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5 BEFORE THE STATE OF WASHINGTON
6 ENERGY FACILITY SITE EVALUATION COUNCIL

7 In the Matter of Application No. 2009-01:
8 WHISTLING RIDGE ENERGY LLC;
9 WHISTLING RIDGE ENERGY PROJECT
10
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SKAMANIA COUNTY AND
KLICKITAT COUNTY PUBLIC
ECONOMIC DEVELOPMENT
AUTHORITY'S ADJUDICATIVE
RESPONSE BRIEF

12 I. INTRODUCTION

13 There is perhaps no county in Washington State which needs the Whistling Ridge Energy
14 Project more than Skamania County. And, there is no county better suited for this Project, which
15 is proposed by a local business, with strong roots within the community.¹

16 There are those who wish to "preserve" the private lands the project is proposed on.²
17 What such groups do not understand is that stopping the Project, or limiting it, is not equivalent
18 to preservation. The Project site is currently used for forestry; for logging.³ To the extent this
19 use constitutes the opponents' desired preservation, it must be understood that forestry has
20 economic vulnerabilities. Skamania County learned this lesson when spotted owl concerns
21 gutted the local forest industry, shuttering three of four lumber mills.⁴ What was not understood
22 then was that when land becomes less productive for forest and agriculture, it becomes
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24 ¹ Ex. 1 (Mr. Spadaro's Prefiled Testimony), pgs. 1-2; *see also* Amended ASC, Introduction, pgs. I-1 – I-2.

25 ² These include Friends of the Columbia Gorge, Inc. ("Friends"); Save Our Scenic Areas ("SOSA"); and Counsel
for the Environment.

26 ³ Amended ASC, Introduction, p. I-2 (site used for past century for commercial forestry).

⁴ Ex. 51.00r (Commissioner Pearce's Prefiled Rebuttal Testimony), pgs. 6:19-25 – 7:1-5.

1 vulnerable to sprawling, inefficient, land division and ensuing environmental impacts.⁵ By
2 adding value to the land, the Project supports the current forest use.

3 Whistling Ridge, with its minimal 54.25 acre permanent footprint⁶, supports the existing
4 forestry use, nurturing both the forest and community. Skamania County and Klickitat County
5 Public Economic Development Authority request approval.

6 II. ARGUMENT

7 A. Socio-Economic Benefits

8 Whistling Ridge will significantly increase local tax revenue and provide much needed
9 jobs to the County's residents. Opponents, largely from more prosperous urban areas,⁷ and
10 lacking an understanding of rural economics, discount these benefits. In fact, they go a step
11 further, and attempt to discredit the very real economic benefits the Project will provide to a
12 County struggling under the dual weights of the recession and pull-out of traditional industries.⁸

13 1. Property Tax Base – Could Double

14 While the project is only estimated to bring \$12,330 in sales tax revenue to the County,⁹
15 the truly significant benefit is the property tax revenue jump. The Project is estimated to add
16 \$472,000¹⁰ to \$1,000,000¹¹ in property tax revenue. This, in a county collecting only \$1.4
17 million through property taxes.¹² This one project alone could almost double the property tax
18 base. Even if sales tax revenue were zero, the increase in property taxes alone is a benefit.

22 ⁵ This is why the County was forced to enact the moratorium. Ex. 23.02 (Ordinance 2010-06).

23 ⁶ Amended ASC (Part 2, Table 2.1-1 and p. 2-10.5).

24 ⁷ Friends is based in Portland; Seattle Audubon is based in Seattle; CFE ostensibly represents the state, but is based
25 in Olympia.

26 ⁸ Save Our Scenic Area's Principal Brief on Adjudication, pgs. 28-30

⁹ Ex. 41.02 (Economic and Fiscal Benefits Memorandum), p. 8.

¹⁰ Ex 41.02 (Economic and Fiscal Benefits Memorandum), p. 8.

¹¹ TR (January 11, 2011 hearing), p. 1335:21-24.

¹² TR (January 11, 2011 hearing), pgs. 1335:21-24; 1357:12-15.

