

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of	)	FRIENDS OF THE COLUMBIA
Application No. 2009-01	)	GORGE’S REVISED PETITION
	)	FOR INTERVENTION
WHISTLING RIDGE ENERGY LLC	)	
	)	
WHISTLING RIDGE ENERGY	)	
PROJECT	)	
_____	)	

Pursuant to RCW 34.05.443, RCW 80.50.090, WAC 463-30-091, and Prehearing Order No. 1 (Council Order No. 842), Friends of the Columbia Gorge (“Friends”) submits this Revised Petition for Intervention.

**I. PETITIONER**

**1.1 IDENTIFICATION OF PETITIONER**

Friends is a non-profit organization with approximately 5,000 members dedicated to protecting and enhancing the resources of the Columbia River Gorge. Friends led the efforts to protect the Gorge through federal legislation. Those efforts resulted in the bi-partisan passage of the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §§ 544–544p, which President Ronald Reagan signed into law in 1986.

Friends’ membership includes thousands of citizens who reside within and near the National Scenic Area. Friends’ members recreate, hike, view wildlife, hunt, fish, own land, farm, own businesses, and work in areas that would be affected by the Whistling Ridge Energy Project. Several of Friends’ members live near the project site and have an interest in protecting the rural character, safety, and economic productivity of their communities, which would be adversely affected by the

introduction of large-scale industrial energy facilities. Friends’ members also use and rely on locally generated electricity and other utilities, as well as local communications facilities.

Friends’ name and mailing address are as follows:

Friends of the Columbia Gorge  
522 SW 5th Avenue, Suite 720  
Portland, Oregon 97204-2100

## II. PETITIONER’S ATTORNEYS

Petitioner Friends of the Columbia Gorge is represented by:

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## III. STATEMENT OF FRIENDS’ INTEREST IN THIS PROCEEDING

### 3.1 FRIENDS HAS PARTICIPATED AT ALL STAGES OF REVIEW OF THIS AND SIMILAR PROPOSALS AND HAS EXPERTISE IN THE APPLICABLE AREAS OF LAW.

Friends is dedicated to protecting and enhancing the resources of the Columbia River Gorge and surrounding lands. These include the scenic, natural, economic, cultural, and recreational resources of the Columbia River Gorge,<sup>1</sup> all of which must be protected and promoted under the legislation that Friends has worked to pass and uphold, the Scenic Area Act.

Because the Whistling Ridge Energy Project has the potential to cause significant adverse impacts to numerous resources in or near the Columbia River Gorge, Friends has participated during all stages of government review related to this proposal.

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<sup>1</sup> This list of resources is often abbreviated as “SNECRs” (pronounced “sneakers”).

In these EFSEC proceedings, Friends submitted oral and written testimony during the SEPA scoping meeting and land use consistency hearing that were held on May 6 and 7, 2009. Friends' testimony addressed many of the issues listed in this Petition.

Friends has also appealed Skamania County Resolution No. 2009-22, the County's Certification of Land Use Consistency Review for the Whistling Ridge Energy Project, to the Columbia River Gorge Commission to challenge the County's determination that industrial uses and developments are allowed within the General Management Area of the National Scenic Area. The issues raised in Friends' appeal are relevant to the EFSEC proceedings.

Friends also participated in the SEPA review by the Washington State Department of Natural Resources ("DNR") of leasing DNR land for portions of the Whistling Ridge project in Klickitat County. Friends has urged DNR to coordinate with EFSEC on a comprehensive review of the entire project, including the portions in both counties.<sup>2</sup>

Friends also participated at all stages of Skamania County's process<sup>3</sup> for revising the Skamania County Code to authorize large-scale wind energy facilities, including a successful appeal of the County's SEPA Determination of Non-Significance for the proposed legislative action. In finding in favor of Friends and other Appellants in that case, the Skamania County Hearing Examiner determined that the environmental impacts of authorizing large-scale wind energy facilities in Skamania County would be significant, and that an environmental impact statement ("EIS") must be prepared before the County takes such an action.

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<sup>2</sup> On August 10, 2009, DNR announced that it is no longer considering a lease of state land for this project.

<sup>3</sup> The County has stated that it has indefinitely postponed this process.

Friends also appealed Klickitat County's EIS for its Energy Overlay Zone ("EOZ"). That appeal was resolved in a settlement that, among other things, requires Klickitat County to revisit its EOZ once 1,000 megawatts of wind energy facilities are constructed within the County.

