In the Matter of Application No. 2009-01:
WHISTLING RIDGE ENERGY LLC;
WHISTLING RIDGE ENERGY PROJECT

SKAMANIA COUNTY’S PREFILED REBUTTAL TESTIMONY

WITNESS #1: COMMISSIONER PAUL PEARCE

Q Please state your name and business address.
A My name is Paul Pearce. My business address is 240 Vancouver Avenue, Stevenson, Washington, 98648.

Q What is your present occupation and profession, and what are your duties and responsibilities?
A I have served as Skamania County Commissioner since 2004. As Commissioner, I have worked on rural economic and community development issues. Since 2005, I have served as a Board Member (and have twice Chaired) the Mid Columbia Economic Development District (MCEDD), which represents three Oregon counties, and two Washington Counties (Klickitat and Skamania). In this capacity, I have chaired the MCEDD Loan Committee, hosted the MCEDD Regional Workforce Housing Summit, and hosted the MCEDD Regional Transportation Summit. I have also served as Second
Vice President on the National Forest Counties and Schools Coalition; served on the Partnership for Rural America Campaign Committee Executive Board/Steering Committee; worked for the National Association of Counties (Chaired the Federal Payments Subcommittee of the Public Lands Steering Committee); and served as Washington Association of Counties Vice President.

Q The County has not previously moved to intervene in this proceeding, is that correct?
A That is correct. We are a party of right. EFSEC explained this at the first pre-hearing conference on the Project. Consequently, we have always understood the County to be a party.

Q The County has participated throughout the proceeding, is that correct?
A Yes. We have testified at hearings, submitted comment, and monitored EFSEC review. We became alarmed when we saw testimony and exhibits submitted by opponents, particularly Park Service comments and argument on Scenic Area setbacks, and argument reflecting a misunderstanding of County economic and planning background, so retained legal counsel to ensure our position was heard.

Q So, your testimony relates to these concerns, then?
A Yes. I am providing this testimony to respond to the following exhibits filed by Intervenors’ Friends of the Columbia Gorge, Inc. and Save Our Scenic Area:

- Exhibit No. 21.02: US Forest Service Letter, May 6, 2009
- Exhibit No. 21.03: US Forest Service Letter, August 23, 2010
- Exhibit No. 21.04: National Park Service Letter, May 18, 2009
- Exhibit No. 21.05: Secretary of Dept. of Interior Letter, July 19, 2010
- Exhibit No. 23.02: Skamania County Ord. 2010-06
- Exhibit No. 29.02: Skamania County SEPA 08-35
- Exhibit No. 29.03-01: Skamania County Comprehensive Plan
- Exhibit No. 29.03-02: Skamania County Comprehensive Plan, pt. 2.

Q Are you able to answer questions under cross examination regarding your testimony?
A Yes.
Q Does Skamania County condition development located outside the Scenic Area, based on the project’s proximity to the Scenic Area?

A No.

Q Could you explain why not?

A When Congress first proposed the Columbia River Gorge National Scenic Area Act, the County foresaw that the Act would have a major impact on our citizens. We initially opposed enactment. But, Congress responded to our concerns in three key ways. First, the Act established urban-exempt areas, to which the Act does not apply. Second, and most importantly for this Project, the Act includes a “savings clause,” which created a hard boundary line.

Nothing in this Act shall ... 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.¹

Third, Congress “federalized” significant land areas within the County. Since 1986, the federal government has purchased more than 20,000 acres of private land. (Unfortunately, this has also removed them from the private tax rolls. As noted in Mr. Hovee’s testimony, this places increasing burden on the local tax base.) Except with respect to the latter action’s impact on public services, these measures softened the Act’s blow. With the urban exemptions and Savings Clause, the Act struck a balance, allowing the County to survive economically, and to sustain public services for our citizens.

¹ 16 USC §5440(a)(10), emphasis added.
Q So presumably, given this background, the County does not use the Act, combined with SEPA, to condition development outside Scenic Area boundaries?

