SOSA & Friends
Letter re DNR Comments on Whistling Ridge DEIS
CROSS Exhibit No. 1.16c

WASHINGTON STATE DEPARTMENT OF
Natural Resources
Peter Goldmark - Commissioner of Public Lands

Caring for
your natural resources
... now and forever

July 19, 2010

Stephen Posner
Energy Facility Site Evaluation Council
905 Plum Street
Olympia, Washington 98504-3172

RE: DNR Comments on Whistling Ridge DEIS

Dear Stephen:

Thank you for the opportunity to review and comment on the joint NEPA SEPA Whistling Ridge draft environmental impact statement (DEIS). We looked primarily at fire hazard, plant species and communities, northern spotted owls and WA Department of Natural Resources' Habitat Conservation Plan (DNR HCP), forest practice requirements, and surface mines and reclamation.

Some of our concerns include: the presence or impacts to Oregon white oak/Idaho fescue plant communities; northern spotted owls, their habitat and associated HCPs; forest practice requirements for this proposal, and a permitted source of aggregate for roads and structures. Our adjacent HCP land to the north is managed to provide habitat that makes a significant contribution to demographic support, maintenance of species distribution and facilitation of owl dispersal. The DEIS on page 3-56 states there are no HCPs in or near the project area. Forest practices owl protection requirements were also not correctly explained. Please also note that state agency wildlife species review is typically done by WA Department of Fish and Wildlife (WDFW), and DNR biologists did not look at impacts to species not protected under the DNR forest land HCP in eastern Washington, other than compliance with Forest Practices Rules.

FPA conversion permits and DNR surface mining reclamation permits (SMRP) are required for timber harvest and rock or gravel mining associated with conversion of forest land and the associated building or construction at the wind tower sites. This was not clear in the DEIS and the SMRP was not listed in Table 4-1. For more details as to DNR concerns and specific requests for DEIS corrections or DEIS additions on the topics noted above please see the following text. Staff contacts are also included for more information or questions.

Fire Hazard

DNR has fire protection responsibility on a significant portion of the land within the project area. After review of the DEIS, we believe that implementation of the fire related mitigation measures listed in Chapter 3, section 3.6.3 of the DEIS (5/1/2010) would adequately address fire prevention responsibility and response on those lands. Thank you for this consideration.

Contact:

Contact:
Darrel Johnston
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Plant Species and Communities

Issues:

- The EIS appears to adequately address 'Special Status Plant Species.' They appear to have queried appropriate sources of information and to have done on-the-ground surveys at the appropriate times. Thank you for this consideration.
- On page 3-43, there is mention of the Oregon white oak/Idaho fescue plant community. However, there is no subsequent mention of it. Was it surveyed for and not found? Was it not surveyed for, because there was no requirement to do so?

Request:

Add a statement(s?) about the Oregon white oak/Idaho fescue plant community on page 3-74 where the impacts to special status plant species are discussed.

Contact:
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Northern Spotted Owls and Associated DNR HCP

Note: State agency wildlife species review is typically done by WDFW. DNR biologists looked at impacts to those species protected under our DNR forest land HCP in the range of the northern spotted owl, not other eastern Washington wildlife species. See also DNR comments as to Forest Practice Rule requirements related to spotted owls in the next DNR comment section.

- Whistling Ridge Energy Project Draft EIS, Page 3-50 states surveys were conducted for northern spotted owl presence in 2008-2009 using the 1992 USFWS survey protocol. No spotted owls were detected during these surveys. Page 3-52 states that the longstanding absence of any northern spotted owls at the historic site centers suggest that these site centers likely no longer qualify for special protection. Page 3-53 states that the Turnstone and DNR/NCASI surveys affirmatively documented the absence of northern spotted owl site centers in these historic sites. They also state that surveys conducted in and near the project area indicate that spotted owls are not present. Additional surveys were conducted during three daytime site visits over the seasonal breeding window in 2009 to determine if spotted owls may be in the vicinity but were not vocalizing due to the presence of barred owls. No spotted owls were detected.

