

**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 COMMENCING AGENCY  
ADJUDICATION; SETTING DEADLINE  
FOR PETITIONS TO INTERVENE  
(FEBRUARY 3, 2023); NOTICE OF  
TELEPHONIC PRE-HEARING  
CONFERENCE (MARCH 10, 2023  
AT 9:00 A.M.)

**The Application:**

On February 8, 2021, Scout Clean Energy, LLC (Applicant) submitted an Application for Site Certification (ASC) to the Energy Facility Site Evaluation Council (EFSEC or Council). The Applicant withdrew its request for expedited processing on March 29, 2021, has filed supplemental updates, and has been granted processing time extensions to July 8, 2023.

The Applicant seeks to develop, construct, and operate the Horse Heaven Wind Farm (Project), a renewable energy generation facility. The ASC envisions up to 244 wind turbines and two distinct arrays of solar photovoltaic panels at two of three potential locations to generate electric power. This power would be directly transferred to the grid or stored on battery energy storage systems. The Applicant estimates the Project would generate up to 1,150 megawatts (MW).

The proposed Project location is in unincorporated Benton County, approximately 4 miles south/southwest of the city of Kennewick and the larger Tri-Cities urban area, along the Columbia River. The Project is located entirely within the County's Growth Management Act Agricultural District and would be constructed on up to 6,869 acres of leased agricultural lands.

**Notice of Adjudicative Process:**

Council review of the ASC is governed by Chapter 80.50 of the Revised Code of Washington (RCW) and Title 463 of the Washington Administrative Code (WAC). **In accordance with WAC 463-30-080, the Council hereby announces its intent to commence the adjudicative proceeding required by RCW 80.50.090(4).** The Council will schedule and conduct a virtual public hearing on the proposed Horse Heaven Wind Farm under the Washington Administrative Procedure Act (APA), Chapter 34.05 RCW, and the Council's rules for adjudicative proceedings set out in WAC Chapter 463-30.

**Procedural Setting:**

The Council has taken lead agency status for the Project under the State Environmental Policy Act (SEPA) and will issue a Draft Environmental Impact Statement (DEIS) in December 2022. The SEPA process is separate from but will inform the adjudicative proceeding.

The Council has determined that the Project is consistent and in compliance with Benton County’s Comprehensive Plan and applicable zoning ordinances in effect as of the date of the Application. The Council’s adjudicative proceeding will address Benton County’s criteria for issuance of a conditional use permit for the Project. The adjudication will also consider other disputed issues identified by the Parties during an upcoming prehearing conference (*see below*).

**Parties:**

The following are deemed to be parties to the adjudicative proceeding, without need to petition for intervention:

Pursuant to WAC 463-30-060(1), the applicant, Scout Clean Energy, LLC

Pursuant to RCW 80.50.080 and WAC 463-30-060(3), Counsel for the Environment, representing the public and its interest in protecting the quality of the environment

Pursuant to WAC 463-30-050 and WAC 463-30-060(2), the following state agencies and local governments are also deemed to be parties:

State of Washington agencies:

- The Department of Agriculture
- The Department of Commerce
- The Department of Ecology
- The Department of Fish and Wildlife
- The Department of Natural Resources
- Utilities and Transportation Commission

Local governments:

- Benton County

All of the above listed parties of right wishing to actively participate in the adjudication of this Application shall file a written notice of party participation with the Council at the address below and serve a copy of the notice on all other existing parties no later than **February 3, 2023**. This notice shall include addresses for communications in both electronic and paper form.

**Intervention as a Party:**

Participation as a party includes specific rights and responsibilities in the adjudication, including the sponsorship of expert witnesses, cross-examination of other parties’ experts and the filing of briefs. Persons wishing only to state support for or opposition to the Project may do so by public comment (*see below*) and need not petition for intervention.

Persons wishing to formally participate as a party in the adjudication must review and comply with WAC 463-30-091 and file a petition for intervention with the Council at the address below and serve a copy of their petition on all other existing parties no later than **February 3, 2023**.

