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3 BEFORE THE STATE OF WASHINGTON  
4 ENERGY FACILITY SITING EVALUATION COUNCIL

5 In the Matter of the Application of:

6 Scout Clean Energy, LLC, for  
7 Horse Heaven Wind Farm, LLC,  
8 Applicant.

DOCKET NO. EF-210011

TCC'S PREHEARING BRIEF

9  
10 **I. INTRODUCTION**

11 The Horse Heaven Wind Project (HHWP) (promoted by Scout Clean Energy or  
12 "SCE") is by far the largest renewable project ever proposed in Washington. The 244  
13 wind turbines alone stretch over 25 miles, from south of Benton City to Finley, east of  
14 Kennewick, in rows of 2-4 turbines each. As a reference, it is twenty-five miles  
15 between downtown Tacoma and Capitol Way in Olympia, or from downtown Seattle to  
16 North Bend along I-90. Each wind turbine will be 500 feet from the ground to the top of  
17 the blade. Moreover, the turbines will be moving, creating a unique visual impact well  
18 beyond that of stationary buildings. Wind turbines in rural, sparsely populated areas,  
19 such as PSE's Snake River project, often fit in with their locations. But this massive  
20 project is located high on ridgelines of the Horse Heaven Hills, impacting more than  
21 100,000 residents in the rural and urban areas of the Tri-Cities, including the two  
22 largest cities in Benton County, Richland and Kennewick.

23 Tri-Cities C.A.R.E.S. (TCC) is a community non-profit organized and existing to  
24 protect residents and business owners from the adverse impacts of the proposal and  
25 has been granted intervenor status. As will be shown at the hearing, TCC enjoys the  
26 documented support of not only local residents, but community organizations and  
27 governmental bodies. In addition to Benton County's opposition to the project, TCC is  
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1 explicitly supported by the cities of Benton City, Kennewick<sup>1</sup> and Richland. Similarly,  
2 TCC is also supported by traditional community-service and economic interest  
3 organizations such as the Tri-City Regional Chamber of Commerce, Visit Tri-Cities, an  
4 organization supporting tourism in the Tri-Cities, and the Tri-Cities Board of Realtors,  
5 the official voice of the real estate industry. The newspaper of record in Benton  
6 County, the Tri-City Herald, has also published editorials supporting the work of TCC in  
7 opposing the present proposal. It is not hyperbole to state that the local community,  
8 having seen SCE's proposal in detail, overwhelmingly opposes it.

9 As will be discussed in greater detail herein, the local views of the project as  
10 detrimental to the community are fully supported by priorities established as a part of  
11 this Council's responsibilities. The proposal does not pass this Council's balancing test  
12 requiring a demonstration of "net benefit." Accordingly, the Horse Heaven Wind Farm  
13 should be rejected by this Council.

## 14 **II. STANDARD OF REVIEW BY EFSEC OF APPLICATIONS.**

15 This Council is charged with a balancing test to protect the public interest. This  
16 test is well articulated in *Whistling Ridge* Order 868, which reduced the number of  
17 turbines allowed from 50 to 35. At page 15, the order stated:

18 *The council must consider whether this project will produce a net benefit after*  
19 *balancing the legislative directive to provide abundant energy at reasonable cost*  
*with the impact to the environment and the broad interest of the public.*

20 (Emphasis supplied.) This standard was affirmed in the Supreme Court review of the  
21 *Whistling Ridge* decision: "Accordingly, it [this Council] found the main issue to be  
22 determining if the project would create a net benefit after considering the impacts."

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24 <sup>1</sup> Kennewick's letter states:

25 The assistance and support of strong community organizations like Tri-Cities C.A.R.E.S. is  
26 essential to ensure local involvement in the siting of proposed energy projects and their  
27 potential impacts on the environments, wildlife, human health, economy, property values and  
28 the rural vistas and lifestyle we all value.