  Comment: It is widely understood that one of the most serious threats facing the northern spotted owl is the recent range expansion of another closely related owl species, the barred owl, ***Strix varia***. Because barred owls may attack and kill spotted owls, spotted owls are

known to vocalize less when around barred owls. This poses a serious problem when the primary means of establishing spotted owl presence is spotted owl vocal response to simulated calls. Hence, vocalization survey results may be unreliable as spotted owls are unlikely to vocalize due to the presence of barred owls, which was the case during the surveys for this project.

Request:

Please note that DNR biologists do not believe that three daytime visits over one season is sufficient evidence to determine that spotted owls are not in the vicinity and are just not vocalizing. Vocalization survey results may be unreliable.

- Whistling Ridge Energy Project Draft EIS, Page 3-56 "A review of USFWS habitat conservation plans issued in the Pacific region indicates there are no spotted owl-related habitat conservation plans applicable in or near the project area." (USFWS 2009b)

  Literature citation: U.S. Fish and Wildlife Service (USFWS). 2009b. Conservation Plan and Agreement Database. Accessed via the Internet at: http://ecos.fws.gov/conserv_plans/public.jsp

  Comment: DNR accessed this website and found the Washington Dept. of Natural Resources HCP identified with 5 listed species covered under this HCP. One of the listed species identified is the northern spotted owl. The area covered under the Washington Dept. of Natural Resources HCP conservation strategy for the northern spotted owl covers DNR managed land directly adjacent to the Whistling Ridge Energy Project to the north.

  Hence, the information provided in the Whistling Ridge Energy Project Draft EIS that "...there are no spotted owl-related habitat conservation plans applicable in or near the project area".... is incorrect.

  Comment: This project may interfere with a spotted owl's ability to disperse from the DNR HCP conservation area to other areas in the vicinity. The state trust lands *HCP Amendment #1 Administrative Amendment to the Northern Spotted Owl Conservation Strategy for the Klickitat HCP Planning Unit,* April 2004 has designated areas for northern spotted owl Nesting, Roosting, and Foraging (NRF) habitat management located directly adjacent to this project's northern boundary. The DNR conservation objective for the northern spotted owl is to provide habitat that makes a significant contribution to demographic support, maintenance of species distribution and facilitation of dispersal.

Request:

Please correct the DEIS text concerning DNR HCP location. You might also reconsider and reword your conclusion that no project impacts are expected to spotted owls.

Contact:

Tami Miketa (360) 902-1481
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Forest Practices

Resources at risk by section (from DNR Forest Practices Risk Assessment Tracking GIS data):

- All sections in the proposal are within the Bull Trout overlay delineated in state FP rules (WAC- 222).
- T3N-R10E-S5 There is an F type stream with possible Bull Trout required protections. There are potential unstable slopes indicated.
- T3N-R10E-S6 There is an F type stream with possible Bull Trout required protections. There are potential unstable slopes indicated. There is a Spotted Owl circle.
- T3N-R10E-S7 There is an historic site and there are potential unstable slopes indicated.
- T3N-R10E-S8 There is an historic site.
- T3N-R9E-S12 No issues
- T3N-R9E-S13 There are potential unstable slopes indicated.

Applicable FP rules that may be relevant to the project. Most of these would come into play if there is logging or road building near any waters.

- 222-16-030 Water typing systems
- 222-16-050 Classes of Forest Practices
- 222-20-010 Applications and Notifications
- 222-24-030 Road construction
- 222-24-040 Water crossing structures
- 222-24-052 Road maintenance
- 222-30-020 Harvest unit planning and designs (wetland management zones)
- 222-30-022 Eastern Washington RMZs
- 222-30-050 Felling and Bucking
- 222-30-070 Ground based logging systems.

Comments, concerns and potential mitigation that would be required (for specific DEIS page numbers):

- 2-9, 2-15. Harvesting trees in areas that are not already cleared. This would require an approved Forest Practices Application prior to harvest. Need for Forest Practices Application is already listed in required permits on page 4-3.
- 2-11. The map shows a riparian area. The wetland is described in 3-24. County protection measures are described on 3-39 for category II wetlands.

