



May 5, 2023

Kathleen Drew, Chair  
Energy Facility Site Evaluation Council  
621 Woodland Square Loop SE  
P.O. Box 43172  
Olympia, WA 98504-3172

RE: Desert Claim Wind Project  
Request to Amend Site Certification Agreement

Dear Chair Drew:

Pursuant to WAC 463-66-030, I am writing on behalf of Desert Claim Wind Power LLC, a subsidiary of EDF Renewables, to request an amendment of the Site Certification Agreement (SCA) for the Desert Claim Wind Project to extend the deadline for completing construction by five years to November 13, 2028.

We believe the Desert Claim Wind Project can be an important part of the State of Washington's decarbonization efforts. The proposed amendment would allow additional time for the company to secure a long-term power purchase commitment, which is necessary to proceed with financing construction of the project.

#### Background

As described in the SCA, the Desert Claim Wind Project is a 100-megawatt (MW) wind power project located near Ellensburg in Kittitas County, Washington. The project consists of up to 31 wind turbine generators and associated facilities.

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EFSEC first recommended and the Governor approved site certification of an earlier configuration of a wind power project at this location in 2010. The project approved at that time had 95 turbines located on approximately 5,200 acres of public and private land. The original project had a capacity of 195 megawatts. Execution of the SCA followed a full adjudicatory hearing, and the issuance of a SEPA Supplemental Environmental Impact Statement.

In 2018, the company substantially redesigned the project. As redesigned, the smaller project has a maximum capacity of 100 megawatts, with only 31 turbines, located on approximately 4,400 acres of public and private land. The SCA was amended to authorize construction and operation of this project.

Since the amended SCA became effective in November 2018, the company has been actively seeking an off-taker willing to commit to a long-term agreement to purchase the project's output. A long-term commitment is needed to secure financing and begin construction. Unfortunately, despite participating in multiple competitive bidding processes, a utility has not yet selected the Desert Claim Project to supply its long-term needs. As the demand for renewable power in the Northwest continues to grow and as federal tax incentives make renewable power more attractive, however, we believe that we will find a long-term buyer for the project's power. We need more time to do so.

We are still committed to constructing and operating the project, but an extension in the SCA is a vital component. The extension of the wind Production Tax Credit (PTC) under the Investment Reduction Act (IRA) further enhances our belief that we will be successful in executing an off-take agreement.

#### SCA Amendment Furthers State Energy Strategy

In the EFSEC statute, the Washington Legislature found that "[i]t is the policy of the state of Washington to recognize the pressing need for energy facilities." RCW 80.50.010. In connection with recent amendments, the Legislature further found that

It is the policy of the state of Washington to reduce dependence on fossil fuels by recognizing the need for clean energy in order to strengthen the state's economy, meet the state's greenhouse gas reduction obligations, and mitigate the significant near-term and long-term impacts from climate change while conducting a public process

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that is transparent and inclusive to all with particular attention to overburdened communities.

The Legislature provided that EFSEC's actions should be based in part "[t]o encourage the development and integration of clean energy sources." Id.

Other state statutes require the transition to renewable, carbon-free electricity generation. In 2019, the Legislature adopted the Clean Energy Transformation Act, which requires the state's electricity supply to transition to 100% carbon-free by 2045. See RCW ch. 19.405. A year later, the Legislature updated the state's greenhouse gas reduction targets, which now include targets for each decade, culminating in an overall reduction of greenhouse gas emissions to 95% below 1990 levels by 2050. See RCW 79A.45.020.

Washington's State Energy Strategy outlines a framework for "deep decarbonization." Washington Department of Commerce, Washington 2021 Energy Strategy (Dec. 2020). The Strategy explains that electricity in Washington "must be 100% clean by 2030 and by 2050 must roughly double its output." Strategy at 15. Doing so will require "[s]ignificant quantities of new clean generation." Id. at 117. We believe Desert Claim Wind Project can be an important part of meeting this goal.

### Regulatory Analysis

EFSEC regulations at WAC 463-66-040 provide that "[i]n 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 requested amendment satisfies these requirements.

