

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of  
Application No. 2009-01

of

WHISTLING RIDGE ENERGY PROJECT LLC

for

WHISTLING RIDGE ENERGY PROJECT

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**SAVE OUR SCENIC AREA'S  
RESPONSIVE BRIEF ON ADJUDICATION**

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1 **I. INTRODUCTION.**

2 If there is a theme to Whistling Ridge Energy's (WRE) case in support of its wind energy  
3 proposal it is abstraction and indifference. Though WRE claims it absolutely, positively must  
4 have a project with a minimum of 75 MW, substantially everything else about it demonstrates a  
5 strategy of keeping things vague, hoping that EFSEC will accept a kind of shadow project. In  
6 this manner the complex and difficult questions about the project will be delayed and deferred  
7 until the project recedes from the public eye. EFSEC should not accept the applicant's multiple  
8 feints and should act to deny the proposal.

9 The applicant's vagaries begin with the project itself. Though the WRE property is  
10 represented as a "premier" wind energy site, the applicant refuses to provide any backup  
11 information of any kind (excepting its own word) that the site has merit and value. No data  
12 about wind speed and energy production is given, though the applicant tantalizingly assures all  
13 that such information exists and shows just how good this site is.

14 What about the size and location of the turbines in the proposal? The Intervenors and the  
15 public spent a year and half analyzing a proposal with 50 turbines at 1.5 MW each at defined  
16 locations. For EFSEC and BPA this includes the preparation of a draft environmental impact  
17 statement, and significant work toward the final. Then, after the hearing began, WRE suddenly  
18 announced it changed its mind (without even telling its own project manager, Ms. Chaney) and  
19 there would now be 38 turbines at 2.0 MW each.<sup>1</sup> Where would these turbines be? No drawing  
20 or site plan is provided. Yes, there would be five rather than seven turbines on the old A1-A7  
21 String, but Mr. Spadaro imperiously stated that all were left to guess where the rest would be. Tr.  
22 76. Keeping his options open, Mr. Spadaro said that in fact the turbines might be even larger, a  
23 proposition picked up by his counsel in the applicant's brief when Mr. Spadaro's stipulation was  
24 changed to "38 2-plus MW turbines." Brief at 34. Nowhere was data presented as to the cost of

25 \_\_\_\_\_  
<sup>1</sup> This was in complete defiance of this Council's regulations that require any project changes be announced 30 days  
before the start of the hearing. WAC 463-60-116.

1 the modified proposal or the required substation, though WAC 463-60-145 requires that “(T)he  
2 applicant shall describe the characteristics of the construction to occur at the proposed site  
3 including the type, size, and cost of the facility; . . .” (Emphasis supplied.)

4 This Heraclitean flux continues with the technical reports for the project, all of which  
5 used different turbine sizes. As will be described herein, the applicant's noise witness used a 1.8  
6 MW turbine to predict noise impacts, the geology witness a 1.5 MW turbine for landslide hazard  
7 analysis, the wildlife witnesses the 1.5 MW turbine for wildlife impacts, and the visual witnesses  
8 a 2.5 MW turbine. Of course, none of them used the 2.0 MW turbine that was announced as the  
9 project standard after the hearing started (and after all consultant work was completed). This  
10 appears to be part of a deliberate strategy to keep Intervenors, the public, and this Council,  
11 guessing and off guard, especially where a single project manager (Ms. Chaney) coordinating the  
12 whole effort. See Exhibit 2.00.

13 The strategy of indifference to detail is also apparent in the noise and geology sections of  
14 the Application, where analysis was done in a day or two and did not follow accepted scientific  
15 methods. Noise work was almost casual, with the investigation not following accepted methods  
16 and monitoring at locations not representative of impacted sites. Similarly, the geologic  
17 investigations were preliminary and general in nature (without any subsurface investigation) in  
18 spite of the fact that 40 story wind turbines, with 30 foot deep concrete foundations (60 feet in  
19 diameter), were right on top of steep slopes and sensitive landslide hazard areas.

20 Socioeconomic work was equally vague, but more cunning. The reports presented were  
21 fatally flawed by the deliberate use of a model that had only one possible outcome: favorable to  
22 the applicant. This work was further defective because of the use of outrageously exaggerated  
23 wages for construction and operations workers. Indeed no one knows whether the estimates for  
24 construction labor used the 1.5, 1.8, 2.0 or 2.5 MW turbine, or whether there were 50 turbines,  
25 38 turbines or another number that would require more or less construction workers for  
assembly.

1 As to the value of the project, the applicant's feints continue. It hypes the project as  
2 taking care of Washington's ("growing") power and renewable energy needs and states that it is  
3 on a "premier" site (which it just happens to own). However, when Intervenors dare to take issue  
4 with these unsupported contentions, the applicant (Brief at 50-58) castigates them for daring to  
5 raise the issue, claiming it is not a part of EFSEC project review.<sup>2</sup>

6 Finally, SOSA expects the same kind of scolding from WRE in response to the Counsel  
7 for the Environment's proposal in its brief for removal of the A1-A7 Line as a condition for  
8 EFSEC's approval. SOSA anticipates that WRE will retreat behind its 75 MW fortress and  
9 assert that such a mitigation measure will endanger its absolute "take it or leave it" requisites.  
10 Never mind that this claim is completely unproven, except as the applicant's unilateral  
11 conclusion. As SOSA will point out, the CFE's proposal is a useful first step in mitigating this  
12 harmful proposal.

13 In sum, the applicant's desire to keep things vague should not be accepted by this  
14 Council. It wants a free pass on careful analysis until it gets by agency and public scrutiny. The  
15 Whistling Ridge project has genuine, tangible and serious adverse impacts to the environment  
16 and the public welfare. In the end, the only result is to deny the entire project.

## 17 **II. PROCEDURAL ISSUES.**

18 SOSA has read and reviewed and adopts the brief of Friends of the Columbia Gorge.

19 In addition, SOSA requests that the Council allow oral argument regarding this matter.

20 The issues herein raise serious and precedential matters requiring comprehensive review by the  
21 Board with full opportunity for the parties to present their views.

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24 <sup>2</sup> The applicant's claims are reminiscent of Humpty Dumpty's rebukes of Alice in Lewis Carroll's Alice in  
25 Wonderland (1865):

"When I use a word," Humpty Dumpty said, in a rather scornful tone, "it means just what I choose it to  
mean - neither more or less."

"The questions is," said Alice, "whether you *can* make words mean so many different things."

"The question is," said Humpty Dumpty, "which is to be master - that's all."

1 **III. THE NOISE ANALYSIS IS DEFICIENT, BUT SHOW SIGNIFICANT IMPACTS**  
2 **OVER THE AMBIENT.**

3 WRE claims that its review of noise issues was consistent with EFSEC standards and  
4 should be approved. See Brief at pages 14-21. However, as shown in its Opening Brief (pages  
5 8-19), the perfunctory work of the applicant's noise witnesses did not follow standard protocols  
6 and is rife with errors. Indeed, Mr. Storm, the applicant's noise witness, has never been to the  
7 site. Tr. 390-91. Further, evaluation of what data is available indicates a significant increase in  
8 noise over ambient conditions, indicating that the project should be denied.

