

1 TCC argues that the Project is “[i]n the wrong place” because “[n]ormally [such projects are]
2 located in isolated, much less populated areas.” With Issue No. 2 (“[t]oo many/too tall wind
3 turbines”) TCC simply takes issue with the number and size of the wind turbine generators,
4 untethered from any statutory or regulatory criteria to be considered by the Council.
5 Additional issues suffer from those same deficiencies. *See* Issue No. 8 (“Why Here? Why Us?”)
6 and No. 11 (“Too Many Unknowns”).¹ Additionally, TCC appears to seek to interject some
7 sort of argument as to the impropriety of the Council’s jurisdiction over these proceedings, *see*
8 Issue 10 (“Lack of Local Control. Applicant bypassed local elected officials. Gov. Inslee
9 makes the sole decision”). Any such argument is plainly irrelevant, as it is undisputed that the
10 Application here is subject to Council review and approval pursuant to RCW chapter 80.50.
11 *See, e.g.*, Order Commencing Adjudication at 1; EFSEC Order No. 883 at 1-2.

12 Should TCC be allowed to present such ill-defined and irrelevant issues, its
13 participation would certainly “unduly delay the proceeding” and/or “prejudice the rights of”
14 Applicant to have an orderly and efficient adjudicative proceeding. WAC 463-30-091.
15 However, the Applicant understands that the list of issues is not determined at the
16 intervention stage, but rather will be developed at a subsequent pre-hearing conference. (*See*
17 Order Commencing Adjudication at 3.) Accordingly, the Applicant requests that, if the
18 Council grants TCC’s Petition to Intervene, the order granting intervention reserve the right
19 to prescribe limitations and conditions on TCC’s participation in the adjudicative proceeding,
20 including to limit TCC’s participation to one or more of the disputed issues that the ALJ
21 identifies are to be resolved in this adjudicative proceeding and/or to exclude from the
22 adjudication issues that TCC seeks to present. *See* WAC 463-30-091.

23 Additionally, although TCC’s Petition to Intervene is somewhat unclear on this point,
24 it appears that TCC purports to protect interests associated with land use “review under local

25 _____
26 ¹ Applicant offers these examples for illustrative purposes only. Applicant expressly
preserves (and does not waive) its right to object to inclusion of any of the issues listed on
TCC’s attachment for resolution in the adjudicative proceeding.

1 regulations and procedures.” (Petition to Intervene at 3; *see also* Issue No. 10.) However,
2 pursuant to its May 17, 2022, EFSEC has already determined that the Horse Heaven Wind
3 Farm is “in compliance with local land use plans and zoning regulations.” EFSEC Order No.
4 883 ¶ 34. Accordingly, the remaining question for the land use phase of the adjudication
5 process is for the Council “to consider any conditions which might be required for the
6 construction, operation and maintenance of the Facility in the GMAAD, consistent with
7 Benton County’s conditional use criteria in effect at the time the application for site
8 certification was filed with EFSEC.” *Id.* ¶ 35. And on that issue, Benton County is an
9 existing party of right that will have the relevant expertise and interest in compliance with
10 remaining applicable land use conditions. Any input on the part of TCC is purely duplicative
11 and is likely to unduly delay the proceeding or prejudice the rights of the existing parties.
12 Accordingly, Applicant requests that any order allowing intervention on behalf of TCC
13 reflect that Benton County act as lead party as to any remaining analysis of conditional use
14 criteria, with TCC’s participation limited or disallowed.

15 **CONCLUSION**

16 For all of the foregoing reasons, Applicant requests that, if the Council grants TCC’s
17 Petition to Intervene, the Council (1) reserve the right to prescribe limitations and conditions
18 on TCC’s ability to interject issues into the adjudicative proceeding, and (2) condition, limit,
19 or disallow TCC’s participation on Benton County acting as a lead party as to any remaining
20 analysis of conditional use criteria.

21 DATED: February 17, 2023.

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1 **CERTIFICATE OF FILING AND SERVICE**

2 I hereby certify that on February 17, 2023, I filed an original and one copy of the
3 foregoing **APPLICANT’S LIMITED OBJECTION TO TRI-CITIES C.A.R.E.S.’**
4 **PETITION TO INTERVENE** with the Washington Energy Facility Site Evaluation
5 Council, through electronic filing via email to adjudication@efsec.wa.gov, together with
6 mailing via U.S. Postal Service, Return receipt requested, with postage prepaid to the
7 following address:

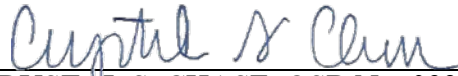
8 Energy Facility Site Evaluation Council
9 ATTN: Horse Heaven Adjudication
10 621 Woodland Square Loop SE
11 P.O. Box 43172
12 Olympia, WA 98504-3172

13 I further certify that on February 17, 2023, I served a true and correct copy of the
14 foregoing **APPLICANT’S LIMITED OBJECTION TO TRI-CITIES C.A.R.E.S.’**
15 **PETITION TO INTERVENE** by first-class U.S. mail on the following parties to the
16 adjudicative proceeding at the addresses listed below (with a copy sent via email where an
17 email address is indicated)

18 ***Service List Attached***

19 DATED: February 17, 2023.

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21 

22 CRYSTAL S. CHASE, OSB No. 093104

23 crystal.chase@stoel.com

24 Telephone: (503) 224-3380

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