A No. We have not imposed mitigation within either the urban exempt areas or outside the Scenic Area boundary based on the Act. The Act is comprehensive and complete as a regulatory tool within the area it regulates. And, with only 7% of the land base left in this county in private ownership; which includes 4% in private working forest holdings, such an approach could have particularly harsh economic development implications.

Q So, the County disagrees with the Project opponents’ position that the Act should be used to condition development outside the Scenic Area?

A The opponents believe the Act’s aesthetic protocols, guidelines and regulatory requirements should apply to the Project, even though it is outside the Scenic Area. The opponents insist that whenever something can be seen from within the Scenic Area, it must be regulated as if it were within it. Such an argument is not consistent with the Skamania County Code. The Scenic Act’s aesthetic protocols, guidelines and regulatory requirements are incorporated into SCC Title 22, which applies to the Scenic Area and “to no other lands within the county....”2 Because the Gorge Commission has found SCC Title 22 consistent with its Management Plan, the Management Plan no longer applies.3

Q Isn’t the opponents’ position also inconsistent with the Scenic Area Act itself?

2 SCC 22.02.050.
3 See 16 USC 544(c)(2) (“Upon approval of a land use ordinance by the Commission it shall supersede any regulations for the county developed by the Commission, subject to valid existing rights.”).
Yes. The opponents’ position eliminates the bargain we struck in 1986, to balance environmental and economic interests. Gone are the statutorily exempt urban areas. Gone are the distinct Scenic Area boundaries. Instead, the Act would reach outside its jurisdictional boundaries; potentially into all of Skamania County. This would impair our County’s economic future, with potential ramifications for major urban and urbanizing areas of Clark County and Multnomah County (e.g., Washougal, Camas and areas in southeast Vancouver, as well as Gresham and Troutdale). This is exactly the outcome the County opposed in 1986, and it is why Congress addressed this concern.

Q So, just to back up a bit. Other development outside the Scenic Area is visible from within the Scenic Area?

A Yes. You know, most people talk about the views in the Gorge as either north or south, but there is not as much discussion of development to the east or west. Yet, at the west end, in full view of any number of key viewing areas sits the entire town of Washougal and the stacks of the Camas Paper mill. On the east end, right on the Scenic Area boundary, is the Maryhill Winery & Amphitheatre, and in the distance, wind turbines.

Q Do you find this inconsistent – restricting development within the Scenic Area, but not without?

A Not at all. As I’ve explained, the Act has dual purposes: it was designed to protect the Columbia River Gorge from an environmental standpoint, but also to promote economic development. That was the 1986 compromise.

4 16 USC §544a(1) and (2).
Q One other question on impacts. This would be the first and only wind project in Skamania County, is that correct?
A That is correct. The County has no other wind projects, and there are no other projects in the area. Whistling Ridge is 35.5 miles to the west of any other project.
Q You mention economic development. Is this an issue that matters to Skamania County?
A That is an understatement. That is why I ran for office over six years ago. That is why I work with three Oregon and two Washington counties to support rural counties. Let me explain. Skamania County is about a million acres, 85% of which is National Forest. No other county in the State of Washington is 85% National Forest. Coupled with that, are 80,000 acres in the Scenic Area, plus 60,000 acres of State Forest Trust land. And finally, 40,000 acres of private commercial forest land.
Q How much is left for development within the County?
A 30,000 acres, or three percent.
Q Three percent, for residential, industrial, and commercial uses?
A Correct.
Q So, what does this mean for the economic situation in Skamania County?
A Well, twenty years ago, things were very different for the County. From 1970 through 1991, the National Forest produced 350 million board feet per year, on average. This resulted in about 10 million dollars in revenue to the County and schools in today's dollars. The State Forest Trust land produced an average of two million dollars for the county throughout the 80's and early 90's. Then the Spotted Owl was listed as an endangered species, and production shut down.
Q  Shut down?
A  Yes. We went from four full time mills running multiple shifts to one. We went from 800 full time family wage jobs in the forest to less than two dozen. This devastated the local economy.

