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BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Application No. 2009-01

WHISTLING RIDGE ENERGY, L.L.C.

WHISTLING RIDGE ENERGY
PROJECT

Application No. 2009-01

Skamania County Economic
Development Council Statement of
Clarification re Legal Issues

COMES NOW Intervenor Skamania County Economic Development Council and pursuant to Prehearing Order No. 1 (Council Order No. 84238), identifies the following legal issues and its positions thereon.

Issue: The extent to which the Columbia River Gorge National Scenic Area Act (CRGNSAA) legislation applies to activities, including the authority to regulate the same, that are located outside the boundaries of the Columbia River Gorge National Scenic Area itself.

Position: The Columbia River Gorge National Scenic Area legislation, including the saving clause therein, expressly limits the scope of the authority of the legislation to the

1 confines of the National Scenic Area itself, and does not extend beyond the boundaries
2 thereof. As such, the CRGNSAA does not provide an independent substantive or
3 procedural basis to regulate, deny, or condition activities outside of the NSA
4 boundaries. A contrary interpretation would have considerable adverse financial, legal
5 and social consequences to owners of thousands of square miles of land outside the
6 boundary of the NSA.

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8 Legal Argument: 16 U.S.C. §544(o)(a)(10):

9 Nothing in sections 544 to 544p of this title shall -

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(10) establish protective perimeters or buffer zones around the scenic area or
each special management area. The fact that activities or uses inconsistent with
the management directives for the scenic area or special management areas can
be seen or heard from these areas shall not, of itself, preclude such activities or
uses up to the boundaries of the scenic area or special management areas.

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The authority of the NSA does not extend beyond its boundaries.

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In addition to this legal issue, the SCEDC is concerned with the weight and
consideration to be given by the Council, both through environmental review under the
Washington State Environmental Policy Act (Ch. 43.21C RCW) and during the
substantive review of the project pursuant to the Energy Facility Site Locations Act (Ch.
80.50 RCW and regulations promulgated thereunder), to the factual issue of
socioeconomic impacts of the project to the interests represented by SCEDC. The
SCEDC is the duly appointed economic development agency to advance economic
development, including tourism, within Skamania County and it is the express position
of the SCEDC that this project, as proposed, will not have adverse impacts to economic
development in Skamania County, including but not limited to tourism development

1 within the county, and instead will have net positive socioeconomic impacts on the
2 various economic interests of Skamania County, including:

3 (1) The creation of family wage jobs;

4 (2) The positive money-multiplier effect on the Skamania County economy that
5 this project will have; and

6 (3) The diversification of business opportunities that the project presents through
7 a reasonable use of a naturally occurring, renewable resource in Skamania County.

8 DATED this ____ day of _____, 2009.

9 SKAMANIA COUNTY ECONOMIC
10 DEVELOPMENT COUNCIL

11 _____
12 Peggy Bryan, Executive Director

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