Electronic filing of petitions for intervention is allowed and encouraged, provided that one hard copy is placed in the United States Mail addressed to the Council on the same day as filing.

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

Electronic filing address: [adjudication@efsec.wa.gov](mailto:adjudication@efsec.wa.gov)

Existing parties opposing any intervention petition must file a written objection, demonstrating with particularity how their rights would be prejudiced by the intervention. Any such objection shall be filed no later than **February 17, 2023**. Petitioning intervenors wishing to file responses to objections must do so no later than **February 24, 2023**.

In accordance with WAC 463-30-091, all petitions to intervene in this adjudication shall be verified under oath by the petitioner and must (1) adequately identify the petitioner; (2) establish with particularity the petitioner's interest in the subject matter; and (3) explain how the petitioner's ability to protect its interest may be impaired or impeded if not granted intervenor status in the adjudicative proceeding.

Petitions for intervention will be granted or denied per the Council's discretion. No oral argument will be permitted. To ensure an orderly and efficient adjudication, petitions for intervention may be conditionally granted or limited as authorized by WAC 463-30-092.

**Pre-Hearing Conference and Organization of the Adjudicative Proceeding:**

The undersigned administrative law judge will conduct a telephonic pre-hearing conference on Friday, March 10, 2023, at 9:00 a.m. This conference will develop a list of disputed issues and establish procedures for the pre-hearing phase of this adjudication, to include general organization of the adjudication, preparation of evidence, hearing procedures, and scheduling the time and place of the adjudication itself. Attendance at the conference is required of all parties and petitioners for intervention. The Council will also publish separate Notice of this pre-hearing conference and provide specific information regarding call-in procedures.

**Public Participation:**

Pursuant to RCW 80.50.080, the Counsel for the Environment represents "the public and its interest in protecting the quality of the environment." Assistant Attorney General Sarah Reyneveld has been appointed Counsel for the Environment in this case. Her contact information is:

AAG Sarah Reyneveld  
 Attorney General’s Office  
 800 5th Avenue, Suite 2000 (TB/14)  
 Seattle, WA 98104-3188  
 Sarah.Reyneveld@atg.wa.gov  
 206-389-2126

During the course of the adjudication, the Council will set a time for public comment in accordance with RCW 80.50.090(4)(a). Any member of the public wishing to speak at this public comment hearing in support of or in opposition to the ASC must file their written comment with the Council raising one or more specific issues no later than January 31, 2023.

**Additional Information:**

Council staff is not permitted to give legal advice but can answer procedural questions about the adjudication and intervention process. The Council’s mailing and e-mail addresses are set out above. The Council’s telephone number is (360) 664-1345.

More information about the Horse Heaven Wind Farm project is available on the Council’s website at [www.efsec.wa.gov](http://www.efsec.wa.gov). Copies of the application are also available at the following public libraries:

Washington State Library 6880 Capitol Boulevard Tumwater, WA 98501 (360) 704-5200	Mid-Columbia Libraries – Kennewick Branch 1620 S. Union Street Kennewick, WA 99338 (509) 783-7878
Richland Public Library 955 Northgate Drive Richland, WA 99352 (509) 642-7454	Mid-Columbia Libraries – Keewaydin Park Branch 405 S. Dayton Street Kennewick, WA 99336 (509) 586-3156
	Mid-Columbia Libraries – Prosser Branch 902 7th Street Prosser, WA 99350 (509) 786-2533
	Mid-Columbia Libraries – Pasco Branch 1320 W. Hopkins Street Pasco, WA 99301 (509) 545-1019
	Mid-Columbia Libraries – West Pasco Branch 7525 Wrigley Drive Pasco, WA 99301 (509) 546-8055

	Mid-Columbia Libraries – West Richland Branch 3803 W. Van Giesen Street West Richland, WA 99353 (509) 967-3191
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DATED and effective at Olympia, Washington, on the 15th day of December, 2022.

WASHINGTON ENERGY FACILITY  
SITE EVALUATION COUNCIL



Adam E. Torem, Administrative Law Judge