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BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

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

APPLICANT’S PETITION FOR  
RECONSIDERATION OF COUNCIL  
ORDER NO. 868 AND COUNCIL  
ORDER NO. 869

COMES NOW the Applicant, Whistling Ridge Energy LLC (“Whistling Ridge”), by and through its attorneys of record Stoel Rives LLP and Darrel L. Peebles and respectfully submits this petition for reconsideration of Council Order No. 868 and Council Order No. 869.<sup>1</sup>

Whistling Ridge strongly disagrees with the Council’s recommended denial of the A1-A7 and the entire C1-C8 turbine corridors, but nonetheless expresses its appreciation for the Council’s review of the Application for Site Certification (“ASC”), the voluminous testimony in the adjudicative proceeding, and the Council’s own Final Environmental Impact Statement (“FEIS”) for the Whistling Ridge Energy Project (“Project”).

Order No. 868 states that the Council’s recommended denial of the A1-A7 and the entire C1-C8 turbine corridors “preserves the Applicant’s ability to achieve the generation capacity it requests.” Order No. 868 at 33. In other words, the Council appears to have erroneously

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<sup>1</sup> The draft Site Certification Agreement and FEIS are appended to Order No. 869. Footnote 23 in Order No. 869 directs that Whistling Ridge “file legal descriptions of the affected land for inclusion in the Site Certificate Agreement as territory prohibited from use for turbine towers or other Project structures.” That footnote specified that the filing occur “no later than the time for filing petitions for reconsideration.” The legal authority for this condition is unknown to Whistling Ridge, and Whistling Ridge does not have the time to complete this work within the timeframe for filing a petition for reconsideration. Moreover, connecting such a filing to reconsideration can be perceived as an attempt to undercut Whistling Ridge’s legal rights to reconsideration of this issue. The elimination of these turbines is in dispute, and the Applicant is not prepared to warrant that these locations should be “prohibited from use” as described in that footnote. Whistling Ridge requests that this condition be modified to require submission of turbine corridor legal descriptions prior to execution of the Site Certification Agreement.

1 concluded that thirty-five turbines sited in the remaining turbine corridors would still be  
2 economically viable because a 75-MW nameplate generating capacity could be reached using  
3 turbines with a nameplate generating capacity of more than 2 MW. In fact, extensive testimony  
4 in the record evidences that the recommended Project likely is *not* economically viable.

5 The A1-A7 turbine corridor has a robust wind resource, and eliminating it and the C1-C8  
6 turbine corridor “kills the project.” See Tr. at 74:21-24, 149:2-10 (Spadaro). Moreover, “turbine  
7 spacing within a row is largely a function of rotor diameter and avoidance of wake effect  
8 between turbines.” Tr. at 99:22-24 (Spadaro); see also Tr. at 100:17-101:5 (Spadaro), FEIS at 1-  
9 10, 2-5, 3-178. The E1-E2 and F1-F3 turbine corridors likely are not viable if turbines larger  
10 than 2 MW are used. Tr. at 74:7-12, 127:6-12 (Spadaro). Thus, the Council has effectively only  
11 recommended approval of a thirty—rather than a thirty-five—turbine project. Although thirty  
12 2.5-MW turbines could theoretically still reach the necessary 75-MW nameplate generating  
13 capacity, in reality thirty 2.5-MW turbines cannot be sited in the remaining turbine corridors  
14 (*i.e.*, the A8-A13, B1-B21, and D1-D3 turbine corridors). The thirty-turbine “capacity” of those  
15 corridors was calculated using 1.5-MW turbines, which was a common size when the ASC was  
16 submitted back in 2009 and has a 77-meter rotor diameter. Tr. at 73:15-17, 101:11-13 (Spadaro).  
17 However, 2-MW turbines have rotor diameters greater than 77 meters. Tr. at 101:24-25  
18 (Spadaro). Thus, although thirty 1.5-MW turbines could be sited in the A8-A13, B1-B21, and  
19 D1-D3 turbine corridors that the Council has recommended for approval, the testimony  
20 evidences that thirty 2.5-MW turbines cannot physically be sited in those remaining turbine  
21 corridors. As the Council’s own FEIS recognized:

