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BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of

INNERGEX RENEWABLE  
DEVELOPMENT USA, LLC (IRD), for  
Wautoma Solar Energy Project

DOCKET NO. EF-220355

STIPULATION OF FACTS

Applicant, Innergex Renewable Development USA, LLC, presents and stipulates to the following factual statements concerning the above-entitled matter, as agreed to herein by Party Participant, Benton County, and party participant, the Counsel for the Environment – Assistant Attorney General, as indicated by the below signatures of their respective counsel of record. This stipulation to a portion of facts involved in this matter is entered pursuant to WAC 463-30-250.

**I. STIPULATED FACTS**

**A. Parties**

A.1. Of the parties receiving the *Order Commencing Agency Adjudication; Setting Deadline for Petitions to Intervene (July 12, 2024)* filed in this matter, only the following three parties timely appeared by filing a Notice of Party Participation: (1) Innergex Renewable Development USA, LLC, Applicant; (2) Benton County, Party Participant, and (3) the Counsel for the Environment – Assistant Attorney General, Party Participant.

1           A.2.       No person or entity has filed a petition to intervene.

2           **B. Jurisdiction**

3           The Energy Facility Site Evaluation Council has jurisdiction over the subject  
4 matter of this proceeding and the parties to it under the regulatory authority established in  
5 Chapter 80.50 RCW. *See* RCW 80.50.040(7), RCW 80.50.060(1)(b)(ii), and WAC 463-  
30-080.

6           **C. Subject Properties**

7           C.1.       The real property that is the subject of the Wautoma Solar Energy  
8 Project Application for Site Certification – Volume I (“Application”) consists of the  
thirty-five (35) parcels (the “Subject Properties”). *See* Application, pgs. 2-3.

9           C.2       The Subject Properties collectively total five thousand eight  
10 hundred fifty-two (5,852) acres. *Id.*, p. 5.

11          C.3       The Subject Properties are all located within Benton County’s  
12 Growth Management Act Agriculture District (“GMAAD”). *Id.*

13          **D. Application**

14          D.1       The Wautoma Solar Energy Project (“Project”) is proposed for  
15 development by Innergex Renewable Development USA, LLC (“Applicant”). *See*  
Application, generally.

16          D.2       The Project is proposed for development in Benton County. *Id.*, p.  
17 2.

18          D.3       The Project is proposed primarily on land leased from privately  
19 owned by Robert and Marilyn Ford; Wautoma Energy LLC; Robert Ranch 5+1 LLC; Et  
Al Michael V Robert; High Valley Land LLC; Jean Emile Robert; and Robin Robert in  
Benton Co, WA. *Id.*, pgs. 2-3.

20          D.4       The Application states the proposed Project shall be to “construct  
21 and operate the Wautoma Solar Energy Project...” consisting of a 470-megawatt solar  
22 photovoltaic generation facility coupled with a 4-hour, 470-MW battery energy storage  
system, as well as related interconnection and ancillary support infrastructure. *Id.* p. 4.

23          D.5       The amount of land constituting the Project Area is approximately  
24 4,573 acres of the total Subject Properties. *Id.* p. 5.

25

1 D.6 Within the Project Area a smaller area of approximately 2,978  
2 acres, will be unavailable for agricultural use during the operational period of the project.<sup>1</sup>

3 D.7 In general, the Project Area is on relatively flat terrain with slopes  
4 of less than 3%. *Id.* p. 6.

5 D.8 There are 649,153 acres of GMAAD-zoned land in Benton County.

6 D.9 The total area of the Subject Property (5,852 acres) makes up .09%  
7 percent (nine-tenths of one percent) of the total GMADD zoned land in Benton County  
8 (649,153 acres) and the area that would be unavailable for agricultural use (2,978 acres)  
9 during the life of the Project is slightly less than one half of one percent (0.045%), slightly  
10 less than one-half of one percent of the total GMAAD zoned land in Benton County.