9 There also remain other serious problems with the credibility of the noise measurements.  
10 To begin with, the noise expert reviewed and modeled for a 1.8 MW turbine. The CADNA-A  
11 software used for the noise modeling "include the manufacturer's specified maximum power  
12 levels of the modeled turbine, . . ." Applicant's Brief at page 18. Tr. 383-84. However, it is  
13 clear that the proposal will use larger turbines. In fact, the visual analysis was done with a  
14 specific turbine, the 2.5 Clipper Liberty Model C93, with a 93 meter (305 foot) diameter blade,  
15 though the blade might be increased to 100 meters. See Exhibit 8.00 at page 7; see also  
16 Applicant's Brief at page 34. At the hearing, Mr. Spadaro said that a 2.0 MW turbine would be  
17 used, though his counsel carefully corrected this representation in the brief: "Whistling Ridge has  
18 since stipulated that it will construct no more than 38 2-plus MW turbines." Brief at 24  
19 (emphasis supplied). See Exhibit 8.00 at pages 7-8. However, the noise analysis was done with a  
20 1.8 MW turbine, which is referenced as "industry leading" and offering a "conservative" value.  
21 Application at 4.1-12. This unit had a blade with only a 60-70 meter length. Tr. 383. Since the  
22 concept was to model the worse case, it is clear that the noise analysis was done with the wrong  
23 turbine and certainly did not reflect the possible, if not likely, use of 2.5 MW turbines with a 100  
24 meter blade. The swept area of a 100 meter blade is twice the area of a 70 meter blade and  
25 bigger blades create more noise. Tr. 387. All of this depends on the turbine selected. Tr. 387.

The Applicant's brief extols the virtues of the computer models and software application  
("a leading industry tool," Brief at 15), but if the modeling does not start with the right turbine,

1 the rest of the exercise is useless. As the Applicant says, the noise analysis is “based on the  
2 manufacturers’ noise emissions data supplied by the vendor for the modeled turbine.” Brief at  
3 18; Tr. 382. But if the “modeled turbine” is different than the one that will actually be  
4 constructed, computer analysis cannot correct this deficiency. The old computer analogy  
5 applies: “garbage in, garbage out.” It seems simple enough for the noise analyst to be given the  
6 anticipated turbine model.

7 The noise analysis is considerably, and apparently deliberately, flawed, requiring further  
8 review. Using a smaller turbine that would be reasonably expected to be installed makes the  
9 noise work worthless. However, because it is admitted that there would be significant increases  
10 over ambient conditions, the project should be denied.

11 **IV. THE PRELIMINARY GEOTECHNICAL ANALYSIS IS INSUFFICIENT IN**  
12 **LIGHT OF THE ADJACENT LANDSLIDE HAZARDS.**

13 At pages 46-49 of its brief, WRE claims that it has adequately reviewed geotechnical  
14 issues and that there are no problems with its siting. In its opening brief at pages 2-5, SOSA  
15 addressed the numerous deficiencies in the reports, as well as the failure of the applicant to  
16 provide the “comprehensive geotechnical report” required by EFSEC regulations. This  
17 information anticipated WRE’s argument and will not be repeated here, though there are two  
18 further points that the Council should consider.

19 First, the mandate to protect landslide hazard areas is not a local invention of Skamania  
20 County, but is required by the Growth Management Act, RCW ch. 36.70A, where “geologically  
21 hazardous areas” are defined as follows:

22 (9) “Geologically hazardous areas” means areas that because of their susceptibility to  
23 erosion, sliding, earthquake, or other geological events, are not suited to the siting of  
24 commercial, residential, or industrial development consistent with public health or safety  
25 concerns.

(Emphasis supplied.) These “geologically hazardous areas” are one of the several “critical  
areas” defined under the GMA:

1 (5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas  
2 with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife  
3 habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous  
4 areas.

5 RCW 36.70A.030. GMA makes clear that critical areas shall be protected from development:

6 (2) Each county and city shall adopt development regulations that protect critical areas  
7 that are required to be designated under RCW 36.70A.170. For counties and cities that  
8 are required or choose to plan under RCW 36.70A.040, such development regulations  
9 shall be adopted on or before September 1, 1991. For the remainder of the counties and  
10 cities, such development regulations shall be adopted on or before March 1, 1992.

11 West's RCWA 36.70A.060. As noted, the statute applies to all Washington counties, including  
12 Skamania.

13 Nor was the wind turbine foundation to be placed near, or on, the steep slope a delicate  
14 item. The plan is for a solid block of concrete 30 feet deep (Preliminary Geotechnical Report at  
15 1-1) and sixty feet in diameter (Application at 2.3-3).<sup>3</sup> In addition, there are plans to place "rock  
16 anchors" down from the base of the foundation to provide more stability. See Preliminary  
17 Geotechnical Report at page 5-2 to 5-5. All of this is to occur at the A1-A7 String on the narrow  
18 ridge line not much wider than the 60 foot base of a wind turbine foundation. See Figure D-1 to  
19 Preliminary Geotechnical Report in the Application.

20 In the present case, the analysis done by the applicant is inconsistent with the statutory  
21 mandate, as well as EFSEC regulations. The applicant's work was preliminary and perfunctory.  
22 The map comparing locations of the proposed turbines to the landslide hazard areas (LHAs) for  
23 the A1-A7 String shows them to be in or right at the edge of (or in) the LHA, though the map  
24 provided (Figure D1, at the end of the Preliminary Geotechnical Report) is at such a large scale  
25 (one inch = about 1200 feet), accurate measurements are not possible. Tr. 1106-07.

Second, there is no question that the preliminary geotechnical work did not use a turbine  
that is consistent with the actual development plans.

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<sup>3</sup> Mr. Meier, the geologist was not given the design parameters for the newly announced 2.0 MW turbines. Tr. 1098.  
He also did not know what the diameter of the foundation would be. Tr. 1103.

1 As noted above, the noise consultant, Mr. Storm used a completely different turbine (1.8  
2 MW) than that found in the visual analysis (2.5 MW) or than the one stipulated by Mr. Spadaro  
3 (“2-plus MW”). To keep to the spirit of *vive la différence*, Mr. Meier’s geotechnical analysis  
4 modeled an “80 meter high GE 1.5 WTG.” Geotechnical Report at page 1-1.<sup>4</sup> Again, why the  
5 geotechnical work was done with a different turbine is not clear, especially where Ms. Chaney  
6 said she coordinated all the testimony of the various witnesses, all of whom worked for URS.  
7 See Exhibit 2.00. Indeed that witness, Ms. Chaney, stated in her direct testimony that:

8 Q: Did you prepare the Application as a whole, Section 4.2.1 (Land Use), and those  
9 identified appendices, or, if not, did you direct and/or supervise the preparation of the  
10 Application as a whole, Section 4.2.1 (Land Use), and those identified appendices?

11 A: Yes.

12 Exhibit 2.00 at 3 and Tr. 196. She says that she directed the consultants to review the “worse  
13 case”:

14 So in each case for each element of the environment we kind of looked at the worst case.  
15 So if you had more turbines but using the higher heights, we used the higher heights and  
16 50 turbines, and for each element in the environment we tried to find what would be the  
17 maximum noise, what would be the maximum size in order to have a full range of  
18 impacts.