22 “The Applicant also considered the feasibility of a smaller  
23 generation facility in the proposed Project Area, either by  
24 removing turbines or utilizing a smaller Project Area. However,  
25 the Project is proposed as an ‘integrated whole,’ as a single power  
26 plant, not pieces of a whole, where some turbines may be  
eliminated. \* \* \* The number of wind turbines in the Project Area  
has already been minimized to the extent practicable in light of the  
Applicant’s objectives. Accordingly, if any turbines are removed  
from the Project design, other locations must be found to replace

1 those turbines to maintain the minimum necessary capacity. The  
2 constrained site location and topography limits the ability to  
relocate turbines within the Project Area.

3 “In sum, the Project size was selected to optimize Project energy  
4 output and economic feasibility. A smaller wind turbine facility  
5 would be unlikely to offset Project development costs. A larger  
project would require additional infrastructure capacity and  
transmission capacity.”

6 FEIS at 2-21; *see also* ASC at 4.2-66 n2. Whistling Ridge fully supports further addressing  
7 aesthetic concerns during micrositing, consistent with the approach the Council utilized with the  
8 Kittitas Valley and Desert Claim projects.<sup>2</sup> *See* Tr. at 147:9-149:1 (Spadaro). That said, an  
9 economically unviable project results in no project, which undercuts “the state’s policy and legal

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10 <sup>2</sup> Attempting to support its recommended elimination of the A1-A7 and the entire C1-C8 turbine corridors,  
11 the Council claims that it “directed modification of proposed turbine siting in response to viewscape concerns” in  
12 the Kittitas Valley and Desert Claim projects. Order No. 868 at 18. As the Council well knows, this is a  
13 mischaracterization of the Council’s recommendations in those proceedings. For the Kittitas Valley project, the  
14 Council found that (i) “a blanket prohibition on the siting of all turbines within one-half mile of existing non-  
15 participating residences is unwarranted,” (ii) wind turbines cease being visually dominant when viewed from a  
distance of at least four times tip height, and (iii) setting wind turbines back a distance of at least four times tip  
height from residences “sufficiently balances the impacts on those homeowners with the public’s interest in  
developing new sources of wind power.” Order No. 826 at 30-31. Consequently, the Council imposed a condition  
embodying this setback. *Id.* at 31-32. No turbines, much less turbine corridors, were eliminated from the Kittitas  
Valley project. On remand, the Council concluded that non-participating residential landowners would only be  
satisfied

16 “through the cancellation of the Kittitas Valley Wind Power Project and the  
17 prohibition of wind turbine generators from their region of the county. Such an  
18 outcome is not supported by the record in this case, by Kittitas County’s own  
land use and zoning codes, or even by the Kittitas County Board of County  
Commissioners’ actions when they issued resolution No. 2006-90 in June 2006.”

19 Order No. 831 at 3. Based on its experience with the Wild Horse project, the Council “determined that mic[r]-  
20 siting is the only feasible methodology for achieving additional setbacks beyond the four times height requirement”  
and imposed a condition that micro-siting “give highest priority” to increasing turbine setbacks from residences  
within 2,500 feet of a turbine location “so as to further mitigate and minimize any visual impacts.” *Id.* Again, no  
21 turbines, much less turbine corridors, were eliminated from the Kittitas Valley project. *See also* Order No. 843 at  
16-19 (imposing the same condition on the Desert Claim project); Whistling Ridge’s Opening Adj. Brief at 45 n.36.

