

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Whistling Ridge Energy, LLC's September 13, 2023 Request to Extend the Term of the 2012 Site Certification Agreement for the Whistling Ridge Energy Project

FRIENDS OF THE COLUMBIA GORGE'S RENEWED MOTION TO CONSOLIDATE MATTERS

In the Matter of Whistling Ridge Energy, LLC's September 13, 2023 Application to Transfer the 2012 Site Certification Agreement for the Whistling Ridge Energy Project to Twin Creeks Timber, LLC as the New Parent of Whistling Ridge Energy, LLC

I. INTRODUCTION

In a September 18, 2023 Scheduling Motion ("Scheduling Motion"), Friends of the Columbia Gorge ("Friends") moved the Council to consolidate the above-captioned matters, except that the hearings for each matter must be held separately. (Scheduling Mot. at 1, 3, 9, 12.) This request to consolidate the two matters has not yet been ruled upon. Friends hereby respectfully renews the request.

II. APPLICABLE AUTHORITY

One of the above-captioned matters involves a newly filed request to amend a site certification agreement. Upon receiving such a request, "[t]he [C]ouncil will consider the request and determine a schedule for action at the next feasible [C]ouncil meeting." WAC 463-66-030. In addition, "[t]he [C]ouncil shall hold one or more public hearing sessions upon the request for amendment at times and places determined by the [C]ouncil." *Id.*

The other above-captioned matter involves a newly filed application to transfer a site certification agreement to a new owner. Upon receipt of such a request, the Council must "hold

1 an informational hearing on the application” and must mail notice to all persons on EFSEC’s
2 mailing list for the project. WAC 463-66-100(4).

3 **III. FACTS RELEVANT TO THE MOTION**

4 **A. Chronology**

5 On September 12, 2023, EFSEC issued by email an “EFSEC Notice of Special
6 Informational Meeting for Whistling Ridge Site Certification Agreement Amendment Request”
7 (hereinafter “Email Notice”).

8 The next day, on September 13, 2023, EFSEC received a Request from Whistling Ridge
9 Energy LLC (“WRE”) to extend the term of the March 5, 2012 Site Certification Agreement
10 (“SCA”) for the Whistling Ridge Energy Project (“Whistling Ridge” or “WREP” or “Project”)
11 (hereinafter “Extension Request”).

12 Also on September 13, 2023, EFSEC received an Application from WRE to transfer the
13 Whistling Ridge SCA to Twin Creeks Timber, LLC (“TCT”) as the new parent of WRE
14 (hereinafter “Transfer Application”).

15 The Email Notice was later amended multiple times and the “informational meeting”
16 announced in the Email Notice was subsequently canceled.

17 **B. Consolidation**

18 Twin Creeks Timber, LLC (“TCT”) is the new parent company of Whistling Ridge
19 Energy LLC. In a March 16, 2022 letter, TCT “ask[ed] that the Council not take action on either
20 request until we are prepared to move forward on both.” (Mar. 16, 2022, letter from Greg
21 Corbin, TCT, to Sonia Bumpus, EFSEC.) In the same letter, TCT stated that “we anticipate
22 seeking the Council’s review of both the SCA extension request and the transfer request in a
23 single process.” (*Id.*)

24 In its Scheduling Motion, among other relief, Friends moved the Council to consolidate
25 the above-captioned matters, *except that* the Council must hear each matter at a separate public
26 hearing. (Scheduling Mot. at 1, 3, 9, 12.) This request has not yet been ruled upon.

27 ///
28
29

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

IV. REQUESTED RELIEF

Friends renews its request to consolidate the two above-captioned matters, including for purposes of keeping a consolidated administrative record, except that the required public hearings on the Extension Request and Transfer Application must be held separately.

V. ARGUMENT

A. The Council should consolidate the two matters, including for purposes of keeping a consolidated administrative record, except that the Council must hold separate public hearings for the two matters.

Friends renews its request to consolidate the above-captioned matters, one involving the Extension Request and the other involving the Transfer Application. (See Scheduling Mot. at 1, 3, 9, 12.) The Council should consolidate these two matters, including for purposes of compiling a single administrative record, except that the Council must hold separate public hearings for the two matters.¹

VI. CONCLUSION

Based on the foregoing and Friends' Scheduling Motion, the Council should consolidate the two pending matters (except for the public hearings, which must be held separately).

Dated this 16th day of April, 2024.

FRIENDS OF THE COLUMBIA GORGE, INC.

/s/ Nathan J. Baker

Nathan J. Baker, WSBA No. 35195

Senior Staff Attorney

(503) 241-3762 x101

nathan@gorgefriends.org

¹ As explained in Friends' Scheduling Motion, the public hearings required by law for these two separate matters cannot be conducted as a single hearing. (Scheduling Mot. at 5.)

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the date shown below, I served a true and correct copy of the
3 foregoing FRIENDS OF THE COLUMBIA GORGE’S RENEWED MOTION TO
4 CONSOLIDATE MATTERS on each of the persons named below via email:

5 Timothy L. McMahan
6 Stoel Rives LLP
7 tim.mcmahan@stoel.com
8 *Attorney for Whistling Ridge Energy, LLC*

9 Greg Corbin, Senior Special Counsel
10 Green Diamond Management Company
11 greg.corbin@greendiamond.com

12 DATED this 16th day of April, 2024.

13 By: s/ Nathan J. Baker
14 Nathan J. Baker, WSBA No. 35195
15 Friends of the Columbia Gorge
16
17
18
19
20
21
22
23
24
25
26
27
28
29