

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITING EVALUATION COUNCIL

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In the Matter of the Application of:
Scout Clean Energy, LLC, for Horse Heaven
Wind Farm, LLC,
Applicant.

DOCKET NO. EF-210011

APPLICANT SCOUT CLEAN
ENERGY, LLC’S PREHEARING BRIEF

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I. INTRODUCTION

On February 8, 2021, Horse Heaven Wind Farm, LLC¹ submitted to the Energy Facility Site Evaluation Council (“EFSEC” or the “Council”) an Application for Site Certification (“ASC”) to develop, construct, and operate the Horse Heaven Wind Farm (the “Project”).² The Project is located within Benton County (the “County”) and comprises a state-of-the-art hybrid renewable energy generation facility, combining both wind and solar energy generation, with battery energy storage systems (“BESS”) and supporting facilities. By combining wind, solar, and BESS, the Project will provide a nameplate energy generating capacity of up to 1,150 MW—an efficient, stable power source with capacity to substantially displace the need for an entire regional utility scale fossil fuel generation power plant.

The chosen Project site provides the numerous requisite physical and technical characteristics required for a hybrid energy center, and optimum wind and solar resources, while minimizing potential adverse on-site and off-site impacts. At its closest point, the Project is located approximately four miles south-southwest of the city of Kennewick and the larger Tri-Cities area, outside of any urban growth area. Most of the proposed Project footprint is sited on privately owned, non-irrigated land, and managed for dryland

¹ Horse Heaven Wind Farm’s indirect owner is Scout Clean Energy LLC. For purposes of this memorandum, both entities will be referenced herein as “Scout.”

² Scout submitted an updated ASC, including a redlined version, in December 2022.

1 agricultural or under a conservation resource program; the remainder is land managed by the
2 Washington Department of Natural Resources.³ The Project is located in the vicinity of the
3 existing Nine Canyon Wind Project, an early Washington wind generation facility, permitted
4 as a conditional use between 2002 and 2009 under the Benton County Comprehensive Plan
5 and the Benton County Development Code. The site also offers ready access to the regional
6 transmission system, with three Bonneville Power Administration high-voltage transmission
7 lines in proximity, minimizing the need for building and extending significant new
8 transmission infrastructure.

9 The ASC seeks authorization for up to 244 wind turbine locations and three distinct
10 solar arrays with BESS, on a maximum permanent disturbance footprint of 6,869 acres.⁴
11 However, ultimately, the Project will result in an even smaller disturbance area, with fewer
12 potential impacts because, in response to comments received on the ASC, input from
13 regulatory agencies, changes in applicable regulations, and other developments, Scout
14 anticipates Project modifications in its final ASC. ~~These changes—which include reduction~~
15 ~~in fenced areas and Project facilities in rabbitbrush shrubland and grassland habitats, removal~~
16 ~~of infrastructure from priority habitats, and removal of wind turbines close to Benton City~~
17 ~~and I-82—will result in a net reduction in visual, biological, and other impacts.~~⁵

18 II. LEGAL FRAMEWORK

19 A. EFSEC’s Authority Under EFSLA

20 The Energy Facilities Site Locations Act (“EFSLA”) authorizes EFSEC to administer
21 Washington’s energy facility siting process by reviewing and making recommendations to
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23 ³ See the full Project description in Horse Heaven Wind Farm, Updated Application for Site
24 Certificate (Feb. 2021; Revised Dec. 2022) (“ASC”) Sections 2.1-.4 and Figures 2.3-1 and 2.
See ASC Section 2.22.2 for a full site selection discussion.

⁴ ASC Tbl. 2.1-1.