22 The Council attempts to justify treating this Project differently from the Kittitas Valley and Desert Claim  
23 projects by stating that “a single standard based on common principles is impossible to identify.” Order No. 868 at  
18 n.29. In other words, the Council is going to “make it up as it goes.” That is the definition of an arbitrary and  
24 capricious decision. *See Swoboda v. Town of La Conner*, 97 Wn. App. 613, 619, 987 P.2d 103 (1999). If nothing  
else, the Council’s conclusion in this proceeding suggests that balancing aesthetic concerns and Washington’s  
25 mandated policy of developing wind energy depends upon who is likely to see the wind turbines: Washington  
homeowners living within 2,500 feet of a proposed project or Oregon residents and commercial truck drivers  
26 cruising down an interstate highway at 65 miles an hour with only intermittent views of wind turbines sited miles  
away. *See* Ex. 8.05r.

**APPLICANT’S PETITION FOR RECONSIDERATION OF COUNCIL ORDER NOS. 868 & 869 - 3**

1 requirements to support renewable resources” and is inconsistent with the statutory directive  
2 “[t]o provide abundant energy at reasonable cost.” Order No. 868 at 15; RCW 80.50.010(3).

3 Whistling Ridge also writes to highlight an issue of highly significant statewide concern  
4 that has clearly emerged from Order Nos. 868 and 869. The Council’s sole reason for  
5 recommending denial of the A1-A7 and the entire C1-C8 turbine corridors was its conclusion  
6 that RCW 80.50.010(2)’s balancing directive would not be met because turbines in these  
7 corridors would be “prominently visible” and “impermissibly intrusive” in the Council members’  
8 self-acknowledged “subjective” determination.<sup>3</sup> Order No. 868 at 16, 22. The Council made this  
9 determination independent of the FEIS’s objective conclusion “that the visual effects of the  
10 Project were moderate and could be mitigated” without eliminating turbine corridors.<sup>4</sup> See Order  
11 No. 868 at 6 (“This order, therefore, does not consider the FEIS[.]”); Order No. 869 at 13  
12 (describing the FEIS’s conclusion). In other words, but for RCW 80.50.010(2), there would  
13 have been no basis for the Council to recommend denial of the A1-A7 and the entire C1-C8  
14 turbine corridors.<sup>5</sup>

15 <sup>3</sup> The Council’s “viewing site analysis” suggests that “subjective” visual impacts from the C1-C8 turbine  
16 corridor, in the Council’s opinion, are likely significantly less than those of the A1-A7 turbine corridor. See Order  
17 No. 868 at 23. Eliminating only the A1-A7 turbine corridor would effectively eliminate turbine visibility from eight  
18 viewpoints (after accounting for the likely elimination of the F1-F3 turbine corridor due to larger rotor diameters),  
19 but eliminating only the C1-C8 turbine corridor would not eliminate turbine visibility from any viewpoint.  
20 Eliminating both the A1-A7 and the entire C1-C8 turbine corridors would eliminate turbine visibility from two  
21 viewpoints, but these two viewpoints are over five miles from the Project site, and the anticipated level of objective  
22 visual impact at these two viewpoints if both the A1-A7 and the entire C1-C8 turbine corridors were permitted  
23 would be low. ASC Table 4.2-5. Consequently, eliminating the A1-A7 turbine corridor but not the C1-C8 turbine  
24 corridor would not have a sizable change on the already low objective visual impacts at these two viewpoints.  
25 Furthermore, the Counsel for the Environment (“CFE”) did not argue that the C1-C8 turbine corridor be eliminated.  
26 See CFE Closing Brief at 17:6-18:6. Following the CFE’s recommendation more closely could allow the Council to  
achieve its statutory directive “[t]o provide abundant energy at reasonable cost.” RCW 80.50.010(3).

<sup>4</sup> Opponents have argued that the FEIS must be used in the adjudicative proceeding (*e.g.*, “the integrity of  
the SEPA/NEPA and decisionmaking processes is accomplished by the integration of agency reviews, not by  
segregation of them”). Opponents’ Objections to Prehearing Order No. 4 at 2:20-5:5. Ironically, if this argument  
had been correct, the Council would never have reached its recommendation to deny significant parts of the Project  
because the FEIS concluded that the Project would have no more than moderate visual impacts that could be further  
mitigated without eliminating turbine corridors.