Friends has also participated in the proceedings for all large-scale commercial wind energy facilities that have been proposed within or immediately adjacent to the National Scenic Area. These include the following projects:

- Eagle I Wind Partners. The Eagle I Wind Partners project, proposed in Wasco County, Oregon, was denied by the Executive Director of the Columbia River Gorge Commission in 1993. The Gorge Commission upheld that denial in April 1994.
- Cascade Wind. An application for the Cascade Wind project, proposed in Wasco County, Oregon, was filed with the Oregon Energy Facility Siting Council in 2007. The project developer withdrew the application in January 2009.
- Windy Flats. In 2007, Friends appealed Klickitat County's approval of the Windy Flats project. The parties later settled the appeal, and the project was substantially modified to remove almost all of the turbines that were proposed adjacent to the Scenic Area boundary.

Friends has also participated in other proceedings for reviewing large-scale commercial and industrial projects proposed in the Columbia River Gorge by the Applicant's affiliated companies SDS Lumber and Broughton Lumber. Friends' participation in those matters has included review of potential adverse effects to protected resources, as well as the presentation of expert testimony regarding tourism, economic viability, and other economic issues.

Friends also participates in economic development matters in the Columbia River Gorge by advocating for federal funding for economic development. Friends also supports appropriate

economic development projects, certifications, and loans, and opposes inappropriate economic development activities, when those matters come before the Columbia River Gorge Commission and other entities.

Friends has expertise in federal, state, bi-state compact, and local laws and regulations related to the project review, including but not limited to the Washington State Environmental Policy Act, the National Environmental Policy Act, the Columbia River Gorge National Scenic Area Act, and local land use regulations. Friends has substantial advocacy experience in these areas of law and has a demonstrable interest in seeing all applicable laws properly implemented.

### **3.2 FRIENDS' INTERESTS EXTEND TO ALL POTENTIAL LEGAL, PROCEDURAL, ENVIRONMENTAL, AND SOCIOECONOMIC ISSUES PERTINENT TO THE PROJECT.**

Friends' interests extend to all potential legal, procedural, environmental, and socioeconomic issues pertinent to the project. Friends has a demonstrable interest in ensuring that the Columbia River Gorge remains a unique ecological treasure, an internationally significant tourist destination, and an economically productive region. Friends also has a demonstrable interest in protecting the Columbia River Gorge from the adverse effects of industrial wind power within and adjacent to the National Scenic Area.

Friends is concerned about direct, indirect, and cumulative impacts in this matter. Although Friends' overall scope of interests is similar to that of Intervenor Save Our Scenic Area ("SOSA"), this overlap does not entail identical substantive concerns with the proposed facility. Friends and SOSA approach, prioritize, and respond to the issues differently. For example, Friends places greater emphasis on preventing the impacts that contribute to adverse cumulative impacts to the Columbia River Gorge region and on the precedent that could be set in this matter, while SOSA places greater

emphasis on the specific impacts of this project on the local community. Also, Friends has greater experience with evaluating scenic impacts, while SOSA has greater experience with issues related to the siting of wind energy facilities near residences. To avoid duplication between the parties' presentations, Friends will cooperate with SOSA and adopt SOSA's arguments and evidence by reference wherever possible.

Absent preparation of environmental impact documents, it is not possible to compile a comprehensive list of Friends' potential issues of concern. Neither a SEPA scoping report nor a draft environmental impact statement ("DEIS"), much less a final environmental impact statement ("FEIS"), has yet been completed as of the date of this filing. Preparation of these documents are critical to determine the full scope of potential issues of concern. Therefore, Friends specifically requests the right to add or delete issues following the completion of the Scoping Report and DEIS for this project. In addition, because of the broad nature of Friends' goals and issues of concern, Friends requests that it not be limited to any particular issue, but be allowed to participate with respect to all issues before EFSEC. Friends submits the following non-exhaustive list of issues:

1. Whether the project and the EFSEC process are consistent with all applicable laws and regulations, including but not limited to all county laws and rules, the Columbia River Gorge National Scenic Area Act; the State Environmental Policy Act; the National Environmental Policy Act; energy siting laws and regulations; and all laws and regulations related to water quantity, water quality, air quality, solid and hazardous waste, spills, wetlands, forest practices, and wildlife.
2. Whether all of the project's potential impacts to the environment, including direct, indirect, and cumulative impacts, are adequately evaluated and addressed.