19 Tr. 200. When asked about the directions to Mr. Meier, the geologist she said:

20 Q. Did you advise him to prepare his work on the geologic impacts and foundations  
21 based upon a 1.5-megawatt turbine?

22 A. Each of the technical specialists in this project were given the project description  
23 which again is the range, and we’re asked to consider what would be the maximum case  
24 or the worst case for the purpose of their analysis.

25 Q. Did you recall what you told Mr. Meier to model?

A. Mr. Meier was given the same information that all the technical people were which I  
just described to you.

Tr. 200. Though she was the manager of the expert witness presentations, she did not learn of  
the change to 2.0 MW turbines until the beginning of the hearing, and she heard it first in the  
hearing room. Tr. 202.

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<sup>4</sup> Mr. Meier has only been on the site once, in October, 2007. Tr. 509-10.

1 In sum, this portion of the applicant's submittal is flawed by the failure to conduct  
2 investigations consistent with the risk posed by the landslide hazard areas and by use of the  
3 wrong turbine size. These considerations require the denial of the project.

4 **V. NEED AND VALUE OF THE PROJECT ARE CRITICAL COMPONENTS OF**  
5 **THE COUNCIL'S MANDATE TO BALANCE PROJECT VALUE AND THE**  
6 **PUBLIC INTEREST.**

7 At pages 50 to 58 of its brief, the applicant claims that the Council cannot consider the  
8 need for the proposal but if it does, then there is considerable value to the project. In responding  
9 to these claims, SOSA first addresses the legal issues raised by the applicant, i.e. whether value  
10 and need are relevant factors for consideration by the council. Second, SOSA replies to the  
11 claim of the applicant that its project does have merit and value.

12 **A. EFSEC IS LEGALLY REQUIRED TO CONSIDER VALUE AND NEED AS A**  
13 **PART OF ITS STATUTORY AND REGULATORY MANDATE.**

14 The Council must consider whether this project at this location is necessary to meet the  
15 state's energy needs, and whether this project would supply abundant energy at reasonable cost.

16 The Council's overarching task in this adjudication is to balance the Project's  
17 environmental impacts against any benefits the Project might provide. See SOSA Principal Brief  
18 on Adjudication at 19-24; Friends Brief at 4-5 (citing RCW 80.50.010; WAC 463-14-020;  
19 Council Order No. 843 (Nov. 16, 2009)). The Council refers to this task as its "comprehensive  
20 mandate." Council Order No. 843 at 8. The comprehensive mandate requires the Council "[t]o  
21 preserve and protect the quality of the environment; to enhance the public's opportunity to enjoy  
22 the esthetic and recreational benefits of the air, water and land resources; to promote air  
23 cleanliness; and to pursue beneficial changes in the environment"; to "balance the increasing  
24 demands for energy facility location and operation in conjunction with the broad interests of the  
25 public"; and to ensure that energy projects will "provide abundant energy at reasonable cost."  
RCW 80.50.010.

1 The applicant incorrectly asserts that "project 'need' is *not* a relevant consideration in any  
2 EFSEC proceeding." Applicant's Brief at 51. In support of this proposition, the applicant cites  
3 only WAC 463-60-021, which reads as follows:

4 WAC 463-60-021. Council recognizes pressing need for energy facilities. RCW  
5 80.50.010 requires the council to "recognize the pressing need for increased energy  
6 facilities." For that reason, applications for site certification need not demonstrate a need  
for the energy facility.

7 Under the plain language of this rule, the application need not address the issue of project need.  
8 But this does not mean the issues of energy need and abundance are irrelevant to the Council's  
9 decision-making.

10 In fact, during the Council's 2004 rulemaking process that led to the adoption of WAC  
11 463-60-021, the Council also considered adopting the following alternative language instead:

12 In deciding whether to grant an application for site certification, and if so, upon what  
13 conditions, the Council shall exclude consideration of whether, when or by whom project  
power may be needed.<sup>5</sup>

14 The Council rejected this language, which would have expressly made the issue of need  
15 irrelevant, and instead adopted the language that became WAC 463-60-021. Concise  
16 Explanatory Statement of WAC 463, Energy Facility Site Evaluation Council Operational Rules  
17 and Energy Facility Construction and Operation Standards (Oct. 11, 2004) at 35-36 ("2004  
18 CES"). The legislative history helps illuminate the reasoning behind the Council's decision:

19 The council also discussed how to address the issue if "need" is not included in an  
20 application. Should the council hear arguments on an issue that is not brought up by the  
21 applicant? Likewise, the question was raised about what the council should do if other  
22 parties wanted to discuss need. Could they bring it up as an issue and would the council  
allow discussion on that topic?

23 The council tentatively agreed that if need were raised by the applicant, other parties  
24 could present testimony on that point. Also, if an application did not raise the question of  
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<sup>5</sup> Krogh & Leonard Report to Jim Luce, Chair, Washington Energy Facility Site Evaluation Council, Regarding  
EFSEC Standards Development, at Exhibit C(11)(a) (Sep. 19, 2002).

1 need, and another party wanted to make it an issue, the council should consider its  
2 applicability based on weight if testimony were presented.

3 *Id.* at 35-36.<sup>6</sup>

4 Later in the rulemaking process, the Council reiterated that applications for site  
5 certification are not required to address the issue of need, but that does not mean that the issue of  
6 need is irrelevant:

7 In the end, the council opted not to propose a need standard and revised [WAC 463-14-  
8 020] to clearly reference RCW 80.50.010. In doing so, the council recognized that an  
9 applicant may wish to discuss need in its application for an energy facility and that this  
10 may result in need becoming an issue during the adjudication portion of the siting  
11 process.

12 2004 CES at 93.

13 In recent years, the Council has reiterated that the State's need for energy, and the  
14 applicant's ability to meet that need, are relevant issues for the Council's deliberation. For  
15 example, in the Desert Claim adjudication, the Council specifically explained that "[c]onsistent  
16 with legislative intent, the Council *must consider* whether an energy facility *at a particular site*  
17 *will produce a net benefit* after balancing the legislative directive to provide for abundant energy  
18 at a reasonable cost with the impact to the environment and the broad interests of the public."  
19 Order No. 843 (November, 2009) at 23 (emphasis added). Approving that project, the Council  
20 explained:

21 The Council has *carefully considered the state's need for energy at reasonable cost* and  
22 the need to minimize environmental impacts. The Council *determines* that this facility  
23 *will provide the region with significant energy benefits* while not resulting in unmitigated,  
24 significant adverse environmental impacts. Thus, the proposed Project meets the  
25 requirements of applicable law and is consistent with the policy and intent of RCW  
26 80.50.

27 *Id.* at 2 (emphasis added and footnote omitted).

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28 <sup>6</sup> The quoted material comes from the summary of the Council's discussion at its May 3, 2004 rulemaking hearing.  
29 At its next meeting on May 17, 2004, the Council "agreed" to add a new rule "recogniz[ing] the need for energy and  
30 the fact that an applicant need not address that topic in its application"-in other words, the language that became  
31 WAC 463-60-021. 2004 CES at 36.

