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June 28, 2018

Washington State Energy Facility Site Evaluation Council  
1300 S Evergreen Park Dr.  
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To the Council:

**RE: TUUSSO Energy Columbia Solar Project, Application No. 2017-1**

I write in my capacity as Counsel for the Environment to comment on the Proposed Draft Site Certification Agreements for the TUUSSO Energy Columbia Solar Project, Application No. 2017-1. This comment is applicable to all five discrete sites comprising the Project, but has particular salience for the Typha site, due to its proximity to the Yakima River and the presence of certain wetlands.

As a general matter, I encourage the Council to establish clear, consistent, and strong protections for rivers, streams, and wetlands that may be affected by the Project. The applicant, the council, and the public would benefit from clarity about what the Council will require. As currently drafted, the Proposed Draft Site Certification Agreements incorporate multiple, sometimes inconsistent setback, buffer, and mitigation standards for wetlands, streams, and the Yakima River from the Revised Application, the SEPA Environmental Checklist, and the Mitigated Determination of Non-Significance (MDNS). For example:

- Application Part 3, Page 183, states that “The proposed projects include at least 20-foot setbacks from wetlands, streams, and the Yakima River.” As a Type F stream, however, the Yakima River requires a 100-foot setback.
- Application Part 3, Page 233, identified buffers from 40-200 feet for Type S streams. The Kittitas County Shoreline Master Program identifies a 100 foot buffer for a Type S Standard Shoreline within the Rural Conservancy Shoreline Environment Designation.

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- Application Part 3, Page 258, presents a table identifying buffers at the Typha site ranging from 0-25 feet, which appears to be inconsistent with other requirements.
- Application Appendix C, Page 45, identifies buffers ranging from 40-200 feet for Type S streams. As noted above, the Shoreline Master Program identifies a 100 foot buffer for a Type S shoreline.
- The MDNS and Order on Expedited Processing appear to adopt a 100-foot setback from Type F streams, but do not elaborate on applicable setbacks or buffers for associated wetlands or other streams. Furthermore, although the Revised MDNS states that it will incorporate setback requirements for riparian areas in the current draft amendments to the Kittitas County Critical Areas Ordinance, it does not state clearly what those requirements are, or attach a copy of the draft amendments, or identify a particular version of draft amendments.
- In addition, it is not clear what standards the Proposed Draft SCAs would apply to wetlands at the sites. At the Typha site, wetlands TW-01, TW-02, and TW-03 appear to be mapped within the jurisdiction of the Shoreline Master Program. If so, then they may be associated wetlands that require a 100-foot setback; however, the SEPA checklist appears to suggest that the wetlands only require a 30-foot setback. See SEPA Checklist Appendix A, page 35, section 4b. Furthermore, a former oxbow across the southern and western portion of the site is also identified as a shoreline on the Kittitas County Shoreline Environment Designation Map, suggesting that setbacks may apply there, as well. See Appendix C - Habitat, Vegetation, Fish and Wildlife Assessment Report Page 41: Section 4.2.4 - Typha Solar Project Site.

In support of the establishment of strong protections for the sites, accurate baseline data will be important. Therefore, I concur with the Department of Ecology and the Department of Fish & Wildlife that certain areas at the five sites warrant additional investigation and rating for potential wetland characteristics or habitat value.

In addition, I encourage the Council to also incorporate additional accurate information about habitat effects of the project. For example, although Application Part 3, Page 217 states that the Yakima River contains Coho salmon, mountain sucker, rainbow trout, and Westslope cutthroat trout, the River may also provide habitat for bull trout, spring Chinook, and steelhead. In addition, although SEPA checklist Appendix A, page 51 identifies some threatened and endangered species on or near the site, the list should include bull trout (Threatened), spring Chinook (Endangered), steelhead (Threatened), and summer steelhead (Threatened), as well as a description of how and why the project will not affect these species. In addition, Appendix C, page 33 indicates that fish have no likelihood to occur within the Project-Scale Analysis Areas,

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but the waterways within the boundaries (the Yakima River, Reecer Creek, and Naneum Creek) would indicate otherwise.

Thank you for this opportunity to comment on the Proposed Draft Site Certification Agreements.

Sincerely,



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Counsel for the Environment  
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cc: Ann Essko, Senior Counsel, Washington State Attorney General's Office  
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