1 *Friends of the Columbia Gorge, Inc. v State Energy Facility Site Evaluation Council*, 178  
2 Wash 2d 320, 330 (2013) (emphasis supplied). The “net benefit” test does not include  
3 whether a project would make a profit for the Applicant. As this Council observed in its  
4 Order on Reconsideration in the *Whistling Ridge* matter, Order 870 (December 27,  
5 2011) at page 12: “*The Council’s decision does not turn on questions of whether the*  
6 *project would be economically feasible for the Applicant.*” But conversely, EFSEC is  
7 charged with reviewing clean energy proposals for financial impacts to electric  
8 consumers, by the established premises that a proposal must also meet “the state’s  
9 objectives in providing affordable energy” and “(4) To provide abundant clean energy at  
10 reasonable cost,” both in RCW 80.50.010.

11 Informing the Council on the “net benefit” issues are the “premises” for action in  
12 RCW 80.50.010, including:

13 (2) To preserve and protect the quality of the environment; to enhance the  
14 public's opportunity to enjoy the esthetic and recreational benefits of the air,  
15 water and land resources; to promote air cleanliness; to pursue beneficial  
changes in the environment; and to promote environmental justice for  
overburdened communities.

16 The “preserve and protect” standard is further quantified by the premise that new clean  
17 energy facilities “will produce minimal adverse effects on the environment, ecology of  
18 the land and its wildlife, and the ecology of state waters and their aquatic life.” RCW  
19 80.50.010.

20 EFSEC’s deliberations and decision making on whether a “net benefit” is  
21 achieved are not a closed-door process between the Applicant and the Council and  
22 Staff. As RCW 80.50.010 makes clear, the council must “conduct a public process that  
23 is transparent and inclusive to all with particular attention to overburdened  
24 communities” and must encourage “public comment and participation in energy facility  
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1 decisions.” The statute makes clear energy facilities are a public concern requiring  
2 public involvement.<sup>2</sup>

3 As will be seen in TCC’s presentations in the adjudication, the balancing  
4 analysis clearly dictates against approval of this bloated, “maxed out” project.

5 **III. APPLICATION IS INCOMPLETE AND INADEQUATE.**

6 Before the Council may consider a proposal, there must be adequate information  
7 on the project and its impacts. Apparently in the belief that it can ignore major – and  
8 detrimental – impacts of the proposal, the Applicant has refused to submit the minimum  
9 necessary information for this Council’s review. This failure is plainly unacceptable  
10 given that proposal has been the subject of review by this Council for 2.5 years.  
11 Among other failures are the following elements required by EFSEC regulations to be  
12 included in the ASC.

13 **3.1 Battery Energy Storage Plans.**

14 The Applicant proposes the Council approve, in addition to wind and solar  
15 elements, large battery storage facilities, known as Battery Energy Storage Systems or  
16 “BESS.” The proposal says there will be two such facilities, each with a capacity of 150  
17 MW and each covering six acres (510 feet square) located on opposite sides of the  
18 project. UASC at 2-78. Other than a small rectangle on the Applicant’s small-scale  
19 maps, and a generic description of page 2-78 of the Updated Application for Site  
20 Certification (UASC) maps, there are no plans, designs or specifications for these  
21 large facilities. The applicant proposes lithium-ion batteries, but admits such facilities  
22 are subject to serious fires with dangerous gas emissions, without any explanation as  
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26 <sup>2</sup> This is consistent with the holding of this council, that much like water, “Air and the force of wind  
27 are identified as natural resources. See, e.g., Wikipedia, the “Free Encyclopedia “ as cited in this  
28 Council’s *Whistling Ridge* Order 868 at page 13.

1 to how fires will be extinguished. See WAC 463-60-145. The Council and the public  
2 are entitled to know what will be built.

3 3.2 Water Supply.

4 WAC 463-60-165 requires an applicant to “submit a water right authorization or  
5 contractual right to use water supplied” by a water purveyor. Though identifying a  
6 couple of false starts with the City of Kennewick and the Port of Walla Walla, the  
7 Project Manager admits that it has no contractual right for water for use of the project,  
8 though the project requires 220,000 gallons per day just during construction (dust  
9 suppression).

