

**BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of the Application of:

Scout Clean Energy, LLC, for  
Horse Heaven Wind Farm, LLC,

Applicant

DOCKET NO. EF-210011

ORDER GRANTING COUNSEL FOR THE  
ENVIRONMENT'S MOTION TO  
SUPPLEMENT THE RECORD WITH  
RESPONSIVE PRE-FILED TESTIMONY  
OF DONALD MCIVOR

**Procedural Background:**

On August 11, 2023 Counsel for the Environment (CFE) filed a *Motion to Supplement Responsive Testimony of Expert Donald McIvor* with supplemental testimony of CFE's expert witness in this proceeding. CFE asserts that this supplemental testimony is required to clarify Mr. McIvor's original pre-filed testimony in light of new information set out in a discovery deposition taken of Department of Fish and Wildlife employee, James Watson.

The compressed litigation schedule associated with this proceeding made it impossible for CFE to wait for all discovery to be completed before Mr. McIvor submitted his original pre-filed testimony. The Watson deposition was only taken *after* CFE had submitted Mr. McIvor's pre-filed testimony. Therefore, Mr. McIvor now seeks to amend his testimony.

CFE raised the question of filing this supplemental testimony (proposed exhibit EXH-3016\_R) at the Fifth Pre-Hearing Conference held on Thursday, August 10, 2023. No party spoke in opposition to CFE's request. No party has since filed any opposition to CFE's *Motion*. However, several parties (Scout Clean Energy and the Yakama Nation) have indicated a desire to cross-examine Mr. McIvor on his proposed supplemental testimony.

**Decision:**

Counsel for the Environment's *Motion to Supplement Responsive Testimony of Expert Donald McIvor* is **GRANTED**. Mr. McIvor will be permitted to adopt proposed exhibit EXH-3016\_R when he appears before the EFSEC Council to testify at the adjudicative hearing. Parties will be permitted to cross-examine Mr. McIvor on the information contained in EXH-3016\_R.

DATED and effective at Olympia, Washington, on the 16th day of August, 2023.

WASHINGTON ENERGY FACILITY  
SITE EVALUATION COUNCIL

  
Adam E. Torem, Administrative Law Judge