

Appendix K
2008 Conservation Easement Correspondence

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August 26, 2008

David A. Bricklin
1001 Fourth Ave Suite 3303
Seattle, WA 98154

RE: Wild Horse Wind Power Project

Dear Mr. Bricklin:

Thank you for your comments on behalf of Robert Kruse and Friends of Wildlife and Wind Power regarding the Wild Horse Project. I would like to respond to the conservation easement and land exchange issues you raised.

The Department of Natural Resources (DNR) does not intend to encumber the Common School Trust Lands within the project with a conservation easement. The Energy Facility Site Evaluation Council's Site Certificate Agreement does not require a conservation easement on state land. Council Order No. 814 acknowledged that the applicant was committed to voluntarily placing the project area into a conservation easement with a local land conservancy. However, this is not appropriate for DNR managed Trust Lands.

You also urged DNR to transfer two sections to Department of Fish and Wildlife (WDFW) in the upcoming land exchange. The two parcels that you described to the west of the wind project were not selected for that exchange, I have passed your recommendation to our transactions program for future consideration.

Thank you for your interest in this project and the WDFW exchange.

Sincerely,

William O. Boyum
Southeast Region Manager

BB:jp

c: Allen Fiksdol, EFSEC Manager
Scott Williams, Puget Sound Energy
Brent Billingsley, Columbia Basin District Manager
File 60-075018

September 17, 2008

TO: Director Jeff Koenings, Ph.D.
Washington Dept. of Fish & Wildlife
600 Capitol Way North
Olympia, WA 98504-1091

SUBJ: Wild Horse Wind Power Project Conservation Easement & Expansion

Dear Director Koenings,

Members of the Kittitas County Field & Stream Club, the Kittitas Audubon Society and Friends of Wildlife and Wind Power are very concerned about the status of the conservation easement on the Wild Horse Wind Power Project. Our organizations supported the original project based on promised protections by Puget Sound Energy and agreements negotiated as depicted in the Environmental Impact Statement and the Site Certification Agreement. Grazing on the project was an important part of the community support. Now it appears it is considered optional by PSE. Section 27 and all the springs were supposed to be fenced and protected. They are not. The entire 8600 acres of the original project were to be placed in the conservation easement and have not been. The S.C.A. and the final E.I.S permitted a "Wind Energy Facility" not solar power or other alternative energy development or a 25% expansion in wind towers on the existing project.

We urge the Department not to sign off on the proposed Conservation Easement.

Sincerely,

Kittitas County Field & Stream Club
8770 Brick Mill Road
Ellensburg, WA 98926

Kittitas Audubon Society
PO Box 1443
Ellensburg, WA 98926

Friends of Wildlife & Wind Power
8885 42nd Ave SW
Seattle, WA 98136

cc: WDFW Commission
Governor Christine Gregoire
E.F.S.E.C.



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: 600 Capitol Way N • Olympia, WA 98501-1091 • (360) 902-2200, TDD (360) 902-2207
Main Office Location: Natural Resources Building • 1111 Washington Street SE • Olympia, WA

November 7, 2008

Kittitas County Field & Stream Club
8770 Brick Mill Road
Ellensburg, Washington 98926

Kittitas Audubon Society
Post Office Box 1443
Ellensburg, Washington 98926

Friends of Wildlife & Wind Power
8885 42nd Avenue Southwest
Seattle, Washington 98136

Gentlemen and Ladies:

Thank you for your September 17, 2008, letter to Washington Department of Fish and Wildlife (WDFW) Director Jeff Koenings regarding your concerns with the conservation easement and expansion associated with the Wild Horse Wind Power Project. Director Koenings has asked that I respond on his behalf.

We share your concern about the protection of shrub-steppe habitat. As you know, shrub-steppe habitat is identified as a priority habitat by WDFW due to continued development and conversion. Protecting, restoring, and maintaining ecological connectivity between the remaining large contiguous tracts of shrub-steppe is one of our highest priorities.

There are few regulatory tools that provide protection of terrestrial habitats, and WDFW has no laws within the fish and wildlife code that provide protection of upland wildlife habitat. We rely on a few direct and indirect methods, such as other agency's regulatory processes to protect upland habitat.

In this instance, there are provisions of the Energy Facility Site Evaluation Council (EFSEC) Site Certification Agreement that are intended to mitigate habitat impacts associated with the wind farm. The WDFW settlement agreement related to the Wild Horse Wind Power Project that also contains several habitat protection elements. We do not believe that the conservation easement negotiated between WDFW and Puget Sound Energy (PSE) is part of either or any regulatory process. The conservation easement is part WDFW's acquisition program which is based on a non-regulatory habitat protection approach between willing buyers and willing sellers. This non-regulatory tool is an important part of our efforts to work cooperatively with private landowners to implement conservation benefits on private lands.

Conservation easements almost always require extensive negotiations regarding allowed uses. The Wildhorse Conservation Easement is no different than most easements in this regard. Often the most difficult part of any conservation easement discussion revolves around what uses will and will not be permitted after the acquisition of the easement. As negotiated, the Wildhorse Conservation Easement allowed uses include wind-power, grazing, recreation, and solar and geothermal power development on the southeast quarter of the property. Allowing for future opportunity for solar and geothermal power production along the Beacon Ridge Road south of Whiskey Dick Mountain is the culmination of WDFW and PSE's joint effort to accommodate limited renewable power production on the site, while protecting in perpetuity the most valuable wildlife habitat. Roughly 7,500 acres of PSE lands will ultimately be included in the conservation easement. The 7,500 acres includes about 2,000 acres that were not owned by PSE at the time the project was permitted. Thus, these lands were not part of the commitment PSE made to place an easement on their private lands within the original wind farm. Most of the area where solar and/or geothermal energy may be developed is located within the PSE ownership that is outside of the permitted wind power project. Solar and/or geothermal development is limited to the area nearest the Vantage Highway in the most arid and least diverse portion of PSE land ownership.