10 The concern here is not just hand washing and toilet flushing. The lithium-ion  
11 batteries are a well-known fire hazard that can burn for days, creating dangerous (toxic)  
12 fumes and requiring extraordinary amounts of water for cooling the overheated  
13 batteries to prevent reignition. The Applicant proposes 12 acres of these batteries,  
14 indicating sprinkler systems will be installed, but again lacks any water to recharge the  
15 sprinkler systems or cool batteries over a possible multi-day fire event.

16 3.3 Benton County Conditional Use Criteria.

17 On May 17, 2022, this Council entered Order 883 entitled “ORDER FINDING  
18 PROPOSED SITE CONSISTENT WITH LAND USE REGULATIONS” for this proposal.  
19 However, the project is a conditional use under applicable Benton County Codes and  
20 Order 883 plainly states at page 7, Paragraph 23, that: “The Council’s land use  
21 consistency determination does not prejudge whether the Facility has met or can meet  
22 Benton County’s conditional use criteria.” Compliance with the conditional use criteria  
23 is a “question for later EFSEC proceedings, ...” *Id.* Because the Applicant did not  
24 obtain a conditional use permit, the Applicant “retains the burden of proving the Site is  
25 indeed consistent and compliant with the local jurisdiction’s land use provisions.” Order  
26 883, page 4, Paragraph 14.

1 Order 883 sets out the standards that must be met for a conditional use permit at  
2 page 6, Paragraph 7:

3 (a) Is compatible with other uses in the surrounding area or is no more  
4 incompatible than are any other outright permitted uses in the applicable zoning  
5 district;

6 (b) Will not materially endanger the health, safety, and welfare of the  
7 surrounding community to an extent greater than that associated with any other  
8 permitted uses in the applicable zoning district;

9 With the “permitted uses” in the County code limited to agricultural and farm support  
10 facilities, along with single family residential uses, the overall project will be clearly  
11 “more incompatible” with low impact rural uses and will impact the “health, safety and  
12 welfare” more than the permitted uses.<sup>3</sup> This is particularly true for the fire-prone BESS  
13 facilities, creating runaway fires.

14 Consistency (or not) with conditional use provisions of the Benton County code  
15 are predicate issues for this proceeding.

### 16 3.4 Analysis of Alternatives.

17 WAC 463-60-296 requires an applicant include in the Application: “analysis of  
18 alternatives for site, route and other major elements of the proposal.” As noted on  
19 pages 2-118–2-120 of the UASC, there is no consideration of any alternatives,  
20 including a smaller or reconfigured site plan. This is because the applicant, through its  
21 Project Manager, remains firm that it wants to build the biggest project possible, to “max  
22 out” use of the site.<sup>4</sup> Additional discussion of the failure to provide alternatives for  
23 consideration is found in Section VII of this brief.

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25 <sup>3</sup> TCC incorporates in full the Prehearing Brief of Benton County addressing these issues in detail.

26 <sup>4</sup> This is despite the fact that Applicant’s project manager admits that a smaller project would be  
27 “snapped up” by prospective buyers.

1           3.5 Summary.

2           The application and submissions delete critical elements required by adopted  
3 EFSEC regulations. It is incumbent on the Council to have full and complete  
4 information to make its important decision. The Council should remand to staff so they  
5 may gather and analyze information on required project elements the Applicant has  
6 refused to provide.

7           **IV. THE PROJECT IS UNREASONABLY OVERBUILT.**

8           HHWP is a “merchant plant” essentially being built “on spec.” It has no contract  
9 with any “off-taker,” whether a private business or a utility (public or private.) See  
10 Deposition of SCE Project Manager Dave Kobus. at 26 (Kobus Dep.). Notwithstanding  
11 the speculative nature of the project, Mr. Kobus readily admits Scout is a “big project”  
12 developer. Kobus Dep. at page 108, lines 6-8. (“Yeah, there are small projects, there  
13 are big projects. We’re a big project builder.”) Indeed, SCE wants to build the “largest  
14 project we can bring to market because that’s what makes us successful.” Kobus Dep  
15 at 104, lines 16-19.<sup>5</sup>

