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November 19, 2025

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1
2 STATE OF WASHINGTON
3 ENERGY FACILITY SITE EVALUATION COUNCIL
4
5 CASCADE RENEWABLE TRANSMISSION PROJECT
6 EFSEC DOCKET NO. 230002
7 LAND USE CONSISTENCY HEARING
8
9

10 November 19, 2025

11 7:12 p.m.

12 White Salmon, Washington
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22
23

24 REPORTED BY: Stephanie C. Rhinehart, RPR,
25 WA CCR 22013531, OR CSR 22-0014

1 APPEARANCES

2 ENERGY FACILITY SITE EVALUATION COUNCIL MEMBERS:

3 Kurt Beckett, Chair

4 Blake Nelson
5 Department of Ecology

6 Nate Pamplin (*)
7 Department of Fish and Wildlife

8 Maverick Ryan (*)
9 Department of Natural Resources

10 Brian Rybarik (*)
11 Department of Utilities & Transportation Commission

12 ASSISTANT ATTORNEY GENERAL:

13 Jon Thompson (*)

14 ADMINISTRATIVE LAW JUDGE:

15 Russell Mikow (*)

16 COUNCIL STAFF:

17 Sonia Bumpus (*) Lance Caputo Lisa McLean
18 Ami Hafkemeyer Alex Shiley Adrienne Barker (*)
19 Joan Owens Karl Holappa
20 Andrea Grantham Maria Belkina

21 COUNSEL FOR THE ENVIRONMENT:

22 Yuriy Korol (*)

23 IN ATTENDANCE:

24 Malia Bassett, HDR Environmental
25 Emily Schimelpfenig, Stoel Rives

(*) indicates remote attendees

HEARING INDEX

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* * *

1 BE IT REMEMBERED that on Wednesday,
2 November 19, 2025, at Mountain View Grange #98, 1085 North
3 Main Avenue, White Salmon, Washington, and via
4 videoconference, the following Land Use Consistency Hearing
5 of the Washington State Energy Facility Site Evaluation
6 Council was held at 7:12 p.m.:

7
8 * * *

9 CHAIR BECKETT: And we will move into our
10 land use consistency hearing. And let me provide just
11 a brief word. And soon Judge Mikow will join us, and
12 he will further explain this...

13 So again, during this hearing, we'll have
14 testimony regarding the proposed project's consistency
15 and compliance with land use plans and zoning
16 ordinance. That's the only subject that will be
17 allowed during this hearing. And this is very
18 specifically in order for the Council to create the
19 record and make a determination on land use consistency
20 and compliance with local land use plans and zoning
21 ordinances.

22 So with that, Judge Mikow, if you would please
23 join us officially and -- know you've been here
24 throughout -- and please share your opening comments as
25 you intended. And thank you for your support in this

1 process.

2 JUDGE MIKOW: Good evening, everybody. I'm
3 Administrative Law Judge Russ Mikow at the Office of
4 Administrative Hearings. I'm here to help facilitate
5 the public comment portion of the land use consistency
6 hearing.

7 So after the Applicant and -- has presented their
8 case and the Council have asked many questions that
9 they have, there will be an opportunity for the public
10 to ask their questions. But there are -- or not ask
11 your questions or make your comments. And there are a
12 few things that everybody needs to know before we
13 begin.

14 Unlike the earlier public comment period, here
15 we're only taking comments about whether the site is or
16 is not consistent with and is or is not in compliance
17 with applicable land use plans and zoning ordinances.
18 So please make sure to keep your comments focused on
19 those two points.

20 The public comments will be limited to
21 three minutes per person. I'll try not to stop you
22 mid-sentence, but if you go over time, we might have to
23 move on to the next speaker if there are a number still
24 to go. So please make sure that you say your name when
25 you approach the podium. And, again, asking questions

1 is not procedurally allowed during this comment period.
2 So your comments may prompt the need for answers, but
3 the purpose of this hearing is to only allow comment on
4 the issues of consistency and compliance with
5 applicable land use plans and zoning ordinances.

6 Following the end of the land use consistency
7 hearing, my job is to draft an order, including
8 findings of facts, appropriate portions of the relevant
9 law or code, and conclusions of law regarding whether a
10 proposed site is consistent and in compliance with
11 those applicable land use plans and zoning ordinances
12 under Revised Code of Washington 80.50.090,
13 paragraph 2, and Chapter 463-26 of the Washington
14 Administrative Code. Once I've finish drafting my
15 proposed order, I will send that to EFSEC-assigned
16 assistant attorney general with the Washington State
17 Attorney General's Office and to the EFSEC Staff for
18 any revisions prior to EFSEC Staff presenting the order
19 to the Council with their recommendation of adoption at
20 an open meeting.