<sup>5</sup> Outside of the Council’s interpretation of RCW 80.50.010(2) concerning aesthetics, there are no  
remaining grounds upon which the Council can recommend denial of the A1-A7 and the entire C1-C8 turbine  
corridors. The Council has already determined that the Project is consistent with the Conservancy designation in

(continued . . .)

1 Whistling Ridge recognizes that deference is owed to the Council’s construction of  
2 RCW 80.50.010(2). *See Residents Opposed to Kittitas Turbines v. EFSEC*, 165 Wn.2d 275, 310,  
3 197 P.3d 1153 (2008). In addition, environmental and ecological concerns are within the  
4 Council’s purview under RCW ch. 80.50, and the Council can utilize evidence outside the FEIS  
5 in its recommendation. *Id.* at 313, 321.

6 However, the Council’s interpretation of RCW 80.50.010’s so-called balancing  
7 directive—the enactment of which dates back to 1970 when the Council was tasked with siting  
8 nuclear power plants and before SEPA was even enacted—now directly impedes the  
9 implementation of the state’s renewable energy policy. *See* S.B. 49, 1970 1st ex. sess. ch. 45 § 1.  
10 In fact, the Chairman, who stated that he “represents the Governor’s office” (Tr. at 524:5-6),

11 \_\_\_\_\_  
(. . . continued)

12 Skamania County’s comprehensive plan. Order No. 868 at 13, 36. The Council has already determined that the  
13 Project is consistent with Skamania County’s “Unmapped” zoning classification, within which the C1-C8 turbine  
14 corridor is proposed. *Id.* at 12, 36. As for the A1-A7 turbine corridor, the Council has already found that it is in  
15 Skamania County’s

16 “FOR/AG20 zone, in which semi-public uses are permitted; uses such as a  
17 privately-owned logging railroad have been found to be semi-public and uses  
18 including aircraft landing facilities and surface miners are permitted of right or  
19 conditionally.”

20 *Id.* at 35. Skamania County’s certificate of land use consistency is *prima facie* evidence that the A1-A7 turbine  
21 corridor is consistent with the FOR/AG20 zone. *See id.* at 36; Ex. 2.03; Skamania County & Klickitat County  
22 Public Economic Development Authority’s Land Use Brief at 3:3-16.

23 Turning to cultural resources, there is no evidence in the either the adjudicative record or the SEPA record  
24 that either the A1-A7 or the C1-C8 turbine corridors will impact archaeological or historical sites or culturally  
25 sensitive areas. The Yakama Nation Cultural Resources Program was a party in the adjudicative proceeding, yet  
26 presented *no* evidence regarding the existence of a Traditional Cultural Property (“TCP”) within the Project site.  
FEIS at 3-211; Tr. at 84:18-86:1 (Spadaro). The FEIS references a TCP identified by Yakama Nation cultural  
resources specialists during a December 2009 field investigation. FEIS at 3-210. However, the SEPA record also  
evidences that the results of this field investigation were officially withdrawn by the Yakama Nation Cultural  
Committee and were “not [to be] considered in any manner related to [the Council’s] review of the Whistling Ridge  
Energy Project.” Feb. 4, 2010 Memo from Lavina Washines, Chairwoman of the Tribal Council Cultural  
Committee, to Jim Laspina, Washington EFSEC, and Andrew Montano, Bonneville Power Administration.  
Therefore, the FEIS’s reference to a TCP is highly suspect. However, even if one assumes that a TCP is present  
within the Project site, the FEIS concludes that with Whistling Ridge’s stipulation to site no more than five wind  
turbines within the A1-A7 turbine corridor, along with other identified mitigation measures, “the proposed Project is  
not expected to produce any unavoidable impacts to historic or cultural resources.” FEIS at 3-218. The Council  
does not have any performance standards related to cultural resources. *See* WAC ch. 463-62. RCW 80.50.010’s  
balancing directive does not reference cultural resources. There are simply no grounds for the Council to  
recommend denial of the A1-A7 turbine corridor based on cultural resource concerns.

