Lance Caputo.  
8 LANCE CAPUTO: Lance Caputo, present.  
9 STAFF GRANTHAM: John Barns.  
10 JOHN BARNES: John Barnes, present.  
11 STAFF GRANTHAM: Osta Davis.  
12 (No response.)  
13 Joanne Snarski.  
14 JOANNE SNARSKI: Joanne Snarski, present.  
15 STAFF GRANTHAM: Alex Shiley.  
16 ALEX SHILEY: Present.  
17 STAFF GRANTHAM: And did we have someone  
18 for the Counsel for the Environment.  
19 (No response.)  
20 Chair, we have a quorum for the regular council  
21 and for the Carriger Solar council. Thank you.  
22 CHAIR DREW: Thank you very much. With  
23 that, I will ask our Judge, Micah Larripa, to preside  
24 over this hearing. Judge Larripa.  
25 JUDGE LARRIPA: Thank you, Chair Drew, and

1 good evening, ladies and gentlemen. So the time is now  
2 5:02 p.m. on May 16, 2023, and this is the Land Use  
3 Consistency Hearing in the matter of Carriger Solar  
4 Project, EFSEC docket number EF-230001. The purpose of  
5 the hearing per Washington Administrative Code  
6 463-26-050, is to determine whether at the time of  
7 application the proposed facility was consistent and in  
8 compliance with land use plans and zoning ordinances.

9 At this hearing, which is required under RCW  
10 80.50.090 and Washington Administrative Code 463-26-060,  
11 the public will be given an opportunity to provide  
12 testimony regarding the proposed project's consistency  
13 and compliance with land use plans and zoning  
14 ordinances. Land use is the subject matter for today's  
15 hearing; it is not general commentary about the project.

16 Argument and testimony. Attorneys for the  
17 applicant and the county and any relevant testimony as  
18 to whether or not the proposed facility was consistent  
19 and in compliance with local land use plans and zoning  
20 ordinances at the time of application, was submitted to  
21 EFSEC and will be accepted during the Land Use  
22 Consistency Hearing.

23 Speaking time at the hearing will be as  
24 follows: For the project applicant and the county, each  
25 will be afforded 15 minutes to present their argument

1 and testimony. Following that, I will begin opening the  
2 floor to public testimony. Each member of the public  
3 who wishes to speak regarding land use in this matter  
4 will be provided three minutes of time.

5 At the three-minute mark, I will let that  
6 person know that their time has expired and give them an  
7 opportunity to conclude whatever statement they were  
8 ready to complete. So there will be some grace with  
9 regard to time, however, if it goes much beyond three  
10 minutes and I will need to put a stop to that testimony.

11 As far as the procedures go, or rather, when  
12 parties are speaking -- and this will apply to both the  
13 applicant and the county as well as any member of the  
14 public -- when you begin speaking, I will ask you to  
15 please state and spell your name for the court reporter.  
16 And also, I'd like to remind you to please speak slowly  
17 and clearly to ensure that we have an accurate  
18 transcript for tonight's hearing.

19 With that, before we move to the applicant,  
20 Chair Drew, do you have anything else that you'd like me  
21 to cover?

22 CHAIR DREW: Thank you, no. That covers  
23 our meeting for tonight.

24 JUDGE LARRIPA: All right. Thank you,  
25 Chair Drew. So with that the applicant, Cypress Creek

1 Renewables, will now have 15 minutes to present it's  
2 argument and testimony.

3 LINDA ATKINS: Thank you, Judge Larripa,  
4 and good evening, Chair Drew and council members. I am  
5 Linda Atkins. That's L-I-N-D-A, A-T, as in Tom,  
6 K-I-N-S. I'm an attorney with Davis Wright Tramine,  
7 and I'm here this evening representing the applicant,  
8 Cypress Creek Renewables, with respect to the Carriger  
9 Solar Energy Facility Project.

10 I would also like to introduce a few people  
11 from Cypress Creek who are attending this evening, and  
12 they will be available to answer questions should the  
13 council have any. We have Mr. Tai Wallace. He's the  
14 Senior Director of Western Transmission for Cypress  
15 Creek. We have John Hanks. He's Associate Director of  
16 Development for Cypress Creek. Lauren Altick, the  
17 Project Developer for Cypress Creek. And Leslie  
18 McClain. She's a consultant and a project manager for  
19 Tetra Tech.

20 Next slide, please. One more slide. Thank  
21 you.

22 So as Judge Larripa announced in his  
23 introduction, the subject of our hearing this evening is  
24 whether, under RCW 80.50.090, the proposed site is  
25 consistent and in compliance with county land use plans

1 and zoning ordinances on the date of application. And  
2 under EFSEC's regulations and past orders, the  
3 applicant's task in this type of hearing is to  
4 demonstrate that the statutory threshold for land use  
5 consistency has been met.

6 Further, under EFSEC's prior precedents and  
7 state law, what that tests is whether local land use  
8 provisions prohibit a site, expressly or by operation,  
9 clearly, convincingly, and unequivocally. If the site  
10 can be permitted, either outright or conditionally, it  
11 is consistent and in compliance with local land use  
12 provisions.

13 Next slide please.

14 So the project --

15 CHAIR DREW: May I pause for just a  
16 second?

17 LINDA ATKINS: Of course.

18 CHAIR DREW: I am not seeing the slides.  
19 I don't know if anyone else is having that challenge.

20 JUDGE LARRIPA: I'm able to see them Chair  
21 Drew.

22 CHAIR DREW: Okay.

23 JUDGE LARRIPA: And -- but during the  
24 brief pause, I would like to remind anybody joining us  
25 by phone to please go ahead and mute your handset.

1 Thank you.

2 CHAIR DREW: Okay. That's just on my  
3 screen. I will figure it out. Thank you.

4 LINDA ATKINS: All right. I will proceed.

5 So the project description was presented at the  
6 council's last meeting on this project on April 25th.  
7 And I really just want to highlight here that the  
8 applicant has submitted a very complete application for  
9 site certification. It includes the listed studies that  
10 you see on the slide.

11 And the one I really want call to the council's  
12 attention this evening is Attachment B. That's the land  
13 use consistency review. And that document discusses in  
14 a great deal of detail how and why this application is  
15 consistent with the land use plans and zoning ordinances  
16 of the county.

17 There are extensive site studies. You'll see  
18 them listed there. And micro-siting has been applied to  
19 the project site to ensure that the smallest footprint  
20 possible, that avoids all sensitive areas, has been  
21 utilized.

22 Next slide, please.

23 So before I discuss the project consistency  
24 with plans and ordinances further, I just want to  
25 address at the outset something that I believe that we

1 may hear from the county or the public later this  
2 evening, and that is, a moratorium that the Klickitat  
3 County Board of Commissioners passed on January 10,  
4 2023, and that was to establish a moratorium on the  
5 acceptance of applications for large-scale solar  
6 projects.

7 So the nature of this moratorium under EFSEC's  
8 existing precedents and state case law is that this does  
9 not regulate how land is used and it does not meet the  
10 definition of a land use plan or regulation under RCW  
11 80.50.020, which is the set of definitions that EFSEC  
12 applies in its proceedings. So given that, this  
13 moratorium is not relevant to the proceeding this  
14 evening and it doesn't affect the council's  
15 determination of land use consistency.

16 Next slide, please.

17 So EFSEC follows the rule that land use plans  
18 are guides and not mandates, and that also is consistent  
19 with general state land use law. And the primary  
20 question, then, under the Klickitat County comprehensive  
21 plan is whether the land use element of the plan  
22 contemplates the proposed use. Comprehensive plan  
23 elements that don't meet that type of a definition are  
24 not strictly relevant for land use consistency purposes.

25 So this site for the project is designated

1 agricultural forest under the general land use plan.  
2 That's the use designation, and that is a designation  
3 that allows as a conditional use any non-agricultural or  
4 non-forest use when that use is not in conflict with  
5 agricultural or forest practices and does not take out  
6 of production more land than is reasonable necessary for  
7 the proposed use.

8 So, again, I would refer to the way in which  
9 this project has been micro-sited to ensure that it is  
10 using the smallest possible footprint within the project  
11 study area for the actual solar panels and the  
12 associated infrastructure. It's been designed to avoid  
13 all sensitive areas. The participating landowners will  
14 be able to continue to conduct agricultural uses on  
15 portions of their property that are not being used for  
16 the project.