1 2. With 12.9% Unemployment, the Added Jobs Matter

2 Skamania County has a relatively small labor market. Given this context, the potential
3 positive impact from both temporary construction jobs and operational jobs cannot be overstated.
4 Not all 143 construction positions will be filled with Skamania County residents, but any
5 employment aids local workers, given County labor pool size. For example, a decrease of only
6 30 construction and mining positions led to a 27.3% decrease in employment in that field in
7 2010.¹³ Consequently, if any portion of the Project's labor is filled locally, there is a significant
8 impact on the economic well being of local families. And, even temporary jobs benefit the
9 County and its citizens.¹⁴ Not only does this allow unemployed workers to leave government
10 assistance, even if just for one year, it also provides the social and very personal benefits that
11 accrue from gainful employment.¹⁵

12 Similarly, the 14 permanent jobs created from Project operation¹⁶ will positively impact
13 the labor market. There are only roughly 2,000 nonfarm positions in Skamania County for the
14 5,000 person labor market.¹⁷ This lack of local jobs leads many workers to commute long
15 distances.¹⁸ Any increase in local positions which allows the residents to live and work in the
16 County's communities provides a benefit to the County, with residents spending more time in the
17 community and with their families, than in the automobile.

18 3. The County's Small Size Makes the Project that Much More Important

19 When considered in terms of population, Skamania County is small. It consisted of only
20 3,755 households in the 2000 census.¹⁹ Although this size creates challenges for the County, one
21 benefit is that even small projects can have big impacts. This is the case with Whistling Ridge,
22 as briefing from the County, Applicant, and Department of Commerce address. Only when

23 ¹³ Ex. 42.06 (Klickitat and Skamania County LAS), p. 5.

24 ¹⁴ Ex. 42.01r (Ms. Bryan-Miller's Prefiled Rebuttal Testimony), p. 4.

25 ¹⁵ Ex. 42.01r (Ms. Bryan-Miller's Prefiled Rebuttal Testimony), p. 4.

26 ¹⁶ Ex. 41.02 (Economic and Fiscal Benefits Memorandum), p. 7.

¹⁷ Ex. 42.06 (Klickitat and Skamania County LAS), p. 6.

¹⁸ Ex. 42.06 (Klickitat and Skamania County LAS), pgs. 5-6.

¹⁹ Ex. 42.03C (Quick Facts from US Census Bureau, Skamania County), p. 1.

1 County size is considered, coupled with the difficult financial times we are in, is the Project's
2 true significance fully appreciated.

3 4. Skamania County's Economic Situation

4 Opponents would prefer for EFSEC to not see economic conditions as they are. They
5 look to the 2000 and 2009 U.S. census figures to discount these realities.²⁰ Their analysis
6 ignores the economic decimation that occurred in Skamania in the decade following the spotted
7 owl endangered species listing. This listing destroyed the forestry industry in the County,
8 resulting in three-quarters of the mills shutting down²¹ and the loss of over 1,000 timber related
9 jobs.²² Some job gains started to occur in the past decade, but then the recession hit.
10 Consequently, with 12.9% unemployment,²³ the County has not recovered.

11 To understand the economic picture within the County, one must look to its center. The
12 county-wide averaging of economic statistics does not reveal the mid-County poverty levels.
13 That is where domestic violence rates are high.²⁴ That is where over half the children require
14 subsidized school lunches.²⁵ To address the violence of poverty and ensure these children have a
15 future, and their schools are not shuttered, economic development is key.

16 It is easy to ignore rural poverty. It is not seen from the vantage points of urbanized
17 areas. The children growing up in these areas become just a statistic, a census figure. The
18 County is doing what it can but is on a precipice, and needs EFSEC support. Understand, the
19 County is faced with the prospect of losing Federal funds from the Secure Rural Schools and
20 Forest Counties Act.²⁶ The loss of such funds would lead to decrease in services to the County's
21 residents, including the provision of a basic education, without which a child cannot thrive in
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23 ²⁰ Save Our Scenic Area's Principal Brief on Adjudication), pgs. 31-32.

24 ²¹ Ex. 51.00r (Commissioner Pearce's Prefiled Rebuttal Testimony), pgs. 6-7.

25 ²² Ex. 42.01r (Ms. Bryan-Miller's Prefiled Rebuttal Testimony), p. 7.

26 ²³ Ex. 51.00r (Commissioner Pearce's Prefiled Rebuttal Testimony), p. 8:1-2.

²⁴ TR (January 11, 2011 Hearing), p. 1357:16-21.