21 So after the final presentations have been made
22 and the Council have asked their questions, I'll be
23 coming back on board. So thank you.

24 CHAIR BECKETT: Thank you, Your Honor. And
25 I'm sorry I queued you up a little earlier than we had

1 discussed. Just with people transitioning here in the
2 room, I thought it was probably best if everyone heard
3 exactly what you had to say so they could consider how
4 they wanted to participate, nonetheless, without the
5 benefit of the insight. Relatedly, and given kind of
6 the week and the evening, also, can we please call a
7 roll of the EFSEC Council just to confirm for the
8 record that we have a proper quorum in place.

9 Thank you, Ms. Grantham.

10 MS. GRANTHAM: Certainly, Chair. No problem
11 at all.

12 Department of Commerce -- excused.

13 Department of Ecology.

14 MR. NELSON: Blake Nelson, present.

15 MS. GRANTHAM: Department of Fish and
16 Wildlife.

17 MR. PAMPLIN: Nate Pamplin, participating
18 remotely.

19 MS. GRANTHAM: Department of Natural
20 Resources.

21 MR. RYAN: Maverick Ryan, present.

22 MS. GRANTHAM: Utilities and Transportation
23 Commission.

24 MR. RYBARIK: Brian Rybarik, present
25 virtually.

1 MS. GRANTHAM: Assistant Attorney General
2 Jon Thompson.

3 MR. THOMPSON: I'm present online.

4 MS. GRANTHAM: Administrative Law Judge
5 Russell Mikow.

6 JUDGE MIKOW: Present and online.

7 MS. GRANTHAM: Council Staff Sonia Bumpus.

8 MS. BUMPUS: Present and online.

9 MS. GRANTHAM: Ami Hafkemeyer.

10 MS. HAFKEMEYER: Present.

11 MS. GRANTHAM: Lance Caputo.

12 MR. CAPUTO: Present.

13 MS. GRANTHAM: Karl Holappa. He is present
14 tonight. I think he just stepped away.

15 Maria Belkina.

16 MS. BELKINA: Present.

17 MS. GRANTHAM: And Lisa McLean.

18 MS. McLEAN: Online.

19 MS. GRANTHAM: And do we have anyone present
20 still for the Counsel for the Environment?

21 MR. KOROL: Yuriy Korol, present online.

22 MS. GRANTHAM: Chair, there is a quorum.

23 CHAIR BECKETT: Thank you. So I will turn
24 this to our applicant team for their presentation.

25 This will give a little further insight, obviously, on

1 the specifics here in Klickitat County.

2 Council members, if you do have questions about
3 the presentation that, in this case, you've not seen
4 yet, certainly, we'll take those after the
5 presentation. And then we will move into public
6 comment, and our Judge will run that portion of the
7 meeting.

8 So over to you. Thank you.

9 MS. BASSETT: Hi. Thank you.

10 Good evening, everyone. My name is Malia Bassett.
11 I'm an environmental planner on the Applicant's team,
12 and I'm going to go over the land uses in the project
13 within Klickitat County and Washington.

14 So you saw this earlier. This is the entire
15 proposed project. And tonight's focus will be on the
16 in-water portion since there's no on land portions in
17 Klickitat. So between -- there's no close-up of the
18 portion in Klickitat, but it's before the center yellow
19 line that's past the Bonneville Dam. And I'll go
20 through these more specifically.

21 Now, so just in summary, the in-water alignment in
22 Washington and Klickitat County has six segments in it,
23 and that totals about six miles. When I say
24 "segments," I'm referring to the portion of the line
25 when it weaves in and out of Washington and Oregon

1 and -- the borders, the center of the Columbia River,
2 segments that come into Washington and then leave. So
3 that would be one segment.

4 Going from west to east, the numbers you see on
5 the screen are river miles, and that's just a way for
6 us to identify where we're at in the river. So the
7 proposed line is the red dash, and then the highlighted
8 portions are the portions that are in Washington state.
9 And the series of slides are showing what's in
10 Klickitat County border.

11 So looking at the first segment, it's going from
12 about 1- -- I cannot see that great -- 168 1/2 to
13 169 1/2 before it goes back into Oregon. And then,
14 shortly after that, coming back out into Washington out
15 of the Oregon side -- not out of the water --
16 Washington, and then going till about 172 3/4.

17 Continuing east, we have a small segment around
18 177, and then another small segment around 179.

19 UNIDENTIFIED SPEAKER: Could you use -- is a
20 laser pointer -- be helpful for you?

21 MS. BASSETT: Sure. That's fun. Thanks. I
22 know how to turn it -- oh, there we go. Okay. No.
23 Not working. It's okay. I'm almost done. Sorry.

24 That's what the numbers are for. So small
25 segment, 179, and then another segment at 180 1/2. And

1 then, lastly, this segment between 186 1/2 all the way
2 through 187 1/2.