1           Moreover, while any party may address the issue of need, the applicant here chose to  
2 aggressively raise the issue itself. Beginning on the very first page of the application, WRE  
3 asserts that there is a pressing need for energy development in the region (and specifically for  
4 wind power), and that this Project would supply affordable energy to meet that demand: "The  
5 Whistling Ridge Energy Project is designed to provide low-cost renewable electric energy to  
6 meet the growing needs of the Pacific Northwest." Application at I-1.

7           Over and over, the applicant repeats statements along these lines in the Application. For  
8 example, the Application cites various studies and other authorities in an attempt to demonstrate  
9 and quantify a "growing regional demand for renewable, wind-generated electricity." *Id.* at 2.19-  
10 1-2.19-2. Indeed, the applicant addresses the same Northwest Power and Conservation Council's  
11 forecasts that are the subject of Professor Michaels' testimony (Exhibit 30.00 at pages 16-19).  
12 Further, the applicant refers to the 6<sup>th</sup> Electric Power plan at page 2.19-1 of the Application,  
13 which plan is extensively cited and included, in part, as Professor Michaels' Exhibit 30.04.

14           The Application discusses the Project site's "proximity to the Vancouver/Portland  
15 metropolitan areas" and its "capability of delivering cost-effective renewable energy to these  
16 growing communities." *Id.* at I-1; *see also id.* at I-2 (referring to the site's proximity to an "urban  
17 load"). In its discussion of the no-action alternative, the applicant discusses how to meet the  
18 "region's need for power" and "[b]ase load demand" -- as well as how Washington's electrical  
19 utilities would be affected -- if the proposed Project is not built. *Id.* at 2.19-6. And the  
20 Application repeatedly discusses the quality of the wind resource at the site (i.e., the ability of  
21 the site to supply abundant energy to meet demand). *See, e.g., id.* at I-2 (referring to the site as  
22 "one of the premier as-yet undeveloped wind power sites in the Pacific Northwest"), 2.1-6  
23 (relying on public wind speed maps to argue that the proposed project site has an "outstanding"  
24 wind resource.), 2.19-2 (asserting that "no additional sites were considered" in part because the  
25 proposed site is "optimally suited for the production of wind energy").

1 At page 2.19-1 of the application, WRE asserts that there is a “growing medium and  
2 long-term demand for power.” Thus the applicant says several “regional utilities are seeking to  
3 acquire new generating resources to meet their loads,” including Puget Sound Energy (PSE).  
4 Application at 2.19-1. They say utilities like PSE have issued “Requests for Proposals  
5 specifically for wind/power and/or other renewable resources.” *Id.* While this may be true, Mr.  
6 Spadaro admitted that PSE has no interest in the WR project. Tr. at 92.

7 The person that offered all of this information was Mr. Spadaro, who was never qualified  
8 as an expert in wind energy matters; his only qualification is that he is the President of SDS  
9 Lumber, an owner of a portion of the WR site. See Exhibit 1.00 at page 2. He claims no  
10 experience in energy matters.

11 In short, the applicant makes these extensive representations in the record to promote its  
12 proposal, but does not want anyone to question it.

13 Of course, need and abundance are not to be decided solely on the hypothetical musings  
14 of the applicant. Instead, the Council has made it clear that need and abundance are issues of fact  
15 for the Council to adjudicate. Order No. 843 at 24 (concluding that "the evidence in the record  
16 supports the conclusion that the region needs to continue to add electrical generation capacity")  
17 (emphasis added); *see also* Council Order No. 814 at 36 (May 25, 2005) (same).

18 In the end, no one summarizes EFSEC’s statutory and regulatory responsibilities better  
19 than EFSEC itself; on its home page, the Council says:

20 The Council was created in 1970 to provide "one stop" licensing for large energy  
21 projects. By establishing the Council, the State Legislature centralized the  
22 evaluation and oversight of large energy facilities in a single location within state  
23 government. The Legislature called for "balancing" demand for new energy  
24 facilities with the broad interests of the public. As part of the balancing process,  
protection of environmental quality, safety of energy facilities, and concern for  
energy availability are all to be taken into account by the Council.

25 (Emphasis supplied).

1 In the instant adjudication, by receiving into evidence all of the testimony and evidence  
2 relating to energy need and abundance (over the applicant's objections), the Council has  
3 acknowledged that these issues are relevant. *See, e.g.*, Dec. 21, 2010 Tr. at 65:6-8 (denying  
4 applicant's motion to strike testimony and exhibits relating to energy need and abundance and  
5 receiving this material into evidence); Posthearing Order No. 19 at 1 (Mar. 4, 2011) (same). The  
6 Council should reject the applicant's attempts to relitigate this issue.

7 In conclusion, the applicant's broad assertions that the Council is no longer required to  
8 consider need and abundance of energy in making its balancing determination are in direct  
9 conflict with the applicable rule, its legislative history, and the Council's past and current  
10 practices. The Council should reject the applicant's apparent position that only the applicant is  
11 allowed to address the issues of need and abundance.

12 B. THE PROJECT HAS LITTLE MERIT AND VALUE.

13 The applicant claims its project will have substantial value for Washington consumers  
14 and meet "growing regional needs." See the discussion in the foregoing section. However, other  
15 than vague claims, the applicant does not make its case.

16 Professor Michaels has fully and completely addressed these points and concluded that  
17 wind has little or no value to utilities seeking to efficiently serve their peak loads and that as  
18 much as 85% of load growth can be served by conservation and efficient use of energy. Exhibit  
19 30.00 at 30. Further he concludes that Washington State already has sufficient operating, under  
20 construction or approved wind projects to meet the requirements of I-937 for 2020.

21 The basic response of the applicant is name calling; saying that portions of Professor  
22 Michaels testimony are "fabrications" and claiming that he is "ignorant." Brief at 52. The long  
23 experience of Professor Michaels in the utility industry, across the nation, including a PhD in  
24 Economics and a résumé with six pages of publications in scholarly journals, six pages of recent  
25 appearances and a 33-year distinguished professorship demonstrate that Professor Michaels  
knows what he is talking about. See Exhibit 30.01, his résumé.

1 The best the applicant can muster to dispute Professor Michaels' data and conclusions is  
2 witness Cameron Yourkowski, who is 33 years old and has been working in renewable energy  
3 development since just 2007. Exhibit 18.01r. Mr. Yourkowski has a BA degree from the  
4 University of Montana. *Id.* Though his résumé claims an MS from Portland State University in  
5 Economics, on cross examination he admitted he does not have a Masters degree, though he has  
6 been working on one since 2006. Tr. 1210. He has not written a single publication on  
7 economics, power supply or anything else. Tr. 1240.