²⁵ TR (January 11, 2011 Hearing), pgs. 1357-58.

²⁶ Ex. 51.00r (Commissioner Pearce's Prefiled Rebuttal Testimony), pgs. 6-7.

1 today's economy.²⁷ The Project offers the County a way out. It provides an important
2 opportunity to have a new industry bring in jobs and allows the County a more secure tax base.²⁸

3 Skamania County is not the only rural county struggling economically. Opponent groups
4 insinuate that because Klickitat County fairs poorly on SOSA's selected matrix, Skamania
5 County does not face hard times.²⁹ There is no reason two counties cannot both be struggling.
6 And, they are. Both counties have been faced with a negative jobs growth at a rate higher than
7 the state average for the later half of 2010.³⁰ The difficult economic situation facing Klickitat
8 County does not in any way diminish Skamania County's challenges.

9 The Project offers the County a unique opportunity for private investment to improve the
10 County's economic situation. If the Project is not approved as proposed, this is an enormous
11 opportunity lost to Skamania County. Opponents suggest that disapproval means the investment
12 dollars go elsewhere, resulting in an economic "wash."³¹ Even assuming such reinvestment is in
13 fact realistic, the testimony ignores Skamania County's plight and the impact of driving
14 economic investment out of the County. Whistling Ridge gives the County a fighting chance for
15 survival in the midst of a long, difficult economic time. The Project is critical to recovery. This
16 is not a fact properly subject to question. Given the severity of the situation, on this basis alone,
17 EFSEC has full authority to approve Whistling Ridge as proposed.

18 **B. Aesthetics: "Setbacks on a Setback" Conflict with the Scenic Act**

19 The Project is completely outside of the Columbia River Gorge National Scenic Area.
20 The Act's regulatory structure is complete within its jurisdiction, and does not regulate activities
21 beyond its borders.³² This was a key component of the 1986 legislative compromise, as
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24 ²⁷ Ex. 51.00r (Commissioner Pearce's Prefiled Rebuttal Testimony), p. 7.

²⁸ Ex. 41.02 (Economic and Fiscal Benefits Memorandum), p. 2.

²⁹ Save Our Scenic Area's Principal Brief on Adjudication, p. 32.

³⁰ Ex. 42.06 (Klickitat and Skamania County LAS), pgs. 2, 5.

³¹ Ex. 30.19r (Dr. Michaels Prefiled Rebuttal Testimony), p. 5.

³² 16 USC § 544o(a)(10).

1 addressed in earlier briefing.³³ Any Project curtailment due to the fact it can be seen from the
2 Scenic Area is without basis. The urbanizing areas of Clark and Multnomah counties can be
3 seen from the Scenic Area, as can the stacks of the Camas Paper mill.³⁴ There is no basis for
4 prohibiting the paper mill or stopping urban redevelopment and renewal, just as there is no basis
5 for prohibiting any turbines on the 7% of the County's private land base available for such a
6 project. As the Act states:

7 **Nothing in this Act shall ... establish protective perimeters or buffer zones around**
8 **the scenic area or each special management area.** The fact that activities or uses
9 inconsistent with the management directives for the scenic area or special management
10 areas can be seen or heard from these areas shall not, of itself, preclude such activities or
11 uses up to the boundaries of the scenic area or special management areas.³⁵

12 Unlike any other jurisdiction in Washington, 93% of the county is protected by the Act or
13 through government ownership. Simply because turbines can be seen from two highways, one
14 not even in Washington State, and the Columbia River, provides no basis for setbacks or turbine
15 removal. As previously briefed, there is no basis in federal or state law supporting this outcome.

16 Just to be clear: opponents support turbine removal because they can be seen from two
17 state highways (one in Oregon; one in Washington) and the Columbia River. The Kittitas
18 turbines, the Stateline turbines, the Klickitat turbines, and the turbines in Oregon can all be seen
19 from state highways, many of the turbines from the very same highways as Whistling Ridge.
20 And, many turbines can be seen from the Columbia River. The River and highways are not used
21 to stop development. Indeed, these pathways are themselves commercial routes of trade. That is
22 what they are used for.

23 Further buffering based on these trade routes or the Scenic Area would be devastating for
24 the local economy.³⁶ Such a precedent would be leveraged by opponents of future development

25 ³³ Skamania County and Klickitat County Public Economic Development Authority Adjudication Brief, pgs. 5-7;
26 Ex. 51.00r (Commissioner Pearce's Prefiled Rebuttal Testimony), pgs. 3-5.