3 And then, as I mentioned earlier, the components
4 on land -- there are no components on land in
5 Klickitat. These are the components on-land in
6 Skamania County, city of Stevenson, and
7 North Bonneville, which we covered in other hearings.

8 And that concludes my side of the presentation.
9 Colleague Emily, the Applicant's counsel, is online and
10 will give a brief summary of land use consistency.

11 MS. SCHIMELPFENIG: Thank you.

12 Good evening, Your Honor, EFSEC Council members,
13 and EFSEC Staff. My name is Emily Schimelpfenig. I'm
14 an attorney at Stoel Rives LLP. My firm represents the
15 Applicant in this proceeding.

16 As you've heard this evening, the land use
17 consistency hearing's purposes is to determine whether
18 the project is consistent and in compliance with local
19 land use plans and zoning ordinances. EFSEC makes this
20 determination. The relevant inquiry for EFSEC's
21 initial land use analysis is whether the pertinent land
22 use provisions prohibit the proposed project, expressly
23 or by operation, clearly, convincingly, and
24 unequivocally. If a proposed project can be permitted
25 either outright or conditionally, it is consistent and

1 in compliance with the local land use provisions for
2 the purposes of RCW 80.50.090(2).

3 As you have heard tonight, all of the portions of
4 the Cascade Renewable Transmission project proposed in
5 Klickitat County are underwater in the bed of the
6 Columbia River. There is no development proposed on
7 land. Neither the County's zoning code nor the
8 County's comprehensive plan impose land use
9 restrictions on in-water uses or river bottom land
10 within the Columbia River. In fact, Klickitat County
11 does not even assign a zoning designation to the
12 Columbia River. In essence, nothing in the
13 comprehensive land use plan and in the zoning ordinance
14 prohibit the project.

15 Now I'd like to turn briefly to the Shoreline
16 Management Act. EFSEC's review does not consider all
17 local land use provisions. Under RCW 80.50.020(18), a
18 land use plan means a comprehensive land or land use
19 element thereof adopted by a unit of local government
20 pursuant to chapters -- RCW Chapters 35.63, 35A.63,
21 36.70, or 36.70A.

22 Similarly, a zoning ordinance under
23 RCW 80.50.20(30) is an ordinance of a unit of local
24 government regulating the use of land and adopted
25 pursuant to those same chapters. Importantly, the

1 Shoreline Management Act that's found in
2 RCW Chapters 90.58, which is not one of the provisions
3 I listed in the definition of land use plan or zoning
4 ordinance. The Applicant understands the need for
5 review and compliance with the Shoreline Management
6 Act, and it is for EFSEC to conduct this review.

7 To my knowledge, the most recent precedent here
8 was the Columbia Solar Project in Klickitat County. In
9 that case, the Shoreline Management Act review was not
10 conducted during the land use consistency hearing and
11 was instead considering at a later date. However,
12 ultimately, whether that analysis is done now or later
13 is a matter for EFSEC and its discretion.

14 Finally, I'd like to request that the record
15 remain open for written comment for 21 days.

16 Thank you.

17 CHAIR BECKETT: Thank you. I believe that
18 concludes the presentation, just to confirm.

19 Okay. Members of the EFSEC Project Council, if
20 you have questions for the presenters, let me ask that
21 now.

22 Council Ryan?

23 MR. RYAN: Thank you, Chair Beckett.

24 Less for the presenters, but more just as a point
25 of inquiry -- and I know this was briefly raised in the

1 land use hearing last night -- is there a point in the
2 administrative record where the in-water portions of
3 the river are going to be evaluated for land use
4 consistency? I think that -- this could be me being
5 naive about my own agency, but within the state of
6 Washington, DNR's required by statute to evaluate uses
7 of in-water portions of navigable waters. So I'm
8 curious if that will be included in the records at some
9 point.

10 CHAIR BECKETT: And I don't know if the
11 Applicant table or if Council Thompson or Staff wish to
12 weigh in. Looking to Council or Staff -- I'm sorry --

13 MS. SCHIMELPFENIG: I'm sorry. This is
14 Emily Schimelpfenig again. Just to briefly address
15 that, you are correct that at some point during this
16 process, the analysis of land use consistency through
17 DNR will have to be completed. Here, EFSEC is just
18 looking at local land use jurisdiction, so the --
19 Klickitat County, the county that we're in. And that's
20 why, you know, here, you know, we've concluded that
21 there's nothing in the Klickitat County comprehensive
22 land use plan and zoning ordinance that prohibit the
23 project. But, of course, that will -- the DNR side of
24 it will have to be analyzed at a later date.