17 There's no high-value or high-production  
18 agricultural lands that are within the project maximum  
19 extent. So that's the area in which the panels and the  
20 infrastructure will be placed. There is only a very  
21 small amount of irrigated land within that project  
22 maximum extent, and there's no forest land affected by  
23 the project. There'll be no trees removed or affected.

24 And, as I will discuss in a bit more detail  
25 later in the presentation, the zoning classifications

1 that the county has adopted within this agricultural  
2 forest general land use plan designation, extensive  
3 agriculture and rural zoning districts, are districts  
4 that also allow the use.

5 Next slide, please.

6 So as I said, while the comprehensive plan is a  
7 guide and not a mandate, there are a number of county  
8 goals and policies that are expressed in the  
9 comprehensive plan that the project has been designed to  
10 respond to and to incorporate mitigation measures and  
11 avoid having impacts on these values.

12 And a few of them that I want to highlight are,  
13 first of all, that the county policies do support our  
14 state-wide goals for renewable energy development. It's  
15 not. We all know that our state has placed a very high  
16 priority on moving to renewable energy sources for our  
17 electrical infrastructure, and this project is  
18 consistent and supports that goal.

19 The utilities element of the comprehensive plan  
20 also encourages energy production in Klickitat County,  
21 and this project relies on existing utility corridors as  
22 encouraged by the comprehensive plan goals. And the  
23 project incorporates, as I have been saying, many design  
24 features and mitigation measures to ensure that it will  
25 be responding to the various policies and goal focuses

1 that you can see on the slide here.

2 Next slide.

3 So I just -- this slide just continues the  
4 public services response part of the project. There are  
5 a set of best management practices that the project is  
6 employing to address the various aspects of the  
7 operation and the construction that could impact those  
8 goals and policies. And I would, in particular,  
9 highlight the stormwater management best management  
10 practices. So these include things like spacing the  
11 panels and revegetating the surface under the panels to  
12 allow natural infiltration of rainwater and designing  
13 the project so that it responds to all of Ecologies  
14 requirements to manage stormwater onsite.

15 And the project does incorporate a number of  
16 measures that are designed to ensure fire safety. There  
17 is battery energy storage as a part of the project, and  
18 that storage uses state-of-the-art fire prevention and  
19 suppression systems. And there will be an emergency  
20 response plan provided to the fire protection district  
21 in the county.

22 Next slide, please.

23 So part of the goals and policies, the  
24 comprehensive plan, are that a project be made  
25 compatible with its environment. And this slide shows

1 two of the photo simulations that have been prepared for  
2 the project. These are part of the much more extensive  
3 visual assessment report that the applicant has  
4 submitted in support of the project. And you can see in  
5 these simulations that the project will not block any of  
6 the vistas and views to the mountains or the other  
7 scenic resources of the county and will generally be  
8 consistent with other manmade elements that appear in  
9 the environment. For example, fence lines, power poles,  
10 and transmission lines.

11 Next slide.

12 So this slide is the map from the county zoning  
13 ordinance, which shows the zoning classification and the  
14 Energy Overlay Zone, which overlays the zoning  
15 classification. So the project site you can see is  
16 outlined in the purple. And you can see from this slide  
17 how the project is laid out so that it provides  
18 corridors for wildlife and responds to the need to keep  
19 the project infrastructure away from sensitive areas  
20 such as streams and wetlands.

21 And you can see the Extensive Agriculture  
22 District is in the yellow, and the General Rural  
23 District is in the green, and most of the project is  
24 within the area that's cross hashed in red. That's the  
25 Energy Overlay Zone. So that is a zone that was adopted

1 under Klickitat County zoning ordinances to accommodate  
2 renewable energy projects, which include solar energy  
3 projects.

4 Next slide.

5 So once again, the zoning classifications, the  
6 Extensive Agriculture District, General Rural District  
7 and the Energy Overlay Zone. So each of those  
8 classifications allows a solar energy facility as a use.  
9 And the Energy Overlay Zone, solar energy facilities are  
10 actually a permitted use. They're permitted out right.  
11 And in the EA zone and the GR zone, this type of a  
12 facility is allowed as a conditional use.

13 Next slide.

14 So under the county zoning code, you can see  
15 the definition of a conditional use. That's a use that  
16 is permitted when it's authorized by the Board of  
17 Adjustment and subject to reasonable conditions or  
18 restrictions which would render the use compatible with  
19 existing and potential uses in the vicinity which are  
20 permitted outright.

21 So the essence of a conditional use, and this  
22 is as a matter of county code and it's also as a matter  
23 of our general land use laws and principals in this  
24 state, is a use that is permitted subject to conditions.  
25 So in the Klickitat County code, there are not specific

1 conditional use approval standards that are associated  
2 with that definition that I read. So from that extent,  
3 the project would be -- look to have conditions to make  
4 it compatible with environmental analysis under SEPA and  
5 any applicable zoning standards within the code.

6 And the ones that I would point the council to  
7 would be in the EOZ. There are actually a list of  
8 topics that the EOZ calls for both the wind and solar  
9 projects to be made consistent with. These are all  
10 topics that the project has been designed to accommodate  
11 and respond to.

12 Next slide. So very briefly --

13 JUDGE LARRIPA: Just as a brief time  
14 check, I just wanted to let you know so you can plan to  
15 use the time as you see fit, but there are approximately  
16 two-and-a-half to three minutes left.

17 LINDA ATKINS: Okay.

18 JUDGE LARRIPA: Three and half.

19 LINDA ATKINS: Okay. Thank you. So, Ms.  
20 Grantham, if you could just move quickly through this  
21 slide and the following three slides. So these slides  
22 really just highlight the way in which the project is  
23 also designed to be consistent with the Klickitat County  
24 Critical Area Ordinance. So that is part of the  
25 applicant's responsibility under the code to be

1 responsive to that ordinance. And there are many  
2 mitigation measures and project features that have been  
3 incorporated to respond to those directives.

4 So in conclusion, I want to bring us back to  
5 the test, which is whether local land use provisions  
6 prohibit a site expressly or by operation, clearly,  
7 convincingly, and unequivocally the use is permitted use  
8 in the Energy Overlay Zone and it is allowed as a  
9 conditional use in both the EA and the GR zone.  
10 Therefore, it is consistent and in compliance with local  
11 land use provisions as defined by EFSEC.

12 And I would just highlight that the county code  
13 actually incorporates this objective, which is  
14 highlighted on the slide, County Code 19.02.030, which  
15 really calls for a balancing of the uses within the  
16 allowed zones and to respond to changing conditions and  
17 requirements.

18 And given that both solar energy and  
19 agricultural and general rural uses are allowed in the  
20 zoning districts that are applied to the project, and  
21 the project can be sensitively sited so that it does not  
22 become incompatible with those uses, the council should  
23 find that this project is consistent with the county's  
24 land use plans and zoning ordinances.

25 And that concludes my presentation.

1 JUDGE LARRIPA: All right. Thank you, Ms.  
2 Atkins. Now to move over to the county. It is my  
3 understanding that there are two speakers appearing on  
4 behalf of the county tonight. Would those two speakers  
5 please identify yourselves?

6 LORI ZOLLER: Lori Zoller. Oh, go ahead.

7 DAN CHRISTOPHER: Klickitat County  
8 Commissioner, Dan Christopher.

9 LORI ZOLLER: And County Commissioner,  
10 Lori Zoller.

11 JUDGE LARRIPA: All right. And so, with  
12 regard to the county's time, I'll leave it to you to  
13 decide which order you'll speak in and also your  
14 allocation of the 15 minutes. Have you decided together  
15 in advance of this meeting which one of you would like  
16 to speak first.

17 DAN CHRISTOPHER: I will go first. She  
18 will go second. And I don't think we will need 15  
19 minutes. Correct?

20 JUDGE LARRIPA: And please just go ahead  
21 and state and spell your name for the record. And then  
22 please go ahead and begin with your argument or  
23 testimony.

24 DAN CHRISTOPHER: My name is Dan  
25 Christopher, D-A-N, C-H-R-I-S-T-O-P-H-E-R. My testimony

1 is -- thank you, Chair and members of the board. I am  
2 Klickitat County commissioner, Dan Christopher. I want  
3 to remind this board that Klickitat County has clearly  
4 demonstrated that it is pro green energy as long as the  
5 projects are sensibly sited.