8 Mr. Yourkowski did make some claims about the proposal, but did not know any of the  
9 basics about it, including the amount of power it would produce. Tr. 1212. Though he claims that  
10 the WR project will help meet Washington RPS standards, he does not know how Washington  
11 utilities are doing in their efforts to meet I-937 standards. Tr. 1215. His principal claim is that  
12 renewable energy has “broad public support” but that proposition is supported only by the  
13 passage of I-937, which was by a close vote. Tr. 1214-15.<sup>7</sup> Curiously, Mr. Yourkowski did not  
14 suggest that the WR project be approved because wind energy had such support. Tr. 1212. He  
15 certainly did not know if there was broad public support for using Washington scenic landscapes  
16 and resources to produce power for sale to California utilities so they don't have to use local  
17 resources to meet their own RPS requirements. Tr. 1214-15.

18 He claims that wind projects will displace thermal resources, but admits in his testimony  
19 that new wind projects will have to supply their own balancing resources, which will likely be by  
20 fossil-fuel burning natural gas plants. Tr. 1221-23. Though he claimed that geographic diversity  
21 is a benefit for wind projects, he could not explain what the benefits are of such diversity or why  
22 all wind plants often shut down at the same time. Tr. 1227-28. Though he claimed diversity of  
23 wind regimes between Kittitas and Columbia/Garfield counties, he didn't even know where  
24 Columbia and Garfield counties were. Tr. 1228. The applicant also cites testimony from

25 \_\_\_\_\_  
<sup>7</sup> Witness Hardy makes the same arguments in his testimony, but again falls short of saying this Council should approve the project on that basis. Exhibit 16.00r.

1 witnesses from the state energy office, who also talk about public support for the project.  
2 Applicant's Brief at 56.

3 But the Council will notice that none of the facts laid out by Professor Michaels, and  
4 none of the core conclusions, are disputed. Rather, an inexperienced witness simply claims that  
5 Professor Michaels ought to like the WR proposal because wind energy has public support!

6 As to specifics, Mr. Usibelli says that I-937 requires the use of renewable energy, but  
7 fails to mention there is already enough wind energy operating, under construction or approved  
8 to meet I-937 standards. See SOSA Opening Brief at 41-42.

9 Though the Applicant's brief relies on witness Randy Hardy's testimony at page 52 of its  
10 brief, Mr. Hardy actually agrees with the assessments of Professor Michaels that the WR  
11 proposal is not justified by the need for power in the state of Washington or the Pacific  
12 Northwest. In a significant concession, Mr. Hardy states at Exhibit 16.00r, page 5:

13 The need for WREP, and other Northwest wind projects, is not driven by traditional need  
14 for power considerations but instead by state RPS requirements.

15 Thus even Mr. Hardy cannot dispute the now uncontested evidence that the Northwest has a glut  
16 of power. Rather he says that the Council should instead look at the need question based on RPS  
17 standards. He admits that:

18 Given the policy drivers behind state RPS requirements, it should be obvious that wind  
19 projects are primarily competing against each other and other renewable resources

20 Exhibit 16.00r at page 7 (Emphasis in original). But, as noted above, and admitted by Mr.  
21 Usibelli, the state already has sufficient wind power to meet the 2020 I-937 RPS standards.

22 Mr. Hardy also does not dispute that balancing wind and other resources is now a serious  
23 problem, but says BPA is busy coming up with solutions. Exhibit 16.00r at 8-11. However, he  
24 does not say how much these measures will help the imbalance. Ironically, many of his solutions  
25 involve other forms of electric generation, either burning natural gas (a fossil fuel) in a  
"combined cycle combustion turbine" or CCCT (page 7 or his testimony) or reverting back to

1 relying on such operations as the “Trans Alta Centralia plant” (page 9) which in fact burns coal  
2 (another fossil fuel). He does not, and surely cannot, explain how relying on the coal burning  
3 Centralia Plant for balancing wind projects will: “Displace older, dirtier thermal resources both  
4 in the PNW and California.” Page 5 of his testimony.

5 Finally, Mr. Hardy claims that: “However, it is equally likely that WREP will serve loads  
6 in the PNW. This is because most PNW utilities have yet to meet their 2015 (for Oregon) or  
7 2016 (for Washington) RPS milestones.” Testimony at 12. This statement comes without any  
8 back up or analysis. But Professor Michaels carefully and thoroughly reviews the RPS  
9 requirements for both Washington and Oregon at pages 20-25 of his rebuttal testimony in Exhibit  
10 30.19r and in associated documentation from affected utilities at Exhibits 30.21-30.24. After this  
11 analysis Professor Michaels sums up:

12 I conclude that the area already has abundant and growing wind capacity, and that current  
13 and projected amounts more than suffice for RPS compliance over a time horizon of five  
14 years, and possibly ten.

14 Exhibit 30.19r at 24.

15 Nor does the applicant offer in its evidence or briefing information regarding basic  
16 EFSEC requirements. One of the core issues of the EFSLA and EFSEC regulations is whether  
17 the project will provide “abundant energy at reasonable cost.” See RCW 80.50.010. This  
18 requirement is reflected in this council’s regulations at WAC 463-14-020(3):

19 In acting upon any application for certification, the council action will be based on the  
20 policies and premises set forth in RCW 80.50.010 including, but not limited to: . . .  
21 (3) Providing abundant power at reasonable cost.

22 (Emphasis supplied.) The statute and regulation make clear that this Council must determine  
23 whether the project will provide consumers with energy “at reasonable cost.” However, WRE  
24 has not supplied any information that suggests the potential output of the WR project will be  
25 provided to consumers “at reasonable cost.”

1 The applicant claims that the proposal cost will be “over \$150 million, which includes the  
2 wind turbines and associated equipment.” Application at 2.3-12. As discussed previously, is this  
3 for 50 turbines, 38 turbines or some other number? Is this for 1.5, 1.8, 2.0 or 2.5 MW turbines?  
4 In truth, this cost estimate appears to be nothing more than a guess because Mr. Spadaro, the  
5 person responsible for this estimate, said he does not have quotes for any type of wind turbine:

6 Q. So what's the difference between a two-megawatt turbine, what's the difference in  
7 price between a 2-megawatt and a 2.5-megawatt turbine?

8 A. It varies by vendor. We have not sought quotes yet on turbines that are 2.5 megawatts  
in size nor have we sought quotes yet on machines that are smaller than that.

9 Tr. 77. When asked the difference between the 50 turbine and 38 turbine proposals, Mr. Spadaro  
10 again said he could not give a figure because he had not even sought quotes for the cost of  
11 turbines. Tr. 191. In addition, the project requires the construction of a substation as a necessary  
12 element. Application at I-5. However, the cost estimates above do not appear to include the cost  
13 of the substation, though BPA has provided WRE with an estimate of cost for it. Tr. 80.

14 However, when asked the applicant has refused to disclose this cost, claiming that:

15 The components of our cost are proprietary to our project. I do not wish to release any  
16 information about, specific information about the cost of our project, the capacity factor  
of our project, or any other specific details of that nature.

17 Tr. 81. With the WRE refusal to share information, the disclosure of cost of the project is wholly  
18 incomplete. The Council certainly cannot determine if the project provides power at a  
19 “reasonable cost” if it does not even have an estimate of the cost of the project.

20 The testimony of Mr. Spadaro, however, does make clear that “reasonable cost” to  
21 consumers is not WRE's concern. Rather, the applicant makes it clear that the WR power will  
22 “go to the highest available market.” Tr. 122.