25 ⁵ ~~See Memo from Dave Kobus, Scout, to Amy Moon, EFSEC, and Ami Hafkemeyer,~~
26 ~~EFSEC, re Horse Heaven Wind Farm Anticipated Project Modifications for Final~~
~~Application for Site Certification (Aug. 9, 2023), provided in response to EFSEC Data~~
~~Request No. 9. These modifications will be fully detailed and incorporated into a post-~~
~~adjudication amendment.~~

1 the governor on applications for site certification of potential energy facilities in the state.⁶
2 Statute and an en banc Washington Supreme Court have clearly defined EFSEC’s specific
3 review criteria. To implement the legislature’s policy goals—including foremost to:

4 “reduce dependence on fossil fuels by recognizing the need for clean energy in order
5 to strengthen the state’s economy, meet the state’s greenhouse gas reduction obligations, and
6 mitigate the significant near-term and long-term impacts from climate change while
7 conducting a public process that is transparent and inclusive to all[,]”⁷

8 EFSLA authorizes EFSEC to promulgate regulations to carry out its duties.⁸ EFSEC
9 has done so, issuing specific regulations that govern its application review criteria, WAC
10 463-60, and construction and operating standards, WAC 463-62. Though Project-opponent
11 Tri-Cities C.A.R.E.S. has argued that the overarching policy directives in RCW 80.50.010
12 somehow replace these specific EFSEC criteria and standards in WAC 463-60 and WAC
13 463-62 and impose some sort of balancing test based on public need, that is simply not the
14 case. The governing statute and regulations speak for themselves and make clear the scope
15 of the Council’s review.

16 In addition, EFSEC has the authority to preempt “any other provision, limitation, or
17 restriction” that conflicts with its enabling statute and regulations.⁹ This includes any local
18 land use rules and development regulations.¹⁰ To ensure local interests are protected, the
19 Council includes conditions that consider the local interests affected when preempting local
20 authorities.¹¹

21 _____
22 ⁶ RCW ch. 80.50.

23 ⁷ RCW 80.50.010.

24 ⁸ RCW 80.50.040.

25 ⁹ RCW 80.50.110(1); *see also* WAC 463-28-020 (“the state preempts the regulation and
26 certification of the location, construction, and operational conditions of certification of
energy facilities”); *Residents Opposed to Kittitas Turbines v. EFSEC*, 165 Wn.2d 275, 311,
322, 197 P.3d 1153 (2008); *Friends of the Columbia Gorge, Inc. v. EFSEC*, 178 Wn.2d 320,
329, 310 P.3d 780 (2013) (“[T]he provisions of EFSLA can preempt any other rules or
regulations promulgated within the state, including local land use rules.”).

¹⁰ WAC 463-28-060(3).

¹¹ WAC 463-28-070.

1 **B. Disputed Issues in This Adjudication**

2 The regulations in WAC 463-60 and WAC 463-63 clearly define the scope of
3 EFSEC’s review of an application for site certification. Here, the Administrative Law Judge
4 (“ALJ”) has already applied these authorities to identify the specific “disputed issues” that
5 are within the scope of EFSEC’s review and, therefore, will be addressed during this
6 adjudication.¹² Among the key issues for adjudication here are:

- 7 • land use consistency (“limited to CUP/variance issues”);
- 8 • environmental/physical impacts (including habitat and wildlife, and visual
9 aesthetics and resources);
- 10 • cultural/historic/archeological resource impacts; and
- 11 • societal/economic impacts (including potential impacts on property values and
12 local economic development, and the “overall scope and scale of” the Project).¹³

13 Expressly *excluded* from the adjudication are issues including:

- 14 • preemption of local and use plans or ordinances;
- 15 • compliance with the Growth Management Act;
- 16 • compliance with the State Environmental Policy Act;
- 17 • and greenhouse gas emissions reductions analysis.¹⁴

18 The ALJ also clarified that testimony regarding potential project purchasers or users
19 is “not germane to impacts at the proposed site or conditions that can be included in a site
20 certification agreement” and therefore not at issue in this adjudication.¹⁵ Nor can EFSEC
21 “ignore or second guess RCW 80.50.010’s premise of encouraging the development and
22 integration of clean energy sources, or the various other state laws mandating the transition to
23 alternative energy resources.”¹⁶

24 _____

25 ¹² See Second Pre-Hearing Conference Order (May 19, 2023).