6 Under RCW 35A.63.220, Klickitat County has  
7 created Resolution 00823 for a moratorium that states,  
8 and I quote that, "all applicants for large scale solar  
9 projects over one acre in size," dot dot dot for time,  
10 "will not be accepted for at least 6 months." This was  
11 passed before the Carriger Solar Project submitted its  
12 application.

13 EFSEC Resolution 04323, created after the  
14 public hearing on the moratorium, goes even farther and  
15 states, "no land use applications associated with large  
16 scale solar projects over one acre in size," dot dot dot  
17 which are the townships in range, "shall be accepted as  
18 either consistent or complete."

19 With that, I understand the opinion by some  
20 that a moratorium is not a land use decision. What it  
21 is is a pause button. Klickitat County hit the pause  
22 button. Just like the Governor has hit the moratorium  
23 pause button many times over the last few years with  
24 things like eviction moratoriums. So I question if the  
25 State is going to honor our moratorium like it insists

1 the County honors theirs?

2 Now, yes, Klickitat County could have, and  
3 still can, enact emergency zoning ordinances that  
4 clearly, convincing, and unequivocally ban all solar  
5 development in the county. We're trying not to do that.  
6 We're trying to sensitively site projects, but we may  
7 have to change if we feel that EFSEC is going to  
8 undermine the local decision-making process on where we  
9 feel projects can or can't be sensitively sited.

10 Under Klickitat County code, all projects  
11 located outside the Energy Overlay Zone will go through  
12 a Conditional Use Permit process. This allows our  
13 citizens, that sit on that board, to judge if a project  
14 is too large or not sensitively sited or in any way not  
15 consistent with Klickitat County's customs and cultures.

16 This public hearing today, that we are mere  
17 spectators in, is not a consistency hearing presided  
18 over by Klickitat County residents, and it is a hearing  
19 of which we have one voting representative that will  
20 preserve our customs and cultures. With that Klickitat  
21 County has also submitted a packet for review providing  
22 the evidence that we can obtain on a limited,  
23 incomplete, and inaccurate data submitted by the  
24 Carriger application so far. With that, I'm going to  
25 freestyle a little bit and I'm going to certainly hope

1 that you all don't take the testimony given by the  
2 attorneys for the applicants as true and factual as they  
3 probably never been to this land either.

4 I would certainly hope that the people on this  
5 board would care enough for this community to at least  
6 come out and drive the project and then look at the  
7 application that was presented to you and look at the  
8 legal blah blah that was just given and be able to call  
9 BS.

10 Oh, you can't see this project from Goldendale.  
11 I can see it from the Goldendale Community Services  
12 building. I can see it from the courthouse. You can  
13 see it from the freeway. You can see it from so many  
14 places all over that valley. And they show two pictures  
15 that I don't even know where they're taken. They found  
16 some boring road with no houses on it and said, see,  
17 this is what it looks like in Klickitat County. It's  
18 absolutely misleading.

19 We at Klickitat County site our projects, of  
20 which we have solar projects, we have windmills, we're  
21 going to have pump storage, we're going to have more  
22 solar, but we do it in a sensitive way. We put the  
23 solar panels, that are going to affect people, in the  
24 sage brush where there's no houses around. Nobody's got  
25 to look at them. Nobody's got to a ruin your viewshed.

1           Because that's all we have going for us in this  
2 valley is our viewshed. That's why people move here, is  
3 our viewshed. And for them to say that nobody's going  
4 to see the view. I'm sorry. This is going to  
5 absolutely destroy the view of this community.

6           It's going to cause economic disparity in this  
7 community because these jobs are not going to be our  
8 locals. The unions testify but they've also told us  
9 that there's only 15 union laborers in Klickitat County.  
10 So yes, we're providing jobs to, you know, Clark County  
11 but it doesn't help us. And what you're going to do is,  
12 you're going to cause people to not want to move here  
13 anymore because of the destruction of the viewshed.

14           So, we know how to do green energy projects.  
15 We've been a partner with the state of Washington for  
16 decades to put in green energy projects but we've been  
17 smart enough to site them sensibly where it doesn't  
18 affect our residents. And our residents are fine with  
19 that. This project absolutely affects a third of the  
20 population of this county and you're putting it right  
21 next to the only poor and impoverished community in our  
22 county.

23           And what you do today on this one sets a  
24 precedent on the other three that want to surround the  
25 community. So with that, I'm going to be done free

1 styling in my anger but I'm going to call on you to make  
2 the right decision in your sensibly siting.

3 And I hope I can trust on you to find that  
4 this, because of the moratorium, is not consistent.  
5 Because, I feel that if you -- if we cannot trust the  
6 state to trust the people of Klickitat County on where  
7 these could be sited, I feel you leave me no other  
8 argument but to change, and make, and exert an emergency  
9 zoning ordinance that clearly, convincing, and  
10 unequivocally bans all solar development in the county.  
11 And you will no longer have a green energy partner in  
12 Klickitat County.

13 I feel that's where this is going. I hope it's  
14 not. I hope we can work together to sensitively site  
15 projects, but I'm losing faith. So with that, I'll be  
16 done. Thank you all for your time. Sorry if I'm a  
17 little heated. I just -- with the first 15 minutes of  
18 inaccuracies, I got a little worked up. I apologize to  
19 the chair. Have a nice day.

20 JUDGE LARRIPA: All right. Thank you,  
21 Commissioner Christopher. Commissioner Zoller, if you  
22 would please state and spell your name for the court  
23 reporter, and you may begin your testimony or argument.

24 LORI ZOLLER: And how many minutes do I  
25 have left?

1 JUDGE LARRIPA: It looks like we're at  
2 eight minutes and 30 seconds.

3 LORI ZOLLER: Perfect. Thank you. And I  
4 probably won't need that. My name is Lori Zoller,  
5 L-O-R-I, Z-O-L-L-E-R, and I'm District 2 Klickitat  
6 County Commissioner. I'm speaking this evening for  
7 myself and my constituents.

8 I too, unfortunately, I'm going to free wheel  
9 it here and I'll try to stay on task. After hearing the  
10 previous testimony, I too have to refute some things. I  
11 had other testimony prepared, but in light of what I  
12 heard, I'm pretty disappointed.

13 The applicant began their testimony  
14 discrediting the Klickitat County comp plan, saying it  
15 was only a plan. Didn't mean anything. Wasn't worth  
16 anything to take a look at that. But when they  
17 continued through their testimony, they relied back  
18 again and again and again for justification to our comp  
19 plan.

20 The comp plan does speak to our customs and  
21 cultures and it is a plan that drives how we create our  
22 ordinances and regulations. The county comp plan, the  
23 Energy Overlay Zone, the Critical Area Ordinance, the  
24 Shoreline Management Plan, are all aged documents and do  
25 not speak to the condition of large scale solar.

1           In fact, all are currently being updated and  
2 under review to bring them into today's day. So to rely  
3 on the fact that the plan meets -- their application  
4 meets -- siting requirements because of the EOZ is  
5 false.

6           The EOZ is lacking any information to large,  
7 excuse me, large scale industrial solar. It only gave a  
8 nod to solar because back when it was created we knew  
9 nothing about solar only that they went on the top of  
10 people's rooftops. So to say it belongs and covers  
11 industrial solar is false.

12           The CAO and the SMP are being updated as we  
13 speak as required by Department of Ecology in the state.  
14 Those documents do have expanded regulations coming.  
15 The regulations that they have now also cover some of  
16 the things that weren't included in the application.  
17 And that is, that the Goldendale Plateau has long been  
18 considered a critical recharge area for the Little  
19 Klickitat and Klickitat Rivers.

20           The aquifers that are all connected through  
21 that plateau filter water like a funnel as it flows to  
22 the Klickitat and Little Klickitat Rivers as clean  
23 water. Both rivers are home to the Mid-Columbia  
24 Steelhead, a listed species, which was not addressed in  
25 their application. Both rivers have multiple overlays

1 of federal, state, and county regulations in place for  
2 protection that this project may put at risk.

3 It needs to be well studied to make sure that  
4 stormwater runoff, and changes in water, and water  
5 quality, and water amounts which could severely impact  
6 TMDLs and CFS that have both set -- have been set for  
7 both these rivers already to protect the fisheries.  
8 Years of studies were conducted and parameters were set  
9 for this area for the aquifer protections.

10 And in light of so many expedite -- in light of  
11 so many inconsistent items an expedited process would be  
12 a travesty for this area. Please ensure a full EIS so  
13 that forgotten and unnoted items like the fisheries and  
14 the connection to the Mid-Columbia Steelhead are  
15 addressed. And also, please take to heart that these  
16 documents that they're relying their application are out  
17 of date and are being updated and do not talk back to  
18 what industrial solar really is. Thank you.

