

Dear EFSEC Panel:

Introduction

On March 5, 2010, the U.S. Department of Interior's Fish & Wildlife Service (FWS) found that the Greater Sage Grouse met the criteria for listing as an endangered species subject to protection under the Endangered Species Act (ESA). However, FWS listed the sage grouse as a "candidate" species, rather than an endangered species, due to the need to focus on higher-priority species. Furthermore, status as a candidate means that the sage grouse is likely to be listed as endangered in the future. Thus, EFSA and proposed developer Avangrid must be aware that, this project is likely to become vulnerable once the grouse is listed. The ESA does not provide for grandfathering of activities that predate the listing of a species.

The pending Land Use Consistency Hearing of the proposed Avangrid Renewables Badger Mountain Solar Project is a contradiction in terms because there is nothing consistent about the approach to the proposed solar panel locations in Douglas County, and potential permitting by EFSEC. Notice of availability to EFSEC input was minimal at best. Prior participants at the County level have been given no practical notice of submissions to EFSEC. The process for participation itself is designed to winnow out the ability for input in a pandemic, by the marathon process scheduled November 17, 2021. Any pretext of compliance of consideration without thorough examination of Avangrid proposals under the the Washington State Environmental Policy Act (SEPA) requirements, including a detailed Environmental Impact Statement (EIS) abrogates the State's underlying obligations of environmental compliance and mandated protection of endangered species.

At the outset, I state that I am not against solar energy, but the proposed siting herein is not forward thinking as to environmental consequences and the critical habitat for the Greater Sage Grouse that is obligated to be preserved. I thus write to you from the perspective of a lifetime resident of Douglas County, with 40 years of courtroom litigation experience involving land use issues, as well as my current status as a Badger Mountain Cattle Rancher aware of the presence of Greater Sage Grouse (*Centrocercus urophasianus*) in the immediate area of the proposed Badger Mountain solar panel siting. The protection of an endangered natural resources, must be balanced against this particular renewable energy proposal. That balancing test easily falls in favor of the Greater Sage Grouse. My knowledge of the Greater Sage Grouse is personal, practical as well as academic.

Washington State Agencies via EFSEC and WDFW may well occupy inherent inconsistent positions on Badger Mountain Solar Panel siting.

The State of Washington is putting itself in a position of inherent conflict of interest within its own agencies. Potential Solar power development permitting at the proposed location is at direct odds with prior protection granted the Greater Sage Grouse. The Washington Department of Fish and Wildlife (WDFW) is tasked with protection of the Greater Sage Grouse. The WDFW and the Wildlife commission voted Friday April 23, 2021 to move sage grouse onto the state endangered species list. Sage grouse had been listed as threatened in Washington since 1998, but following the devastating fire season in 2020 and loss of prime habitat in the Mansfield, Washington area, the WDFW felt a higher level of protection was warranted. Prior to the 2020

fires, these birds were already in a precarious situation. In the summer of 2021 more fires in the east Badger Mountain area further reduced Sage Grouse habitat. The statewide population prior to 2020 was estimated at 770 birds, living in only 8% of their historic range in Washington. WDFW biologists believed the 2020 Mansfield Pearl Hill fires destroyed half of the sage grouse's remaining range, a keystone species in the region. The remaining primary habitat is on Badger Mountain, the site of the proposed Avangrid project.

Protection of the current Sage Grouse population residing on Badger Mountain via mitigative measures by Avangrid is impossible.

I have done my best via consultation with various experts to become acquainted with this unique bird. The Washington Sage grouse is genetically diverse from those populations residing in other states, primarily due to its geographic isolation. They also will not breed in captivity, so a natural environment for reproduction is a must. They will not breed with Sage Grouse from other states due to genetic differences, so transplanting is not possible. They are extremely susceptible to predation and require mature stands of sage steppe habitat for food and breeding. There is limited mature shrub steppe sage habitat left. It must be protected.

Because the Greater Sage Grouse has lost most of its habitat in Washington State to preexisting development, preservation of the current Badger Mountain population is critical. Central and eastern Washington's shrub-steppe is home to numerous species of threatened wildlife. One of the most critically hit, the greater sage grouse depends upon large landscapes of sagebrush (which they consume) to survive. The best mitigation strategy is to avoid developing sensitive areas, which can be assessed in the pre-construction phase to identify issues related to wildlife, especially sensitive and threatened species (Arnett and May 2016). Most of the known mitigation literature—in particular, solar energy-related literature—focuses on avoiding sensitive areas in their entirety. (Cameron et al 2012, Stoms et al 2013, Hernandez et al 2015a, 2015b, Kreitler et al 2015, Arnett and May 2016; see above), and decries minimization or compensation strategies. In terms of avoidance, planners have suggested simply placing such areas off-limits to development.