First, the amendment is consistent with the primary intent of the SCA, which was to authorize the construction and operation of a renewable wind energy project at the proposed location in central Washington. The requested amendment makes no changes to the proposed project or required

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mitigation. The amended SCA would continue to require submission and approval of numerous plans prior to commencement of construction.

Second, the amendment is consistent with applicable laws and rules. The existing SCA is consistent with the Council's statutes and regulations as well as other applicable statutes and regulations. The proposed amendment would not alter any of the SCA's substantive provisions concerning the project description, construction and operational requirements or environmental mitigation.

The EFSEC statute (RCW ch. 80.50) does not limit the time between certification and construction of an energy facility. The Council's regulations generally provide that "[s]ubject to conditions in the site certification agreement and this chapter, construction may start any time within ten years of the effective date of the site certificate agreement." WAC 463-68-030. However, the Council's regulations also provide that "[u]pon a request to extend the term of the site certification agreement, the council may conduct a review consistent with the requirements of WAC 463-68-060 and 463-68-070, and other applicable legal requirements." WAC 463-68-080.

We currently seek an SCA amendment that would require construction to be substantially completed by November 2028. In light of the substantial revision of the Site Certification Agreement that became effective in November 2018, we interpret the Council's regulations to allow construction to begin for up to ten years from the date that the 2018 amendment became effective. We also interpret the Council's regulation to give the Council latitude to adopt specific conditions in the SCA governing the timing of construction, and to amend those provisions as circumstances justify.

Third, the amendment is consistent with the public health, safety and welfare. The Washington Legislature has recognized that reducing dependence on fossil fuels, increasing renewable electricity generation, and addressing climate changes are all significant matters of public health and welfare. See Washington Session Laws 2020, ch. 79, sec. 1 ("Global climate change represents an existential threat to the livelihoods, health, and well-being of all Washingtonians"); RCW 19.405.010; RCW 80.50.010

Fourth, the amendment is consistent with the provisions of chapter 463-72 WAC. This chapter of the WAC contains EFSEC's regulations governing site restoration. The Desert Claim SCA addresses these regulatory requirements in Article VIII. The proposed amendment would not alter these SCA conditions, and therefore, is consistent with WAC chapter 463-72.

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The Council should approve the requested amendment because these four regulatory criteria are met.

### Environmental Analysis

The Desert Claim Wind Project will generate carbon-free renewable electricity, and further Washington's renewable power and climate-related objectives. EFSEC thoroughly analyzed the potential environmental impacts associated with construction and operation of the project when it first recommended certification of the project in 2010, and again when it approved substantial revisions to the project in 2018. The SCA includes a variety of conditions intended to avoid, minimize, and mitigate potential environmental impacts.

The current request to extend the timeline for construction of the project will not make any other changes to the project. It will not, therefore, have any environmental impacts that were not previously considered in the Council's process. We are enclosing a completed SEPA Checklist confirming the same.

### Regulatory Process

The Council's regulations provide that an amendment to a Site Certification Agreement becomes effective upon Council approval, without the need for action by the Governor, if the amendment "does not substantially alter the substance of any provisions of the SCA" or the Council determines that the amendment will not have "a significant detrimental effect upon the environment." WAC 463-66-070. This regulation only requires one of these criteria to be met, but the current Amendment Request meets both.

First, the requested amendment would not substantially alter the existing Site Certification Agreement. The amendment would not make any changes to the project or mitigation requirements. It would merely extend the construction timeline.

Second, the requested amendment would not have a significant detrimental effect on the environment. The amendment would make no change to the project and, therefore, would have no additional environmental impact. The project's environmental impacts were already fully addressed by the Council when it approved the revised project and the SCA amendment became effective in 2018.

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For the reasons described above, we do not believe the Governor's approval is required for this amendment. Under the Council's regulations, however, a public hearing is to be held concerning any amendment request. WAC 463-66-030. We look forward to coordinating with the Council on the scheduling of this public hearing.

Conclusion

For the reasons discussed above, Desert Claim Wind Power requests that the Council adopt a resolution, in accordance with WAC 463-66-030, amending the SCA to require that project construction be substantially completed by November 13, 2028.

Sincerely,



Rick Miller  
Senior Director, Development  
EDF Renewables