19 JUDGE LARRIPA: Thank you, Commissioner  
20 Zoller. So now it's time to move on to members of the  
21 public who wish to speak. Ms. Grantham, do you have the  
22 list and order that members of the public signed up to  
23 speak?

24 STAFF GRANTHAM: Yes, I do.

25 JUDGE LARRIPA: All right, thank you. So

1 if you would, please call off each name. And when Ms.  
2 Grantham calls your name, once again, please state and  
3 spell your name for the court reporter. And then you'll  
4 see the -- if you are viewing us on video -- you'll see  
5 the clock. Because I do understand that some people are  
6 calling in by phone, when the three minutes is up, I  
7 will let you know that your time is expired and give you  
8 an opportunity to finish your remarks.

9 I will ask that everybody not speaking please  
10 remain on mute and show each person who wishes to speak  
11 the same courtesy that I'll expect when you're speaking.  
12 So with that, Ms. Grantham, would you please call the  
13 first member of the public who would like to offer  
14 testimony tonight.

15 STAFF GRANTHAM: Certainly, the first name  
16 I have is Justin Sellers.

17 JUDGE LARRIPA: All right. Mr. Sellers,  
18 if you're -- if you're with us, please go ahead and  
19 unmute, if you're muted, and state and spell your name  
20 and begin your comments.

21 STAFF GRANTHAM: I'm not hearing Mr.  
22 Sellers, but really quick Judge, I think Chair Drew  
23 might have dropped off. Oh, she's joining back in as we  
24 speak.

25 JUDGE LARRIPA: Okay. We'll go ahead and

1 stand by.

2 STAFF GRANTHAM: There she is. Welcome  
3 back, Chair Drew.

4 JUDGE LARRIPA: All right. So what we'll  
5 do, then, is we'll move on to the next member who signed  
6 up and then, before we conclude, we'll circle back and  
7 see if Mr. Sellers has joined us again.

8 STAFF GRANTHAM: Okay. So the next name I  
9 have is Greg Wagner.

10 JUDGE LARRIPA: And, Mr. Wagner, if you're  
11 on the line and trying to speak you may still be on  
12 mute. Please go ahead and unmute yourself whenever  
13 you're ready, sir.

14 GREG WAGNER: My name is Greg Wagner.

15 JUDGE LARRIPA: All right. And, if you  
16 would, please spell your name for the court reporter and  
17 then you may begin your comments, sir.

18 GREG WAGNER: My name is Greg Wagner,  
19 G-R-E-G, W-A-G-N-E-R. I'm with the group CEASE,  
20 Citizens Educated About Solar Energy. Klickitat County  
21 has a rich history of farming and ranching and that is  
22 what the comprehensive plan is all about.

23 The project is inconsistent with land use and  
24 is incompatible. The Cypress Creek ASC is inaccurate.  
25 The 266 pages is flawed; has many omissions and

1 accuracies. It cannot be counted on. It was  
2 provided -- much of the information was provided by  
3 Tetra Tech, a company that's under investigation. EFSEC  
4 itself has asked for a data request dated 5/9 for  
5 additional information.

6 CEASE members request that this virtual  
7 consistency hearing cease and be rescheduled until a  
8 later date that this applicant could provide answers  
9 prior to this Land Use Consistency Hearing. EFSEC and  
10 its consultants would not have adequate time to review  
11 their answers to ensure they are accurate. CEASE  
12 members, the public, and Klickitat County government  
13 would not be given adequate time to review these  
14 answers.

15 Many of these answers were provided by Tetra  
16 Tech and should not be accepted considering they're  
17 being investigated for fraudulent reporting. EFSEC  
18 questions should be forwarded to and reviewed by the  
19 appropriate agencies for accuracy. These are the  
20 reasons why this Land Use Consistency Hearing should be  
21 canceled and rescheduled. If this certification process  
22 is to be conducted in a fair and impartial manner, and  
23 in compliance with RCW 42.36, adequate time needs to be  
24 given to all parties.

25 CEASE members are requesting the Land Use

1 Consistent Hearing be postponed. And we heard the  
2 applicant's lawyers say that our moratorium, our  
3 ordinances, had no value. And then they turn around and  
4 they quote all our EOZ and our code as having value and  
5 importance in their consistency.

6 I feel that our moratorium should have as much  
7 weight as the ordinances that we have in place that they  
8 want to use in their favor and against us. This is  
9 unfair to the citizens of the county. We'd like to have  
10 input in what goes on in our county and not be have  
11 Cypress Creek pay somebody to get the answers they want.

12 And the picture they showed of the viewshed was  
13 on Fish Hatchery Road. It doesn't show what the real  
14 landscape looks like. This project will be seen for  
15 miles and it would disrupt people's lives or property  
16 values. It would destroy the land. Our water counts on  
17 the recharging of our potable aquifers. It's in  
18 violation of the Critical Area Ordinance.

19 Many of their studies are false, inaccurate,  
20 misleading. Even on April 25th, at their meet and greet  
21 with EFSEC, their displays were wrong. Tai Wallace gave  
22 out false information to the Fire Commissioner Rural 7.  
23 Everything that they say is always questionable.  
24 They'll say anything to get their projects permitted.

25 So in light of that, this project should not be

1 certified. It should go to adjudication. It should be  
2 fully studied. All their studies should be reexamined,  
3 especially if they were done by Tetra Tech. They have  
4 proven to be inconsistent and inaccurate with their  
5 information. That's all I have to say. Thank you.

6 JUDGE LARRIPA: All right. Thank you, Mr.  
7 Wagner. And for future speakers, I understand that part  
8 of the comment -- and it was limited so I didn't want to  
9 interrupt Mr. Wagner's comment -- but with regard to any  
10 motions to continue the land use hearing, further  
11 motions will not be considered. This is the time, date,  
12 and venue for the land use hearing pursuant to the  
13 notice that was issued on April 27, 2023. So, for  
14 future speakers, I will ask you to refrain from making  
15 any further motions regarding the procedures for this  
16 evening's hearing. With that, Ms. Grantham, who is our  
17 next speaker?

18 STAFF GRANTHAM: Our next speaker is Deb  
19 Wagner.

20 JUDGE LARRIPA: All right. And Ms.  
21 Wagner, you're welcome to go ahead and unmute. And, if  
22 you'd like, please state and spell your name for the  
23 court reporter and then proceed with your comments.

24 DEBORAH WAGNER: My name is Deborah  
25 Wagner, D-E-B-O-R-A-H, W-A-G-N-E-R. Can you hear me?

1 JUDGE LARRIPA: Yes, ma'am.

2 DEBORAH WAGNER: Okay. These are my  
3 comments why Carriger Solar Project should not be  
4 certified. The Clean Water Act is a federal law enacted  
5 in 1948, and amendments have been made in 1972, to  
6 protect our water. Where Carriage proposes to put their  
7 site water is present.

8 This is our potable water for the county.  
9 Potable water for our fish, which is right across the  
10 street. This should not be damaged. Our water should  
11 not be contaminated by solar sites. With all the  
12 chemicals in the solar panels this would be  
13 irresponsible to do.

14 RCW 89.10.005, written to preserve farmland.  
15 Again, where Carriger Solar proposes to put their solar  
16 site is on our farmland. This is our food. This is  
17 food for everyone, not just Klickitat County. This food  
18 goes farther than Klickitat County. We are the  
19 northwest growers. Very important to sustain life.

20 One more thing I would like to say is, I agree  
21 with everything that Dan Christopher said, our  
22 Commissioner, and Lori Zoller, and I thank them very  
23 much for standing up for our citizens. Thank you.

24 JUDGE LARRIPA: All right. Ms. Wagner.  
25 Thank you.

1 DEBORAH WAGNER: I'm done.

2 JUDGE LARRIPA: Thank you for your  
3 testimony. Ms. Grantham, who's our next speaker this  
4 evening?

5 STAFF GRANTHAM: Our next speaker is  
6 Delmer Eldred.

7 JUDGE LARRIPA: Please go ahead and state  
8 and spell your name for the court reporter, and you may  
9 begin your comments. Do we have Delmer Eldred on the  
10 line? All right. Hearing no one. Ms. Grantham.  
11 Please move to our next speaker, but just put a note to  
12 call Delmer Eldred's name once again once we move  
13 through all of those who signed up to speak.