16           In fact, SCE is so enamored with big projects that its HHWP is substantially  
17 overbuilt. Because the Applicant is not building transmission lines of its own, it has  
18 decided to rely on BPA’s federal transmission system to deliver the project output to the  
19 eventual purchaser.<sup>6</sup> But SCE’s “eyes are bigger than its stomach:” because of limits  
20 on the capacity of its lines, BPA has limited the amount of power that this project can  
21 “inject” into its transmission system. As SCE grudgingly admits, though their project  
22 includes 1150 MW of nameplate capacity for wind turbines and solar array, all BPA can  
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24           <sup>5</sup> But SCE readily admits that even if only the first half of the project was built, i.e Phase 1, “there  
25 might be somebody out there that just wants Phase 1.” Kobus Dep. at 106.

26           <sup>6</sup> The proposal does include a transmission line to connect the east and west phases, which has  
27 impact of its own. However, this line will not, nor is it intended, to deliver power from this project to the  
28 eventual end user.

1 accept at any one time is 850 MW, a difference of 300 MW. As such the project is  
2 significantly overbuilt, largely because the site is marginal for wind production to begin  
3 with.

4 In assessing “net benefit” of this project, the Council must consider that  
5 substantial portions of the project are overbuilt and, accordingly, their potential  
6 elimination to fulfill public interest objections should be part of the Council’s eventual  
7 recommendation.

8 **V. BALANCING ANALYSIS INDICATES THAT THIS PROJECT HAS DIMINISHED  
9 AND LIMITED BENEFITS.**

10 As identified above, the EFSEC organic legislation requires the Council to  
11 engage in a balancing analysis, ultimately to determine whether there is a “net benefit”  
12 to the public interest in approving, in whole or in part, a project subject to EFSEC  
13 jurisdiction.

14 On one side is the electric output of the project. SCE touts its project as  
15 beneficial based on the maximum output of the wind turbines and solar arrays, its  
16 “nameplate capacity.” However, “nameplate” capacity is just for show, as it is not a true  
17 indicator of value or benefit, particularly for the wind turbines element of the project.  
18 This is true for several reasons.

19 First, because the wind does not blow continuously and there are long periods of  
20 darkness, wind and solar facilities do not usually produce their nameplate rating. In  
21 fact, the evidence will show that the site selected is marginal for wind turbine  
22 development in particular. Second, the reality is that wind turbines only produce power  
23 when the wind blows, which for this project is highly seasonal. The evidence will show  
24 that wind speeds, and hence production, are inversely related to when power is  
25 needed, i.e., less wind blowing during winter and summer peak periods for electric  
26 consumption. Third, and in addition to the foregoing, regardless of whatever the  
27 averages may be for wind speeds, and hence what average electric output might be, at  
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1 any instant in time when power is needed to meet demand, *the wind might not be*  
2 *blowing*. In the common parlance, wind is a “fickle” resource. In technical parlance, a  
3 wind resource is not “dispatchable;” it cannot be turned on when a January cold spell  
4 hits the region to help with “load.” Fourth, particular to this proposal and partly as a  
5 result of the foregoing factors, this project is overbuilt. For the first time in its review of  
6 wind projects, this Council is faced with review of a project that is limited by the “grid  
7 injection capacity” of BPA. Though the nameplate capacity of the project is 1150 MW,  
8 the most that BPA will allow to be loaded into its lines is 850 MW.

9 On the “benefit side” of the balancing equation, the proposal is a marginal  
10 project, in a marginal location. In the next section of this brief, we discuss the serious  
11 and substantial impacts of the proposal on identified public interests, on the “detriment  
12 side” of the balancing test.

13 **VI. BALANCING ANALYSIS INDICATES SIGNIFICANT HARM TO THE**  
14 **ELEMENTS AND VALUES THAT EFSEC IS REQUIRED TO PROTECT.**

15 The other side of the balancing analysis that the Council must consider in  
16 determining whether a “net benefit” will result from a proposal is consideration of  
17 elements and values the Council is required to protect. As listed in Section II of this  
18 Brief, these include environmental values, including visual/esthetic impacts, wildlife,  
19 recreation, air quality, traditional tribal cultural issues and water supply, as provided in  
20 RCW 80.50.010. In this proceeding, the Council will also consider zoning issues  
21 (conditional use criteria), property values and tourism. See PHO#2, page 2. Nor are  
22 cross-state comparisons appropriate for the Council in this analysis, as stated in the

23 *Whistling Ridge* adjudication:

24 We do not find support in the record for the assumption that forestlands are by  
25 definition more worthy of protection than the shrub steppe lands in Eastern  
26 Washington.