3. Whether impacts on plants, wildlife, and habitat, including any threatened, endangered, and sensitive species, are adequately evaluated and addressed. This includes but is not limited to whether the project adversely impacts avian species, habitat, and/or migratory corridors; mammal species and/or habitat; and fish species and/or habitat; and whether those impacts are adequately evaluated and addressed.
4. Whether soil impacts (*e.g.*, erosion, stability, productivity), water quality, and air quality impacts are adequately evaluated and addressed.
5. Whether adverse impacts to forest habitats and resources are adequately evaluated and addressed.
6. Whether noise impacts to wildlife and surrounding communities are adequately evaluated and addressed.
7. Whether adverse impacts to recreational opportunities, including but not limited to recreational resources in the Columbia River Gorge National Scenic Area, the Columbia River, the Lewis and Clark Historic Trail, the Historic Oregon Trail, the Lower and Upper White Salmon Wild and Scenic River Areas, and the Gifford Pinchot National Forest, are adequately evaluated and addressed.
8. Whether adverse impacts to cultural resources are adequately evaluated and addressed.
9. Whether adverse impacts to nearby land uses are adequately evaluated and addressed.
10. Any and all issues involving economic impacts and benefits of the project, including impacts to agriculture and tourism, and any issues involving the economic viability of the project.
11. Whether all public health and safety concerns and risks, including but not limited to fire risk, blade throw, ice throw from turbine blades, tower collapse, dust, traffic accidents, noise,

- vibrations, day and nighttime lighting, and interference with aircraft, are adequately evaluated and addressed.
12. Whether aesthetic and visual impacts to the surrounding lands and communities are adequately evaluated and addressed.
  13. Whether all light and glare impacts, including but not limited to light, glare, daytime and nighttime views from sensitive areas such as the National Scenic Area, and light pollution impacts to views of the sky, are adequately evaluated and addressed.
  14. Whether impacts to communications and utility facilities are adequately evaluated and addressed.
  15. Whether the impacts from construction, modification, and use of roads and transmission lines are adequately evaluated and addressed.
  16. Whether the impacts from the construction phase of the project are adequately evaluated and addressed, including whether the project has adequately planned for site restoration of the project area.
  17. The production capacity versus the name plate capacity of the project, the capacity of the electricity grid to accommodate the generated energy, the need for backup energy sources to supplement the intermittent production of energy, and the indirect and cumulative impacts of creating new demand for additional transmission lines within the grid.
  18. Whether the project has adequately planned for decommissioning of the facility in the event of a financial misfortune, natural disaster, and/or the conclusion of the project's life cycle.
  19. Whether the project involves any beneficial changes to the environment.
  20. Any and all issues listed in the SEPA/NEPA Scoping Report, the DEIS, and the FEIS.

21. Friends also has an interest in all procedural matters that may arise during the adjudicatory process.
22. Friends reserves the right to raise and/or address any issue identified by any of the other participants in this matter.

**3.3 FRIENDS' INTERESTS WOULD BE IMPAIRED AND IMPEDED IF THIS PETITION FOR INTERVENTION IS NOT GRANTED.**

Friends is a non-profit organization with approximately 5,000 members who rely on the organization to protect the resources of the Columbia River Gorge and surrounding lands by advocating for the effective implementation of federal, state, and local laws. Friends' interest in protecting the resources of the Columbia River Gorge and surrounding lands would be impaired and impeded if EFSEC denies this Petition for Intervention, because approval of the project without Friends' participation could result in the degradation of the resources the organization is charged with protecting.

**IV.**

**NATURE OF PARTICIPATION REQUESTED**

**4.1 FRIENDS REQUESTS FULL PARTICIPATION**

Friends requests to be heard in these proceedings and to be afforded the right to participate in these proceedings to the full extent authorized by EFSEC rules. Friends' request includes, but is not limited to, the right to have notice and appear at any and all hearings or proceedings, to produce evidence and cross-examine witnesses, to be heard through counsel by written and oral argument, to be served as a party with copies of all pleadings and other materials filed with EFSEC, and to participate in any other way as may be appropriate.

**4.2 NO PREJUDICE OR DISRUPTION FROM FRIENDS' PARTICIPATION**

Friends' participation in these proceedings will not prejudice any party to these proceedings. Friends' participation will not unduly delay these proceedings nor disrupt the Council's ability to conduct these proceedings in an orderly fashion.

Dated: August 20, 2009.

REEVES, KAHN & HENNESSY

FRIENDS OF THE COLUMBIA GORGE

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Gary K. Kahn, WSBA No. 17928

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Nathan Baker, WSBA No. 35195

**VERIFICATION**

STATE OF OREGON                    )  
  )  
County of Multnomah                )

I, Cynthia Winter, being first duly sworn on oath, depose and say:

I am an agent of the Petitioner above and am authorized to make this Verification on Petitioner's behalf. I have reviewed the foregoing Petition for Intervention, know the contents thereof, and believe the same to be true.

Signed at Portland, Oregon on August 20, 2009.

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Cynthia Winter, Chair  
Friends of the Columbia Gorge

SUBSCRIBED AND SWORN TO before me this 20th day of August, 2009 by Cynthia Winter as Chair of Friends of the Columbia Gorge.

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Notary Public - State of Oregon