1 questions whether wind energy projects can meet RCW 80.50.010(2)'s directive that energy  
2 facilities "enhance the public's opportunity to enjoy the esthetic and recreation benefits of air,  
3 water and land resources." Order No. 868 at 46 (concurring opinion of Chairman Luce). Taking  
4 this interpretation to its logical end—which opponents of the next energy project that comes  
5 before the Council will undoubtedly seek to do, assuming of course that another energy project  
6 does come before the Council—no energy projects of any type will be able to satisfy a balancing  
7 directive focused on "enhanc[ing]" aesthetics. *See New Oxford American Dictionary* 561 (2005)  
8 (defining "enhance" as to "increase, or further improve the quality, value, or extent of"). This is  
9 especially true if RCW 80.50.010(2) requires that the Council undertake "subjective efforts" to  
10 assess aesthetic impacts, which stands in stark contrast to the objective evaluation required by  
11 SEPA, and in fact undertaken by the Council, through the SEPA process, for this Project. In  
12 fact, the only logical way to implement RCW ch. 80.50.010's valid policy of ensuring that "the  
13 location and operation of such [energy] facilities will produce minimal adverse effects on the  
14 environment, ecology of the land and its wildlife, and the ecology of state waters and their  
15 aquatic life" is through the SEPA process. As a matter of statutory construction,  
16 RCW 80.50.010's antiquated, subjective balancing directive cannot trump later enacted  
17 legislation—specifically SEPA, RCW ch. 43.21C. The Council's recommendation in effect  
18 renders SEPA irrelevant for energy facilities under the Council's jurisdiction, and its balancing  
19 exercise in this case is at odds with several decades of SEPA precedent.

20 Furthermore, the Council's balancing exercise conflicts with the express statutory  
21 directive that the Governor and all state agencies perform their functions and responsibilities in  
22 accordance with the Scenic Act. RCW 73.97.025(1). The Scenic Act expressly states that

23 "[t]he fact that activities or uses inconsistent with the management  
24 directives for the scenic area or special management areas *can be*  
25 *seen or heard from these areas shall not, of itself, preclude such*  
26 *activities or uses up to the boundaries of the scenic area or special*  
*management areas.*"

16 U.S.C. § 544o(a)(10) (emphasis added). Yet here, the Council's sole reason for

1 recommending denial of the A1-A7 and the entire C1-C8 turbine corridors is due to their  
2 visibility. The Council’s purported reliance on the area’s “aesthetic, cultural and natural  
3 heritage” rather than its Scenic Area designation is an utterly transparent and ineffective attempt  
4 to circumvent Congress’s express prohibition against precluding uses outside the Scenic Area for  
5 the sole reason that they can be seen from within the Scenic Area.<sup>6</sup>