27 *Whistling Ridge* Order 868 at page 27.

1 As will be seen, these detrimental aspects of the proposal show that when the  
2 project (as proposed) is subject to the statutory balancing analysis, it does not result in  
3 the “net benefit” mandated for approval.

4 These detrimental elements, linked to required elements of Council review, are  
5 listed below.

6 6.1. Project Size, Scope and Scale. The sheer size of the project is hard to  
7 grasp. SCE proposes a 25-mile-long string of multiple rows of wind turbines following  
8 the ridgelines of the Horse Heaven Hills and are generally parallel to I-82 and  
9 communities from Benton City past Kennewick, where it will impact more than 100,000  
10 persons. The unrelenting nature of the linear impacts of this project on a large  
11 population are unique to this project. The “overall scope and scale” of this project is a  
12 disputed issue for this case and creates a substantial detrimental impact.

13 6.2 Visual Impacts. The Council will be receiving testimony from TCC’s visual  
14 impacts expert Dean Apostol during the later part of the upcoming hearings. Mr.  
15 Apostol has previous experience providing testimony on visual impacts of wind turbines  
16 projects, including for the *Whistling Ridge* project, where 15 of the 50 proposed turbines  
17 were removed. He will contrast other wind turbine projects in the state and describe  
18 how this project will be more visible, and impact significantly larger numbers of people,  
19 than any another clean energy project in Washington. His testimony will describe how  
20 the project should be modified to provide some mitigation of visual impacts, especially  
21 by moving turbines away from the prominent ridgelines to other locations outside the  
22 prominent sight lines.

23 Mr. Apostol’s testimony will be supplemented by many local groups that address  
24 the adverse impacts from wind turbines to community views, residential and  
25 commercial, along its 25-mile length. As noted above, the local tourism marketing and  
26 tourism organization, Visit Tri-Cities, both supports TCC and opposes the project.

1           6.3. Wildlife Impacts. Testimony will be provided by witnesses from the Yakama  
2 Nation (TYN) on wildlife impacts. Early prehearing orders provided that TCC and TYN  
3 should coordinate their testimony. Accordingly, TYN has taken the lead in this area,  
4 though TCC continues an intense interest in the protection of at-risk and special status  
5 wildlife, especially the beautiful Ferruginous Hawk, pronghorns and multiple bat  
6 species. All will be threatened by the massive wind turbines and solar project.

7           6.4 Land Use Codes. As described above, the Applicant has the burden to  
8 demonstrate compliance of the project with the conditional use permit criteria under the  
9 Benton County code. In this regard, SCE cannot demonstrate that its conditional use  
10 (244 large turbines, stretching out along 25 miles of the Horse Heaven Hills, acres of  
11 solar arrays and large lithium-ion batteries) are no more impactful than the agricultural  
12 uses that are outright permitted. Indeed, these are farmlands, given special  
13 significance by RCW 36.70A.177, which requires local governments to pursue  
14 “innovative zoning techniques” designed to *conserve* agricultural lands and “encourage  
15 the agricultural economy.” Indeed, the BESS proposal alone, with acres of fire-prone  
16 lithium-ion batteries, is clearly far beyond the health, safety and welfare impacts of  
17 simple farms and agricultural support facilities. Impacts and risks to agricultural pursuits  
18 weigh heavily on the detrimental side of the balancing test.

19           6.5 Yakama Indian Nation Cultural Resources. TCC acknowledges and  
20 recognizes the substantial concern of TYN to impacts on their cultural resources and  
21 history. These concerns are fully expressed in the prehearing brief filed by TYN and  
22 are incorporated herein.