26 ¹³ *Id.* at 2.

¹⁴ *Id.* at 3.

¹⁵ Order Overruling Parties Objections (June 12, 2023) at 4.

¹⁶ *Id.*

1 Finally, as indicated below, the subject matter to be addressed in live testimony
2 during the adjudication hearing has been further limited by the pre-filed testimony already
3 submitted as part of the record before the Council.

4 **III. ARGUMENT**

5 **A. The Project Represents a Significant Step Toward Meeting Washington’s
6 Clean Energy Goals.**

7 The Horse Heaven Project directly and aggressively responds to policy and legal
8 mandates to combat climate change— and not a day too soon. The EFSLA lays the
9 foundation to implement these goals and requirements.¹⁷

10 In 2019, Washington adopted the Clean Energy Transformation Act (CETA), RCW
11 ch. 19.405. The law—Governor Inslee’s signature, legacy climate legislation—requires
12 utilities to phase out coal-fired electricity from their state portfolios by 2025. By 2030, their
13 portfolios must be greenhouse gas emissions neutral. By 2045, utilities must supply
14 Washington customers with electricity that is 100% renewable or non-emitting with no
15 provision for offsets.

16 Meeting these goals will be no small feat. As more electric vehicles hit the road and
17 the overall economy embraces electrification as a strategy to combat climate change, the
18 demand for electricity in Washington will grow. CETA requires that load growth be met
19 with non-emitting resources, spurring the need for Washington to decarbonize its existing
20 generation over the next two decades. Without building more clean energy generation,
21 Washington faces serious threats to grid stability, risking increased brownouts and blackouts.

22 **B. The Project has been Carefully Designed to Avoid or Minimize Adverse
23 Impacts to the Natural and Built Environment.**

24 As detailed in the ASC, summarized below, and confirmed by live testimony to be
25 presented during the adjudication hearing, Applicant has diligently designed the Project to

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¹⁷ RCW 80.50.010.

1 avoid and minimize adverse impacts to the natural and built environment with commitments
2 associated with each Project phase.

3 **1. The Council has already determined the Project is consistent with County**
4 **land use authorities and now, may impose reasonable conditions drawn**
5 **from the County’s permitting precedent and applicable code.**

6 With the EFSLA, the Washington legislature has created one of the most rigorous
7 permitting processes in the nation that accounts for local concerns but also advances
8 important statewide interests and policies in an entirely preemptive process.¹⁸ As discussed
9 above in Part II.A, EFSEC can preempt local land use provisions that conflict with EFSLA.¹⁹
10 EFSEC holds a land use hearing to “determine whether or not the proposed site is consistent
11 and in compliance with city, county, or regional land use plans or zoning ordinances.”²⁰ The
12 “test for consistency” is whether a site “can be permitted either outright or conditionally,”
13 and if so, the Project is “consistent and in compliance with the local land use provisions.”²¹
14 If local land use authorities are preempted, the Council includes in the proposed site
15 certification agreement conditions designed to recognize the purpose of the preempted
16 provisions.²²

17 On March 30, 2021, the Council conducted a public hearing on the Project’s land use
18 consistency, pursuant to RCW 80.50.090(2). On May 17, 2022, the Council adopted in this
19 docket Order 883, in which it found the Project “consistent with the pertinent portions of the
20 land use provisions.”²³ As a result, the Council noted that the next step in its land use
21 deliberation would be to determine “whether the Facility has met or can meet Benton
22 County’s conditional use criteria” and whether to preempt those criteria and “recommend and
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24 ¹⁸ RCW 80.50.110.

25 ¹⁹ *Id.*

26 ²⁰ RCW 80.50.090(2); WAC 463-26-050.

²¹ *In re Columbia Solar Project*, Docket No. EF-170823, Council Order – Expedited
Processing, ¶ 35 (Apr. 17, 2018).