23 The applicant claims benefits of reduced dependence on fossil fuel in saying that: “Wind  
24 energy is most often displacing the carbon dioxide and associated emissions from gas fired  
25 power plants and, increasingly, coal fired plants.” See applicant’s brief at footnote 45 at pages  
55-56. However the applicant’s witnesses admit wind power is creating the need for fossil-fuel

1 burning gas turbine plants to meet balancing needs. Yourkowski testimony at Tr. 1212;  
2 Commerce Witness Schwartz at Tr. 1032; see also SOSA Opening Brief at 47-48. The claim is  
3 long on rhetoric, but short on facts: which plants will be displaced in the Pacific Northwest? In  
4 fact the Boardman coal plant is shutting down already. Schwartz testimony at Tr. 1062. Indeed,  
5 Mr. Schwartz could not say wind power was causing the demise of Boardman:

6 Q. Only in California. Okay. You were asked about the Boardman situation. Is wind  
7 energy going to replace Boardman?

8 A. (Witness indicates with his hands.) I don't know what's planned.

9 Q. Boardman is a base load coal plant, is it not?

10 A. Yes.

11 Q. But wind energy doesn't -- that doesn't provide base load resources; is that correct?

12 A. Right.

13 Tr. 1066. In fact, the Centralia fossil fuel burning coal plant is providing balancing resources for  
14 wind energy projects. Tr. 1221-22. Mr. Hardy concurs with this proposition at Exhibit 16.00r at  
15 page 9 of his testimony. Rather than resulting in "reduced dependence on fossil fuels" as the  
16 applicant claims, new wind energy is resulting in increased dependence on greenhouse-gas-  
17 emitting projects.

18 All this might be useful if there was a need for new generation, but Commerce witness  
19 Schwartz admits that, in the Northwest: "we'll have more power than we need for sometime;"  
20 the "sometime" probably being longer than ten years. Tr. 1043-44.

21 The applicant also claims that the project will create jobs and help Skamania County  
22 PUD. See applicant's brief at pages 56-57. Both of these issues were discussed in SOSA's  
23 opening brief (pages 24-33) and will not be repeated here, except for two short comments. First,  
24 if job creation is the goal, then emphasis should be placed on employment in the area of energy  
25 conservation and efficiency, which creates significant permanent employment. Tr. 1293-94. The  
WR project will provide only "eight to nine permanent full-time and/or part-time employees on  
the Operations and Maintenance Staff." Application at 2.13-3. Second, Skamania County PUD

1 is a preference customer of BPA, which supplies the PUD's power. Concerns about reliability of  
2 the system and back-up power should be directed to BPA, not this Council.

3 C. SUMMARY.

4 The Applicant wants to have his cake and eat it too. WRE's Application claims that:  
5 "Washington and the Northwest region face a growing medium and long-term demand for  
6 power." Application at 2.19-1. Further they claim there will be a "5000 MW deficit by 2025" of  
7 Northwest demand. Application at I-2. WRE further claims that its property is "one of the  
8 premier as-yet undeveloped wind power sites in the Pacific Northwest." Application at I-2.  
9 However, when the intervenors dare to dispute these claims of need and merit of the project, the  
10 applicant stoutly contends that the intervenors' evidence should not be considered by this  
11 Council. However, the rule is clear that this Council balances the value of the project vs. the  
12 adverse impacts of a proposal on the environment and the public interest. The applicant's legal  
13 position is without merit and should be rejected.

14 On the merits, the applicant's claims of need and value quickly evaporate. Rather than  
15 deficits, the Northwest has a virtual glut of electricity with "generating capacity being developed  
16 in the Northwest far in advance of regional power demand." Exhibit 30.12 at page 1. Though I-  
17 937 creates renewable energy requirements in Washington, the needs out to 2020 (estimated at  
18 3600 MW of wind power) are in fact being met now with 4868 MW of operating, under  
19 construction or already approved wind projects. See Exhibit 30.08. Claims that wind power is  
20 replacing fossil fuel plants are without substance as there are no Northwest thermal plants  
21 closing because of wind power. In fact, additional fossil fuel resources are currently being used  
22 to balance new wind projects.

23 Questions of need and value were raised by the applicant and their resolution by the  
24 Council is appropriate. On the merits, the WR proposal lacks merit and value in the balancing  
25 equation with the serious adverse consequences of the project.

1 **VI. THE COUNSEL FOR THE ENVIRONMENT'S MITIGATION PROPOSAL IS**  
2 **JUST A FIRST STEP TO MITIGATE THE ADVERSE AESTHETIC AND**  
3 **ENVIRONMENTAL IMPACTS OF THE WR PROPOSAL.**

4 The Counsel for the Environment (CFE) has recommended that any approval of the WR  
5 proposal be contingent on the elimination of the A1-A7 Turbine String. Brief at 18. SOSA finds  
6 that this condition is only a start in the process of balancing the limited merit of this small project  
7 against the environmental harm it will create, thus SOSA continues its request that the entire  
8 proposal be denied.

9 Importantly, as the CFE points out, there is nothing in the record that supports the  
10 importance of the A1-A7 String to the overall project. Brief at 19. Though the applicant  
11 originally offered testimony of its wind generation expert Ron Nierenberg that might address  
12 these issues, his testimony was abruptly withdrawn. The only remaining evidence is  
13 unsubstantiated opinion by the project proponent. Indeed, there were no engineers, wind energy  
14 experts or meteorologists that testified on the value of any areas of the project, except Mr.  
15 Spadaro, who was never qualified as an expert in this area.

16 What is in the record is data from NREL and the NWSEED maps that show predicted  
17 wind values for the project. See Exhibit 24.09. This data clearly shows the A1-A7 String, and  
18 indeed, the whole "A" String, has a lesser value wind capacity than other areas of the proposal to  
19 the north. Accordingly, as a preliminary mitigation measure, elimination of this proposed string  
20 is logical and sensible given the circumstances.

21 Indeed, removing the entire "A" String is a preferable mitigation measure.

22 As to noise issues, the A1-A7 String is the one closest to impacted residences to the south  
23 and west. See Application at Figure 4.1-1. As shown in the noise section of this brief, the limited  
24 noise studies done to date show that the wind turbines will create significant noise increases over  
25 the ambient conditions. Elimination of the A1-A7 String would reduce noise impacts though  
removal of the entire "A" String would be far more effective.

1 The same is true with geologic issues. As described in Section IV of this brief, and  
2 Section IV of SOSA's opening brief, significant portions of the WR project are located adjacent  
3 to recognized landslide hazard areas (LHAs). This is true of all of the "A" String. For these  
4 turbine strings, there is a Class II LHA to the west. However the A1-A7 String has Class II  
5 LHAs on both sides. See Application, Revised Figure 2.15-1, "Landslide Hazard  
6 Classifications." Other turbines on the "A" and "B" Strings can be pulled back to avoid  
7 impacting the LHAs; indeed the Preliminary Geotechnical Report states that: " Exposure of the  
8 towers to headward erosion of the steep slope drainages can be minimized by providing  
9 maximum possible setbacks from the tops of the steep slopes . . ." (Emphasis supplied.) However  
10 that option does not exist for the A1-A7 String because it is located on a very narrow ridge with  
11 little room to provide meaningful setbacks, especially where the turbines require a 60 foot  
12 diameter concrete foundation. *Id.* Thus the removal of the A1-A7 String also provides mitigation  
13 for these evident landslide hazards.