23           6.6. Fire Fighting. This proposal would place 25 miles of turbines in a near  
24 desert environment, with less than eight inches of rain per year. Not surprisingly, the  
25 site and surroundings are subject to frequent and oftentimes large fires. Because of  
26 their aerial extent, terrain and topography, these fires are routinely fought by aircraft  
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1 tankers. The location of wind turbines along the ridgelines will eliminate the ability to  
2 use aircraft to fight fires over the entire project site, and well beyond, because of FAA  
3 rules for limited operations adjacent to tall vertical obstructions such as wind turbines.  
4 Given that management of fires by ground personnel is problematic in these areas, this  
5 is a serious impact on the detrimental side of the balancing equation.

6       6.7. Tourism and Local Economic Development. The evidence will show the  
7 transformation of the lower Yakima Valley over recent years to a focus on wine grape  
8 production and wineries. Accompanying these agricultural pursuits has been an  
9 exploding tourism industry, with its foundation in the unique sights of natural features of  
10 community, including the Horse Heaven Hills. There are more than a dozen wine  
11 tasting rooms, most with outdoor facilities, that will be viewing the dozens of towers in  
12 their field of view.

13       6.8. Housing and Property Values. TCC has asked highly qualified experts to  
14 address whether the wind turbine project will impact property values in the community,  
15 especially for residents south of the project in rural and urban areas. As with the  
16 conclusions regarding tourism, the evidence is clear that the despoliation of the scenic  
17 vistas of the Horse Heaven Hills will create distinct impacts on property values of  
18 dozens of residential communities within the viewshed of the project. These are  
19 essentially permanent impacts to the area.

20       6.9 Recreation. The location of wind turbines on ridgelines impacts the use of  
21 long-established, and highly used, recreational resources. These recreational uses  
22 include hiking, paragliding, birding and sightseeing along substantial natural features  
23 that are not found in other parts of Benton County or adjacent areas. Each of these  
24 uses will be restricted and negatively impacted by the Project.

25       Each of these impacts is significant in itself, but the cumulative impacts plainly  
26 tip the scale of the balancing process away from “net benefit.” Indeed, as more impacts  
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1 from the lack of water supply information and detail about the lithium-ion battery  
2 proposal come forward, the more the balance shifts to “net detriment,” indicating the  
3 proposal cannot proceed as configured.

4 **VII. FAILURE TO CONSIDER ALTERNATIVES TO THE PROJECT WITH**  
5 **DIMINISHED ADVERSE IMPACTS.**

6 A major roadblock to completing the balancing analysis is the patent and  
7 obdurate refusal of the Applicant to consider any alternatives to its admittedly overbuilt  
8 and bloated project. Scout’s mentality is “my way or the highway.” Nothing less than  
9 the whole project is considered, in blatant violation of obligations in EFSEC’s own  
10 regulations that an application: “shall include an analysis of alternatives for site, route  
11 and other major elements of the project.” WAC 463-60-296. The Applicant’s project  
12 manager Mr. Kobus claims that he was told by EFSEC staff (Sonia Bumpus) that “no  
13 smaller” or modified project options should be considered in SCE’s application. See  
14 Kobus Dep. at page 94-97. The Council should firmly reject staff’s erroneous  
15 interpretation of the Council’s obligations.

16 The failure to consider alternatives for a more modest project, responsive to the  
17 detrimental impacts of the proposal, violates the State Environmental Policy Act, RCW  
18 Chap. 43.21C as well. In particular, SEPA requires that “all state agencies. . . shall:”

19 e) Study, develop, and describe appropriate alternatives to recommended  
20 courses of action in any proposal which involves unresolved conflicts concerning  
21 alternative uses of available resources;

22 RCW 43.21C.030(2)(e). This rule is adopted by the SEPA rules that require an EIS to  
23 “include action that could feasibly attain or approximate a proposal’s objectives, but at  
24 a lower environmental cost or decreased level of environmental degradation.” WAC  
25 197-11-440(5)(b). As the record shows, multiple comments on the DEIS highlighted  
26 this major violation of long time SEPA requirements.