²² WAC 463-28-070.

²³ *See* Order 883 at 7.

1 impose conditions of approval to address Benton County’s CUP and variance criteria in a
2 Site Certification Agreement (SCA).”²⁴

3 Accordingly, contrary to the County’s repeated assertions, **whether the Project**
4 **complies with the County’s comprehensive plan and zoning ordinance has already been**
5 **determined and is not at issue in this adjudication.** Notwithstanding that fact, the
6 County’s testimony attempts to relitigate the Council’s dispositive action, Order 883, an
7 action no longer up for debate. What the County witnesses really take issue with is the
8 EFSLA’s preemptive framework. As twice affirmed by an en banc Supreme Court, that
9 framework is settled law, and under it, the review of the local CUP criteria is for the sole
10 purpose of determining whether and what conditions may be appropriate.

11 Scout presents testimony from Leslie McClain, an experienced Northwest land use
12 expert who has assisted in the permitting of many northwest wind and solar energy
13 facilities.²⁵ Her work is in local and state energy facility siting council permitting in
14 Washington and Oregon, where she has aided developers and agencies in successfully
15 permitting renewable facilities. Of particular assistance to Scout has been Ms. McClain’s
16 work in fashioning permit conditions to address local concerns.

17 As noted, EFSEC will look to local conditional use factors and criteria to address
18 local Project impacts. The County has now repealed the zoning code provisions that allow
19 the Project subject to reasonable conditions. Yet those criteria retain their relevance here for
20 EFSEC to fashion conditions. Indeed, the best place for EFSEC to look for applicable
21 conditions is Benton County’s permitting and conditioning of the three conditional use
22 permits for the Nine Canyon wind energy projects located immediately “next door” to the
23 Horse Heaven Project—in fact, Horse Heaven is essentially a continuation of the Nine
24 Canyon wind energy projects. These projects were permitted on a similar landscape and
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²⁴ *Id.* at 7-8 (citations omitted).

²⁵ *See* EXH-1023_R to EXH-1030, EXH-1040_R.

1 habitat, with similar biological issues, visual impacts, and community concerns. Of course,
2 Horse Heaven also proposes other conditionally allowed uses, solar PV and battery energy
3 storage facilities, in conformance with the applicable zoning code. Since the construction of
4 the Nine Canyon projects, the surrounding community has grown and thrived, building
5 homes ever closer to the existing Nine Canyon projects.

6 Given that Order 883 found that the Project is “consistent and in compliance” with
7 Benton County’s zoning ordinance and land use plans, the sole issue for consideration in the
8 land use adjudication is whether, informed by the CUP criteria, the Council should impose
9 conditions akin to those that the County would impose in its local permit process. The Nine
10 Canyon projects’ CUP conditions are directly applicable and are appended to Ms. McClain’s
11 rebuttal testimony.²⁶ Notably, the Nine Canyon project is smaller in both size and number of
12 turbines than the Horse Heaven Project. Nevertheless, Scout’s Project still meets the Nine
13 Canyon project’s CUP conditions. And Scout anticipates that EFSEC will impose additional
14 conditions at the conclusion of the land use adjudication to address local concerns. Scout
15 will submit testimony to assist the Council in its review of Project impacts, in order to help
16 the Council make these decisions. Of particular note to EFSEC will likely be issues
17 regarding fire safety, including an emergency response plan that includes a fire emergency
18 plan. These are the conditions imposed on previous wind farm projects throughout the
19 Northwest and should guide EFSEC in the conditions imposed here.

23 ²⁶ In 2002, the Benton County approved Nine Canyon Phase I, allowing the construction and
24 operation of 19-76 turbines for a combined capacity of 50 MW. The County approved
25 turbines up to a height of 265 feet and blade lengths up to 100 feet. The County approved
26 Phase II, an additional 25 larger turbines (maximum height of 265 feet and a maximum blade
length of 150 feet) in 2008. Also in 2008, the County approved Phase III, 5 turbines up to
415 feet tall. All three conditional use permits had the same conditions imposed by the
County, and all were permitting not with an EIS, but finding SEPA compliance through
mitigated determinations of non-significance (MDNS).

