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

SOSA'S SUPPLEMENTAL
PETITION FOR INTERVENTION
AND STATEMENT OF INTEREST

1. BACKGROUND.

On July 13, 2009, Save Our Scenic Area ("SOSA") filed a Petition for Intervention in this matter concerning the proposal for development of the Whistling Ridge Energy Project (WREP). This petition set forth the interests of SOSA and specified their legal and environmental concerns.

No objections were received to the SOSA petition, which was granted as a part of the Prehearing Order dated August 4, 2009 ("the PHO").¹ A motion was made by the applicant on July 24, 2009 which sought to compel the consolidation of SOSA and intervenor Friends of the Columbia Gorge ("Friends").

The PHO also called on the intervenors to "present revised or supplemental

¹ Because of prior commitments, the undersigned counsel for SOSA was unable to attend the July 28, 2009 prehearing conference.
petitions that, consistent with Mr. Kahn’s representations, clearly reflect the interests of the membership of the two petitioners and accurately state the limits of their issues.” PHO at 4. The order also asked that the undersigned counsel “affirm his agreement with the representations at the hearing and the understandings expressed on the record and this order, on the schedule for initial submissions.”

To comply with the Council’s direction, this response will address the issue of affirmation of hearing representations and the PHO and then will address the revised or supplemental petition.

2. PREHEARING CONFERENCE REPRESENTATIONS.

The issues expressed in the PHO appear to originate in the applicant’s motion for consolidation filed on the Friday before the PHC. This motion was filed while the undersigned was out of the office and unavailable for telephonic or electronic communication; accordingly, there was no opportunity to review the motion or to consult with anyone about it.

As to the representations made by Mr. Kahn at the hearing, Sosa can certainly confirm, based upon the hearing transcript, that they are consistent with the Sosa position. Sosa and its members are property owners and residents in the immediate area of the WREP. Friends is a larger organization with concerns about the Columbia Gorge and the National Scenic Area as a whole. Both organizations are concerned with the preservation and protection of scenic and environmental values within the Gorge; many Sosa members live within the NSA.

Sosa also has concerns regarding the overall economics and viability of reliance on wind energy to satisfy long term needs for electricity and impacts on the capacity of transmission facilities. The Sosa petition reflects and includes these concerns.

The Council seems to be concerned that the similar interests of Friends and Sosa might result in delay and duplication of effort. This will not be the case.
SOSA and Friends carefully separated testimony and argument to the Skamania County Hearing Examiner when they successfully overturned the Skamania County's determination of nonsignificance for its zoning code amendments. As citizen based environmental organizations, neither the Friends nor SOSA wants to engage in activities that would waste limited resources. Although WREP was not a party to that proceeding, their representative Jason Spadaro sat through much of the Hearing Examiner hearing.

Probably the one area where there will be differing emphasis at the hearing is precedential and cumulative impacts. As we understand it, Friends is very concerned with the precedent created by the first wind farm in forested areas of the Gorge. SOSA is concerned with the noise, shadow flicker and other impacts on local residents, an area of lesser concern to Friends.

While we can affirm the representations of Mr. Kahn, we do not agree that the order accurately reflects the statements made during the conference as shown in the PHC. While SOSA and Friends are interested in a similar scope of issues, they prioritize and approach those issues differently. Both organizations are interested in both cumulative and project-specific impacts, but Friends is more focused on the former, while SOSA is more focused on the latter. This distinction is not a limitation, as the Order seems to imply, but rather a difference in the two groups' priorities. To address the concerns raised by the Applicant, SOSA and Friends will endeavor to avoid duplication by adopting each others' arguments and evidence wherever possible.

3. SPECIFICATION OF LEGAL ISSUES.

As noted in SOSA's petition for intervention, many legal issues are unresolved at this point in the proceedings because the SEPA/NEPA environmental impact statement process has not been done. Indeed, there is apparently not even a scoping statement completed by the Council. Taking

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account of the very early stage of this proceeding, the following are the legal
issues presented.

3.1 Pursuant to State Environmental Policy Act (SEPA) and the SEPA
Regulations, must the EFSEC responsible official direct the areas of research and
examination to be undertaken as a result of the scoping process under the terms
of WAC 197-11-420? This issue was raised in a letter to the Council dated April
22, 2009 which provided additional detail.

3.2 Must the environmental review process consider the possible
expansion of the existing project into lands to the north in Klickitat County owned
by DNR? SOSA contends that the scope of environmental and other review
should include impacts on these adjacent properties for which the applicant has
already presented plans.

3.3 Is the WREP consistent with the applicable comprehensive plan and
zoning in Skamania County? The detail of this legal issue is provided in the letter
of the undersigned to EFSEC and Skamania County dated May 6, 2009 and
already a part of the record.

3.4 Are those portions of the haul routes and roads required for
construction and operation of the WREP consistent with the laws, rules and
regulations of the Columbia Gorge National Scenic Area? Does the authority to
review and approve such facilities within the Scenic Area lie with Skamania
County, EFSEC or the Gorge Commission? This legal issue is that currently
detailed in appeals before the Gorge Commission in which SOSA is a party. This
issue will be heard by the Gorge Commission on October 13, 2009.