Request:

If this is on forest land you should verify if it is a Type A or Type B wetland and that the 100 foot buffer would also meet or exceed any FP Rule requirements for a Type A or B wetland (WAC 222-30-020) for that location.

- 3-11. The potential for landslides is described with building of the wind towers. On 3-12, it is stated that there will be no impact to drainages and on 3-12 and 3-13 are mitigation measures.

Request:

Acknowledge that unstable slopes with potential to deliver to public resources would require appropriate protection under forest practices rules to minimize impacts to any

unstable areas and associated public resources and/or public safety. This mitigation requirement is not noted.

- 3-28. Approximately 22 acres of the site will be converted from timber management to non forestry use around the wind turbine sites. All of the Forest Practices Applications that were applied for in the area indicated that the sites would be kept in forestry, not converted to a non-forestry use. This appears to be a violation of the Forest Practices Rules. Potential conversion impacts were not considered. Any future FPAs to harvest trees near wind tower locations will require a conversion FPA (Class IV-General) and any current timber harvesting under current FPAs may be in violation as well. State law (RCW 76.09.460) allows that Skamania County may deny any conversion permits for up to six years on any sites where FPAs were not submitted as conversion FPAs. Under Forest Practices Rules and Regulations (WAC 222-34) DNR requires reforestation to occur on all harvested acres that will remain in forestry.

Request:

All applicable FPAs should be amended or reapplied for to reflect conversion activities (RCW 76.09.470). Any new Class IV-General FPAs must await completion of the final EIS before they can be approved for harvest by DNR.

- 3-50. The comment is made that the project is not sited in or near any Spotted Owls or Spotted Owl activity site centers. There are two Spotted Owl circles within portions of the proposal area.

Request:

Please correct the inaccurate statement concerning spotted owls.

- 3-50 and 3-53. "The two Spotted Owl site centers are no longer considered to be occupied pursuant to USF&W protocols and state law." This is an inaccurate statement. The two Spotted Owl circles are still in the state data base and have not been decertified as of this date. Forest Practices rules and regulations still require appropriate protections (WAC 222-16-080(6)).

Request:

Please correct the inaccurate statement concerning spotted owls and correctly state the appropriate FP Rule mitigation measures that are required.

- 3-75 and 3-78. "The proposal would not impact the White Salmon SOSEA's 40% suitable Spotted Owl habitat level." This is an inaccurate statement. The habitat level is calculated on a circle by circle basis, not over the entire SOSEA. There is a small mapped portion of potential habitat in one of the two circles in the proposal.

Request:

Please document whether this proposal (including all of the associated timber harvests) will harvest suitable owl habitat (WAC 222-16-085) and or impact the suitable habitat totals for one of the spotted owl circles, if that is the case (WAC 222-10-040).

- 3-209 "The Haran Farmstead is recommended as ineligible for the NRHP." This statement may or may not be accurate. This site has been listed in DNR's GIS FP Risk Assessment Tool as a site that may require protection if there is any potential for disturbance to the site. Any potential impacts to the historic site may require a site

protection plan.

Request:

Contact the Washington State Department of Archaeology and Historic Preservation. Document why there will be no adverse impacts or how such impacts can be mitigated with a site protection plan if necessary.

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Surface Mines and Reclamation

Issue:

DNR permits and regulates surface mining reclamation on state and private lands. The proposal calls for at least 2.5 miles of new road construction as well as significant improvements and widening of the existing forestry roads to handle the oversized loads not associated with timber management. Since this work as proposed is being performed primarily to facilitate a wind power project, the DNR will not allow the use of aggregate from pits or quarries that do not have an active surface mine reclamation permit.

Request:

Please note that aggregate used to improve/construct roads, or for construction of Whistling Ridge project related foundations and infrastructure must come from a permitted surface mine, not from a forestry pit or quarry locations (exempt/unpermitted surface mine sites).

Contact:
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For any other general questions regarding these comments please do not hesitate to contact me.

Best Regards,

Simon M. Kihia,
Manager, Environmental Review and Analysis