Secretary of the Interior Ken Salazar in 2010 stated : “The sage-grouse's decline reflects the extent to which open land in the West has been developed in the last century,”... “This development has provided important benefits, but we must find common-sense ways of protecting, restoring, and reconnecting the Western lands that are most important to the species' survival while responsibly developing much-needed energy resources. Voluntary conservation agreements, federal financial and technical assistance and other partnership incentives can play a key role in this effort.”

Said Assistant Secretary of the Interior for Fish and Wildlife and Parks Tom Strickland: “Voluntary conservation efforts on private lands, when combined with successful state and federal strategies, hold the key to the long-term survival of the greater sage-grouse.”

I personally am in the process of developing sage grouse protections via habitat improvement as well as utilization of conservation overlay easement on my ranch to protect remaining populations of sage grouse. This consists of several conservation measures, including

Mountain Beaver restoration which consequently enhances sage grouse habitat, water access delivery relocation for cattle, pasture reconfiguration, and changing of grazing methodology.

I would estimate and biologists have essentially confirmed that in excess of 10% of the remaining sage grouse populations remaining in the state of Washington at various times utilize my ranch. The western border of my ranch is only 2 miles from the proposed project. We regularly see sage grouse on our property. Sage grouse have been seen within the area of the proposed projects, including to the rim of Badger Mountain above Wenatchee. I have personally many times seen sage grouse utilizing wheat fields during summer months. The sage grouse migrate from the eastern part of the mountain during breeding season, to the western part of the plateau in August through September. We have a sage grouse breeding lek close to our property. We also have nesting areas utilized by sage on several areas of on the northern and western portions of our property. It is well known that sage grouse utilize wide areas of habitat in their life cycle as part of their occupation of sage steppe habitat. Any mitigation for sage grouse of the proposed Avangrid project is thus impossible, as corroborated by above quoted scientific studies.

The proposed Avangrid Project will not benefit and is not intended to benefit the residents of the State of Washington.

The project proposal discloses it is not intended to benefit the citizens of the State of Washington. The scope of this project proposed by both Avangrid and Leprechaun is 700 megawatts. One megawatt will power between 400 to 900 homes. This equates to total residential use for between 280,000 to 630,000 homes. Based upon expert consultation, I have been informed the state of Washington, despite its expanding population has no immediate foreseeable need to power this many new homes. Douglas County residents enjoy some of the lowest electrical rates nationally. They certainly have no need for such a backwards thinking development. They already have the renewable energy from its hydroelectric projects. So where is this proposed electricity going? The likely proposal will be to connect to nearby Bonneville Power Lines on the grid and utilize those transmission wires to route electricity to Puget Sound Power, who can then re-sell to out of state electrical suppliers in Southern California. But how can Governor Inslee or EFSEC rationalize this extermination of Washington's Greater Sage Grouse to the citizens of Washington and Douglas County in order to sell power to out of state consumers? Perhaps it is, as they say, necessary to follow the money. Microsoft is now building its own Tech facility by Pangborn Airport in Douglas County. This is so, despite that Douglas County PUD would not let them connect to Douglas County electrical grid and obtain lower usage rates. Tech Centers use huge amounts of electricity (equivalent to 500 or more homes). But Microsoft came to Douglas County anyway, saying they would get their electricity from an unspecified alternative source. The Avangrid Solar Panels if construction was allowed, would be less than 2 miles away from proposed Microsoft Tech Center. I suspect Microsoft is involved in all of this somewhere. And it all seems to make sense. Microsoft provides shade to rationalize a poor economic decision for Washington citizens at the expense and extermination of the Sage Grouse. And Microsoft needs Avangrid to get what it cannot get from the Douglas County PUD. Thus, under the guise of providing alleged more environmentally clean power as a benefit to the citizens of Washington, Avangrid gets cover, Microsoft gets its power, and Avangrid gets its solar panels. Unfortunately, the Greater Sage Grouse gets its death warrant signed in the process, even

though neither the Microsoft Tech Center and the Avigrid Solar panels provide any significant long term employment to the local economy. Instead, only a very few involved landowners benefit. And once the Federal government issues an order giving the Sage Grouse Endangered Species Protection, the solar panels will need to be removed, the landowners lose their income, and the citizens of Douglas County are left to clean up a State created mess.