6 The Council misreads *Northwest Motorcycle Association v. United States Department of*  
7 *Agriculture*, 18 F.3d 1468 (9th Cir. 1994). See Order No. 868 at 21-22. The Ninth Circuit did  
8 not affirm the U.S. Forest Service’s decision to prohibit motorized trail bikes from using trails  
9 outside a wilderness area “because the record showed an adverse effect of such vehicles upon a  
10 wilderness area.” *Id.* at 22. Instead, the court found that the “primary reason” behind the U.S.  
11 Forest Service’s decision was reducing conflicts between motorized trail bikes and hikers in an  
12 area *outside* a wilderness area and “[t]he fact that this determination was additionally based on  
13 other factors, including the proximity [to the wilderness area], does not invalidate it.” 18 F.3d at  
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15 <sup>6</sup> The Council’s attempt to rely on Project visibility outside the Scenic Area is a weak and similarly  
16 transparent and ineffective attempt to bootstrap its “subjective” conclusion regarding visual impacts inside the  
17 Scenic Area. Visual impacts were assessed in the adjudication from four viewpoints outside the Scenic Area. See  
18 ASC Fig. 4.2-5; see also FEIS Table 3.9-2 (three viewpoints outside Scenic Area assessed in FEIS). Using the same  
19 objective methodology the Council used in its FEIS, the anticipated level of visual impact from the Project at these  
20 four viewpoints was no change, low to moderate, moderate, and moderate. ASC Table 4.2-5; see also FEIS Table  
21 3.9-2 (same conclusion for the three viewpoints outside the Scenic Area evaluated in the FEIS). The closest of these  
22 viewpoints was over 7,100 feet from the nearest turbine, which is approximately four times the distance at which the  
23 Council has previously determined wind turbines that cease being visually dominant. See *supra* footnote 2.

20 Notwithstanding this, the Council properly rejected Opponents’ argument that the Scenic Act’s aesthetic  
21 regulations should be used to evaluate a project outside the Scenic Area, concluding that the Scenic Act does not

21 “require or permit use of its protections outside of the Scenic Area; by terms of  
22 the federal law, the scenic area standards have no application outside that area.  
23 Our decision recognizes this distinction and rests its validity . . . not on its  
24 Scenic Act designation. Therefore, we will apply neither the NSA restrictions  
25 nor the County’s NSA-based restrictions to the Project site.”

23 Order No. 868 at 21; see also Order No. 869 at 7 (“It would be improper to apply NSA standards to territory outside  
24 the NSA.”). Furthermore, the Council’s own FEIS, which utilized an accepted, objective visual impact  
25 methodology employing visual simulations from key viewing areas in the Scenic Area from which the project would  
26 be visible, concluded “that the visual effects of the Project were moderate.” Order No. 869 at 13. Consequently, the  
Council’s ultimate conclusion regarding aesthetics provides no basis to restrict development outside the Scenic Area  
or within exempt Urban Areas unless that development is subject to RCW 80.50.010’s balancing directive.

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1 1481. Here, the Council’s sole reason for recommending denial is due to “subjective” visual  
2 impacts *inside* the Scenic Area. This is exactly what Congress has prohibited.

3 When applying of its interpretation of RCW 80.50.010(2), the Council erroneously  
4 indicates that, based on Dautis Pearson’s testimony, Whistling Ridge’s visual analysis  
5 “understates the visual intrusion” of the A1-A7 and the entire C1-C8 turbine corridors. Order  
6 No. 868 at 21. Whistling Ridge’s visual analysis was based on the same objective methodology  
7 that the Council has used in the past, and “[t]he methodology used is appropriate since it  
8 provides a clear understanding of how the proposed Project would affect the visual landscape as  
9 seen from the key viewing areas.” FEIS at 3-162 to -163. In contrast to the testimony about  
10 visual impacts offered by the Opponents, Whistling Ridge’s visual analysis and impact  
11 assessment was not based on the opinion of one individual, but rather on the conclusions reached  
12 by an interdisciplinary team formed “to make sure that what we do is we look at keeping our  
13 biases and our perceptions out of the process as much as possible.” Tr. at 299:6-8 (Pearson); Ex.  
14 No. 9.00 at 20:12-13. Most importantly, unlike the opinions offered by the Opponents, the  
15 results of Whistling Ridge’s visual analysis are entirely consistent with the objective conclusions  
16 reached in the Council’s own FEIS. *Compare* ASC Table 4.2-5 *with* FEIS Table 3.9-2. Any  
17 suggestion that Whistling Ridge’s visual analysis inappropriately discounted visual impacts is  
18 not supported by the evidence in the record.