11 D.10 Applicant Innergex engaged with Benton County Community  
12 Development Department and Planning Division via email in July 2021 to introduce the  
13 Wautoma Solar Project and discuss the local permitting process.

14 D.11 In the spring of 2022, Innergex presented to the Benton County  
15 BOCC the Wautoma Solar Project.

16 D.12 The Application was submitted by Innergex to Washington's  
17 Energy Facility Site Evaluation Council (EFSEC or Council) for review on June 9, 2022.  
18 *See Application.*

19 D.13 The Application requests the Council recommend to the governor a  
20 Site Certification that reflects pre-emption of the County's planning and zoning  
21 provisions, with conditions related to the County's applicable planning and zoning  
22 provisions. *Id.*

### 23 **E. Procedural History**

24 E.1 The Council held a public informational meeting and land use  
25 consistency hearing at the Columbia Basin College's Gjerde Center Building in Pasco,  
Benton County on August 8, 2022.

E.2 The Council, on November 15, 2022, issued an Order Finding  
Project Inconsistent with Land Use Regulations ("Order"). *See Order* filed herein.

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<sup>1</sup> *Memorandum Re: Environmental Review and Staff Recommendation for State  
Environmental Policy Act (SEPA) Review and SEPA Determination for Wautoma Solar,  
EFSEC May 15, 2024.*

1 E.3 The Order determined the land use consistency matter should be set  
2 for consideration by Council concurrent with the general adjudication required by RCW  
3 80.50.090(4) in order to consider whether to recommend preemption of Benton County's  
zoning regulations. *Id.*

4 E.4 The Order determined that if the environmental impacts of the  
5 Project are determined to be non-significant (State Environmental Policy Act [SEPA]  
6 Determination of Non Significance [DNS]) or mitigated to a non-significant level (a  
7 SEPA Mitigated Determination of Non Significance [MDNS]), the Council may limit the  
topic of the general adjudicative proceeding to whether any applicable local land use plans  
or zoning ordinances with which the proposed site is determined to be inconsistent should  
be preempted.

8 E.5 EFSEC issued, for public comment between May 20 and June 3,  
9 2024, a MDNS inclusive of Project conditions on topics including, but not limited to,  
Land Use.

10 E.6 EFSEC received 9 written comments regarding the MDNS.

11 E.7 Benton County did not submit any written comments regarding the  
12 MDNS.

13 E.8 Table A.5. of the Application contains a summary of mitigation  
14 measures that the Applicant proposed and agrees to have included. *See* Application, pgs.  
15 27-37

16 E.9 EFSEC issued a Revised MDNS that retained all conditions on  
Land Use proposed in the ASC and included additional conditions.

17 E.10 Applicant agrees to the imposition of all MDNS conditions in a site  
18 certification agreement.

19 E.11 Appendix D of the Application is the Applicant's analysis of Land  
20 Use Consistency.

21 **F. Land Use and Zoning Restrictions**

22 F.1 Benton County conducts land use planning and zoning under the  
23 Growth Management Act, Chapter 36.70A RCW.

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DATED this 13th day of August, 2024.

Respectfully submitted,

ANDREW J. LEWIS  
INNERGEX RENEWABLE  
DEVELOPMENT USA LLC

Andrew J. Lewis, WSBA #51541

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**Approved as to Form and Content:**

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*\* by Erik Anderson  
Approval dated*

*per electronic  
Aug. 13, 2024.*

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**CERTIFICATE OF SERVICE**

I, I’sha Willis, declare as follows:

That I am over the age of 18 years, not a party to this action, and competent to be a witness herein:

That I, as a Legal Assistant in the office of Van Ness Feldman LLP, caused true and correct copies of the following documents to be delivered as set forth:

- 1. Stipulation of Facts;
- 2. Certificate of Service

and that on August 13, 2024, I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, but authorized method of service pursuant to WAC 463-30-120(3) as follows:

**ENERGY FACILITY SITE EVALUATION COUNCIL**

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EXECUTED at Washington, DC on this 13th day of August, 2024.

*s/ I'sha Willis*

I'sha Willis, Declarant