1 **2. Applicant has Mitigated Potential Wildlife Impacts, Including Those to**
2 **the Three Species Discussed in the Pre-filed Testimony: the Ferruginous**
3 **Hawk, the Pronghorn Antelope and Bats.**

4 When making a recommendation to the governor, the Council determines whether the
5 Applicant has sufficiently identified the impacts on species of local importance, priority
6 species, or endangered, threatened, or candidate species associated with the Project site.²⁷
7 For any identified adverse impacts, the Council determines if the project has sufficient
8 mitigation measures.²⁸ The Applicant has met these criteria.

9 As detailed in the ASC, the site avoids quality wildlife habitat and meets the
10 Washington Department of Fish and Wildlife’s (“WDFW”) stated guideline preference for
11 wind energy to be sited on agricultural lands and *not* on critical habitat. The WDFW Wind
12 Power Guidelines (2009) emphasize that no mitigation is required for “lands that have low
13 habitat value,” including lands that are currently being cultivated, developed lands, and lands
14 “disturbed by an active road or other corridor that eliminates natural habitat values.” Over 85
15 percent of permanent, modified, and temporary impacts from the project are on developed or
16 disturbed lands. 79 percent of the Micrositing Corridor and 78 percent of the Solar Siting
17 Areas are on developed or disturbed land.²⁹ The ASC’s preliminary layout limits the
18 Micrositing Corridor and Solar Siting Areas within shrubland habitat types to 6.2 percent and
19 10 percent, respectively, of the total disturbance area. Throughout all stages of the Project,
20 Scout proposed mitigation measures to address identified potential impacts.³⁰ Additional
21 information about potential impacts to habitat and habitat avoidance, minimization, and
22 mitigation measures is provided in ASC Sections 1.16.1.1, 2.23.2.2, and 3.4.

23 In addition to the wildlife and habitat information provided in the ASC, the pre-filed
24 testimony filed by the Parties focused on three species, ferruginous hawk, pronghorn

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²⁷ WAC 463-60-332.

26 ²⁸ *Id.*

²⁹ See ASC Tbl. 3.4-14.

³⁰ See ASC § 3.4.3.

1 antelope, and bats.³¹ Applicant has provided pre-filed testimony from two recognized
2 wildlife experts, Troy Rahmig and Erik Jansen. These two witnesses have assessed wildlife
3 impacts and developed mitigation plans for renewable facilities for nearly two decades and
4 have aided Scout with regards to the analysis of the above-mentioned species.³²

5 **a. Existing data show ferruginous hawk do not use the project area;
6 nevertheless, mitigation has been proposed.**

7 Troy Rahmig and Erik Jansen have testified about the Applicant’s numerous studies
8 of ferruginous hawk activity in the Project area and repeatedly found that ferruginous hawk
9 do not use the Project area.³³ ~~The most recent report, prepared in August 2023, affirms~~
10 ~~previous findings that historic ferruginous hawk nests were more likely to be occupied by~~
11 ~~other species.~~³⁴ ~~This study also indicated that declines in the number of occupied territories~~
12 ~~and nests between 2017 and 2023 persist.~~³⁵ As indicated in the deposition of James Watson,
13 the decrease in ferruginous hawk populations in the area could be due to a number of factors,
14 including collisions with vehicles, poisoning, wildfires, predation, drought, disease,
15 residential development, and climate change—and most of these impacts contributing to
16 decline occur remote from the Horse Heaven Project, including migration across the species
17 range in the West.³⁶ While parties state concern about impacts on ferruginous hawk, there
18 are no active nests in the Project area, no future occupancy is expected due in large part to
19 residential development, and the development of this Project is not the cause of the
20 ferruginous hawk’s decline in the Horse Heaven Hills.