25 CHAIR BECKETT: Did any other Staff or

1 Council wish to add to that?

2 Seeing none, Council Ryan, does that cover your
3 question for now?

4 MR. RYAN: Thank you, Chair.

5 CHAIR BECKETT: Thank you.

6 Other Council, any questions?

7 Okay. Then I will conclude the presentation
8 portion and Council questions, and we will move this to
9 Jon -- Judge Mikow and our public testimony portion.

10 JUDGE MIKOW: Okay. Thank you, everyone.

11 As a reminder you have three minutes per comment.
12 And please keep your comments focused on whether the
13 proposed sites are consistent and in compliance with
14 that local land use plans and zoning ordinances.

15 Ms. Grantham, will you please call the first
16 speaker.

17 MS. GRANTHAM: Certainly. The first speaker
18 is Nathan Baker.

19 MR. BAKER: Good evening, Chair Beckett,
20 Judge Mikow, and members of the Council. My name is
21 Nathan Baker. I'm with Friends of the Columbia Gorge.

22 First, we incorporate the objections that we made
23 at the hearings in the last two nights objecting to the
24 multiple procedural errors in this process so far.
25 These errors are violating the Appearance of Fairness

1 Doctrine and the due process rights of stakeholders.

2 And I will expand on a couple of those issues tonight.

3 As you've heard in the last hearing, this hearing
4 is premature. Only a draft application has been
5 submitted, and draft applications do not and cannot
6 trigger EFSEC's required processes. And with land use
7 consistency, vesting concerns are implicated. So once
8 a non-draft application is submitted, EFSEC will need
9 to schedule land use consistency hearings on the
10 application.

11 The second issue is that there is no
12 Klickitat County-appointed Council member at this
13 hearing. The statute says that Klickitat County shall
14 appoint a member of the Council and that person shall
15 sit on the Council for the land use hearing tonight.
16 The statute requires that. It is an error to hold this
17 hearing tonight without the participation of that
18 required member of the Council.

19 Next, regarding certificates of land use
20 consistency. At last night's land use hearing, the
21 Applicant's attorney brought that issue up. He said or
22 implied there had been extensive dialogue between the
23 Applicant's team and the various local governments.
24 But then we later learned last night that the Applicant
25 did not even ask any of the local governments for such

1 certificates until Monday of this week. No such
2 certificates have been presented to the Council, and
3 now it is too late. The Council's rules only
4 contemplate an applicant entering such certificates as
5 exhibits, quote, "at the land use hearing," end quote.
6 And this has to happen at the hearing to allow anyone
7 present at the hearing to rebut any certificate.

8 Mr. McMahan last night also misstated the effect
9 of a certificate of consistency. He said if one is
10 submitted, quote, "The inquiry ends there," end quote.
11 That is not true. Instead, the Council's rules say
12 that if an applicant submits a certificate of
13 consistency, that shifts the burden from the applicant
14 to anyone present at the hearing who opposes such a
15 certificate. But again, if any of this happens, it
16 must happen at the hearing.

17 Next, we have concerns about the ridiculously
18 short written comment period of only 6 1/2 hours and
19 extremely short notice period of only 13 days for
20 tonight's hearing. We're getting -- the public is
21 getting less notice that would be guaranteed for any
22 project, even small projects anywhere else in the
23 state of Washington. And there's no reason to rush.
24 This hearing tonight doesn't have to be held at any
25 particular time. And so there's no reason to schedule

1 it. The agency should not have rushed into this
2 hearing.

3 Finally, on the substance, the Columbia River
4 matters for land use purposes -- the land underneath
5 the river is submerged land, and it is also riverbed.
6 And in both of those senses, it is land. Because this
7 project would involve land use and development
8 activities underneath the Columbia River, EFSEC's land
9 use inquiry must include the Columbia River. And in
10 the Columbia River, the National Scenic Area rules
11 prohibit new transmission facilities. We've explained
12 all this in great detail in our written comments, and
13 following me will be Steve McCoy explaining further.

14 Thank you very much. It's been a great week.

15 JUDGE MIKOW: Thank you very much for your
16 comments.

17 Ms. Grantham, would you please call the next
18 speaker.

19 MS. GRANTHAM: Next I have is Steve McCoy.

20 MR. McCOY: Good evening, Councilors. I am
21 Steve McCoy. I'm a staff attorney with Friends of the
22 Columbia Gorge. Thank you for this opportunity to
23 comment. The majority of this project is proposed
24 within the --

25 (Reporter requests clarification.)

1 CHAIR BECKETT: I'm sorry, sir. Can you
2 please slow down just a little bit for our court
3 reporter, who's requesting that. And we'll give a
4 little additional time here for the -- for allaying
5 this. Thank you.

6 MR. McCOY: Okay. Gotcha. Should I start
7 over? Or...

8 CHAIR BECKETT: Why don't we just start from
9 the top.

10 MR. McCOY: Okay.

11 Good evening, Councilors. I am Steve McCoy. I'm
12 a staff attorney for Friends of the Columbia Gorge.
13 Thank you for the opportunity to testify tonight.