14 As the CFE points out, the A1-A7 Turbine String is also the most prominent feature from  
15 a visual standpoint. Brief at 17-18. Indeed the A1-A7 String is located right on top of Chewama  
16 Hill, a prominent landscape feature called out on topography maps. See Application, Figure 3.1-  
17 7, "Site Topography." This USGS Map also shows the steep sides of Chemawa Hill. As the  
18 Preliminary Geotechnical Report describes, the A1-A7 String is also located on a narrow ridge  
19 line with very steep slopes on both sides. Indeed, the applicant actually claims that the location  
20 on the narrow ridge lines is a "design feature" which has been incorporated into the project such  
21 that "some of the turbine corridors would be sited on ridgelines to minimize clearing while  
22 maximizing wind exposure." Application at 4.2-2. Indeed, the entire "A" String is located on  
23 the most visually prominent location in the area, described by Mr. Meier, the proposal geologist  
24 as follows:

25 The Project site is located on a series of north-trending ridges that range in elevation from  
approximately 2,100 to 2,300 feet above mean sea level (msl). The land west of the

1           proposed Project site drops sharply to a narrow river terrace and then to an elevation of  
2           less than 800 feet above msl in the Little White Salmon River valley.

3           Exhibit 3.00 at 7 (emphasis supplied). See also Figure 2 to the Preliminary Geotechnical Report  
4           in the application, which provides 100 foot contours. At night the turbines will be visible because  
5           the first turbine in the A1-A7 String and the last, as well as other turbines at 1000-1400 foot  
6           intervals in between, must have two navigational lights per the FAA. Application at 4.2-25.  
7           This data shows that the applicant has chosen to place 426-foot tall wind turbines -- the height of  
8           a 40 story building (Application at page I-4) -- on the top of a hill, which maximizes possible  
9           visual impact to the surroundings and literally displays them for miles around.

10           Removal of the A1-A7 String will also place all turbines north of the North Bonneville to  
11           Midway 230-kV transmission line (the NBM Line), which is the southerly of the two BPA  
12           transmission corridors shown on Exhibit 1.11c.

13           The remainder of the "A" String lies between NBM Line and the northerly BPA  
14           transmission corridor called the Ostrander Line (Tr.115). See Exhibit 1.11c. The applicant has  
15           already stated that the "F" Line, also between those two transmission corridors, will be removed.  
16           Tr. 74. That leaves only six turbines in the A8-A13 line under the original 1.5 MW proposal,  
17           which would be reduced to 3 turbines depending on the turbine size.

18           Nor does the removal of the entire "A" String impact the overall project objectives. The  
19           applicant has stated from the beginning that it might employ turbines larger than the 1.5 MW  
20           size that was originally presented. See Application at page I-1. In a surprise announcement on  
21           the first day of the hearing Mr. Spadaro, the applicant's spokesman, suddenly stated that this  
22           apparently protean proposal would now use 2.0 MW turbines instead of the 1.5 MW variety. See  
23           Tr. 73-74. When asked about the use of larger turbines, Mr. Spadaro largely deferred and  
24           delayed, saying that a decision on the final turbine size had not yet been made. Tr. 73-74. Mr.  
25           Spadaro also stated that because of the use of larger turbines, the project could eliminate several  
          turbines so that the total would now be 38 instead of 50. Indeed Mr. Spadaro admitted:

1 When we proposed and prepared the application 1.5-megawatt turbines were  
2 commonplace in wind energy development. Turbines range from 1.5 to 2.5 today. 1.5 and  
3 1.8 are still common. They're becoming less common. Two megawatt and larger  
4 machines are becoming more common.

5 Tr. 73. Of course, if the WR site is really "one of the premier as-yet undeveloped wind power  
6 sites in the Pacific Northwest" and "the winds that traverse the site are robust" as the applicant  
7 claims at page I-3 of the Application, there appear to be no constraints to the use of much larger  
8 turbines.

9 In fact, the brief of the applicant (p.34) specifies the actual 2.5 MW turbine that could be  
10 used on site. The referenced turbine, a "2.5 MW Clipper Liberty Model C93" (Exhibit 8.00 at  
11 page 7), has a maximum height of 415 feet. The specifications of the C93 are:

12 This model has an overall height to nacelle of 80 m (262 feet) and blade diameter of 93 m  
13 (305 feet), and a blade length of 45.2 m (153 feet). The overall height to the tip of a  
14 stationary, vertical blade is 126.5 m (415 feet). The actual turbine size has not been  
15 determined, but potential turbines are estimated to have a height to nacelle of 262 feet  
16 and blade length between 129 and 164 feet.

17 Exhibit 8.00 at page 7. Thus even if a 100 meter blade was chosen, it would not exceed the  
18 overall height specified by the applicant of 426 feet. Tr. 176. See also description of the GE 2.5  
19 MW turbine, with 100 meter blades, at Exhibit 1.18c.

20 Moreover, if the five turbines to be located on the previous A1-A7 String were removed,  
21 and the likely three turbines on the previous A8-A13 String were also removed, the proposal still  
22 has 30 turbines. If 2.5 MW turbines were employed, then the 30 turbines would yield 75 MW.

23 The applicant has not stated that 2.5 MW turbines would not be suitable for the site. Rather, the  
24 Applicant stated a reluctance to be required to commit to such turbines:

25 Q. Would it be possible in these arrangements to go with a turbine that would be greater  
than two megawatts?

A. That as I mentioned earlier there are commercial effects to the project of limiting the  
turbine supply to specific type of turbine, and we cannot accept that kind of limitation on  
the commercial viability of the project.

Q. And why is that?

A. There are only a few turbine supply vendors who offer 2.5 megawatt machines. We  
need the flexibility to have a commercially viable and competitive site. We are willing

1 to offer and accept two megawatt and larger machines, but we cannot accept any great  
restrictions beyond that.

2 Tr. 76. Mr. Spadaro does not give any technical or engineering reasons why the 2.5 MW turbine  
3 could not be employed on this site. As to the commercial availability of a 2.5 MW turbine, the  
4 record shows that General Electric also offers this equipment (Exhibit 1.18c) and Clipper Liberty  
5 also makes the 2.5 MW turbine as described above. Indeed, as is admitted in applicant's Exhibit  
6 8.00 at page 8:

7 This approach to creating simulations most likely overstates the visual impacts. This is  
8 because the Applicant has applied for EFSEC certification for a maximum of 75 MW. If  
9 2.5 MW turbines were to be used, only 30 turbines could be built, and overall visual  
impact would be less.

10 The 2.5 MW turbine described at Exhibit 1.18c also offers remote monitoring which may  
11 eliminate or reduce the need for a local operations building, which may be another remnant left  
12 over from the early specification of now outdated 1.5 MW turbines. See Exhibit 1.18c at page  
13 12.