14 STAFF GRANTHAM: Certainly. The next  
15 person I have on the list is Sheri Bousquet.

16 JUDGE LARRIPA: And if you're on the line,  
17 please go ahead and unmute state and spell your name for  
18 the court reporter and then proceed with your comments.

19 STAFF GRANTHAM: I see that she's trying  
20 to speak but we're not hearing her come through,  
21 unfortunately.

22 SHERI BOUSQUET: Can you hear me now?

23 CHAIR DREW: Yes, we can.

24 SHERI BOUSQUET: Okay. Dear EFSEC, my  
25 name is Sheri Bousquet, S-H-E-R-I, B-O-U-S-Q-U-E-T. I

1 live at Husum, Washington. I care about my seat of my  
2 county and I do not want it surrounded by industrial  
3 solar. I do not believe you have the territorial  
4 jurisdiction. Come into our county and tell our county  
5 how we will use our land. I do believe that you must  
6 listen to our county planning. We will not allow  
7 permits. We will not allow this in our moratorium. You  
8 do not have jurisdictional -- territorial jurisdiction.  
9 You don't have it.

10 JUDGE LARRIPA: And Ms. Bousquet, it  
11 appears that you went back on mute. Have your comments  
12 concluded? Ms. Bousquet, it appears that we're either  
13 experiencing technical difficulties or you may have  
14 inadvertently muted yourself. If you have further  
15 comments, please speak up and let us know that you're  
16 there. All right. In order to --

17 SHERI BOUSQUET: I guess I do have  
18 additional time. And what I'm saying is I do not  
19 believe that EFSEC has territorial jurisdiction in our  
20 county. If you do not have a state law, if you do not  
21 have a federal law that says you can site large scale  
22 solar in our county, our county is the one that would  
23 make the decision. You're over stepping your  
24 jurisdiction.

25 I mean, I if you want to do imminent domain on

1 the property, do it. You know, just do it. Just  
2 imminent domain. Imminent domain it as the state. But  
3 I don't believe you guys have the authority to come into  
4 our county and tell us what we're going to do with our  
5 ag land. That's ridiculous.

6 I don't care who puts up -- who puts up a  
7 substation. You know, they just went and did it and now  
8 they're like, oh, now we're going to be a solar  
9 wasteland. No. No. You guys -- you guys need to  
10 seriously step off and realize that our county has  
11 jurisdiction. Thank you.

12 JUDGE LARRIPA: All right. Thank you for  
13 your comments. Ms. Grantham, who is our next speaker?

14 STAFF GRANTHAM: Our next speaker is  
15 Justin Bousquet.

16 JUDGE LARRIPA: Right. And if you're on  
17 the line, please go ahead and unmute and state and spell  
18 your name and then begin your comments.

19 STAFF GRANTHAM: I believe we're having  
20 the same issue as before where it shows he is attempting  
21 to speak but we are not hearing it come through.

22 JUDGE LARRIPA: We'll give it just a  
23 moment. And is Justin Bousquet present or are you able  
24 to hear us. And, Mr. Bousquet, it appears that you're  
25 experiencing technical difficulties. If you can try to

1 speak. If I'm not able to hear you, though, we'll move  
2 on to the next speaker and then call you again at the  
3 end. But please go ahead and try one more time, sir.  
4 All right. Mr. Bousquet, if you can hear me, we're  
5 going to move to the next speaker just to keep comments  
6 moving along but we will call you again before comments  
7 conclude for the evening. Ms. Grantham, would you  
8 please call the next person who signed up.

9 STAFF GRANTHAM: Yes. The next person I  
10 have on the list is Dana Peck.

11 JUDGE LARRIPA: And, Dana Peck, if you're  
12 on the line, please go ahead and unmute and state and  
13 spell your name for the court reporter.

14 DANA PECK: Can you hear me? Okay?

15 JUDGE LARRIPA: I sure can.

16 DANA PECK: My name is Dana, D-A-N-A, and  
17 the last name is Peck, P-E-C-K. Way back when, I  
18 managed the Energy Overlay Zone process.

19 And the one -- the one aspect of it, that I'd  
20 like to bring to the council's attention, is that the  
21 commissioners are certainly right that we didn't foresee  
22 large scale solar when we did this back in 2004 and  
23 2005. But, we did do -- and this is the piece that's  
24 been sort of lost when we refer to the Energy Overlay  
25 Zone is -- although we're not growth management at

1 county, we did do a programmatic environmental impact  
2 statement on the entire county, and that's what informed  
3 the language that was subsequently put into the  
4 comprehensive plan and zoning.

5 And one of the things that we looked at  
6 specifically was a preferred alternative that allowed --  
7 well, we looked at three alternatives on the procedural  
8 side, one that would prohibit any kind of energy project  
9 outside the Energy Overlay Zone. And the preferred  
10 alternative that we selected addressed the idea that,  
11 okay, within the Energy Overlay Zone, you know, there's  
12 a certain amount of allowed uses.

13 Well, let me just read it. It's easier to read  
14 it than to try to summarize it, if you don't mind,  
15 because it's short. This is page 2-18 of the county's  
16 programmatic impact statement dated September 2004,  
17 Section 25 Preferred Alternative. "The FEIS includes a  
18 preferred alternative combining procedural alternative  
19 one with the limited geographic alternative. The  
20 preferred alternative would allow wind, gas-fired  
21 biomass, and solar energy development to be permitted  
22 outright within the overlay subject to site-specific  
23 SEPA review and mitigation and compliance with relevant  
24 local, state, and federal laws and regulations. Energy  
25 proposals outside the overlay would be subject to the

1 existing county conditional use process." And this was  
2 incorporated into the comprehensive plan and zoning  
3 through County Ordinance 031505, March 15, 2005.

4 So again, although the specifics of grid-scale  
5 solar weren't addressed at that time, the concept of  
6 solar certainly was. And it isn't just a quasi judicial  
7 or legislative action that the commissioners took. It  
8 was based on a programmatic environmental impact  
9 statement, which is a relatively odd duck in the world  
10 of process, but we felt that it was a way of  
11 underpinning the other decisions that were made. And  
12 that concludes my remarks.

13 JUDGE LARRIPA: All right. Thank you, Mr.  
14 Peck. Ms. Grantham, would you please call our next  
15 speaker?

16 STAFF GRANTHAM: Next speaker is Russ  
17 Hanson.

18 RUSS HANSON: Yes. Can you hear me?

19 JUDGE LARRIPA: I sure can. Thank you.

20 RUSS HANSON: Yes. My name is Russ  
21 Hanson, R-U-S-S, H-A-N-S-O-N. My wife and -- my wife  
22 Amy and I live directly adjacent to the proposed project  
23 and the development is called McCabe Meadows which  
24 consists of 240-acre development that was created by  
25 James Farrer as 12 parcels, which are 20 acres each in

1 size. In 2005, Mr. Farrer created protective covenants  
2 for this development and they were recorded with the  
3 county court. Each buyer of a parcel on this  
4 development acknowledged protective covenants when they  
5 purchased the property.

6 My wife, Amy, bought two parcels on McCabe  
7 Meadows development in 2012 and took comfort knowing  
8 that these protective covenants would limit the type of  
9 use that would be allowed in this development. Cypress  
10 Creek Renewables has released -- leased six parcels in  
11 this development totaling 120 acres from three different  
12 landowners, none of who live in the developed. This is  
13 a direct violation of our protective covenants and not  
14 consistent with the land uses in the development.

15 Section three of the covenants regarding uses.  
16 The second sentence states that any owner or occupant  
17 may make ordinary residential or recreational uses to  
18 that portion of the property they have interest.

19 Industrial scale solar and lithium-ion battery storage  
20 is definitely not a residential or recreational use.  
21 Again, this is a direct violation of our covenants in  
22 this development and not consistent with the land uses.

23 Section five of this mor -- or our covenants  
24 regards activities. The last sentence states, no  
25 noxious thing or use of the property shall be allowed.

1 Solar panels, if cracked or broken, have noxious and  
2 toxic materials that can easily contaminate the soil and  
3 the private wells in this development. A two-acre  
4 lithium battery storage in our development directly  
5 behind our homes is a noxious and toxic time bomb. This  
6 would contaminate our air, soil, private wells, not to  
7 mention be extreme fire hazard to the residences here.  
8 Again, this is a violation of our covenants and our land  
9 uses in this development.

