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**BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of  
Application No. 2009-01

Application No. 2009-01

WHISTLING RIDGE ENERGY, L.L.C.

ASSOCIATION OF WASHINGTON  
BUSINESS' PETITION TO INTERVENE

WHISTLING RIDGE ENERGY PROJECT

**I. INTRODUCTION**

COMES NOW the Association of Washington Business ("AWB"), by and through its president, Don C. Brunell, and respectfully submits this petition to intervene in the above-captioned matter pursuant to RCW 34.05.443, WAC 463-30-091, RCW 80.50.040, and the Energy Facility Site Evaluation Council's ("Council") Notice of Opportunity to File Petitions for Intervention issued in this matter. Intervention should be granted as AWB and its members have economic and other interests in this proceeding which may be impaired or impeded if intervention is not granted.

**Identification of Petitioner**

Association of Washington Business  
1414 Cherry St. SE  
P.O. Box 658

1 Olympia, WA 98501  
2 (360) 943-1600 (tel.)  
3 (360) 943-5811 (fax)

## 4 II. STATEMENT OF PETITIONER'S INTEREST

5 The AWB is a private, non –profit, and tax-exempt corporation under Section 501 (c)(6) of  
6 the Internal Revenue Code. Formed in 1904, AWB is Washington's oldest and largest statewide  
7 business association representing the general business regulated community and includes more  
8 than 6,500 members who employ over 650,000 people in Washington state. AWB serves as  
9 Washington's chamber of commerce and the state's manufacturing and technology association.  
10 Acting as the state's chamber of commerce, AWB is an umbrella organization representing the  
11 interests of 114 trade and business associations engaged in industry-specific activities as well as  
12 56 local and regional chambers of commerce across Washington. Representative industries  
13 include manufacturing, forestry and mining, retail and wholesale, utilities, construction and service  
14 industries. AWB represents small, medium and large businesses, both urban and rural. Ninety  
15 percent of AWB members employ fewer than 100 people and more than half of which employ  
16 fewer than 10 people. AWB is at the forefront of legislative and regulatory advocacy for policies  
17 promoting and ensuring reliability and economic competitiveness in the state's energy supply.  
18 AWB's primary goals are to encourage economic growth, boost productivity, and create jobs in  
19 Washington. AWB also advocates for a stable regulatory climate to encourage investment in the  
20 generation and transmission of energy resources necessary to sustain and encourage economic  
21 development.  
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## 25 III. LEGAL ARGUMENT

26 Under the Washington Administrative Procedures Act, RCW Ch. 34.05, "[t]he presiding  
27 officer may grant a petition for intervention at any time, upon determining that the petitioner  
28 qualifies as an intervenor under any provision of law and that the intervention sought is in the  
PETITION TO INTERVENE - 2

1 interest of justice and will not impair the orderly and prompt conduct of the proceedings.” RCW  
2 34.05.443. Here, the controlling provision of law is that “[o]n timely application in writing to the  
3 council, intervention shall be allowed to any person upon whom a statute confers a right to  
4 intervene and, in the discretion of the council, to any person having an interest in the subject  
5 matter and whose ability to protect such interest may be otherwise impaired or impeded.” WAC  
6 463-30-091.  
7

8 As the only state-wide business association representing a broad range of electricity  
9 rate-paying businesses and industries that will be affected by this proceeding, AWB seeks  
10 intervention on the basis of the following interests in the Whistling Ridge Energy Project  
11 (“Whistling Ridge”) that are otherwise unprotected and may be impaired or impeded by the  
12 proceeding.  
13

14 **A. The Growing Demand for Renewable Sources of Electricity in Washington**

15 On behalf of its electricity rate-paying members, AWB has an interest in ensuring that  
16 our state’s power demands are met in a manner that keep energy costs stable and  
17 competitive. The applicant’s project must be approved to meet the growing demand for  
18 electricity in our state while complying with the standards imposed by the recently enacted  
19 Initiative Measure 937 (2006) while keeping power rates cost-competitive.  
20

21 In November of 2006, Washington voters approved Laws of 2007, ch. 1 (Initiative  
22 Measure 937). I-937 requires, *inter alia*, that:  
23

24 Each qualifying utility shall use eligible renewable resources or acquire  
25 equivalent renewable energy credits, or a combination of both, to meet the  
26 following annual targets: (i) At least three percent of its load by January 2, 1012,  
27 and each year thereafter through December 31, 2015; (ii) At least nine percent of  
28 its load by January 1, 2016, and each year thereafter through December 31,  
2019; and (iii) At least fifteen percent of its load by January 1, 2020, and each  
year thereafter.

1 Laws of 2007, ch.1, § 4 (codified at RCW 19.285.040).

2 This renewable energy standard requires that qualifying Washington utilities use these  
3 specified percentages of eligible renewable resources, or renewable energy credits, by the  
4 target dates. Based on the definitions of “eligible renewable resources” contained in I-937,  
5 most of Washington’s vast hydropower does not qualify as an eligible renewable resource. By  
6 contrast, wind power, such as the applicant’s proposed project, unqualifiedly counts as an  
7 eligible renewable resource and is an economically feasible and desirable renewable energy  
8 source under I-937.  
9

10  
11 In the event a qualifying utility does not meet the standards set forth above, the utility  
12 must pay an administrative penalty of \$50 per megawatt hour of shortfall to the state. RCW  
13 19.285.060(1). Provided that certain criteria are met, that penalty may be passed on to  
14 consumer ratepayers. RCW 19.285.060(4)-(7). These potential consumer ratepayers include  
15 all AWB members.  
16

