



STATE OF WASHINGTON

## ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

March 28, 2023

Crystal Chase, Counsel for Applicant  
Stoel Rives LLP  
760 SW Ninth Avenue, Suite 3000  
Portland, OR 97205

Kenneth Harper, Counsel for Benton County  
Menke Jackson Beyer, LLP  
807 North 39th Avenue  
Yakima, WA 98902

Counsel for the Environment  
ATTN: Sarah Reyneveld  
Office of the Attorney General  
800 Fifth Avenue, Suite 2000  
Seattle, WA 98104-3188

Shona Voelkers, Counsel for Yakama Nation  
Yakama Nation Office of Legal Counsel  
Post Office Box 151  
Toppenish, WA 98948

J. Richard Aramburu, Counsel for Tri-Cities C.A.R.E.S.  
Law Offices of J. Richard Aramburu  
705 Second Avenue, Suite 1300  
Seattle, WA 98104-1797

Dear Parties,

Thank you for your letters of March 23, 2023, setting out your individual preferences for how and where to conduct the adjudication in the Horse Heaven Wind Project. I read and carefully considered each of your explanations in support of the various options available: virtual, hybrid, or in-person in Benton County. My decision is to hold this adjudication as a virtual hearing because doing so ensures a sustainable and accessible process for all parties.

Over the last several years, state agencies have learned to conduct their business virtually and still communicate effectively with stakeholders, customers, and the general public. EFSEC has been holding its monthly meetings virtually since the pandemic began three years ago and will continue to do so. The Council has also conducted various informational and land-use hearings in a virtual format with robust participation from all parties and members of the public wishing to comment. Given EFSEC's experience with virtual proceedings, I am confident this adjudication can be conducted virtually and create a sufficient record to inform the Council's ultimate recommendation to Governor Inslee. As explained below, a virtual adjudication is the best choice available to me.

The primary reason for conducting the Horse Heaven Wind Project adjudication virtually is to ensure all witnesses will be presented in the same fashion. No party will be afforded the opportunity for additional interaction with Council members by virtue of appearing at an in-person hearing session while others are only able to be present remotely in a hybrid proceeding. In a virtual proceeding, every Council member will observe the evidence in exactly the same way.

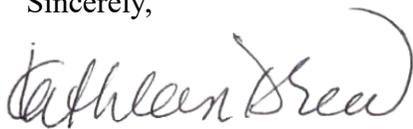
A secondary reason in favor of a virtual proceeding is that the number of project applications now pending before EFSEC is unprecedented. The Council has at least six proposed projects currently under review that may require an adjudication. Given the need to handle all such applications equally, I have determined the only option for conducting these hearings is to hold them virtually. Conducting in-person hearings for one application would require the Council to do the same for all. Simply put, that is impossible.

EFSEC does not have sufficient staff to support an in-person or hybrid hearing of any length. The parties estimate that this adjudication will require approximately two weeks of hearing time. EFSEC might occasionally undertake in-person hearings in local communities for one or two days, but the extended nature of an adjudication is beyond this agency's capacity to sustain. The Council is committed to hold informational and land-use consistency hearings in the local community to ensure an opportunity for direct interaction with public commenters. Except for times where COVID restrictions prohibited this, EFSEC has done so for each and every application. Site visits are, obviously, also conducted locally and offer another opportunity for community involvement.

Finally, conducting adjudications virtually is the most cost-efficient means to maximize participation for Council members, parties, witnesses, and the citizens of Washington. Virtual hearings ensure that Council members and other participants can attend to other work and personal obligations at the beginning and end of each day and during breaks. A virtual hearing eliminates the need for travel and associated expenses, including lodging, meals, mileage, and child care. Each day of in-person proceedings would cost participants hundreds, if not thousands, of dollars. Virtual hearings eliminate or minimize these costs and, in my opinion, expand the possibilities of participation for all involved. The public can still view all virtual hearing sessions live or streamed from EFSEC's website at their convenience.

I realize that some parties will be disappointed with a virtual hearing format. Nevertheless, for the reasons provided above, the adjudication for the Horse Heaven Wind Project will be held virtually.

Sincerely,



Kathleen Drew

Chair, Washington Energy Facility Site Evaluation Council

cc: Sonia Bumpus, EFSEC Director  
Jonathan Thompson, AAG  
Adam E. Torem, ALJ  
Darin Huseby and Dave Kobus (Applicants), Horse Heaven Wind Farm LLC

Tim McMahan, Stoel Rives, LLP  
Emily Schimelpfenig, Stoel Rives, LLP  
Aziza Foster, Menke Jackson Beyer, LLP  
Julie Dollof, Counsel for the Environment  
Ethan Jones, The Confederated Tribes of the Yakama Nation  
Jessica Houston, The Confederated Tribes of the Yakama Nation