10 When Mr. Farrer wrote these covenants, it was  
11 clear that he intended for the land to be developed for  
12 residential and recreation purposes, not industrial uses  
13 like solar. And when parties brought property in this  
14 development, based on the protective covenants, they  
15 would have never imagined that industrial solar would be  
16 allowed in our development.

17 Protective covenant case law states that  
18 covenants are a legal binding contract between  
19 landowners. It further states that covenants that are  
20 consistent with applicable law will not be superseded or  
21 terminated by zoning ordinances that are not consistent  
22 with those covenants.

23 In March of this year my wife spoke with Joanne  
24 Snarski of EFSEC about her covenants. She stated that  
25 EFSEC has not run into this before and she would consult

1 with the Assistant Attorney General. She later advised  
2 us that the AG's office stated that EFSEC has no  
3 authority -- or has authority over state law, county and  
4 city ordinances, and zoning but has no authority over  
5 protective covenants. So by its own admission, EFSEC  
6 has no authority over our protective covenants;  
7 therefore, that portion of the Carriger Project that is  
8 located within McCabe Meadows development cannot be  
9 approved.

10 I will be submitting my testimony along with a  
11 copy of the protective covenants and parcel maps via  
12 email. Thank you.

13 JUDGE LARRIPA: Thank you for your  
14 testimony, Mr. Hanson. Ms. Grantham, would you please  
15 call our next speaker.

16 STAFF GRANTHAM: The next speaker I have  
17 is Amy Hanson.

18 AMY HANSON: Good evening, Committee and  
19 Judge Larripa. Can you hear me?

20 JUDGE LARRIPA: I sure can. Thank you,  
21 Ms. Hanson.

22 AMY HANSON: My name is Amy Hanson, A-M-Y,  
23 H-A-N-S-O-N, as my husband just said, we live directly  
24 behind the Knight Road substation and are going to be  
25 directly affected by the Carriger Project. In listening

1 to testimony this evening, I would ask that the  
2 committee actually read our Energy Overlay Zone document  
3 and ordinances that were created. It mainly addresses  
4 wind. There's very few paragraphs in there that even  
5 address solar and they were expected to be a small in  
6 size and number and sensitively sited.

7 The document was created in 2004. I think it  
8 was amended maybe once. But this area has changed a lot  
9 since 2004. This is an area that is highly populated  
10 just right outside Goldendale city limits.

11 I would ask that the committee come take a  
12 look. Come drive out here, take a look, and see this is  
13 rolling terrain that goes, you know, slowly, you know,  
14 higher as it goes towards the Simcoes and this will be  
15 visible from town, from everywhere. So for Carriger,  
16 the attorney, to say that this will not visually impact  
17 us is not correct. Please come take a look. Please  
18 look at where they're proposing this project.

19 I've read the county comprehensive plan many  
20 times and basically it says that activities should keep  
21 the rural character of our county. Where we live we are  
22 surrounded by productive farmland. Productive farmland.  
23 It is -- I mean, drive out here. Every -- it's being  
24 farmed right now. This is not sage brush. This is not  
25 rocky country. This is beautiful farmland that is being

1 used.

2 My husband and I raise sheep. We have horses.  
3 We bought this property for the view, for the proximity  
4 of close to town. I just don't understand how an  
5 industrial project can be sited on agricultural land.  
6 When we moved here, we were paying -- our tax base was  
7 through the county, was residential -- and we're paying  
8 a higher tax rate on one of our parcels for the view.  
9 So the county recognizes that our view is worth  
10 something.

11 This is our quality of life. This is the  
12 quality of life for everybody surrounded surrounding us.  
13 And once this, you know, if this is approved and this is  
14 turned into industrial solar, no matter what they say,  
15 it can never go back to the farmland, the beautiful  
16 farmland it is. It'll be ruined forever. So please  
17 thank you for your time this evening. And please come  
18 take a look at where they're proposing this project  
19 before you make a decision. Please come to our home. I  
20 invite you all. Thank you.

21 JUDGE LARRIPA: Thank you for your  
22 comments, Ms. Hanson. Ms. Grantham, would you please  
23 call our next speaker?

24 STAFF GRANTHAM: Yes. I have Gene Callan.

25 JUDGE LARRIPA: And if Gene Callan is on

1 the line, please go ahead and unmute yourself and state  
2 and spell your name for the court reporter, please.

3 GENE CALLAN: Can you hear me?

4 JUDGE LARRIPA: I sure can thank you.  
5 Okay.

6 GENE CALLAN: Thanks. This is Gene  
7 Callan, G-E-N-E, last name is Callan, C-A-L-L-A-N. My  
8 wife and I live directly adjacent to this project. In  
9 fact, our domestic well is within a few hundred feet of  
10 the panels just to give you some context.

11 Tonight, because it is a land use hearing, by  
12 the way, one which I think is probably one of the most  
13 important land use hearings we've had in the history of  
14 our county. I'm a little appalled that we didn't have  
15 this in person. This is such a huge topic that it  
16 should have been in person, and I think some of the  
17 technical difficulties are proving that.

18 But that being said, I had three land use items  
19 to cover. I think our commissioners did a great job of  
20 covering two of those so I'm not going to go into hardly  
21 any detail on my first two and applaud our commissioners  
22 for covering those. The first one was, the fact that we  
23 do have the moratorium in place, the moratorium that was  
24 in place over a month before the Carriger Project was  
25 submitted to Cypress.

1           The second one was, the fact that we have a  
2 requirement inside our EOZ, and I'm not sure anyone has  
3 talked about it in detail yet, that there is an  
4 Environmental Impact Statement required for every  
5 project that goes through the EOZ via a legal agreement  
6 that was executed back years ago. And so the fact there  
7 hasn't been an EOZ and there's a bunch of components of  
8 that -- I mean, EOZ and EIS -- that there are a bunch of  
9 components that need to be included in that. It needs  
10 to happen also as part of this land use process.

11           My last item is, it talks about -- I've titled  
12 it common sense and someone may say, well, this is a  
13 land use hearing, you know, we need to parse the legal  
14 language and review the RCWs and the entitlement  
15 process. Common sense really doesn't come into play in  
16 this meeting. And I would push back and say that's  
17 baloney. If you look at all of our zoning, they always  
18 start with the purpose of that zone. There's a global  
19 goal to that zone.

20           For example, our Extensive Agriculture talks  
21 about continuing practice and preserving lands best  
22 suited for agriculture and preventing conflicts. And  
23 our EOZ talks about sensitively siting projects. For  
24 this project to be called, you know, micro sited and  
25 sensitively sited does not factor in a common sense

1 filter. If we were to use that filter, I don't think  
2 anyone, whether you're for this project or against this  
3 project, would argue that we are not turning our ag land  
4 into an industrial use. And that's the common sense  
5 factor that we're faced with in this county. Thank you  
6 very much.

7 JUDGE LARRIPA: Okay. All right. Thank  
8 you for your comment, Mr. Callan. Ms. Grantham, would  
9 you please call our next speaker?

10 STAFF GRANTHAM: Next speaker I have is  
11 Dave Barta.

12 DAVE BARTA: Good afternoon. D-A-V-E,  
13 B-A-R-T-A. And you can hear me, correct?

14 JUDGE LARRIPA: Yes, sir.

15 DAVE BARTA: Thank you, Chair Drew and  
16 council members. Good afternoon. Thank you for the  
17 opportunity to testify on land use related to the  
18 Carriger Solar Project.

19 According to the applicant's presentation,  
20 they're in full compliance with Klickitat land use and  
21 zoning. The applicant further states that the  
22 moratorium related to industrial solar siting is not a  
23 land use action. History, however, proves that  
24 assertion false.

25 In 2013, shortly after marijuana was legalized

1 across the state, Klickitat County placed a moratorium  
2 on sale, distribution, and retailing of marijuana  
3 products in the county. Within a few months, the  
4 commissioners tasked the planning commission with  
5 considering ordinances or limitations in the county on  
6 growth and sales of the product. After hearings, the  
7 Klickitat County Planning Commission elected to prohibit  
8 growth and sales activities in the county and the Board  
9 of County Commissioners followed up by codifying that  
10 prohibition.

11 The land use or zoning process worked just like  
12 it should. Commissioners imposed a land use interim  
13 control in the county. It delegated the work of zoning  
14 and ordinances to the Planning Commission and the Board  
15 of County Commissioners then passed a resolution based  
16 on the Planning Commission findings and recommendations.