27 Moreover, this Council’s prior decisions fully support a thorough and exhaustive  
28 consideration of alternatives. For example, in *Whistling Ridge* Order 868, at page 37,

1 Paragraph 23, this Council confirmed that “aesthetics and recreation are principal  
2 values to be advanced or preserved in implementation of this chapter.” This includes  
3 the “responsibility to develop *site-specific* criteria for approval.” *Id.* From this authority,  
4 the Council adopted the site-specific alternative of “removing towers from corridors in  
5 which they would be prominently visible for numerous key viewing areas. . . would  
6 adequately protect the scenic and cultural heritage of the Gorge.” *Id.* at Paragraph 24.

7 Here the Council should reject the concept that in this case, for this applicant,  
8 the Council should put on blinders to any reasonable alternatives that would protect the  
9 aesthetic, cultural, wildlife, recreation and property values of the community.

10 **VIII. REQUESTED ACTION.**

11 As described above, the proposal is not ready for review because there are  
12 multiple gaps in information necessary to determine consistency with regulations.  
13 Remand for further analysis by staff, including the development of reasonable  
14 alternatives included in EFSEC organic legislation, and by SEPA, is required. The  
15 Applicant readily admits that a smaller proposal is viable, but imperiously insists that it  
16 should build the biggest project imaginable.

17 Upon further review, it becomes evident that the “balancing analysis” required by  
18 controlling legislation fails to demonstrate a “net benefit.” Much of the problem is the  
19 sheer scope and scale of the project, and the fact that it is this Applicant’s choice to  
20 overbuild the project. Based on the forgoing the project should be rejected, without  
21 prejudice to the Applicant returning with a more modest project.

22 DATED this 9<sup>th</sup> day of August, 2023.

23  
24 /s/  
25 J. Richard Aramburu, WSBA #466  
26 Attorney for Tri-Cities C.A.R.E.S.  
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1 DECLARATION OF SERVICE

2 I hereby certify that I have this day served the foregoing upon the parties of  
3 record in this proceeding (listed below my signature block) by authorized method of  
4 service pursuant to WAC 463-30-120(3) to the email addresses for parties as provided.

5 Dated at Seattle, Washington this 9<sup>th</sup> day of August, 2023.

6  
7 /s/  
8 Carol Cohoe, Legal Assistant  
Law Offices of J. Richard Aramburu, PLLC

9 PARTIES OF RECORD

10 Kenneth Harper, Aziza Foster  
11 Menke Jackson Beyer, LLP  
807 North 39<sup>th</sup> Avenue  
12 Yakima WA 98902  
*By Email:* kharper@mjbe.com;  
zfoster@mjbe.com; Julie@mjbe.com

Shona Voelckers  
Yakama Nation  
shona@yakamanation-olc.org  
ethan@yakamanation-olc.org  
jessica@yakamanation-olc.org

14 Ryan Brown  
Chief Deputy Prosecuting Attorney  
15 Benton County Prosecuting Attorney  
7211 West Okanogan Place, Building A  
16 Kennewick, WA 99336  
Counsel for Benton County  
*By Email:*  
17 Ryan.Brown@co.benton.wa.us

EFSEC Staff  
lisa.masengale@efsec.wa.gov;  
alex.shiley@efsec.wa.gov;  
andrea.grantham@efsec.wa.gov;  
sonia.bumpus@efsec.wa.gov

18 Sarah Reyneveld  
Office of the Attorney General  
19 800 Fifth Avenue, Suite 2000  
Seattle, WA 98104-3188  
20 Counsel for the Environment  
*By Email:*  
21 Sarah.Reyneveld@atg.wa.gov  
CEPSeaEF@atg.wa.gov;  
22 julie.dolloff@atg.wa.gov

23 Tim McMahan  
Stoel Rives LLP  
24 760 SW Ninth Avenue, Suite 3000  
Portland, OR 97205  
25 Counsel for Scout Clean Energy, LLC  
*By Email:* tim.mcmahan@stoel.com  
26 emily.schimelpfenig@stoel.com;  
ariel.stavitsky@stoel.com