22 ³¹ See EXH-4008_T_REVISED to EXH-4011_T; EXH-3000_R_CONFIDENTIAL to EXH-
23 3015_R; EXH-1033_R_CONFIDENTIAL; EXH-1041_R_CONFIDENTIAL to EXH-1050;
24 EXH-1022_R.

³² EXH-1007 & EXH-1003_REVISED.

³³ Updated ASC, Appendix K, at 666; see also EXH-1022_R at 11.

25 ³⁴ ~~2023 Raptor Nest Surveys for the Horse Heaven Clean Energy Center, Benton County,~~
26 ~~Washington, Prepared by Erik Jansen for Horse Heaven Wind Farm, LLC (August 3, 2023),~~
~~provided to Amy Moon, EFSEC via email correspondence August 5, 2023.~~

³⁵ *Id.*

³⁶ Deposition of James Watson 108:23-114:9; see also EXH-1022_R at 10-11.

1 Even so, as noted in the Habitat Mitigation Plan, the Applicant proposes several
2 mitigation measures to ensure that any possible impacts on ferruginous hawk.³⁷ Taking an
3 extremely conservative approach, Applicant is following WDFW guideline recommendations
4 and implementing additional measures to mitigate its impact on many nest sites within 2
5 miles of the Project Area.

6 **b. Pronghorn antelope also rarely, if ever, use the Project area; still, avoidance and minimization have been proposed.**

7 Troy Rahmig responded extensively to the testimony from Leon Ganuelas regarding
8 purported pronghorn presence in the Project area, and ultimately disagreed with Mr.
9 Ganuelas' interpretation of the data.³⁸ Mr. Rahmig notes that Pronghorn disfavor developed
10 agricultural land and there is a highway between the Pronghorn's primary habitat and the
11 Horse Heaven Hills.³⁹ In addition, Pronghorn Antelope is not a federally or state-listed
12 species of concern, and ultimately no official guidelines or guidance was provided on
13 project-specific mitigation measures. Even so, again taking a conservative approach, the
14 Applicant moved the east solar array away from Pronghorn priority habitats, including shrub-
15 steppe and grassland habitats to minimize impacts.⁴⁰ In addition, even though the habitat
16 mitigation plan does not specifically reference pronghorn, it was made with the intent of
17 support wildlife and habitat connectivity.⁴¹

18 **c. Impacts to bats are uncertain based on data gaps; still, mitigation has been proposed.**

19 Don McIvor, a wildlife expert for the Council for the Environment, presented
20 testimony on bat fatalities due to turbine strikes. However, Mr. McIvor and Mr. Rahmig
21 both admit that data are unknown with regards to impacts of windfarms on bats.⁴² Because
22 of the uncertainties surrounding bat fatalities, Applicant proposes handling this through an
23 adaptive management approach directed by the Technical Advisory Committee.

24 ³⁷ ASC, Appendix L, at 12-13, 16.

25 ³⁸ See the full discussion at EXH-1041_R_CONFIDENTIAL at 11-12.

26 ³⁹ EXH-1041_R_CONFIDENTIAL at 12; EXH-1033_R_REDACTED at 6.

⁴⁰ EXH-1033_R_REDACTED at 9.

⁴¹ *Id.* at 10.

⁴² EXH-3000_R_REDACTED at 3; EXH-1041_R_REDACTED at 2.

1 **3. The Applicant has appropriately analyzed and mitigated visual impacts to**
2 **the extent feasible.**

3 Under WAC 463-60-362, the application must describe the aesthetic impact and any
4 alteration of the surrounding terrain.⁴³ The analysis required by WAC 463-60-362(2)-(3) is
5 provided in multiple sections of the application.⁴⁴ This analysis complies with industry
6 standard practices, including the Bureau of Land Management (“BLM”), Visual Resource
7 Management (“VRM”) Methodology System (Handbook 8431-1; Manual 8410-1).