14 The majority of this project is proposed within
15 the Columbia River Gorge National Scenic Area. The
16 National Scenic Area was created by Congress in 1986 by
17 a federal law, the Columbia River Gorge National Scenic
18 Area Act. There is also a bi-state compact, the
19 Columbia River Gorge Compact, which is a compact
20 between the states of Washington and Oregon with
21 pre-consent from Congress in the National Scenic Area
22 Act. Thus, the compact is the joint product of three
23 sovereigns, the federal government and two states.

24 There is a management plan adopted by the Columbia
25 River Gorge Commission and the U.S. Forest Service,

1 which contains the rules and regulations for land use
2 and development activities in the National Scenic Area.
3 Most of the counties in the National Scenic Area have
4 adopted their own National Scenic Area land use
5 ordinances pursuant to the National Scenic Area Act.
6 These ordinances must be consistent with the Gorge
7 Management Plan.

8 Klickitat County has not adopted National Scenic
9 Area ordinance, and as a result, The Gorge Commission
10 is the permitting entity for land use and development
11 activities in the Klickitat County portion of the
12 National Scenic Area. Because this project is proposed
13 in Klickitat County in the National Scenic Area, it
14 requires a permit from the Gorge Commission approved
15 under Gorge Commission land use rules.

16 The project also needs a permit from the
17 U.S. Forest Service. It's called a Federal Consistency
18 Determination and is pursuant to Section 14D of the
19 National Scenic Area Act. It is required for two
20 reasons: The project is proposed on federal land --
21 U.S. Army Corps of Engineers -- and the project
22 requires multiple federal permits from the U.S. Army
23 Corps of Engineers. For both reasons, there is a
24 federal nexus that triggers the need for a National
25 Scenic Area permit from the Forest Service. In

1 Table 2-4 of the draft application, it acknowledges the
2 need for a Forest Service permit, but the draft
3 application fails to acknowledge the need for a
4 Gorge Commission permit.

5 During the hearings this week, the Applicant has
6 displayed a PowerPoint slide with a list of needed
7 permits. The Applicant's list conspicuously omits the
8 Forest Service permit, even though it is listed in
9 Table 2-4 in the draft application. And in neither
10 document does the Applicant acknowledge the need for
11 the Gorge Commission permit.

12 Make no mistake. This project cannot go forward
13 without permits from both The Gorge Commission and
14 Forest Service. As Friends explains in detail in our
15 written comments, the portions of this project proposed
16 in and underneath the Columbia River and in the
17 Columbia River Gorge National Scenic Area -- that
18 outside the designated urban areas are prohibited.

19 Furthermore, Gorge Commission Rule 350-082-0040
20 states that review and approval are required. For the
21 stretches of the Columbia River located in the National
22 Scenic Area portion of Klickitat County but outside the
23 urban areas, the National Scenic Area rules do not list
24 any category of uses under which this project might
25 qualify. Therefore, the project is prohibited under

1 Gorge Commission Rule 250-082-0040. That result is
2 confirmed by the 1995 Gorge Commission appellate
3 opinion called Nature Friends Northwest, which we've
4 cited in our written comments.

5 I also want to note that there's several citings,
6 clauses in the National Scenic Area Act that create
7 exceptions for certain water-based uses, including
8 transportation on the Columbia River, fishing and water
9 rights; so Congress was clearly intending to include
10 the Columbia River in the Act. It also carves out an
11 exception for existing transmission facilities owned by
12 Bonneville Power; so Congress had intended it to apply
13 to other utility facilities. These provisions further
14 demonstrate that Congress intended permitting to be
15 necessary in the Columbia River.

16 In conclusion, the entire project needs a permit
17 from the U.S. Forest Service; the Klickitat County
18 portions of the project need a permit from The Gorge
19 Commission; and the project is prohibited by the
20 National Scenic Area rules in the Columbia River
21 outside the urban areas.

22 Thank you for this opportunity to comment.

23 JUDGE MIKOW: Thank you very much for that.

24 Ms. Grantham, will you please call the next
25 speaker.

1 MS. GRANTHAM: The next person I have is
2 Elaine Harvey.

3 MS. HARVEY: I am from the Kamiltpah Band of
4 the Columbia River. I am a resident of
5 Klickitat County. I have -- I come from a Tribal
6 fishing family on the Columbia River. We fish in
7 Klickitat County and Skamania County annually. We
8 depend on the Columbia River for subsistence and
9 ceremonial purposes. This project is inconsistent with
10 our --

11 (Reporter requests clarification.)

12 CHAIR BECKETT: Your Honor, we're being asked
13 for -- the court reporter can't keep up, Your Honor.
14 I'm sorry to have to relay this to you again but...