17 The exact same process is underway right now.  
18 In January, the Board of County Commissioners passed a  
19 resolution imposing a moratorium on industrial solar  
20 siting in the Knight Road area. Following the hearing  
21 the BOCC directed the county planner to employ the  
22 services of the Klickitat County Planning Commission to  
23 review zoning and land uses in the stated area. The  
24 Planning Commission met last night for the second time  
25 on the issue; meets again in a couple of weeks to review

1 data and consider performance standards.

2 The process is just the same as it was in 2013  
3 and 14. The applicant has stated that not accepting  
4 applications for industrial scale solar in the affected  
5 area is not a land use control. Of course, that is not  
6 the case. In principal, it is no different from  
7 initiating a moratorium, working through a process, and  
8 then restricting Marijuana grows or retail -- or retail  
9 storefronts in the county. Moratorium has history in  
10 Klickitat County as a land use decision.

11 In addition, the applicant states because a  
12 portion of the project occurs outside the EOZ, the EOZ  
13 process does not apply in the underlying zones for  
14 permitting utility facilities by a Conditional Use  
15 Permit process are applicable. In fact, Klickitat  
16 County ordinance 01121, which was passed well before the  
17 moratorium, states that any energy system seeking to  
18 connect to the BPA substation on Knight Road would be  
19 required to use only the CUP process regardless of  
20 whether in or out of the EOZ.

21 Though the applicant neglected to reference  
22 that county ordinance in the application, it is the  
23 actual reason Cypress Creek is beholden to the CUP  
24 process. So Cypress Creek acknowledges one county land  
25 use directly related to utility scale solar near Knight

1 Road while denying another, the moratorium, which  
2 applies to the same area.

3 Klickitat County has faced similar issues in  
4 the past. In the 1990s, when farmland was being  
5 consumed unchecked by real estate developers,  
6 citizens -- many of them farmers -- got the county  
7 commissioners to start a process to review development  
8 standards. Shortly after, the Planning Commission  
9 recommended the smallest lot size allowed without road  
10 and infrastructure improvements was to be 80 acres. The  
11 commissioners adopted the recommendations so farmland  
12 and agriculture could be preserved.

13 Utility scale solar does not preserve farmland.  
14 It is inconsistent with agriculture, inconsistent with  
15 Klickitat County code and ordinances, and I ask you to  
16 deny Cypress Creek's expedited application to site  
17 industrial solar in this area. Thank you very much.

18 JUDGE LARRIPA: All right. Thank you.  
19 Ms. Grantham, who is our next speaker?

20 STAFF GRANTHAM: Our next speaker is  
21 Elaine Harvey.

22 JUDGE LARRIPA: And for our last speaker,  
23 if you'll go ahead and place yourself back on mute, I  
24 just want to make sure that we don't have background  
25 noise.

1 ELAINE HARVEY: Hello, Elaine Harvey,  
2 E-L-A-I-N-E, H-A-R-V-E-Y. I'm Elaine Harvey. I'm a  
3 resident of Klickitat County, also a member of the  
4 Kah-milt-pah Band, which is from this land here in  
5 Taneum.

6 And I'm concerned about the tribal first foods  
7 because this project will impact the first foods of this  
8 area. And this is the usual and accustomed gathering  
9 grounds of the Kah-milt-pah Band, also known as the Rock  
10 Creek Band, and the Klickitat Band. We still live here.  
11 We still gather our foods. This proposed project will  
12 directly impact our foods that grow in this area. The  
13 ephemeral streams will be impacted, the wetlands, the  
14 perennial streams will all be impacted by this project.  
15 And that will in turn impact the wildlife and all the  
16 different native plants, first foods, species in the  
17 area.

18 And this land, you know, is proposed as  
19 industrial solar. It's -- this area is not zoned for  
20 industrial uses. This land is currently in ag, range,  
21 and rural. The six to eight-foot fences with barbed  
22 wire is not consistent with the current land use and the  
23 existing fences in the project area. And the solar  
24 project will impact the views of the city of Goldendale  
25 and the views to the Simcoe Mountains and Mount Adams

1 from Goldendale as well as Highway 97.

2 And this proposed project is within the  
3 county's Energy Overlay Zone and shall -- and should  
4 require a full EIS, and this application should not go  
5 through expedited EFSEC tracking process. And also  
6 there's, as mentioned before, a solar moratorium. So,  
7 with Carriger, you know, that just shows their lack of  
8 respect to the Klickitat County and the residents of  
9 this county who will be living with the impacts of this  
10 project, if permitted by EFSEC.

11 And also, that this county does not have the  
12 Critical Ordinance or Shoreline Master Plan in place,  
13 and that is a conflict because those are required by  
14 Department of Ecology. And you guys are also a state --  
15 Washington State agency, so, you know, those need to be  
16 in place to protect the resources of the county.

17 And there are federally listed ESA species --  
18 which was stated before -- steelhead. And this is in  
19 the headwaters of the Little Klickitat River, which will  
20 impact ESA listed threatened steelhead. And there are  
21 western gray squirrels in the area -- in this project  
22 area and also Ferruginous Hawks. So these are some of  
23 the concerns I have and reasons why this project is not  
24 in -- consistent with the current land use. Thanks.

25 JUDGE LARRIPA: Thank you for your

1 comments, Ms. Harvey. Ms. Grantham, who's our next  
2 speaker?

3 STAFF GRANTHAM: So that was our last  
4 speaker. So I will be circling back to those who we  
5 couldn't hear or might not be here. So the first one  
6 was Justin Sellers.

7 JUDGE LARRIPA: Justin Sellers, if you're  
8 on the line, please out and identify yourself. All  
9 right. Hearing no one, Ms. Grantham, please go to the  
10 next name.

11 STAFF GRANTHAM: Sure. The next name is  
12 Delmer Eldred.

13 JUDGE LARRIPA: Do I have Delmer Eldred on  
14 the line? If so, please unmute yourself and state and  
15 spell your name for me. All right. Ms. Grantham,  
16 please go ahead and go to the next name.

17 STAFF GRANTHAM: Okay. And the last name  
18 I have is Justin Bousquet.

19 JUSTIN BOUSQUET: Hello. Audio check.  
20 Can you hear me?

21 JUDGE LARRIPA: Yes.

22 JUSTIN BOUSQUET: Oh, finally, thank you  
23 for your time tonight. Name's Justin Bousquet,  
24 J-U-S-T-I-N, B, as in boy, O-U-S, like Sam, Q-U-E-T.  
25 And if you're good, I'll just get started.

1 JUDGE LARRIPA: Please. When you're  
2 ready.

3 JUSTIN BOUSQUET: Thank you. The  
4 permitting process is supposed to take the entire  
5 project into consideration. This project is not sited  
6 wholly within the county's Energy Overlay Zone. Even  
7 assuming the EOZ does permit this solar project in its  
8 entirety, including the lithium storage facilities,  
9 which people are ignoring, it must be held to the  
10 county's standing comprehensive plan.

11 This project is absolutely not consistent with  
12 the current comp plan. Klickitat County's comprehensive  
13 plan does not address industrial scale solar projects.  
14 Stated within Carriger's own application, they would be  
15 required to obtain Conditional Use Permits to complete  
16 this project, assuming such permits would even be  
17 approved.

18 As I previously mentioned, and others have  
19 stated, the county also does have the standing  
20 moratorium over large scale solar, is a gross  
21 misrepresentation of the purpose of this moratorium as  
22 it does address land use for which this project intends  
23 to accomplish.

24 Carriger's statement regarding occasional water  
25 usage is far too vague and does not accurately depict

1 their tangible usage over time. It is known that these  
2 panels require water to periodically clean their  
3 surfaces. It would be unreasonable to expect anyone to  
4 evaluate consistency for a project without thorough and  
5 accurate details about this requirement in its entirety.

6 How can this project claim to not permanently  
7 alter soil conditions while it doesn't provide a site  
8 restoration plan? It absolutely will alter the land and  
9 soil conditions immediately upon the start of the  
10 construction. The soil alterations will continue to --  
11 beyond the life of the project. Carriger does not make  
12 claims about how long this alteration will be.

13 Moreover, they do not even provide the site  
14 restoration decommissioning plan as required by WAC  
15 463-72-020. How are we to discuss land use consistency  
16 when the proposal does not contain the details necessary  
17 to confirm as such? Carriger continues to make claims  
18 regarding consistency without substantiating those  
19 claims. EFSEC must deny this project and allow the  
20 local Klickitat County officials to work this project  
21 through their own existing enshrined process.