4. SUPPLEMENTAL PETITION.

The PHO requests at page 4 that the intervenors "present revised or
supplemental petitions that, consistent with Mr. Kahn's representations, clearly
reflect the interests of the membership of the two petitions and accurately state

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the limits of their interests.” As Mr. Kahn stated, the membership of SOSA consists of local residents within the immediate project area, many of whom reside with the Columbia Gorge National Scenic Area (the “NSA”). This does not mean however that they are not concerned with more general aspects of the project, including the economic viability of the project and its economic impact, especially within Skamania County. SOSA notes that the Port of Skamania County, the Skamania County Economic Development Council and the Klickitat County Public Economic Development Authority all raise economic impact concerns to the local economy.

Based on the direction of the Council, SOSA sets forth revised issues as drawn from its initial petition which reflect that SOSA’s primary concerns are related to the immediate project area. The remainder of the SOSA initial petition (dated July 13, 2009) remains the same and is incorporated herein by reference.

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 State Environmental Policy Act, the Columbia River Gorge National Scenic Area Act, the National Environmental Policy Act, EFSEC and DNR laws and regulations, laws and rules pertaining to the National Forest system, 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 within the immediate area have been adequately assessed and avoided or mitigated, including any and all issues and matters listed in the SEPA/NEPA Scoping Report and any and all issues discussed in the DEIS and FEIS.
3. Whether environmental and permitting review of the project may be piecemealed, or whether all portions of the overall project proposal must be reviewed together, including those portions in both Skamania and Klickitat Counties.

4. Whether impacts on plants, wildlife, and habitat, including any threatened, endangered and sensitive species within the project area, have been adequately assessed and avoided or mitigated.

5. Whether the project adversely impacts avian species, habitat, and/or migratory corridors within the immediate project area, including whether those impacts have been adequately assessed and avoided or mitigated.

6. Whether the project adversely impacts those mammal species and/or habitat found within the immediate project area, including whether those impacts have been adequately assessed and avoided or mitigated.

7. Whether the project adversely impacts fish species and/or habitat, including whether those impacts have been adequately assessed and avoided or mitigated.

8. Whether soil erosion and water quality impacts have been adequately assessed and avoided or mitigated.

9. Whether impacts to forest habitats and resources within the immediate project area have been adequately assessed and avoided or mitigated.

10. Whether noise impacts to wildlife and surrounding communities have been adequately assessed and avoided or mitigated.

11. Whether adverse impacts to recreational opportunities have been assessed and avoided or mitigated, 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 as located within the immediate project area.

12. Whether adverse impacts to cultural resources have been adequately assessed and avoided or mitigated.

13. Whether adverse impacts to nearby land uses have been adequately assessed and avoided or mitigated.

14. Whether any and all issues involving economic impacts and benefits of the project within the immediate project area, including any issues involving the economic viability of the project, have been adequately assessed and avoided or mitigated.

15. Whether all public health or safety concerns and risks, including but not limited to fire risk, blade throw, ice throw from turbine blades, tower collapse, noise, vibrations, day and nighttime lighting, and interference with aircraft, have been adequately assessed and avoided or mitigated.

16. Whether all light and glare impacts, including but not limited to light, glare, reflected light, shadow, daytime and nighttime views from sensitive areas such as the National Scenic Area, and light pollution impacts to views of the sky, have been adequately assessed and avoided or mitigated.

17. Whether the project has adequately planned for decommissioning of the facility in the event of a financial disaster, natural disaster, and the conclusion of the project's life cycle.

18. Whether impacts to communications and utility facilities in the
immediate project area have been adequately assessed and avoided or mitigated.

19. Whether the impacts from construction, modification, and use of roads and transmission lines have been adequately assessed and avoided or mitigated.

20. Whether the impacts from the construction phase of the project have been adequately assessed, avoided, and mitigated including impacts on local roads and the National Scenic Area.

21. Whether the project has adequately planned for site restoration of the project area.

22. Whether aesthetic and visual impacts to the surrounding lands and community have been analyzed and avoided or mitigated.

23. Whether indirect impacts to the immediate project area have been assessed and avoided or mitigated.

24. Whether the project involves any beneficial changes to the environment within the immediate project area.

25. Whether there has been analysis of 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 power to supplement the intermittent production of power from wind turbines, and the indirect and cumulative impacts of creating demand for additional transmission lines within the grid, and whether those impacts and those of balancing the energy grid have been adequately assessed and avoided or mitigated.

26. Whether there are other alternate locations for wind turbine development that are found in areas of better wind resources but at less environmental damage.
27. Sosa also has an interest in all procedural matters that may arise during the adjudicatory process.

28. Sosa also specifically requests the right to raise and/or address any issue identified by any of the other participants in this matter.

DATED this 20th day of August, 2009.

J. Richard Aramburu, WSBA 466
Attorney for Sosa
VERIFICATION

STATE OF WASHINGTON
County of Klickitat

THOMAS DRACH, being first duly sworn on oath, deposes and says:

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.

[Signature]

Thomas Drach, President, Member, SOSA

SUBSCRIBED AND SWORN TO before me this 20th day of August, 2009.

[Evelyn E. Nast, Notary Public]
NOTARY PUBLIC in and for the State of Washington, residing at 9500 19th Ave. NE
My appointment expires: 12-31-2098
CERTIFICATE OF SERVICE

I am an employee in the law offices of Aramburu & Eustis, LLP, over eighteen years of age and competent to be a witness herein. I hereby certify that on the date below written I served a true and correct copy of this Petition for Intervention by first class mail and/or email on all parties as listed below.

Original supp petition and 12 copies (via FedEx) with .rtf text on CD to:
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Dated: This 20th day of August, 2009.

Carol Cohoe, Secretary
Aramburo & Eustis, LLP