8 Scout provides testimony from Brynn Guthrie, a visual resources specialist, who has
9 completed visual resources assessments and mitigation designs for dozens of renewable
10 energy projects.⁴⁵ Ms. Guthrie, as the Visual Resources Lead for Tetra Tech, has taken a
11 lead role in the visual assessment and mitigation for this Project.

12 As indicated by Ms. Guthrie’s pre-filed direct testimony, Applicant followed all the
13 applicable methodologies of the BLM’s VRM system. The Applicant coordinated with local
14 entities, including Benton County Planning Department, Benton City, Yakama Nation, and
15 local businesses and stakeholders to identify Known Observation Points (“KOPs”). After
16 identifying the KOPs, Applicant used the Benton County Comprehensive Plan to identify the
17 management goals for the Horse Heaven Hills. Following the BLM VRM’s Scenic Quality
18 Class Rating System, Scout determined the class of the KOPs and developed representative
19 viewpoints and photographic simulations. It then identified and described the representative
20 viewpoints and the impact of the proposed Project on the aesthetic quality.⁴⁶ Based on those
21 impacts, the Applicant proposed the mitigation measures discussed in 4.2.3.4. As Ms.
22 Guthrie’s pre-filed testimony indicates, while there are visual impacts, the applicant has
23 appropriately mitigated them.

25

⁴³ WAC 463-60-362(3).

26 ⁴⁴ See Updated ASC § 4.2.3; Updated ASC, Appendix Q.

⁴⁵ EXH-1001_REVISED at 1-2.

⁴⁶ Updated ASC Tbl. 4.2.3-2 & at 4-93 through 4-95.

1 The pre-filed testimony of TCC witness, landscape architect Dean Apostol, attempts
2 to undermine this analysis by criticizing how the KOPs were chosen, the type of camera
3 technology used, and the atmospheric and weather conditions during the simulations. Yet, as
4 Ms. Guthrie’s pre-filed responsive testimony makes clear, KOPs were chosen consistent with
5 the BLM’s VRM classification⁴⁷, and photographs were taken using the industry-standard-
6 recommended camera.⁴⁸ As to whether the simulations are representative of all site
7 conditions, as Ms. Guthrie notes, Applicant took at least seven trips in different months over
8 a six-year period to the KOPs to take photos of the simulations.⁴⁹ Yet to achieve an even
9 more conservative, worst-case analysis, Applicant edited photos to simulate low haze
10 viewing conditions, despite that such visibility is atypical for the area.⁵⁰ In sum, Applicant’s
11 visual analysis is not only sound and consistent with current industry standard—it is even
12 more conservative than the natural conditions supported to identify the extent of potential
13 resource impacts.

14 **4. Scout has conducted extensive archeological and cultural study and**
15 **coordination as part of its ASC.**

16 The Applicant, with the help of its consultant, Historical Research Associates, Inc.
17 (“HRA”), conducted years-long agency and tribal coordination, including with Washington
18 Department of Natural Resources (DNR) and Washington Department of Archaeology and
19 Historic Preservation (DAHP), and the Confederated Tribes and Bands of the Yakama
20 Nation (Yakama Nation) and Confederated Tribes of the Umatilla Indian Reservation
21 (“CTUIR”),⁵¹; conducted extensive cultural resource background research (i.e., archival and
22 record search), archaeological surveys, an architectural inventory, provided NRHP and
23 management recommendations for the Project, and received determinations from DAHP on
24 all NRHP recommendations in every archeological survey report.⁵² The results of these

24 ⁴⁷ EXH-1021_R at 6-8; EXH-1036_R at 2-3
25 ⁴⁸ EXH-1021_R at 3
26 ⁴⁹ EXH-1021_R at 3.
⁵⁰ *Id.* at 4.
⁵¹ See ASC § 1.12.2.
⁵² EXH-1004_T_REVISED.

1 analyses and agency and tribal coordination are provided in ASC Section 4.2.5, Appendix R,
2 Cultural Resource Reports, and discussed in HRA consultant Emily Ragsdale’s pre-filed
3 testimony.⁵³ No other party, including the Yakama Nation, submitted pre-filed rebuttal or
4 reply testimony in response to Ms. Ragsdale’s testimony.