22 And I want to take my -- rest of my time to say  
23 thank you very much to my county commissioners for  
24 having the morals and courage to stand up and say what  
25 we need said to these officials today. I appreciate Dan

1 and Lori very much for their attention and support in  
2 our -- as our county leaders, and I hope that they can  
3 be put back into place of leading this project and  
4 ensuring that the county citizens are protected as we  
5 need to be protected. Thank you very much. Appreciate  
6 your time and coming back to me.

7 JUDGE LARRIPA: All right. Thank you for  
8 your comments. Ms. Grantham, because we do have a few  
9 additional minutes. If you would, please, just do one  
10 last role call for the other two people who signed up to  
11 speak tonight.

12 STAFF GRANTHAM: I can go back to Justin  
13 Sellers.

14 JUDGE LARRIPA: All right. And I also see  
15 a hand up. We'll go ahead and call that person after we  
16 call the two names who've signed up. All right. And I  
17 don't hear Justin Sellers speaking up. So please go to  
18 the other name who signed up.

19 STAFF GRANTHAM: Delmer Eldred.

20 JUDGE LARRIPA: Do I have Delmer Eldred on  
21 the line? And your handset might be muted independently  
22 of being muted on Teams. So, if you just want to check  
23 your handset, if you are on the line, please go ahead  
24 and speak up. All right. Hearing nothing. I did see a  
25 hand raised on the -- using the hand raised function on

1 Teams. Ms. Grantham, did you write down that person's  
2 name?

3 STAFF GRANTHAM: I did not, but I believe  
4 it was Steve Heitmann? Yes.

5 LORI ZOLLER: And I'd like to have one  
6 more minute when you get back to the phone people too.  
7 This is Commissioner Zoller. Thank you.

8 JUDGE LARRIPA: All right. Yes. Please  
9 go ahead and state and spell your name for the court  
10 reporter. And then, if you have a comment related to  
11 land use, please go ahead.

12 STEVE HEITMANN: Okay. I'm Steve  
13 Heitmann, H-E-I-T, as in Tom, M, as in Mary, A-N, as in  
14 Nancy, N, as is Nancy. I'm also submitting a detailed  
15 document as my testimony. I'm a research engineer with  
16 several decades of experience, and I've been a strong  
17 proponent of, and user of, solar technology since 1974.  
18 I also agree with the commissioner's statements. Voted  
19 for one of them.

20 In addition, consistency with EFSEC's existing  
21 land use criteria in no way implies that those criteria  
22 are complete. In fact, EFSEC needs to complete  
23 significantly more groundwork before it can consider  
24 certifying any large scale clean energy project in the  
25 state. I base this conclusion on reading RCW 80.50.

1           Until this groundwork is complete, we should go  
2 beyond Klickitat County's moratorium and get an  
3 injunction against all large scale clean energy  
4 projects. Keep in mind, I'm really interested in the  
5 clean energy future and I use solar. We live off grid.  
6 So I'm disagreeing with EFSEC, basically.

7           What is the needed groundwork? Stop me if I go  
8 too long. I have a long list. EFSEC needs the  
9 certification process reflecting an immediate purpose.  
10 We, meaning Washington State, all counties, cities,  
11 Native American communities, and energy companies all  
12 need to work together to establish one set of  
13 certification criteria for clean energy projects is  
14 designed to accommodate all affected. If a proposed  
15 project can't meet negotiated certification criteria of  
16 all affected, then it probably needs to be redesigned,  
17 relocated, or terminated.

18           I've included a -- in this written document, I  
19 propose a modification of RCW 80.50.020, section six.  
20 As it is, we have a patchwork quilt of city and county  
21 ordinances, concerned citizens, including Native  
22 Americans, driving loosely or incoherently defined  
23 requirements that EFSEC can consider. However, EFSEC is  
24 not mandated by law to meet those requirements and get  
25 approval by all affected jurisdictions to certify a

1 project. It needs to be mandated by law -- by state  
2 law.

3 EFSEC needs cradle-to-grave requirements.  
4 EFSEC must establish stringent requirements for  
5 end-of-life recycling as a part of the certification  
6 process. Spent solar panels, batteries, and electronic  
7 components must be properly recycled and not end up in  
8 landfills where our soil and water can be contaminated.

9 EFSEC must establish a costly consequence for  
10 any energy company that ignores these requirements at  
11 the end of life for any system component. EFSEC needs  
12 to --

13 JUDGE LARRIPA: Your time has concluded.  
14 If you'd like to finish your thought, though, I'd  
15 welcome you to do so.

16 STEVE HEITMANN: Oh, okay. Thank you.  
17 EFSEC needs to require safe alternatives to lithium  
18 energy storage. The necessary groundwork includes  
19 evaluating battery technologies other than lithium.  
20 Yes. There are several safer, and just as effective,  
21 battery technologies that are available on the market  
22 today. I won't state what their names are because I own  
23 stock in them.

24 JUDGE LARRIPA: And Mr. Heitmann, by  
25 finishing your thought, I meant the point that you're

1 making rather than moving on to another one, sir. If  
2 there's anything -- any final remark you'd like to make,  
3 please go ahead, but your comments must conclude.

4 STEVE HEITMANN: The other piece of  
5 groundwork needs to identify and study alternatives to  
6 make up solar farms because there are lots of  
7 alternatives. Complete due diligence requires that we  
8 evaluate all viable clean energy generation technologies  
9 before making decisions about Klickitat's clean energy  
10 future.

11 JUDGE LARRIPA: All right, sir. I'm sorry  
12 that I must cut you off at this point but I do thank you  
13 for your time.

14 STEVE HEITMANN: That's fine. Thank you  
15 for the extra time, but I'll send a document in so it's  
16 really -- overwhelms with detail.

17 JUDGE LARRIPA: All right. Thank you.  
18 And I did, just before -- or actually, let me go back to  
19 Ms. Grantham and Mr. Heitmann, if you -- okay, I see  
20 that you put your hand down. Ms. Grantham, do we have  
21 any other members of the public who expressed a desire  
22 to speak?

23 STAFF GRANTHAM: Not as of right now. So,  
24 I'm not sure if you're wanting to open up to the Teams.

25 JUDGE LARRIPA: All right. So we -- one

1 thing I would like to address is, I believe I heard  
2 Commissioner Zoller speak up a moment ago regarding  
3 reserved time. And, Commissioner Zoller, one concern  
4 that I have is that if I -- we didn't provision for  
5 speakers to reserve time for rebuttal at the conclusion.  
6 If I allow you additional time to make a remark or a  
7 closing remark, I must do the same for the applicant.

8 LORI ZOLLER: I fully understand.

9 JUDGE LARRIPA: Okay.

10 LORI ZOLLER: Okay, thank you.

11 JUDGE LARRIPA: So, with that, we've  
12 concluded comment from anybody who's already signed up  
13 to speak. Ms. Grantham, we do have enough time for one  
14 or two additional speakers if anybody desires to speak.  
15 Please use the hand-raise function, identify yourself,  
16 and Ms. Grantham will call your name in the order that  
17 you've raised your hand. And, once again, we have time  
18 for two speakers.

19 All right. And I do hear somebody that's  
20 connected by phone is unmuted. Are you trying to  
21 identify yourself to make comment? All right. And I no  
22 longer hear that background noise. Let me briefly  
23 check. All right. I don't see any hands raised. So  
24 with that, public comment has concluded on the Land Use  
25 Hearing, and I'm now going to turn this back over to

1 Chair Drew.

2 CHAIR DREW: Thank you very much, Judge  
3 Larripa, and thank you everybody who participated  
4 tonight. We will certainly take all of your comments  
5 into consideration for all the speakers tonight and  
6 appreciate your participation. Have a good evening.  
7 This meeting is adjourned.

8 (Meeting adjourned at 6:23 p.m.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE.

I, Steven B. Crandall, certify that the foregoing transcript is a full, true, and accurate transcription of the proceedings and testimony taken in the matter of the above-entitled proceeding.

That the foregoing meeting was taken before me, via Teams video conference, completed on May 16, 2023, and thereafter transcribed by me;

That I am not a relative, employee, attorney, or counsel of any party to this action, or relative, or employee of any such attorney or counsel, and that I am not financially interested in the said action or the outcome thereof;

IN WITNESS WHEREOF, I have hereunto set my signature on this 10th day of May, 2023.



Steven B. Crandall, CER  
Certified Electronic Reporter #1198