



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

FREEDOM OF INFORMATION ACT/PRIVACY

June 9, 2015

In reply refer to: FOIA# BPA-2014-01346-F

Richard Till
Friends of the Columbia Gorge
522 SW Fifth Ave, Suite 720
Portland, OR 97204

Mr. Till:

This is a final response to your request for Bonneville Power Administration (BPA) records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Your request was received in our office on July 1 2014, with an acknowledgement letter sent to you on July 8, 2014. We informed you on October 24, 2014 that we would be extending our deadline for responding to April 30, 2015.

You have requested:

Copies of all public records related to the BPA's review of the Whistling Ridge Energy Project ("WREP" or "Project") from March 5, 2012 through July 1, 2014.

"The request includes, but is not limited to, the following categories of records:

- Any materials submitted by Whistling Ridge Energy LLC ("WRE") regarding its pending generation interconnection request;
- Any Transmission Service Requests or similar documents submitted to BPA regarding the WREP;
- Any communications between the BPA and the following persons and entities regarding the WREP:
 - Washington Energy Facility Site Evaluation Council ("EFSEC");
 - state agencies or officials (including elected officials);
 - federal agencies or officials (including elected officials);
 - any consultants and/or contractors involved in the preparation and/or review of the DEIS and/or application for site certificate;
 - Whistling Ridge Energy LLC ("WRE"), including all related entities such as the SDS Lumber Company, Broughton Lumber Company, and Stevenson Land Company, as well as WRE's attorneys and other representatives; and
 - WRE's consultants, including but not limited to URS Corp. and West Inc.

- WRE's consultants, including but not limited to URS Corp. and West Inc.
- Any meeting notes, agendas, or other related records generated from meetings between BPA, EFSEC, WRE, and consultants.”

Response:

We conducted a search of the electronic records of Transmission Services. We have located 181 pages of material responsive to your request. We are releasing 124 pages in full and releasing 57 pages with redactions under Exemptions 5 and 6.

The Freedom of Information Act generally requires the release of all government records upon request. However, FOIA permits withholding certain, limited information that falls under one or more of nine statutory exemptions (5 U.S.C. §§ 552(b)(1-9)).

Exemption 5 protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency” (5 U.S.C. § 552(b)(5)). In plain language, the exemption protects privileged documents. The deliberative process privilege protects the decision-making processes of government agencies. Records protected under this privilege must be (1) pre-decisional – created before the adoption of an agency policy or course of action, and (2) deliberative – making recommendations or expressing opinions on a legal or policy matter.

Records protected by Exemption 5’s pre-decisional and deliberative privilege may be discretionarily released. We considered discretionary release in accordance with the guidelines set forth in Attorney General Holder’s March 19, 2009 FOIA Memorandum. Agencies may decline to discretionarily release material when they reasonably foresee that disclosure would harm an interest protected by the statutory exemption.

Because BPA has not yet made a decision concerning the Whistling Ridge Energy Project, BPA has made redactions in the documents of agency staff opinions, recommendations, and deliberations comprising part of the agency’s decisionmaking process for the project. Release of the redacted information would cause a chilling effect upon the agency as it would impact the ability and willingness of government employees to make open and frank recommendations and share honest opinions within the agency, again especially when BPA has yet to make a final decision. If employees were inhibited in providing such recommendations and opinions, the agency would be deprived of the benefit of their candor and openness. This would stifle the free exchange of ideas and opinions which is essential to the sound and correct functioning of government programs and operations.

Exemption 6 protects information in “personnel and medical files and similar files” when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy” (5 U.S.C. § 552(b)(6)). Exemption 6 requires balancing the public interest in the information against the individual privacy interest at issue. Here, we assert this exemption to

redact individuals' mobile phone numbers and personal email addresses. We find no public interest in this information and therefore redact it under Exemption 6.

Information that falls under Exemption 6 cannot be discretionarily released; the right of privacy belongs to the individual, not to the agency. Therefore, we did not analyze this information under the discretionary release guidelines in Attorney General Holder's March 19, 2009 FOIA Memorandum.