15 Ma'am, could you please -- I'll leave this to the
16 Judge to handle from here.

17 JUDGE MIKOW: Okay. Thank you.

18 Yes. If you could please just speak a little
19 slower so that our court reporter can make sure to
20 accurately capture everything that's being said.

21 Thank you very much.

22 MS. HARVEY: Okay. Thanks. I really tried
23 to talk slow. Okay. I'll start over again.

24 My name is Elaine Harvey. My Indian name is
25 Wanuxni . I come from the Kamiltpah band of the

1 Columbia River. I reside in Klickitat County.

2 I come from a Tribal fishing family on the
3 Columbia River who fish in Klickitat County,
4 Skamania County, and the Gorge, but also on Oregon
5 sides. This project is inconsistent with our
6 1855 Treaty rights on the Columbia River. We have
7 fishing sites that have been passed down generationally
8 for thousands of years. This project has potential to
9 impact our traditional fishing and also our fishing
10 resources in the Columbia River such as salmon,
11 sturgeon, smelt, lamprey. And we are -- and there are
12 many Tribal fishermen who are concerned with this
13 project.

14 I just want to state this statement, that this is
15 the first of its kind in the Columbia River and also
16 that this project is on a riverscape, not a landscape,
17 and you have a potential to detrimentally impact our
18 fishing and our way of life. Thank you.

19 JUDGE MIKOW: Thank you very much for your
20 comment.

21 Ms. Grantham, will you please call the next one,
22 next speaker.

23 MS. GRANTHAM: Yep. Next person is
24 Eric Wriston.

25 MR. WRISTON: Thank you.

1 And hello again, Council. My name is
2 Eric Wriston. I'm an attorney at Crag Law Center, here
3 on behalf of the Columbia Riverkeeper.

4 I am again here to express that Riverkeeper shares
5 and adopts the procedural concerns raised by Friends of
6 the Columbia Gorge tonight and at the prior hearings,
7 including objecting to this process moving forward
8 before there is application, by the lack of local
9 government presence on the Council, and the
10 misinterpretations made regarding the deadline in
11 effect for the consistency certifications.

12 And I want to echo some of the points that I made
13 in informational hearing regarding the impossibility of
14 adequate engagement here and the flaws in the draft
15 application. The application's discussion of land use
16 consistency is cursory, and there are not even detailed
17 maps to demonstrate the exact boundaries of the site.
18 This clearly violates Washington Administrative
19 Code 463-60-362, which requires that detailed
20 information on land and shoreline use. I believe, for
21 example, the maps that we saw in the presentation from
22 the Applicant were not included in the application.
23 That makes it remarkably hard to participate in this as
24 members of the public, especially when you consider the
25 ten days' notice we were given for this hearing and the

1 six-and-a-half-hour comment window we were given for
2 comments.

3 All this goes to say -- the same point I made in
4 that initial public information session. This draft
5 application is simply not ready to move forward yet,
6 and doing so is both violating many of EFSEC's rules
7 and prohibiting the public to be able to effectively
8 engage in this process.

9 Finally, I just want to address an argument made
10 by the Applicant about not needing to consider the
11 County's shoreline master plan. This is incorrect. If
12 you look at the Council's recent order from February
13 2025, this year, the Goldeneye Battery Storage project,
14 you'll see EFSEC has considered shoreline master
15 programs at this stage. And that's the correct
16 decision. It's required by the statute. It's right
17 that the shoreline master act -- or planning act is not
18 explicitly listed in those definitions. But the county
19 Shoreline Master Plan is adopted pursuant to both the
20 Planning Enabling Act, RCW 36-70, and the Growth
21 Management Act, RCW 36-70A, which explicitly
22 incorporates shoreline plans into the statute. And
23 both of those statutes are listed in the definition of
24 land use plans and zoning ordinances which is why they
25 are required to be considered. Thank you.

1 JUDGE MIKOW: Thank you very much for your
2 comments.

3 Ms. Grantham, will you please call the next
4 person.

5 MS. GRANTHAM: The next person is
6 Mitch Patton.

7 MR. PATTON: Can you hear me okay?

8 JUDGE MIKOW: Yes, I can. Thank you.

9 MR. PATTON: Okay. Great. I'll try to do my
10 best on this. A little out of my league right now.

11 But my concerns are the National Scenic Area Act,
12 or the National Scenic Act plus the National Scenic
13 Area itself and then the Shoreline Management Act -- it
14 doesn't seem like this project is following any of that
15 stuff at all -- or if it's even able to move forward
16 with that.