It should be noted that the negotiated conservation easement prohibits almost all of the threats to shrub-steppe habitat. While we share your concerns about the potential impacts associated with a large solar energy development, we would be very reluctant to give up the substantial protections the easement provides to all other potential threats to the habitat over a large geographic area. PSE made significant concessions with regard to allowed uses within the easement on their property. Although initial discussions included the possibility that renewable energy would be allowed anywhere on the property, they concluded with limited solar/geothermal energy development allowed only in the southeast quarter of the property.

Finally, we must also point out that the conservation easement does not permit or support solar/geothermal development, it merely does not extinguish the landowners right to apply for a permit for solar/geothermal development. Any future permit application for solar/geothermal development would trigger environmental review and mitigation for associated impacts as with any other site.

With regard to the Washington Department of Natural Resource's (WDNR) ownership within the Wild Horse Wind Power Project, the issue of whether WDNR lands would be included in the future conservation easement between WDFW and PSE, was not discussed. WDFW did not assume that PSE had the authority to convey an easement over WDNR lands, and we did not request or discuss the possibility of including an easement on WDNR lands with the WDNR. Only WDNR can convey an easement on their lands and you may wish to pursue that part of your concern directly with WDNR.

WDFW was not part of discussions that committed PSE to grazing their lands. We have advocated that if grazing should occur, it needs to be conducted as part of a science supported, performance based, grazing plan that protects fish and wildlife habitat. The Coordinated Resource Management (CRM) group has worked diligently to prepare that plan and is consistent

with WDFW's "Skookumchuck" acquisition. The investment WDFW and PSE have made in the CRM should reflect our united commitment to include grazing in an ecologically sustainable and beneficial manner within this area.

We view the fencing provision of the EFSEC permit for PSE as safety net in the event that our best efforts for implementing a wildlife friendly grazing program was not fruitful. Fortunately, a landscape level, wildlife friendly grazing plan has been developed. The section 27 fencing provision was specific to grazing management, and the CRM is achieving what was intended regarding upland wildlife habitat protection. Building permanent fences where they are not needed can be harmful to wildlife. Fences can pose a significant hazard to sage grouse and should be avoided whenever possible, and since the agreed upon grazing performance standards will now be applied to Section 27, there is no longer a need to fence it. We do concur that protection of springs and riparian areas with fencing is necessary, but temporary electric fences that are only up when they are needed and are the least intrusive method consistent with our range management performance standards.

WDFW and PSE did install temporary fencing along riparian corridors during the 2008 grazing period to exclude livestock, and protect water quality and fish and wildlife habitat. PSE remains responsible for protecting springs and watercourses on their ownership, both within their EFSEC permit and under the provisions of the proposed conservation easement. The easement has strong protective language for both grazing, and protection of springs and waterways. Thus, the conservation easement provides protection for 7,500 acres of shrub-steppe habitat and riparian areas, rather than just the 640 acres that would be protected by the fence.

The wind farm expansion area will be included in the easement when the expansion is permitted. This provides important protection for the headwaters of Skookumchuck Creek and parts of Quilomene and Skookumchuck Ridges. Additionally, during the course of our discussions regarding their proposed wind farm expansion, PSE agreed to remove the four northernmost wind turbines from consideration. These four turbines straddled Quilomene Ridge and were inholding to the Quilomene Wildlife Area. They potentially would have required an overhead power line creating significant environmental impacts and expected mitigation. PSE has now agreed that if they ever sell the Quilomene Ridge property, they intend to sell it to WDFW.

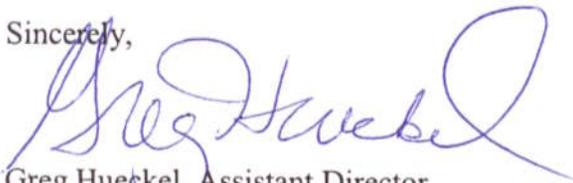
The conservation easement also commits PSE to funding the baseline inventory and periodic monitoring of their property to land trust alliance standards. PSE also has obligated itself to condition any future mineral extraction to protect the conservation values identified in the easement. PSE cannot convey the mineral rights because they do not own them. However, they can and have extended the impact avoidance and mitigation authority they do have as the surface landowner, to protect WDFW's interest in habitat as described in the easement.

While some may not regard the conservation package for the Wild Horse Wind Power Project as being perfect, PSE negotiated in good faith to provide significant conservation that accompanies the project beginning with their efforts to obtain the option for acquisition of the 18,000 acre Skookumchuck property. Without PSE's assistance, the Skookumchuck acquisition would likely not have occurred. PSE was also a big help in obtaining funding for the Skookumchuck and has

been a key player in implementing a vastly improved grazing program in this area. The conservation easement now not only includes the 5,600 acres of the original project, but another 2,000 acres that were acquired since.

Finally, PSE has been responsive to WDFW's concerns about turbines on Quilomene Ridge and are committed to not selling the Quilomene Ridge property to anyone other than WDFW. At this point, it is our opinion that the benefits of our partnership with PSE with regard to the long-term protection of fish and wildlife habitat far outweigh the potential risks.

Sincerely,



Greg Hueckel, Assistant Director
Habitat Program

cc: Governor Gregoire
WDFW Fish & Wildlife Commission
Jeff Koenings, Director
Jeff Taylor, Region 3 Director
Peter Birch, Deputy Assistant Director
Perry Harvester, Region 3 Habitat Program Manager