

- EXPEDITE
- No hearing set
- Hearing is set

Date: October 26, 2012

Time: 11:00 a.m.

The Honorable Judge James J. Dixon

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

FRIENDS OF THE COLUMBIA
GORGE, INC., and SAVE OUR
SCENIC AREA,

Petitioners,

vs.

STATE ENERGY FACILITY
SITE EVALUATION COUNCIL
and CHRISTINE O. GREGOIRE,
Governor of the STATE OF
WASHINGTON,

Respondents,

and

WHISTLING RIDGE ENERGY
LLC, SKAMANIA COUNTY, and
Klickitat County Public
Economic Development
Authority,

Intervenors-Respondents.

No. 12-2-00692-7

[PROPOSED] ORDER TAKING
JUDICIAL NOTICE OF LEGAL
AUTHORITIES AND FACTS

Reeves, Kahn, Hennessey & Elkins
4035 SE 52nd Ave.; P.O. Box 86100
Portland, OR 97286

Tel: 503.777.5473; Fax: 503.777.8566

1 THIS MATTER came on for hearing on Petitioners' Motion to Take Judicial
2 Notice of Legal Authorities and Facts Pursuant to ER 201 and CR 9(i)
3 ("Petitioners' Motion"). Petitioner Friends of the Columbia Gorge, Inc. appeared
4 by and through its attorneys, GARY K. KAHN and NATHAN J. BAKER;
5 Petitioner Save Our Scenic Area appeared by and through its attorney, J.
6 RICHARD ARAMBURU; Respondents appeared by and through their attorneys,
7 ROBERT M. MCKENNA, Attorney General, and KYLE J. CREWS, Assistant
8 Attorney General; Intervenor-Respondent Whistling Ridge Energy LLC appeared
9 by and through its attorney, TIMOTHY L. MCMAHAN; and Intervenor-
10 Respondents Skamania County and Klickitat County Public Economic
11 Development Authority appeared by and through their attorney, SUSAN E.
12 DRUMMOND.

13 The Court heard argument and considered the following evidence:

- 14 1. The Exhibits attached to Petitioners' Motion; and
- 15 2. The Court's files and records for this case.

16 Being fully advised, the Court finds that Petitioners' Motion shall be resolved
17 as set forth below. NOW THEREFORE,

18 IT IS HEREBY ORDERED that:

19 ~~1. The Court takes judicial notice of the existence and contents of the~~
20 ~~following Skamania County Ordinances, which were duly adopted and passed into~~
21 ~~law on the following dates:~~

22 ~~a. No. 2007-10 (July 10, 2007)~~

23 ~~b. No. 2008-01 (Jan. 8, 2008)~~

~~c. No. 2008-08 (July 3, 2008)~~

~~d. No. 2008-13 (Dec. 30, 2008)~~

~~e. No. 2009-03 (July 28, 2009)~~

1 ~~f. No. 2010-01 (Jan. 26, 2010)~~

2 ~~g. No. 2010-06 (June 15, 2010)~~

3 ~~h. No. 2010-10 (Dec. 28, 2010)~~

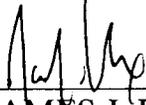
4 ~~i. No. 2011-03 (June 14, 2011)~~

5 ~~j. No. 2011-08 (Dec. 13, 2011)~~

6 ~~4. /~~ The Court takes judicial notice that the May 2, 2007 Order of the
7 Cowlitz County Superior Court in *Columbia Riverkeeper v. Cowlitz County*,
8 Cowlitz County Superior Court No. 07-2-00400-0, contains a minor typographical
9 error and that the order was intended to cite RCW 36.70C.020 and 36.70C.040,
rather than RCW 30.70C.020 and 30.70C.040.

10 ~~3. The Court takes judicial notice of EFSEC Order No. 828, issued on~~
11 ~~April 26, 2007, and of the fact that this Order finds that the February 13, 2007~~
12 ~~letter from the Cowlitz County Department of Building and Planning to EFSEC~~
13 ~~was a certificate of land use consistency pursuant to WAC 436-26-090.~~

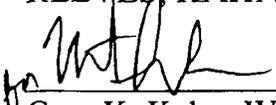
14 DONE IN OPEN COURT this 26 day of October, 2012.

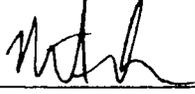
15 
16 _____
JUDGE JAMES J. DIXON

17 **James J. Dixon**

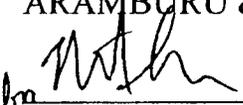
1 **PRESENTED BY:**

2 REEVES, KAHN, HENNESSY & ELKINS

3 
4 _____
4 Gary K. Kahn, WSBA No. 17928
5 Counsel for Friends of the Columbia Gorge, Inc.

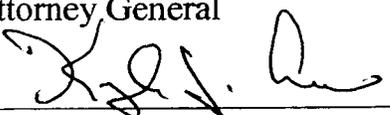
6 
6 _____
6 Nathan J. Baker, WSBA No. 35195
7 Staff Attorney, Friends of the Columbia Gorge

8 ARAMBURU & EUSTIS LLP

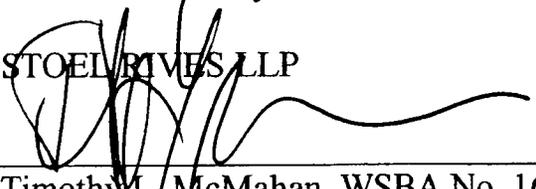
9 
9 _____
10 J. Richard Aramburu, WSBA No. 466
10 Counsel for Save Our Scenic Area

11
12
13
14 **APPROVED AS TO FORM;
14 NOTICE OF PRESENTATION WAIVED**

15 ROBERT M. MCKENNA
16 Attorney General

17 
17 _____
18 Kyle J. Crews, WSBA No. 6786
18 Assistant Attorney General

19 STOEL RIVES LLP

20 
20 _____
21 Timothy L. McMahan, WSBA No. 16377
22 Counsel for Intervenor-Respondent
23 Whistling Ridge Energy LLC

1 LAW OFFICES OF SUSAN
2 ELIZABETH DRUMMOND

3 
4 Susan Elizabeth Drummond, WSBA No. 30689
5 Counsel for Intervenors-Respondents
6 Skamania County and Klickitat County Public
7 Economic Development Authority

8 SKAMANIA COUNTY PROSECUTOR

9 
10 Adam N. Kick, WSBA No. 27525
11 Counsel for Intervenor-Respondent
12 Skamania County

13
14
15
16
17
18
19
20
21
22
23

Reeves, Kahn, Hennessey & Elkins
4035 SE 52nd Ave., P.O. Box 86100
Portland, OR 97286
Tel: 503.777.5473; Fax: 503.777.8566