There is Palpable Irony Concerning the State of Washington Proposal for Snake River Dam Breach and the imminent self inflicted Endangered Species Conflict Concerning the Sage Grouse

In an October 21, 2021 issue of the Seattle Times, Sen. Patty Murray, D-Wash., and Gov. Jay Inslee set in motion the wheels to begin a region wide assessment of dam breaching on the Lower Snake River by jointly stating: “We approach this question with open minds and without a predetermined decision,”. “Both of us believe that for the region to move forward, the time has come to identify specific details for how the impacts of breach can, or cannot, be mitigated.” Both said they recognize the urgency of the task as salmon runs continue to decline, and set a deadline for recommendations to be completed by no later than July 2022.

Advancing the potential breaching of Snake River Dams in the Columbia River drainage system to save migrating salmon and Puget Sound Orcas, while at the same time entertaining placement of solar panels on Badger Mountain to exterminate the endangered Sage Grouse, is a farcical juxtaposition. Nothing more really needs to be said on the subject.

Profits from any proposed Avangrid Solar Panel Placement will be paid to companies benefitting citizens not just outside of the State of Washington, but also to companies whose ownership interests are outside of the United States. This is so, despite the fact that all attendant risks in the event of failure, will be borne by the Citizens of Douglas County.

Avangrid Renewables LLC, registered in Washington State to do business in December of 2020. It appears the governors of the company had Badger Mountain on their collective minds. All of their interested governing officers of Avangrid are from Spain. One was Alejendo de Hoz, the company president, who will be discussed below. The other proposed energy company, Leprechaun Solar Park, LLC, is a subsidiary of EDP Renewables, another foreign Spain-based foreign energy developer. Both Avangrid and EDP do business with a host of similarly named, albeit corporately related companies, making it difficult and confusing to sort who is on first. This is likely done from a legal perspective to limit potential liability. It makes it certainly easier for these companies to leave those with whom they do business holding the bag when things go bad. The success of the proposed solar power will thus benefit the Spanish companies and any failure will likely be the problem of Douglas County. For example, Avangrid’s financial outlook was recently revised to negative, due to increased leverage from debt-funded investment in offshore wind, the New England Clean Energy Connect (NECEC) transmission project and the PNM Resources (PNMR) acquisition. Cash flows from the Networks and Renewables businesses were expected to be weaker. (October 13, 2021, Fitch Ratings letter). Fitch Ratings is a leading provider of credit ratings, commentary and research for global capital markets. Avangrid Renewables might argue this is an entirely different company than it, despite the similarities in names, participants, and corporate logos, which would be expected. But that is precisely the

point. Someone may well be left holding the bag for later clean up. And perhaps not coincidentally, also on October 13, 2021, the Portland Business Journal published that Alejandro de Hoz, CEO since 2019, “decided to leave the company,” Avangrid Renewables’ the corporate parent reported to the Business Journal. It is worth noting that the parent company of Avangrid Renewables’ appears to be the Avangrid, the company with the negative financial outlook discussed above, based upon the similarity in names as well as business logos. Further, the incorporating governors of Avangrid Renewables LLC appear to be many of those on the board of the Spanish company Iberdrola Renovables Energía, S.A.U (the second largest renewable energy company in the world), again, with the same business logo as its Avangrid subsidiaries, and same photographs of their likeness. The only governor not an interested party appears to be Eduardo Aguirre (diplomat), the former United States Ambassador to Spain and Andorra from 2005 to 2009. The point is, any downside to this project based upon the lack of economic viability of the proponent, may well have a result similar to the Washington Public Power Supply (WPPS) debacle, because of the efforts of proponent and its parent companies to economically insulate themselves from responsibility.

I have been told by credible power supply experts that the Badger Mountain siting proposal has been for no other purpose than to substantially lessen Avangrid’s development costs. In close proximity to Badger, there is already present considerable infrastructure necessary to allow Avangrid to more easily connect to the electrical grid. Even though other locations are much more sensible from an environmental perspective (i.e., no sage grouse), they lack the existing infrastructure which Avangrid desires. It otherwise will be required to build power substations, electrical towers, transmission wire updates etc. In other words, all other indisputably better environmental locations are not being advanced by Avangrid, only because it would cost Avangrid more money to develop those sites because the presently lack transmission capabilities desired . What EFSEC is really being asked by this out of State, out of Country, and out of touch corporation, is to participate with them as co-conspirator in environmental destruction, by helping it to underwrite its proposal by approving its application so it can save some money. If EFSEC does this, it participates in the extermination of an already endangered species. The dollars that Avangrid might save will be exported globally elsewhere. The sage grouse will irrevocably be gone forever. And this catastrophic environmental tragedy cannot be undone or the clock reset. From every thoughtful common sense perspective, EFSEC should say no to this completely untenable request, and Avangrid’s application should be denied with prejudice.

Sincerely,



SCOTT M. KANE

East Wenatchee, WA

Dated November 17, 2021