

**WASHINGTON STATE**  
**ENERGY FACILITY SITE EVALUATION COUNCIL**  
**DRAFT RESOLUTION NO. 356**  
***AMENDMENT NO. 3 TO THE***  
***DESERT CLAIM WIND POWER PROJECT SITE CERTIFICATION AGREEMENT***  
***TERMINATION***

**Nature of Action**

On May 13, 2025, the Washington Energy Facility Site Evaluation Council (EFSEC or Council) received a written request from the Certificate Holder Desert Claim Wind Power LLC to terminate the Desert Claim Site Certification Agreement (SCA). According to the certificate holder's request, "given current market conditions, Desert Claim Wind Power LLC no longer sees an economically feasible path to finance construction and operation of the project" and therefore, requests termination of the SCA.

The Certificate Holder has never commenced construction of the facility and is essentially stating its intention to abandon its authority under the certificate.

The SCA was originally executed in 2010, with an expiration in 2020. The SCA expiration date has twice been extended by the Council, first to 2023 and then to 2028, on assurances from the Certificate Holder that it was still seeking to contract with an off-taker of the project's power, after which it would be able to commence construction.

Based on the Certificate Holder's current representation that it no longer sees a path to financing construction and wishes to terminate the certificate, the Council hereby grants the request and declares the Desert Claim Wind Power Project Site Certification Agreement to be terminated.

**Background**

Governor Gregoire executed the Desert Claim Site Certification Agreement (SCA) in 2010. The original SCA authorized Desert Claim to construct and operate a wind power facility consisting of a maximum of 95 wind turbines, an output capacity of 190 total megawatts (MW), tower height not to exceed a maximum of 410 feet, and a 5,200-acre project site. The project would have been located north and west of Ellensburg near the intersection of U.S. Route 97 and Smithson Road.

Having not yet started construction, in February 2018 Desert Claim requested that the Council amend its SCA to allow for the reconfiguration of its site boundary and the installation of fewer, but larger turbines than were originally authorized. The Council granted Desert Claim's request to amend its SCA in Resolution No. 343, dated November 13, 2018. The resulting SCA Amendment No. 1 reduced the project area to 4,400 acres. The number of authorized wind turbines was reduced to 31, not to exceed a height of 492 feet. SCA Amendment No. 1 also extended the original SCA's deadline for commencement of commercial operations by three years, to November 13, 2023.

Still not having commenced construction, on May 5, 2023, Desert Claim submitted a request to amend the SCA to extend the deadline for completing construction by five years. With Resolution No. 353, Amendment No. 2 to the Desert Claim Wind Power Project SCA Extension of Term, signed October 18, 2023, the Council granted approval of Desert Claim's request to extend the SCA's expiration date by five years requiring that substantial completion be achieved no later than November 13, 2028. The Council stated it would not entertain any additional extension requests.

## **Procedural Status**

Washington Administrative Code (WAC) 463-66-020 (Termination) defines "termination of an SCA, except pursuant to its own terms, is an amendment of the agreement."

Pursuant to WAC 463-66-030 (Request for amendment), Desert Claim submitted its written request to terminate the SCA on May 13, 2025.

WAC 463-66-030 (Request for amendment) states the Council will consider the request and determine a schedule for action at the next feasible Council meeting, which was the May 21, 2025 regular monthly Council meeting.

At the Council's May 21, 2025, meeting, EFSEC staff reported to the Council that the certificate holder had submitted its request to terminate its SCA. EFSEC's legal counsel advised the Council that because site restoration is not required for this project (construction never having commenced) and the certificate holder has stated its intent to abandon its authority, the ordinarily applicable criteria for amendment of site certification agreements have no practical application this request. EFSEC Director, Sonia Bumpus stated her agreement that the Desert Claim SCA could be terminated by the Council's adoption of a resolution at its June 25 Council meeting, which would serve as the opportunity to take any written public comment prior to taking action per Revised Code of Washington 42.30.240 (Public comment).

An online public comment database was open June 16 – 22, 2025 prior to the June 2025 Council meeting. XX written comments were received as a result of the public comment opportunity.

## **Discussion**

WAC 463-66-040 outlines the relevant factors that the Council shall consider prior to a decision to amend an SCA.

That rule provides that in reviewing any proposed amendment, the Council shall consider whether the proposal is consistent with:

- (1) The intention of the original SCA;
- (2) Applicable laws and rules;
- (3) The public health, safety, and welfare; and
- (4) The provisions of chapter 463-72 WAC.

The first criterion, consistency with the original SCA, is inapplicable here. Consistency with the intention of the original SCA only makes sense for evaluating a request to change the terms of an ongoing SCA. Because the certificate holder proposes to terminate the SCA entirely, there are no proposed new terms to compare against the intent of the original SCA.

Proceeding to the second and third criteria, because construction was never initiated, there are no laws or rules, or public health, safety, or welfare concerns, to prevent the certificate holder from voluntarily terminating its authority under the SCA.

Finally, as to the fourth criterion, WAC 463-72 is concerned with site restoration requirements at the end of a project's useful life and financial assurances for that purpose and is in no way implicated by the request.

EFSEC staff recommended that the requested termination be granted. There is no basis to deny the certificate holder's request.

### **RESOLUTION**

For the foregoing reasons, the Council hereby grants Desert Claim Desert Claim Wind Power LLC's request and declares the Desert Claim Site Certification Agreement to be terminated.

DATED at Lacey, Washington and effective on June 25, 2025.

WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

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Kurt Beckett, EFSEC Chair

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Sonia E. Bumpus, EFSEC Director