5 In sum, though some archeological impacts were identified, Applicant has proposed
6 numerous cultural resource management measures, such that the Project is not expected to
7 have a significant impact to historic and cultural resources.⁵⁴ In addition, the CTUIR
8 Cultural Resources Protection Program (CRPP) conducted a traditional use study of the
9 Project, to identify historic properties of religious and cultural significance to the CTUIR in
10 the Project area and to assess the impacts of the Project on the traditional uses of the area by
11 the Imatalamłáma (Umatilla), Weyíiletpu (Cayuse) and Walúulapam (Walla Walla) people,
12 who make up the CTUIR, including any impacts to traditional use areas or subsistence First
13 Foods that might occur with the Project.⁵⁵ Though some Tribal members stated concerns
14 about the Project, the CTUIR CRPP proposed several mitigation measures they noted could
15 “resolve” those concerns.⁵⁶ Scout has committed to working with the CTUIR CRPP to
16 develop and implement the CRPP’s formal recommendations on how to avoid, minimize, or
17 mitigate members’ concerns.⁵⁷ As reflected in ASC Section 1.12, Yakama Nation declined
18 Applicant’s invitations to conduct a study of their traditional property.

19 **5. Applicant’s site-specific data confirm that the Project will not negatively**
20 **impact property values.**

21 Applicant has presented pre-filed testimony from property value scholar Morgan
22 Shook and real estate appraiser Andrew Lines on property values. As indicated by the
23 literature submitted by Mr. Shook, after decades of research, experts have proven that neither
24 wind nor solar facilities harm nearby real estate values.⁵⁸ Rather, claims that such projects

24 ⁵³ *Id.*

25 ⁵⁴ *See* ASC § 4.2.5.3.

25 ⁵⁵ ASC at 1-66.

26 ⁵⁶ *Id.*

26 ⁵⁷ *Id.*

26 ⁵⁸ EXH-1008_T_REVISED to EXH-1020.

1 harm property values are unsupported and likely due to overblown stigmas about the impacts
2 of renewable energy development.⁵⁹ In contrast, the extensive economic benefits of such
3 development are data-driven and compelling. Even so, to address the concerns raised by
4 TCC witnesses about property values, Scout engaged renewable energy-real estate impact
5 appraiser Andrew Lines to develop a local, site-specific analysis of the potential property
6 value impacts from the Project.⁶⁰ Mr. Lines, a member of the Appraisal Institute, developed
7 and sponsored the report, which analyzed academic and peer authorized studies, paired sales
8 studies, and interviews from over 20 county and township assessors with a wind farm in their
9 jurisdiction.⁶¹ The report found that the Horse Heaven Project will not negatively impact
10 property values.⁶²

11 IV. CONCLUSION

12 Despite the claims of the Project opponents, the Project has been responsibly sited
13 and its benefits and potential impacts thoroughly documented and addressed through
14 proposed mitigation in the ASC. Scout looks forward to providing more information and
15 answering any remaining questions the Council may have during the live hearing.

16
17 DATED: August 9, 2023.

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32 ⁵⁹ EXH-1008_T_REVISED; EXH-1051_R.

33 ⁶⁰ EXH-1037_R at 2.

34 ⁶¹ *Id.* at 2-3.

35 ⁶² *Id.* at 3.

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CERTIFICATE OF FILING AND SERVICE

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I hereby certify that on August 9, 2023, I filed the foregoing **APPLICANT**
SCOUT CLEAN ENERGY LLC’S PREHEARING BRIEF with the Washington Energy
Facility Site Evaluation Council through electronic filing via email to
adjudication@efsec.wa.gov.

I hereby certify that I have this day served the foregoing document upon all
parties of record in this proceeding by electronic mail at the email addresses listed on the
attached Service List.

DATED: August 9, 2023.

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