³⁴ Ex. Ex. 51.00r (Commissioner Pearce's Prefiled Rebuttal Testimony), p. 5.

³⁵ 16 USC §544o(a)(10), emphasis added.

³⁶ Ex. 51.00r (Commissioner Pearce's Prefiled Rebuttal Testimony), p. 4:4-9.

1 in Skamania County to create uncertainty to drive investment from Skamania County.³⁷ That is
2 the end objective. This litigation is about more than a wind project. It is about the economic
3 future of Skamania County.

4 **C. The Project Supports the Environment and the Economy**

5 EFSEC has the discretion to approve the Project as proposed. EFSEC reviews projects
6 with an eye to attaining the widest range of beneficial uses of the environment, and achieving a
7 balance to “permit high standards of living and a wide sharing of life’s amenities....”³⁸ While
8 EFSEC could approve the Project on its economic attributes alone, this Project achieves ALL the
9 objectives EFSEC considers during project review. Whistling Ridge supports local and state
10 social, environmental, and economic goals. Counsel for the Environment selectively cites from
11 SEPA to support a position which runs in direct opposition to these objectives. The full citation
12 at RCW 43.21C.020 is as follows:

13 (1) The legislature, recognizing that a human being depends on biological and physical
14 surroundings for food, shelter, and other needs, and for cultural enrichment as well; and
15 recognizing further the profound impact of a human being's activity on the interrelations
16 of all components of the natural environment, particularly the profound influences of
17 population growth, high-density urbanization, industrial expansion, resource utilization
18 and exploitation, and new and expanding technological advances and recognizing further
19 the critical importance of restoring and maintaining environmental quality to the overall
20 welfare and development of human beings, declares that it is the continuing policy of the
21 state of Washington, in cooperation with federal and local governments, and other
22 concerned public and private organizations, to use all practicable means and measures,
23 including financial and technical assistance, in a manner calculated to: **(a) Foster and
24 promote the general welfare; (b) create and maintain conditions under which
25 human beings and nature can exist in productive harmony; and (c) fulfill the social,
26 economic, and other requirements of present and future generations of Washington
citizens.**

(2) In order to carry out the policy set forth in this chapter, it is the continuing
responsibility of the state of Washington and all agencies of the state to use all
practicable means, consistent with other essential considerations of state policy, to
improve and coordinate plans, functions, programs, and resources to the end that the state
and its citizens may:

³⁷ Ex. 36.00r (Mr. Bauer’s Prefiled Rebuttal Testimony), p. 7.

³⁸ WAC 463-47-110(1)

- 1 (a) Fulfill the responsibilities of each generation as trustee of the environment for
2 succeeding generations;
3 (b) Assure for all people of Washington safe, healthful, productive, and aesthetically
4 and culturally pleasing surroundings;
5 (c) Attain the widest range of beneficial uses of the environment without degradation,
6 risk to health or safety, or other undesirable and unintended consequences;
7 (d) Preserve important historic, cultural, and natural aspects of our national heritage;
8 (e) Maintain, wherever possible, an environment which supports diversity and variety
9 of individual choice;
10 (f) Achieve a balance between population and resource use which will permit high
11 standards of living and a wide sharing of life's amenities; and
12 (g) Enhance the quality of renewable resources and approach the maximum attainable
13 recycling of depletable resources.

14 (3) The legislature recognizes that each person has a fundamental and inalienable right to
15 a healthful environment and that each person has a responsibility to contribute to the
16 preservation and enhancement of the environment.

17 This quote, embodying SEPA's driving purpose, though lengthy, does one key thing: it treats
18 humans and the environment as one. This concept is perhaps best embodied in section 1(a)(b)
19 and (c) emphasized above. This language does not separate the welfare of humans from the
20 environment we depend upon. Opponents do; CFE does. Both interests either disparage or
21 ignore economic realities as irrelevant to environmental preservation. Skamania County does
22 not. The County is attuned to the intrinsic value of both, and understands how both must work
23 together to protect against resource depletion and ensure the environment supports future
24 generations. The County does not look at economics in isolation.