Q  Did the County receive any federal aid?
A  Yes. During the 1990’s the Federal Government provided “Owl Guarantee” funds, on the basis that once the species recovered, the logging would continue. This did not occur, so Congress passed the Secure Rural Schools and Forest Counties Act which paid the County an amount equal to average logging receipts through 2006. Again, there was an assumption that logging receipts would increase. This did not occur. Congress reauthorized the statute, with a yearly declining payment until 2011. Without this money, the County would have laid off half of our workforce and the schools would have lost 40% of their funding. Three of our four school districts would have closed. On the state front our first quarter payment for State Timber Trust receipts for 2009 was only one hundred thousand dollars. We spent a great deal of time working on the reauthorization effort of Secure Rural Schools legislation. I mention that because at the moment it is the County’s life blood. (Less than 17% of our total budget comes from property tax; most counties receive about 45%). During the reauthorization fight we were told repeatedly by Senators, Congressman and the Administration that as former, rural, timber-dependent counties we must transition our economies. This Board of County Commissioners heard that loud and clear and is working hard to make the transition happen. Renewable energy is a key part of that effort.
Q How is the County’s employment situation?

A Not good. 12.9% unemployment for the first three quarters of 2010.

Q Would the Project help alleviate that?

A Yes. The Project would contribute significantly in temporary construction phase jobs and indirect spending that goes with those jobs (e.g., restaurants, supplies, lodging), and guarantee a fixed number of permanent well-paying jobs. Plus, the Project would contribute heavily to the County’s assessed value, funds local schools, and bring in sales tax revenues, while having public service demands which can be readily met with appropriate mitigation.

Q Given that the Project is so compatible with County objectives, why is there no zoning on most of the site providing for it?

A Let me provide some background. When I came into office, minimal land within the County located outside the Scenic Area was zoned, and our comprehensive plan had not been revised for almost three decades - since 1977. We embarked on a long-range planning process three years ago, to finish work on the zoning code and to update the plan. The process began with a series of all-day Commissioner workshops early in 2008, followed by Planning Commission hearings in the fall. During this process, because the County strongly supports renewable energy (consistent with state law)\(^5\) zoning specifically addressing both small-scale and commercial-scale wind development was proposed. However, the environmental review for the wind development provisions was appealed, and the County Hearing Examiner remanded for further analysis. At that point,

\(^5\) RCW 19.285.020 (provision from Energy Independent Act supporting renewable energy development); RCW 70.235.020 (state requirements for reducing greenhouse gas emissions).
the County had three choices: appeal; prepare additional environmental review (e.g., likely an Environmental Impact Statement); or defer to the EFSEC process. Because the County felt confident EFSEC would complete a thorough, yet fair review, we took the latter approach. With this Project being reviewed through EFSEC, this allows the County to focus its limited resources on completing the extensive work required to update its zoning code to cover the entire County, and ensure the 15,000 acres are properly zoned.

Q Let’s move to a different topic. Tell me about the Lewis & Clark National Historical trail and the Oregon National Historic Trail.

A Well, the Congressionally-established route of both of these trails is on the Columbia River as it passes through Skamania County. However, federal law provides that only those parts of the routes that are on federally-owned land are “protected;” non-federally owned parts of the route can be “certified” for protection upon application by the property owner. The National Park Service is supposed to identify “high-potential route segments” and “high-potential historic sites” along the trail routes in its comprehensive management plans for the trails. A so-called “auto-tour” route for each trail can be marked to facilitate retracement of the historic route or to commemorate it. The State of Washington-designated auto-tour route for the Lewis and Clark National Historic Trail is SR 14, and the State of Oregon’s is I-84. I-84 is also the auto-tour route for the Oregon National Historic Trail. I-84 runs along a landscape that includes urban areas, major hydroelectric facilities, transmission lines, cross-Cascade railroad, and numerous other facilities. Before entering the Scenic Area, the auto routes run through eastern Washington and Oregon, including through areas with wind development, which the Park
Service has not commented on. Also, bear in mind, these auto-tour routes are not part of the trails’ route. Federal law provides that they simply facilitate retracement of the route or commemorate it.