17 And then, after just hearing briefly a little
18 while ago about -- I don't know if it was The Dalles or
19 Klickitat County -- but somebody doesn't even have an
20 ordinance for land use because it's inside the river
21 area. Well, this to me seems that this project should
22 be stopped immediately. And each county and city,
23 municipality, or whatever it is up and down that
24 Columbia River needs to throw a moratorium out until we
25 can further make sure -- assure that all the public

1 safety and wildlife and everything is being followed.

2 Because it kind of seems like, to me, is -- what's
3 going on here is this project is being railroaded to
4 get through. Because I think, if I remember
5 correctly -- was some moratoriums at the County
6 actually -- and placed in Skamania County -- was some
7 people were allowed to move forward because they had an
8 application in already.

9 Well, if -- what I'm understanding right now, that
10 application isn't -- been submitted; it's in a rough
11 draft. So if it's in a rough draft, then it needs to
12 be -- we really need to step back and take a further
13 look at this thing because of the things that I brought
14 up with the Shoreline Management Act, that National
15 Scenic Area -- this National Scenic Act. There is
16 quite a few federally -- laws that are in place that do
17 not allow -- that point-blank do not allow this to
18 happen, but yet it continues to move forward. And it's
19 unfortunate that the public is just now finding out,
20 and these 6-day and 13-day windows for public comment
21 is ridiculous.

22 So hopefully we can to a better job at trying to
23 get the information out to people and make sure that
24 the people -- who's ever overseeing this -- these
25 oversight committees or whatever it is are following

1 these federal laws and state laws and the Shoreline
2 Management Act and the Wild Species Act -- which is in
3 the Columbia River. You have all that fish and
4 everything -- is in that river that's protected by
5 federal law. And none of it's -- really, I don't feel
6 is being addressed.

7 So on that, like I said, I will try to do another
8 written public comment as well to try to get my points
9 across, and hopefully somebody's out there listening.
10 And I will be contacting the commissioner's offices and
11 the planning departments, community development, to ask
12 for a moratorium to be placed in Skamania County. And,
13 yeah, thank you for your time, and I hope that makes
14 sense.

15 JUDGE MIKOW: Thank you very much for your
16 comments.

17 Ms. Grantham, will you please call the next
18 person.

19 MS. GRANTHAM: The final person that I have
20 as a sign-up is Elijah Cetas.

21 MR. CETAS: Good evening, Councilors and
22 Your Honor. Thank you for the opportunity to comment.
23 My name is Elijah Cetas. I am an energy policy analyst
24 and attorney with Columbia River Inter-Tribal Fish
25 Commission.

1 I want to first -- I want to first incorporate the
2 comments made by Elaine Harvey tonight and incorporate
3 them as -- under CRITFC comments. It was not CRITFC's
4 intent to participate during this portion of the
5 proceeding, but as I commented last night, given the
6 speed of these decisions and given the short window of
7 the public comment period for land use consistency,
8 we've decided to comment tonight.

9 And I want to just comment in -- for -- to
10 raise two primary considerations for the record for
11 what is not consistent with the project's application
12 and the zoning. This portion of the Columbia River
13 falls within Zone 6 of the Columbia River, which is set
14 aside to uphold the treaties of 1855 which the four
15 Lower River Treaty Tribes each entered into with the
16 federal government to reserve their fishing rights on
17 the Columbia River.

18 This portion of the river is a Tribal treaty
19 fishery. It is regulated as such by the Tribal
20 governments, and it is held -- that right is held in
21 trust by the federal government. This portion of the
22 river also includes, in the Klickitat County, at least
23 16 treaty fishing sites. These are sites created by
24 two acts of Congress: One in 1945, and another in
25 1988. They're codified at 25 CFR 247 and 248. The

1 in-lieu and treaty fishing access sites were set aside
2 for the continual and exclusive use of Columbia River
3 Tribal fishers to continue their time immemorial and
4 treaty-reserved rights to fish in the Columbia River.

5 And I just want to repeat that because, again, the
6 reason we decided to provide this on the record is that
7 this was totally absent from the Applicant's proposal
8 and absent from the discussion during the general
9 overview of the projects, and it bears directly on the
10 land use consistency. As Ms. Harvey mentioned, this is
11 a first-of-its-kind project. And as another commenter
12 mentioned, the river zoning and the uses of the
13 river -- the uses that are both state-protected and
14 federally protected and tribally protected and tribally
15 and federally regulated are important for understanding
16 the compatibility of this project. And as this project
17 is proposed to run through the middle of this fishery,
18 it is incompatible with those uses and those zonings
19 for the river.

20 So I just want to conclude there and just
21 reiterate the significance of this particular stretch
22 of river. There are impacts throughout the river. But
23 again, we wanted to comment during this land use
24 consistency period because we cannot underscore how
25 significant Zone 6 is -- this stretch of river, these

1 fishing sites that are right here in Klickitat and
2 Skamania County. Thank you so much.