There are no fees associated with this request.

Appeal:

Pursuant to Department of Energy FOIA regulations at 10 C.F.R. § 1004.8, you may administratively appeal this response in writing within 30 calendar days. If you choose to appeal, please include the following:

- (1) The nature of your appeal - denial of records, partial denial of records, adequacy of search, or denial of fee waiver;
- (2) Any legal authorities relied upon to support the appeal; and
- (3) A copy of the determination letter.

Clearly mark both your letter and envelope with the words "FOIA Appeal," and direct it to the following address:

Director, Office of Hearings and Appeals
Department of Energy
1000 Independence Avenue SW
Washington DC 20585-1615

I appreciate the opportunity to assist you. If you have any questions about this letter, please contact Colleen Cushnie, FOIA Case Coordinator (BPA Contractor, ACS), at (503) 230-5986 or email at cacushnie@bpa.gov.

Sincerely,



C. M. Frost
Freedom of Information/Privacy Act Officer

Enclosure: Disc – Responsive documents BPA-2014-01346-F

From: [Montano,Andrew M \(BPA\) - KEC-4](#)
To: [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Gilchrist,Michael R \(BPA\) - TEP-TPP-1](#)
Subject: Fw: Gov. Gregoire approves Whistling Ridge project
Date: Monday, March 05, 2012 2:20:34 PM
Attachments: [image003.png](#)
[image004.png](#)
[img-305122334-0001.pdf](#)

For your information. The Record of Decision should be out soon.

From: Klumpp,Elizabeth C (BPA) - DKR-WSGL
Sent: Monday, March 05, 2012 01:38 PM
To: Wright,Stephen J (BPA) - A-7; Bekkedahl,Larry N (BPA) - TE-DITT-2; Cogswell,Peter (BPA) - DKR-7; Adams,Herbert V (BPA) - LC-7; Montano,Andrew M (BPA) - KEC-4; DeClerck,Angela (BPA) - TSE-TPP-2; Marker,Douglas R (BPA) - DK-7; Grimm,Lydia T (BPA) - KEC-4
Subject: Gov. Gregoire approves Whistling Ridge project

What a long strange trip it's been. I don't know if there will be lawsuits by either the developer or Friends of Gorge.

From: Shagren, Karina (GOV) [mailto:Karina.Shagren@GOV.WA.GOV]
Sent: Monday, March 05, 2012 1:35 PM
To: Shagren, Karina (GOV)
Cc: Corzine, Abbey (GOV); Curtis, Cory (GOV); Pierce, Narda (GOV); Phillips, Keith (GOV)
Subject: Gov. Gregoire's statement on Whistling Ridge project

Please see the attached letter, as well. Thanks – Karina.

CHRISTINE O. GREGOIRE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 902-4111

-
-

For Release: Immediate
Office

Date: March 5, 2012

Media Contact: Governor's Communications

Phone: 360-902-4136

Gov. Gregoire's statement on Whistling Ridge project

OLYMPIA – Gov. Chris Gregoire today issued the following statement after approving the Site

Certification Agreement for the Whistling Ridge Wind Energy Project in Skamania County. The governor's approval allows 35 new wind turbines on the north side of the Columbia River Gorge:

"After careful review and consideration, I informed the Energy Facility Site Evaluation Council today that I will follow its unanimous recommendation, and approve the 35 new wind turbines to be built by Whistling Ridge Energy, LLC.

"This decision wasn't reached lightly. I weighed the hundreds of public comments collected by EFSEC. I examined the results of various environmental and land use reviews. And I considered the expert testimony gathered by EFSEC on the impact of new wind turbines. A modified project with 35 wind turbines would help meet our need for clean energy and bring needed jobs and revenue to Skamania County, while preserving the esthetic and recreational benefits of the Gorge. This decision is a balanced approach, and one that serves all citizens of the state.