17 While projects like the applicant’s are desirable under I-937, economically viable wind  
18 energy sites in Washington are limited.<sup>1</sup> In order to comply with the policy mandates of I-937,  
19 without reference to existing hydropower resources, qualifying utilities must look to projects like  
20 the applicant’s to achieve compliance and avoid costly penalties.  
21

22 Moreover, approval of the applicant’s project is important to replace the renewable  
23 hydropower lost from the removal of the Condit Dam on the White Salmon River in the next  
24 few years.  
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<sup>1</sup> See, e.g., U.S. Department of Energy, National Renewable Energy Laboratory, Washington – Wind Power  
28 Resource Estimates (2002),  
[http://www.eere.energy.gov/windandhydro/windpoweringamerica/images/windmaps/wa\\_50m\\_800.jpg](http://www.eere.energy.gov/windandhydro/windpoweringamerica/images/windmaps/wa_50m_800.jpg)

1           Given that demand for our state's electricity supply continues to grow, projects like the  
2 applicant's must be approved to comply with the standards contained in I-937 and to avoid  
3 penalties for non-compliance, meet our state's growing demand for electricity, and keep power  
4 rates competitive for AWB members across the state.

5  
6           In addition, AWB and its members are very concerned about the continued uncertainty  
7 about the status of the future operation of dams on the Columbia and Snake Rivers. AWB has  
8 supported the agreement reached by most Tribes, farmers, foresters, federal and state  
9 agencies, business and other interests. However, implementation of this agreement (the  
10 National Ocean and Atmospheric Administration's (NOAA) 2008 Final Columbia-Snake River  
11 Basin/Federal Columbia River Power System (FCRPS) Biological Opinion) is in doubt because  
12 of recent federal court decisions. Such uncertainty seriously jeopardizes the future of reliable,  
13 cost-effective and adequate electricity for Washington families, businesses, industry,  
14 agriculture, hospitals, schools and others in our population which is using greater amounts of  
15 electricity. To offset these growing problems, projects such as Whistling Ridge, must be  
16 expeditiously approved.

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19           **B. Project Impact on Economic Vitality of Washington's Forest Industry.**

20           A substantial component of AWB's membership has operations tied directly or indirectly  
21 to the health of our state's forest products industry and the association maintains an active  
22 public interest in the economic vitality of our state's forest industry, particularly in the small,  
23 local, timber-dependent communities like White Salmon and Bingen that would be affected by  
24 the applicant's project approval.

25           The applicant's proposed project breathes new life in to an ailing Washington timber  
26 industry and provides a creative and entrepreneurial new way for forest land owners to utilize  
27 their land in an environmentally responsible way.  
28

1 Over the past two decades, Washington's forest industry and timber-dependent  
2 communities have been decimated by the federal Endangered Species Act endangered listing  
3 of the Northern Spotted Owl, the Marble Murrelet, and some wild salmon runs. The applicant's  
4 proposed project creates hope for a struggling forest industry and creates a novel new way for  
5 landowners to use land that has otherwise been taken out of production.  
6

7 It is becoming increasingly clear that for the remaining forest industry to survive in  
8 Washington, it must diversify. In addition to intensive silviculture, the industry must now look to  
9 creative new business practices. Siting wind energy projects on forest lands that have high  
10 potential for the production of wind energy is a prime example of this diversification.  
11

12 In addition to the positive economic benefits to be gained by the forest landowner, an  
13 equally positive economic benefit will be realized by the surrounding community due to the  
14 creation of hundreds of new jobs and an increased tax base for local governments – elements  
15 that are extremely important during this historic economic recession.  
16

17 **C. Project Opponents Misconstrue Legal Requirements Affecting Siting.**

18 Finally, AWB is very concerned about a precedent that may be set by opponents  
19 if this project is not approved. Opponents argue that the federal Columbia River Gorge Scenic  
20 Area Act and National Scenic Area Act require that buffers be established that would adversely  
21 affect the siting of the applicant's project and have an adverse affect on the myriad AWB  
22 members who own land and operate businesses in this area.  
23

24 Other parties to this proceeding do not adequately represent these interests of AWB  
25 and without intervention, the ability of the association to protect its members and their interests  
26 may be impaired or impeded. AWB is familiar with state and federal laws and policies, such as  
27 Initiative 937 and the Columbia River Gorge Scenic Act, and how interpretation and  
28

1 implementation of those laws and policies affect local and state-wide businesses on a day-to-  
2 day basis.

3 It is this unique and critical perspective of AWB that will provide valuable input in  
4 assisting the Council in its assessment of the Whistling Ridge proposal.  
5

#### 6 7 IV. CONCLUSION

8 In accordance with the foregoing, AWB respectfully requests that the Council grant its  
9 petition to intervene in these proceedings. The outcome of this matter is of interest not only to the  
10 applicant, but will have a permanent and significant affect on state energy policy and the  
11 economic interests of the entire state. AWB requests to be heard as a voice in these proceedings  
12 and to be given the right to fully participate in all aspects and issues in accordance with the rules  
13 and regulations that guide the Council in this matter.  
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16 DATED this 26 day of June, 2009.  
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STATE OF WASHINGTON )  
 ) ss.  
County of Thurston )

Don C. Brunell, the Petitioner herein, being first duly sworn on oath, deposes and says: I am the president of the Association of Washington Business and as such am authorized to execute this verification. I have read the foregoing Petition to Intervene, know the contents thereof and believe the same to be true.



\_\_\_\_\_  
Don C. Brunell  
President  
Association of Washington Business

SIGNED AND SWORN TO before me on June 26, 2009, by Don C. Brunell.



\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington residing at Olympia.

My commission expires Jan. 1, 2012.