3 JUDGE MIKOW: Thank you for your comment.

4 Ms. Grantham, are there any other people signed up
5 to speak?

6 MS. GRANTHAM: There are not.

7 JUDGE MIKOW: Okay. Well, then I will turn
8 it back over to Chair Beckett. Thank you.

9 CHAIR BECKETT: Thank you, Your Honor. I
10 don't see any other activities I think we need.

11 Council, any other comments? Closing comments?
12 Council Pamplin?

13 MR. PAMPLIN: Thank you, Mr. Chair.

14 Really appreciate EFSEC Staff here hosting these
15 three meetings this week. Been very informative.
16 Certainly hearing a lot of substance, comments about
17 this project that's going to be very helpful and
18 informative as we launch into this review.

19 I've also heard a number of process concerns.
20 And, Mr. Chair or Director Bumpus, I don't want to put
21 either of you on the spot here, but I also want to flag
22 that we heard on Monday, during the land use
23 consistency hearing, a member of the public requested
24 initial 30 days for the public comment period. I
25 believe this afternoon, if I heard correctly, the

1 Applicant representative requested the public comment
2 period be extended 21 days.

3 And I don't know if there's an opportunity,
4 Mr. Chair, to consider that this evening. Or perhaps,
5 as a Council, we can discuss that in future -- near
6 future here. But just wanted to raise that that's --
7 that was something that's on my mind and has been very
8 consistent over the past three days from a process
9 concern. Thank you.

10 CHAIR BECKETT: Yes, no, thank you for
11 speaking to certainly a key point, if not an obvious
12 one at this juncture that we've all, you know, heard
13 and participated in.

14 So I can certainly assure you, I think, on behalf
15 of both Staff and Council that, you know, all that
16 input -- including how the comment periods were
17 structured, which ultimately are tied to each
18 meeting -- to the degree that can reside in a larger
19 single bucket, if you will, of comments is, you know,
20 certainly, I think, something that will be determined
21 in the very near term.

22 But I am not prepared to act on that myself
23 tonight as Chair. I acknowledge that is, you know, an
24 aspect of what you're asking, but let's make sure that
25 whatever evolution occurs here based on the current

1 record that is now in place -- the record will
2 continue. So I just want to make sure that we, you
3 know, ensure that the next step is clear and then
4 lasting going forward.

5 Certainly, there will be multiple comment periods
6 throughout this. And, certainly, I think we need to do
7 our best to make sure that, as required in many cases,
8 those multiple layers of comments are as clear and
9 preferably consistent as possible. Because there are
10 so many different jurisdictions and requirements
11 involved, if anything, we may be in position where,
12 inevitably, the comment periods become a bit confusing
13 in their multitude.

14 So that is part of what we're working through.
15 And I believe, certainly, will have this as a Council
16 discussion in the near future as well.

17 So with that, if there's other comments, the
18 Council will welcome them. And if not -- well, let me
19 just pause and ask. So...

20 Council members, any other comments -- or
21 including anything that was -- you wish to share in
22 response to mine?

23 MR. PAMPLIN: Thank you, Mr. Chair. I
24 appreciate that. Sounds like we'll have a future
25 opportunity here to discuss public comment periods even

1 associated with the meetings this week. Thank you.

2 CHAIR BECKETT: Thank you.

3 Council Rybarik?

4 MR. RYBARIK: Thanks, Mr. Chairman. I just
5 wanted to echo the thanks for the initial context there
6 and the additional information around the continued
7 process in this case.

8 But really wanted to just take the time to thank
9 everybody for their participation in this. As you've
10 noted many times and has been noted during this, it's
11 so important to get information from the public and
12 comment from the public. And we've heard some great
13 information here. I just want to thank everybody for
14 taking the time and getting in front of a bunch of
15 people and providing that comment. It's a very
16 important part of the process. So thank you.

17 CHAIR BECKETT: Thank you.

18 Other comments from the Council?

19 Okay. Well, with that, I will then conclude
20 tonight's second hearing. It is 7:55 p.m., and we are
21 adjourned.

22 (Proceedings adjourned at 7:55 p.m.)

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CERTIFICATE OF SHORTHAND REPORTER

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

This is to certify that I, Stephanie C. Rhinehart, a Washington Certified Court Reporter, Oregon Certified Shorthand Reporter, and Registered Professional Reporter reported by stenographic means the within and foregoing proceedings; that said proceedings were taken before me on the date herein set forth and that I was authorized to and did report said proceedings.

I further certify that the foregoing transcript is a full, true, and correct record of the proceedings to the best of my ability; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither a relative, employee, attorney or counsel of any of the parties this action and have no financial interest in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of December, 2025.

/s/Stephanie C. Rhinehart, RPR
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Expires 05/26/2026
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Expires 09/30/2028