14 The CFE also suggests that "micro-siting" may be utilized to further reduce impacts.  
15 Brief at 18-19. This suggestion has less merit than the elimination of specific turbine strings.  
16 While the applicant has indicated that it will "micro-site" individual turbines, that is principally  
17 to maximize output from these turbines, and has little to do with environmental mitigation. For  
18 example, the applicant made clear in his testimony that the beginning and ending points for the  
19 lower "A" String would remain the same even though the number of turbines may be decreased  
20 from seven to five. Tr. 74. Moving a turbine 100 or 200 feet will have no significant impact on  
21 visual or wildlife impacts. Since there is little room on the narrow ridge on Chemawa Hill where  
22 the A1-A7 String is proposed because of LHAs on either side, "micro-siting" is largely useless  
23 there. In general, micro-siting, as the name implies, does not deal with the overall impact of the  
24 project.

1 The record also does not contain any technical reasons why all turbines could not be  
2 located north of the BPA lines. During the hearing, Mr. Spadaro was asked about removing the  
3 turbines north of the BPA lines and he said:

4 There's no way we can get to that number by staying north of that line,  
5 that northern most pair of Bonneville lines.

6 Q. You know that because of your research?

7 A. No, because of the advice of our consultant Ron Nierenberg.

8 Q. So Nierenberg has told you that you can't put 2.5-megawatt turbines up there and  
9 make up your 75 megawatts that you require?

10 A. Mr. Nierenberg has not stated it as specifically as that because he has not been asked  
11 that specifically. He has using his professional judgment and expertise given us some  
12 alternatives for turbine layouts. Like I had stated earlier, I've asked him to look at  
13 alternative turbine layouts, and all of them in order to get to a 75-megawatt size project  
14 have required the use of the entire site.

15 Q. But Mr. Nierenberg's review of these alternative turbine sites and locations and sizes  
16 is not a part of the record here, is it?

17 A. No, it's not.

18 Tr. 116-17 (emphasis supplied). Thus it is clear from the testimony that Mr. Spadaro did not  
19 have testimonial knowledge on the issue; whatever he knew came from Mr. Nierenberg.

20 However, when SOSA asked what the content of Mr. Nierenberg's advice was, Mr. Spadaro  
21 objected:

22 Q. When did you ask him to do this?

23 A. We have continually throughout our process, but that is again our proprietary  
24 information. When we are looking at alternative turbine layouts and how to micro-site  
25 and use our site what turbine suppliers might be available to us that is all our confidential  
and proprietary data.

Tr. 117. The ALJ did not require that Mr. Spadaro answer the question. Tr. 118. Based on this  
exchange there is nothing in the record that would prevent the project from being pulled back  
north of the BPA lines. WRE cannot claim that this condition is not feasible, but then refuse to  
share information that would support this contention.

In addition, and as discussed above, this project is of little value in the overall Northwest  
power situation. There are already 9068 MW of operating, under construction or approved wind

1 power projects in Northwest (4868 MW in Washington alone). Exhibit 30.08. Given the glut of  
2 wind power, the addition of the whole WR project is of little significance.

3 In summary, the CFE's proposition to condition the proposal to remove the A1-A7 String  
4 is a small step to mitigate and balance between potential project value and environmental harm  
5 with the elimination of the whole "A" String as a superior proposal. Given the abstract nature of  
6 the project at this stage, with minimal investment in design or detail, the applicant can easily  
7 reconfigure its proposal to meet this condition or remove the whole "A" String, though by far the  
8 better result is denial of the whole WR project.  
9

## 10 **VII. CONCLUSION.**

11 In summary, the applicant has failed to demonstrate that the merit and value of its project,  
12 when balanced against its serious environmental and public interest impacts, supports approval  
13 of the project.

14 Even at this late date, the size, nature and extent of the project are still a mystery. The  
15 number of turbines, the type of turbines, their cost, their output and their location are largely  
16 unknown because of the calculated strategy of the applicant to keep things vague and indefinite.  
17 The strategy is understandable, but unacceptable under EFSEC statutory and regulatory  
18 mandates.  
19

20 Currently, the Northwest is developing generation well in advance of demand for  
21 electricity, a condition anticipated to last for years into the future. To the extent that loads are  
22 increasing, the 6<sup>th</sup> Northwest Power Plan indicates that conservation and energy efficiency will  
23 take care of 85% of such new load. Washington is meeting its renewable energy goals under I-  
24 937 for wind resources; wind resources which are operating, under construction or approved total  
25 some 4868 MW (Exhibit 30.08) while I-937 wind energy goals for 2020 only amount to 3600

1 MW. Adding more variable wind energy has, and continues to limit the ability to balance the  
2 energy grid, creating the anomaly that additional fossil fuel plants will be necessary for wind  
3 energy balancing.

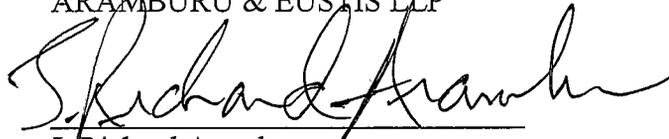
4 On the other hand, the adverse effects of the project are serious and substantial. Visual  
5 impacts over a broad area despoil a unique national treasure, the Columbia River Gorge, as  
6 described by Friends in their briefing. Impacts to bird and bat populations are also severe as the  
7 Friends brief also describes. Noise and geologic impacts are also palpable, the analysis of which  
8 is marred by inadequate and incomplete studies.

9  
10 The balance between the value of the project and its adverse consequences is in fact  
11 easily struck against the project. The CFE has recommended that the A1-A7 String be removed  
12 from the proposal, but a better result would be removal of the entire "A" String. These potential  
13 mitigation measures have merit from several standpoints, but the better result is outright denial  
14 of the entire proposal. The Council should so order.

15 Dated this 1st day of April, 2011.

16  
17 Respectfully submitted,

18 ARAMBURU & EUSTIS LLP

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20 J. Richard Aramburu

21 WSBA 466

22 Attorney for SAVE OUR SCENIC AREA

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BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of  
Application No. 2009-01

of

WHISTLING RIDGE ENERGY PROJECT  
LLC

for

WHISTLING RIDGE ENERGY PROJECT

DECLARATION OF SERVICE FOR  
SAVE OUR SCENIC AREA'S  
RESPONSIVE BRIEF ON  
ADJUDICATION

Carol Cohoe, over 18 years of age and competent to testify herein, declares as follows: I am an employee in the law offices of Aramburu & Eustis, LLP. I hereby certify that on the date below I served, by electronic mail and by placing copies in First-Class U.S. Mail, SAVE OUR SCENIC AREA'S RESPONSIVE BRIEF ON LAND USE CONSISTENCY upon each person designated on the current official service list in this proceeding (published 12-29-10, 33 parties listed). Filing was made by email and Fed Ex delivery.

I declare under the penalty of perjury under the laws of the State of Washington that the foregoing is true to the best of my knowledge and belief.

Dated in Seattle, Washington this 1<sup>st</sup> day of April, 2011.

ARAMBURU & EUSTIS LLP



Carol Cohoe