Q Does Skamania County typically condition non-Scenic Area development based on visibility from these trails and their auto-tour routes?

A No. Skamania County does not condition development outside the Scenic Area due to its visibility from the Columbia River, I-84, or SR 14.

Q Yet, comment letters submitted by the National Park Service emphasize visual impact issues, and suggest mitigation.

A Yes. I have reviewed the correspondence addressing visual effects on state-designated auto tour routes, and vaguely based on the location of the Lewis & Clark Trail. And, the County is aware that Lee Kreutzer, Cultural Resources Specialist for the Oregon National Historic Trail, stated that Whistling Ridge would have no significant adverse impacts to either the historical route or the auto-tour route of that trail. Her comments were deleted from, and not included in the letter sent to the Department of the Interior. (See Exhibits __.01R; 21.05). In contrast, Mr. Wiley, who apparently has a role in administering the Lewis & Clark Trail (from Omaha, Nebraska), opined that seven of the turbines would have a “high” impact on the Trail. This deletion of Ms. Kreutzer’s “no impact” comment, in favor of Mr. Wiley’s “high impact” comment, for two trails that follow the same route, reflects a division of agency opinion, as well as subjective bias.

Q Could you outline the key points for considering issues related to the Lewis & Clark National Historic Trail?
A. Yes. There are basically five points to bear in mind:

First, the Congressional creation of the Lewis and Clark National Historic Trail protects the trail on federal property; not on private land. The Project is on private land and the trail does not even cross this private land.

Second, I am not aware of (and the letters from the National Park Service do not indicate) that there are any non-federally owned sites in Skamania County that have been certified for protection.

Third, the current comprehensive management plan does not identify “high-potential route segments” or “high-potential historic sites” for the Lewis & Clark National Historic Trail. Instead, it simply identifies sites with “potential for inclusion in the Lewis and Clark National Historic Trail,” including the Bingen Boat Basin, Viento State Park, Starvation Creek State Park, and Lyndsey State Park. It states that an “appropriate interpretive sign should be developed” at Viento State Park and a “general interpretive sign should be developed” at Lyndsey State Park. There is nothing about protecting the viewsheds from these parks.

Fourth, the current comprehensive management plan states that I-84 is “not proposed for development as the route of the National Historic Trail” and it identifies I-84 and Highway 14 on a map as “State Designated Lewis and Clark Highways.” There is nothing about protecting the viewsheds from these state-designated auto-tour routes.
Fifth, the Park Service confuses the Lewis & Clark National Historic Trail with
the Scenic Area. These issues are not related. The Trail Act in no way ties them
together. Stating that a project negatively impacts a national trail because the project can
be seen from the Scenic Area has no grounding in federal law. Moreover, based on the
Park Service’s internal review, the official responsible for the Oregon Trail had no such
concerns.

Q Thank you. Is there anything you wish to add to your testimony?

A Just one final point. The Scenic Area Act promoted both environmental and economic
development objectives. It accomplished this through the historic 1986 compromise,
which designated urban-exempt areas and established the Scenic Area’s distinct outer
boundaries, beyond which the federal legislation does not reach. Consistent with the Act,
this Project accomplishes both objectives. It protects the Scenic Area: it has been pulled
entirely from it. That’s 85% of the County wind development does not touch.

That is enough mitigation. You know, whether it is the Canadian tar sands fueling our
cars, or Wyoming and Montana coal beds heating our homes, we are going to get our
energy from somewhere. The Project would produce clean, home-grown energy,
honoring the deal struck in 1986.

Respectfully Submitted,

[Signature]

Commissioner Paul Pearce
Skamania County
I hereby certify that I have this day served the foregoing document upon all parties of
record in this proceeding, by authorized method of service pursuant to WAC 463-30-120(3).

Dated at Seattle, Washington, this 16th day of December, 2010.