"I appreciate the hard work of EFSEC, and am confident it thoroughly considered the merits and impacts of this project."

#

CHRISTINE O. GREGOIRE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 753-6780 • www.governor.wa.gov

March 5, 2012

James O. Luce, Chair
Energy Facility Site Evaluation Council
1300 S. Evergreen Way Drive SW
PO Box 43172
Olympia, WA 98504-3172

RE: Whistling Wind Energy Project
EFSEC Recommendation Letter dated January 4, 2012

Dear Chairman Luce:

Pursuant to RCW 80.50.100, I have approved and executed the enclosed Site Certification Agreement for the Whistling Ridge Wind Energy Project in Skamania County, with the terms and conditions as recommended by the Energy Facility Site Evaluation Council (EFSEC).

After review of EFSEC's record, my decision on this project was shaped by the following important considerations.

First, I agree with EFSEC's recommendation to limit the project to 35 wind turbines by removing the proposed turbines along ridge lines that are prominently visible from viewpoints within the Columbia River Gorge. The Columbia River Gorge is a unique and beautiful landscape. The Legislature specifically directed the energy facility siting process to consider the public's opportunity to enjoy the esthetic and recreational benefits of our natural resources. Any proposed project in a central location on the north border of the Columbia River Gorge National Scenic Area would impact scenic viewpoints in a wide geographic sweep and warrants careful consideration of visual impacts.

EFSEC carefully considered and weighed the evidence regarding visual impacts. They considered the testimony of competing experts who used differing methodologies and offered conflicting conclusions on the impact of the wind turbines on the scenic value of the Columbia River Gorge. They also considered the testimony and comments of many individuals who live within or visit the Columbia River Gorge and care deeply about its scenic and cultural values. In conjunction with this evidence, EFSEC considered a Final Environmental Impact Statement (FEIS) that described and evaluated the visual impacts of the proposed project action, along with mitigation measures that would lessen impacts. Finally, the Council was informed by members' own observations from two days of field review from different viewpoints.

In the end, members of EFSEC exercised their collective judgment after weighing the evidence and the FEIS in light of their own general knowledge and observations. This exercise of judgment was appropriate.



James O. Luce, Chair
March 5, 2012
Page 2

While some parties argued that the opinions of experts or the FEIS should control, the legislature entrusted EFSEC and the governor with determining what siting decision best serves the public interest. Visual impacts and esthetics are not solely the province of experts; they are within the knowledge and general experience of all who enjoy the natural beauty of our region.

Those entrusted with the decision-making authority are expected to apply their own observations and experience as they examine and weigh the opinions of experts familiar with the subject of visual impacts. Courts have said expert opinions are not to be blindly received, but are to be intelligently examined by decision-makers in the light of their own general knowledge. This principle applies with special force to the evaluation of visual impacts in a region of unique scenic value.

Secondly, I agree with EFSEC's balance of the visual impacts with the public interest in approval of sites for alternative energy facilities. Even with a reduction to 35 turbines, there would be unavoidable impacts on the unique visual resources of the Columbia River Gorge. But the legislature has instructed that other values also be given consideration in evaluating the public interest. EFSEC gave due consideration to these values: the potential for the wind power project to help meet current and future energy needs, contribute to the availability of abundant energy at a reasonable cost, promote clean air, and meet demand created by voter-approved mandates for renewable energy. EFSEC weighed these public benefits with the mitigated visual impacts of allowing only turbines that are lower with respect to the ridgeline and thus less prominent or not visible from key viewpoints. Balancing the public interests, EFSEC determined to recommend approval of the siting of 35 turbines.

I believe EFSEC found an effective balance in its recommendation for the Whistling Ridge Wind Energy Project.

After review of the record, I also conclude that EFSEC appropriately considered and effectively addressed all issues related to the environmental impacts of the project as recommended. I commend EFSEC for its good work.

