

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

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

Pursuant to RCW 34.05.443, RCW 80.50.090, and WAC 463-30-091, Friends of the Columbia Gorge (“Friends”) requests Intervenor status in the above-referenced proceeding.

**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’ membership includes thousands of citizens who reside within and near the Columbia River Gorge National Scenic Area. Friends’ members recreate, hike, view wildlife, hunt, fish, own land, farm, and work in areas that would be affected by the Whistling Ridge Energy Project. Friends’ name and mailing address are:

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

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## II. PETITIONER'S ATTORNEYS

Petitioner Friends of the Columbia Gorge is represented by:

Gary K. Kahn  
Reeves, Kahn & Hennessy  
Attorneys at Law  
P.O. Box 86100  
Portland, OR 97286-0100  
(503) 777-5473  
gkahn@rke-law.com

Nathan Baker, Staff Attorney  
Friends of the Columbia Gorge  
522 SW 5th Avenue, Suite 720  
Portland, OR 97204-2100  
(503) 241-3762  
nathan@gorgefriends.org

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

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

Friends' mission is to protect and enhance the resources of the Columbia River Gorge and surrounding lands. 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.

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 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.

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 has also participated at all stages of Skamania County's process for revising the Skamania County Code to authorize wind energy facilities, including a successful appeal of the County's SEPA Determination of Non-Significance for the legislative action. In finding in favor of Friends and other Appellants in that case, the Skamania County Hearing Examiner determined that preparation of an environmental impact statement ("EIS") is necessary.

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 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.**

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 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 are adequately evaluated and addressed.
3. Whether environmental and permitting review of the project may be piecemealed, or whether all portions of the project, including the portions in both Skamania and Klickitat Counties, must be reviewed together.
4. Whether impacts on plants, wildlife, and habitat, including any threatened, endangered, and sensitive species, are adequately evaluated and addressed.
5. Whether the project adversely impacts avian species, habitat, and/or migratory corridors, and whether those impacts are adequately evaluated and addressed.
6. Whether the project adversely impacts mammal species and/or habitat, and whether those impacts are adequately evaluated and addressed.

7. Whether the project adversely impacts fish species and/or habitat, and whether those impacts are adequately evaluated and addressed.
8. Whether soil erosion, water quality, and air quality impacts are adequately evaluated and addressed.
9. Whether adverse impacts to forest habitats and resources are adequately evaluated and addressed.
10. Whether noise impacts to wildlife and surrounding communities are adequately evaluated and addressed.
11. 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.
12. Whether adverse impacts to cultural resources are adequately evaluated and addressed.
13. Whether adverse impacts to nearby land uses are adequately evaluated and addressed.
14. Any and all issues involving economic impacts and benefits of the project, including any issues involving the economic viability of the project.
15. 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.

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16. 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.
17. 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.
18. Whether impacts to communications and utility facilities are adequately evaluated and addressed.
19. Whether the impacts from construction, modification, and use of roads and transmission lines are adequately evaluated and addressed.
20. Whether the impacts from the construction phase of the project are adequately evaluated and addressed.
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 communities are adequately evaluated and addressed.
23. Whether indirect and cumulative impacts are adequately evaluated and addressed.
24. Whether the project involves any beneficial changes to the environment.
25. 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.
26. Any and all issues listed in the SEPA/NEPA Scoping Report.
27. Any and all issues discussed in the DEIS and FEIS.

28. Friends also has an interest in all procedural matters that may arise during the adjudicatory process.
29. Friends specifically requests 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: July 10, 2009.

REEVES, KAHN & HENNESSY

*[Signature]*  
\_\_\_\_\_  
Gary K. Kahn, WSBA No. 17928

FRIENDS OF THE COLUMBIA GORGE

*[Signature]*  
\_\_\_\_\_  
Nathan Baker, WSBA No. 35195

*[Handwritten mark]*

**VERIFICATION**

STATE OF OREGON            )  
  )  
County of Multnomah        )

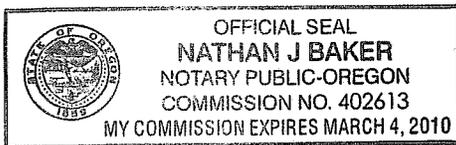
Kevin Gorman, being first duly sworn on oath, depose and say:

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.

*[Signature]*  
\_\_\_\_\_  
Kevin Gorman, Executive Director  
Friends of the Columbia Gorge

SUBSCRIBED AND SWORN TO before me this 10th day of July, 2009 by Kevin Gorman as Executive Director of Friends of the Columbia Gorge.

*[Signature]*  
\_\_\_\_\_  
Notary Public - State of Oregon



## CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2009, I served by authorized method of service pursuant to WAC 463-30-120(3) a true and correct copy of Friends of the Columbia Gorge's Petition for Intervention upon all persons listed in Attachment A of the Order Commencing Adjudicative Proceeding.

Dated: July 13, 2009



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Nathan Baker, Staff Attorney  
Friends of the Columbia Gorge