25 As a consequence, the County supports continued forestry as a means to avoid the greater
26 impacts of more sprawling land division; the County supports clean energy as a means to address
the air emissions of fossil fuel use; the County supports a project pulled entirely from the Scenic

1 Area as a means even to protect more intangible aesthetic values;³⁹ and the County supports the
2 EIS analysis which addresses wildlife impacts, which is thoroughly covered by other briefing.⁴⁰

3 Most fundamentally, the County supports a project which nurtures this site for continued
4 forestry use and which will support the community, not just for today, but for generations to
5 come. If not only this County, but this State, is to move forward, parochial interests which
6 separate the environment from human-centered economics cannot drive policy and decision
7 making. Decision making must be driven by a more global understanding of the inseparability of
8 humans from the environment. This Project does that; it does what SEPA envisioned when
9 passed in 1971, and what is now called “sustainable.” EFSEC has wide discretion under its
10 enabling legislation and SEPA to approve the Project as it is proposed.

11 **D. Wind Development Siting, Generally**

12 No wind project permit has ever been issued within the State of Washington which sites
13 the exact location of all proposed wind turbines. Every project, including every project sited
14 through EFSEC, has been approved through micro-siting corridors, with final review to confirm
15 the ultimate locations are consistent with the project conditions. Being active in wind project
16 litigation,⁴¹ Friends understands this, yet devotes six pages objecting to standard permitting
17 protocol. The argument illustrates how Project opponents focus so narrowly on discrete issues,
18 that they miss the larger context. The larger context here is the Project’s economic, social, and
19 environmental value to the County, and indeed, the future of renewable energy in Washington
20 State.

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25 ³⁹ See generally County briefing submitted on land use issues; see also Ex. 23-02 (Ordinance 2010-06) (County
enacted the moratorium to protect against rapid land division and allow for more comprehensive planning to occur).

26 ⁴⁰ See e.g. Applicant’s Opening Adjudication Brief and the responsive filing.

⁴¹ See TR (January 11, 2011 Hearing), pgs. 1387 and 1397:23-25.

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III. ORAL ARGUMENT REQUEST

Skamania County and Klickitat County Public Economic Development Authority understand if EFSEC has specific questions or requires clarification of certain facts. But, consistent with Council Order No. 864, the County objects to the broad opponent request for oral argument.⁴² With the now thousands of pages of briefing, nine-page single spaced exhibit list, and week and a half long hearing, certainly every party has had an opportunity to provide EFSEC with the rationale for their respective positions. Opponents may have reasons for preferring a long-drawn out process. Skamania County does not have the resources for such an endeavor.

IV. CONCLUSION

Skamania County needs this Project. Opponent groups assume that by opposing the Project, they are protecting environmental interests, when in fact they are reducing land value, and the incentive to maintain forest land in forestry. In taking this stance against renewable energy, they also prolong dependence on old ways of gathering energy, and defer local energy independence to a future generation. Such an approach is not environmentally sustainable, and is inconsistent with state laws promoting renewable energy generation,⁴³ and fails to support the local and state economy.

The Project would help stabilize the County's tax base and provide employment opportunities for its workforce. For a county that has been sustained by federal support and remains entrenched in difficult economic circumstances, the Project is an unprecedented opportunity. This small, rural jurisdiction, which has been struggling for the past two decades, is desperate. It needs EFSEC support.

⁴² Friends of the Columbia Gorge's Opening Adjudicative brief, p. 3.

⁴³ RCW 19.285.020 (Energy Independence Act); RCW 70.235.020 (state greenhouse gas reduction requirements).

1 The Project is situated outside of the Scenic Area. That mitigation alone protects this
2 resource. No further buffering is required by federal or state law, and is inconsistent with federal
3 law governing the Scenic Area. Nor are setbacks required simply because turbines can be seen
4 from a state highway or the Columbia River, all three of which are routes of commerce passing
5 through highly industrialized areas. Skamania County has only 7% of land outside the Scenic
6 Area and government lands available for development so cannot afford a decision which imposes
7 setbacks from the Scenic Area, or based on the highways or Columbia River.
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9 Skamania County and Klickitat County Public Economic Development Authority request
10 approval. There is no better home for Whistling Ridge.
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12 DATED this 1st day of April, 2011.

13 ADAM NATHANIEL KICK
14 Prosecuting Attorney for Skamania County

15 LAW OFFICES OF
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