Sincerely,



Christine O. Gregoire
Governor

Enclosure

From: [George, Amber \(UTC\)](#)
Subject: Whistling Ridge Energy Project has been approved
Date: Monday, March 05, 2012 2:46:28 PM
Attachments: [Notice - Whistling Ridge Decision.pdf](#)
[Governors WR Press Release 3-5-12.pdf](#)

If you have problems opening this please let me know.

Amber George

Energy Facility Site Evaluation Council
360-664-1365

WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL

Whistling Ridge Energy Project, LLC

Please Note: On Monday, March 5, Governor Christine Gregoire **approved** EFSEC's recommendation package concerning the Whistling Ridge Energy Project, LLC as submitted on Thursday, October 6. The package included Adjudicative Order No. 868, Recommendation Order No. 869, and the SCA.

On Friday, October 7, this recommendation package was placed on the EFSEC website at <http://www.efsec.wa.gov/default.shtm> under "recent additions" and also on the Whistling Ridge page under "recent activity" at <http://www.efsec.wa.gov/whistling%20ridge.shtml>.

The signed SCA, Governor Gregoire's approval letter and the Governor's press release will be posted on the pages listed above. The Governor's press release is included with this notice.

Thank you for your interest in the Whistling Ridge Energy Project process.

CHRISTINE O. GREGOIRE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 902-4111

For Release: Immediate
Date: March 30, 2012

Media Contact: Governor's Communications Office
Phone: 360-902-4136

Gov. Gregoire's statement on Whistling Ridge project

OLYMPIA – Gov. Chris Gregoire today issued the following statement after approving the Site Certification Agreement for the Whistling Ridge Wind Energy Project in Skamania County. The governor's approval allows 35 new wind turbines on the north side of the Columbia River Gorge:

"After careful review and consideration, I informed the Energy Facility Site Evaluation Council today that I will follow its unanimous recommendation, and approve the 35 new wind turbines to be built by Whistling Ridge Energy, LLC.

"This decision wasn't reached lightly. I weighed the hundreds of public comments collected by EFSEC. I examined the results of various environmental and land use reviews. And I considered the expert testimony gathered by EFSEC on the impact of new wind turbines. A modified project with 35 wind turbines would help meet our need for clean energy and bring needed jobs and revenue to Skamania County, while preserving the esthetic and recreational benefits of the Gorge. This decision is a balanced approach, and one that serves all citizens of the state.

"I appreciate the hard work of EFSEC, and am confident it thoroughly considered the merits and impacts of this project."

###

From: [Posner, Stephen \(UTC\)](#)
To: [Montano, Andrew M \(BPA\) - KEC-4](#)
Subject: FW: Whistling Ridge Energy Project has been approved
Date: Monday, March 05, 2012 3:18:50 PM
Attachments: [Notice - Whistling Ridge Decision.pdf](#)
[Governors WR Press Release 3-5-12.pdf](#)

Andrew,

You may have already received this. The Governor approved the EFSEC recommendation.

Stephen Posner
Energy Facility Site Evaluation Council
Utilities and Transportation Commission
P.O. Box 43172
Olympia, WA 98504-3172
(360) 664-1903
stephen.posner@utc.wa.gov
www.efsec.wa.gov

From: George, Amber (UTC)
Sent: Monday, March 05, 2012 2:46 PM
Subject: Whistling Ridge Energy Project has been approved

If you have problems opening this please let me know.

Amber George
Energy Facility Site Evaluation Council
360-664-1365

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Thank you for your interest in the Whistling Ridge Energy Project process.

From: [Montano, Andrew M \(BPA\) - KEC-4](#)
To: [All KEC](#)
Cc: [Gardner, Amy M \(BPA\) - TEP-TPP-1](#); [Gilchrist, Michael R \(BPA\) - TEP-TPP-1](#); [George, Kevin B \(BPA\) - KEP-4](#); [Whalen, Michelle E \(BPA\) - DKE-7](#)
Subject: Update on Whistling Ridge
Date: Tuesday, March 06, 2012 9:07:46 AM
Attachments: [img-305122334-0001.pdf](#)

All

Yesterday, the Governor of Washington approved the amended Whistling Ridge Energy Project (50 originally proposed turbines amended by EFSEC to 35 turbines). Here is the Governor's letter to EFSEC:

The developer, SDS Lumber, however, is possibly putting the project on hold. See article from The Columbian: <http://www.columbian.com/news/2012/mar/05/governor-approves-skamania-county-wind-farm/>

(b)(5)

Let me know if you have any questions.