### 19 CONCLUSION

20 Nearly three years ago Whistling Ridge submitted an ASC for a “very, very small” wind  
21 energy facility (*i.e.*, no more than fifty 1.5- to 2.5-MW turbines with a maximum nameplate  
22 generating capacity of 75 MW). Tr. at 80:2 (Spadaro); ASC at 2.3-1. Indeed, it was “the  
23 smallest [generating capacity] that is possible” for a commercial project. Tr. at 116:18  
24 (Spadaro). Whistling Ridge subsequently stipulated to building no more than thirty-eight 2-MW  
25 or larger turbines because “[w]e want to do what we can to minimize the visual impact, but we  
26 must maintain a viable project.” Tr. at 74:1-3 (Spadaro). If this tiny Project, for which the

1 Council’s own FEIS concluded would only have low to moderate visual impacts, cannot be  
2 permitted under RCW ch. 80.50, the state’s energy facility siting process is irreparable broken,<sup>7</sup>  
3 and it is highly questionable whether the Council will ever be able to site another wind energy  
4 project.

5 At a time when Oregon’s Energy Facility Siting Council (“EFSC”) cannot keep up with  
6 demand, in its application of RCW 80.50.010 this Council has written itself into history,  
7 signaling that it is an unreliable agency to implement state energy policy. In effect the Council  
8 has delegated Washington’s energy future to Washington counties, the Bonneville Power  
9 Administration, and Oregon. Oregon understands the important public need inherent in siting  
10 energy facilities and has therefore also implemented a “balancing” standard. However, Oregon  
11 permits energy facilities even when such facilities cannot meet applicable objective regulatory  
12 standards. *See* ORS 469.501(3) (authorizing Oregon EFSC to issue a site certificate for an  
13 energy facility that “does not meet one or more” of its standards if the Oregon EFSC “determines  
14 that the overall public benefits of the facility outweigh the damage to the resources protected by  
15 the standards the facility does not meet”); *see also* OAR 345-022-0000(2). This Council now  
16 takes the opposite approach: energy facilities (or portions thereof) will be *denied* even when  
17 they *meet* objective regulatory standards, and that denial will be based on ungrounded and vague  
18 “subjective” findings that *conflict* with objective, science- and regulatory-based findings made  
19 by the very same agency.

20 This Council has signaled that Washington is an unreasonable place to site critical public  
21 infrastructure—a place where adopted regulatory standards are trumped by decisions that fly in

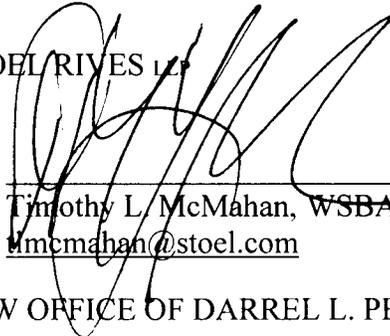
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22 <sup>7</sup> This inevitable conclusion is supported by two other undeniable facts. First, Order Nos. 868 and 869  
23 conclude that the Project is consistent with Skamania County’s land use regulations; that the Project is in full  
24 compliance with WDFW’s 2009 *Wind Power Guidelines*; that the Project meets the state’s noise standards; that  
25 there is no evidence of actual geologic hazards that would preclude siting the Project; that the Project would have  
26 real and significant economic benefits to Skamania County, which is “uniquely challenged financially”; and that the  
Project would further the state’s renewable energy policy. Second, the Council’s nearly three-year review of this  
Project has been unnecessarily long, has been wasteful of State resources, and has placed an incredibly high  
financial burden on all parties involved in this proceeding.

1 the face of an agency’s own environmental analysis, with rationales that are not based on the  
2 Council’s adopted rules, but emerge for the first time in the final order—decisions that are  
3 acknowledged by the Council itself as “subjective.” Whistling Ridge respectfully petitions the  
4 Council for reconsideration of its recommended denial of the A1-A7 and the entire C1-C8  
5 turbine corridors.

6 DATED: October 27, 2011.

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