Dawn Morgan
Asst. to Susan Drummond
EXHIBIT 50.01R

U.S. Department of Interior, Nat’l Park Service
Redlined Memo (July 1, 2010)
PACIFIC WEST REGIONAL OFFICE Memorandum

ER 10/492

July 1, 2010

To: Regional Environmental Officer, Office of Environmental Policy and Compliance, Portland, Oregon

From: Deputy Regional Director, National Park Service, Pacific West Region

Subject: Response to Draft Environmental Impact Statement for Bonneville Power Administration’s Whistling Ridge Energy Project (ER 10/492)

The National Park Service offers the following comments in response to the above project:

The National Park Service (NPS) has reviewed the Draft Environmental Impact Statement (DEIS) for the proposed Whistling Ridge Energy project in Skamania County, Washington. The NPS offers the following comments for consideration.

Lewis and Clark National Historic Trail

The proposed Whistling Ridge Energy project is located within five miles of two congressionally-designated national historic trails that are administered by the NPS: Both the Lewis and Clark National Historic Trail (NHT), a congressionally-designated NHT, which follows the Columbia River and the Oregon NHT, which is within the area analyzed in the DEIS for potential visual impacts. In addition to these historic trail designations, US Interstate 84 and Washington Route 14 are the state-designated Lewis and Clark auto tour routes in the project area. Many visitors experience these Lewis and Clark NHT historic trails by traveling the auto tour routes and stopping at interpretive and recreational sites along the way. The NPS considers the views along the river and auto tour routes to be a critical part of the trail visitor experience.

The Lewis and Clark NHTs were established by Congress in an amendment to the National Trails System Act in 1978 (16 U.S.C. § 1244(a)). As administrator of these trails, the NPS is charged under this Act with the identification and protection of the historic route, remnants, and artifacts of these trails for public use and enjoyment.

Based on the analysis of visual impacts in the DEIS, it appears that a varying number of turbines will be visible from the trails’ historic river and auto tour routes from near Kobeg Beach State Park to Lindsey Creek State Park. This approximately 15-mile stretch of the Columbia River Gorge has numerous recreational opportunities and scenic viewpoints, including Wishkah Falls, Columbia River Gorge National Scenic Area, and the Columbia River Gorge National Scenic Byway.

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Comment [Dm1]: Are there the Oregon auto tour route also? NPS Oregon Trail website shows Interstate 84.

Comment [Kp2]: Hi, Denise: Responding to your comment above, yes, I-84 is the Oregon NHT auto tour route. However, Lee Krueger from National Trails did not feel there would be significant impacts to either the historical route, which is the river at this location, or the auto tour route I-84.
views that add significantly to enjoyment of the historic trails. Of the five viewpoints along US Interstate 84 analyzed in the DEIS, viewpoint #14 at Viento State Park, is rated in Table 3-9-2 as having an anticipated moderate to high level of visual impact. However, on page 3-193 of the DEIS, the potential visual impact for this viewpoint is stated as only moderate. Furthermore, it appears that the turbines were inadvertently omitted in the photomontage in Figure 3.9-11. While difficult to discern the impact at this location without clarification on the accuracy of the visual simulation, it is our expectation that the impact should be rated as high given the placement of turbines on the skyline within four miles of a park located along the auto tour route.

Turbine string A1-A7 would be highly visible from numerous locations along the trails due to its placement on a ridgeline close to the Columbia River Gorge. The NPS recommends removing or relocating these seven turbines, if feasible. This would significantly reduce the impact to visual resources along the historic trails. The value of the visual resources in this region—that includes the Columbia River Gorge National Scenic Area and two Lewis and Clark NHT national historic trails—should not be underestimated are important resources that should be protected.

Oregon National Historic Trail

The Oregon NHT is also located in the vicinity of the project. However, the corridor of the trail in this area is not "Class 1" trail, and should not be adversely impacted by the proposed project.

The NPS appreciates the opportunity to comment on the DEIS and requests to be added to the federal agency distribution list for this project. If you have questions regarding our comments please contact:

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