Andrew M. Montano, PMP

Environmental Protection Specialist

Bonneville Power Administration | KEC-4

Environmental Planning and Analysis Group

P: 503.230.4145 | F: 503.230.5699 | C: (b)(6)

Pleasure in the job puts perfection in the work. -Aristotle

CHRISTINE O. GREGOIRE
Governor



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March 5, 2012

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March 5, 2012
Page 2

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Sincerely,



Christine O. Gregoire
Governor

Enclosure

From: [Montano,Andrew M \(BPA\) - KEC-4](#)
To: [DeClerck,Angela \(BPA\) - TSE-TPP-2](#)
Cc: [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Gilchrist,Michael R \(BPA\) - TEP-TPP-1](#); [Mason,Stacy L \(BPA\) - KEC-4](#)
Subject: RE: Friends of Gorge say they'll sue: Gov. Gregoire approves Whistling Ridge project
Date: Wednesday, March 07, 2012 11:04:13 AM
Attachments: [image001.png](#)
[image002.png](#)

Angela

I understand that your position on the issuance of an LGIA. (b)(5)

[REDACTED]

[REDACTED]

[REDACTED] I am just asking
for your guidance on the LGIA specifics.

Andrew

From: DeClerck,Angela (BPA) - TSE-TPP-2
Sent: Wednesday, March 07, 2012 10:16 AM
To: Montano,Andrew M (BPA) - KEC-4
Cc: Freel,Amy M (BPA) - TEP-TPP-1; Gilchrist,Michael R (BPA) - TEP-TPP-1; Mason,Stacy L (BPA) - KEC-4
Subject: RE: Friends of Gorge say they'll sue: Gov. Gregoire approves Whistling Ridge project

They have not asked for an LGIA (b)(5)

[REDACTED] Is
there other items we should meet about?

Angela

From: Montano,Andrew M (BPA) - KEC-4
Sent: Tuesday, March 06, 2012 10:55 AM
To: DeClerck,Angela (BPA) - TSE-TPP-2
Cc: Freel,Amy M (BPA) - TEP-TPP-1; Gilchrist,Michael R (BPA) - TEP-TPP-1; Mason,Stacy L (BPA) - KEC-4
Subject: FW: Friends of Gorge say they'll sue: Gov. Gregoire approves Whistling Ridge project

Angela,

In light of the recent decision by Governor Gregoire on the Whistling Ridge Project, could you make some time to discuss the LGIA process with Legal, the Project Managers, and us in Environment? I can set up a meeting here at HQ depending on your availability.

Andrew

From: Klumpp,Elizabeth C (BPA) - DKR-WSGL
Sent: Tuesday, March 06, 2012 9:40 AM
To: Wright,Stephen J (BPA) - A-7; Bekkedahl,Larry N (BPA) - TE-DITT-2; Cogswell,Peter (BPA) - DKR-7; Adams,Herbert V (BPA) - LC-7; Montano,Andrew M (BPA) - KEC-4; DeClerck,Angela (BPA) - TSE-TPP-2; Marker,Douglas R (BPA) - DK-7; Grimm,Lydia T (BPA) - KEC-4; Silverstein,Brian L (BPA) - T-DITT2; Baskerville,Sonya L (BPA) - DKN-WASH

Subject: Friends of Gorge say they'll sue: Gov. Gregoire approves Whistling Ridge project

(b)(5) but here's an update.

