

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

CONFEDERATED TRIBES AND BANDS
OF THE YAKAMA NATION'S
PRELIMINARY LIST OF DISPUTED
ISSUES

In response to the March 17, 2023 Pre-Hearing Order, the Confederated Tribes and Bands of the Yakama Nation (“Yakama Nation”) submits its preliminary list of issues as follows:

Procedural Issues:

1. Whether EFSEC can, or should, proceed with the adjudication prior to issuing a supplemental or final environmental impact statement.
2. Whether EFSEC is required to comply with RCW 80.50.100(1) when an applicant files an amended application for site certification twenty-two months after filing its original application for site certification.

Environmental Impact Issues:

3. Whether the location and operation of the proposed Horse Heaven Wind and Solar Farm (“Project”) will produce minimal adverse effects on the environment, as required by RCW 80.50.010.
4. Whether the Project will be an appropriate balance of the statutory factors required by RCW 80.50.010.

5. Whether the Project will negatively impact plants, wildlife, and their habitat, including any threatened, endangered, and sensitive species and whether any such effects can be adequately mitigated.
6. Whether the Project's potential archeological and cultural resource impacts have been fully evaluated, consistent with professional archeological standards.
7. Whether the cumulative impacts of the Project are inconsistent with EFSEC's policies and goals as set forth in RCW 80.50.010.

Location-Specific Issues:

8. Whether the Project will create probable, significant, adverse impacts to Yakama Nation's Traditional Cultural Properties, and if so, whether the impact can be mitigated.
9. Whether the Project will prevent use of Traditional Cultural Properties located on adjacent Federal lands, and if so, whether the impact is properly mitigated.
10. Whether the Project will impact, and if so, is adequately mitigated, as to wildlife species, vegetation, and habitat protected by the Treaty of 1855 between the United States and Yakama Nation, 12 Stat. 951.
11. Whether the Project will impact, and if so, is adequately mitigated, as to access by Yakama Nation members to public lands containing Treaty-reserved resources.
12. Whether the Project is consistent with the RCW Chapter 36.70A.
13. Whether the Project is consistent with local land use regulations, including but not limited to Benton County's comprehensive plan, conditional use permit criteria and standards for variance?

Yakama Nation submits this preliminary list for discussion during the March 20, 2023 prehearing conference. Yakama Nation reserves the right to update or modify the above list based upon additional information, guidance from Judge Torem, and continued discussions between all parties to the adjudication. Yakama Nation also reserves the right to join disputed issues raised by other parties in the course of the adjudication.

Dated this 20th day of March, 2023.

/s/ Shona Voelckers
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CERTIFICATE OF SERVICE

I, Shona Voelckers, certify that on March 20, 2023 I electronically filed the foregoing document with the Energy Facility Site Evaluation Council at Adjudication@efsec.wa.gov consistent to Judge Torem’s verbal directive March 10, 2023.

On March 20, 2023 I also electronically transmitted the foregoing document to Judge Torem at adamtorem@writeme.com, Jonathan Thompson at jonathan.thompson@atg.wa.gov; and Lisa Masengale at lisa.masengale@efsec.wa.gov.

I further certify that on March 20, 2023 I served the foregoing document upon all parties of record in this proceeding by electronic mail as follows:

| Party | Counsel of Record |
|-----------------------------|---|
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Dated this 20th day of March, 2023.

/s/ Shona Voelckers
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