I've checked the media and talked with EFSEC staff this morning. EFSEC staff is sticking with the messages that can be quoted from news sources below. However, EFSEC staff did mention that the Friends of the Gorge have mentioned that they might sue on NEPA related issues, too, which is not specifically mentioned in the coverage below. The Olympian quotes Jason Spadaro, SDS Lumber President will not build the project at this time, "...he appreciates the governor's approval, **but that the reduced size of the project means it is not economically viable at this time. A smaller project will need higher power prices to be viable, he said, and the project will be on hold but not permanently shelved.**"

Nathan Baker, attorney for Friends of the Columbia Gorge state in a public radio story below, "...his group will appeal the decision in Thurston County Superior Court within the next 30 days."

<http://nwpr.org/post/gregoire-approves-controversial-columbia-gorge-wind-facility>

Washington Governor Chris Gregoire has approved the Whistling Ridge Wind Energy Project in Southern Washington.

But some people object because the project will be visible from I-84 in the scenic Columbia Gorge.

And it could threaten spotted owls. They've been seen within two miles of the site in the past year.

Nathan Baker is the staff attorney with Friends of the Columbia Gorge.

Nathan Baker: "Some places should be off limits to industrial wind development and we believe that the Columbia river Gorge is one of those places. Most people are in favor of renewable energy but they're not aware of all the negative costs and impacts from wind energy. "

The governor's approval means 35 turbines, each over 400 feet tall, could be built in timberland near the town of Underwood, Washington.

At maximum capacity Whistling Ridge Project will produce 75 megawatts of power. That's the equivalent of about 7 percent of the power that comes out of Bonneville Dam.

OLYMPIA – Gov. Chris Gregoire today issued the following statement after approving the Site Certification Agreement for the Whistling Ridge Wind Energy Project in Skamania County. The governor’s approval allows 35 new wind turbines on the north side of the Columbia River Gorge:

“After careful review and consideration, I informed the Energy Facility Site Evaluation Council today that I will follow its unanimous recommendation, and approve the 35 new wind turbines to be built by Whistling Ridge Energy, LLC.

“This decision wasn’t reached lightly. I weighed the hundreds of public comments collected by EFSEC. I examined the results of various environmental and land use reviews. And I considered the expert testimony gathered by EFSEC on the impact of new wind turbines. A modified project with 35 wind turbines would help meet our need for clean energy and bring needed jobs and revenue to Skamania County, while preserving the esthetic and recreational benefits of the Gorge. This decision is a balanced approach, and one that serves all citizens of the state.

“I appreciate the hard work of EFSEC, and am confident it thoroughly considered the merits and impacts of this project.”

#

From: [VanAntwerp,Sheila L \(CONTR\) - NSLT-WHSE](#) on behalf of [DeClerck,Angela \(BPA\) - TSE-TPP-2](#)
To: [Randall,Cherilyn C \(BPA\) - TPCV-TPP-4](#); [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Montano,Andrew M \(BPA\) - KEC-4](#);
[Larson,Stephen R \(CONTR\) - TSP-TPP-2](#)
Cc: [Mason,Stacy L \(BPA\) - KEC-4](#); [Pierce,Kathy \(BPA\) - KEC-4](#); [Adams,Hub V \(BPA\) - LN-7](#)
Subject: Updated: Discuss Whistling Ridge NEPA strategy

When: Friday, March 16, 2012 11:00 AM-12:00 PM (GMT-08:00) Pacific Time (US & Canada).
Where: TPP 153 / Phone Bridge 8001, (360) 418-8001 p/c 5454#

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*

From: [DeClerck,Angela \(BPA\) - TSE-TPP-2](#)
To: [Adams,Hub V \(BPA\) - LN-7](#); [Randall,Cherilyn C. \(BPA\) - TPCV-TPP-4](#); [Chong, Tim,Marcus H. \(BPA\) - LT-7](#);
[Montano,Andrew M. \(BPA\) - KEC-4](#)
Subject: Reschedule discussion about NEPA strategy for Whistling Ridge Project
Date: Wednesday, March 21, 2012 9:43:18 AM

We will reschedule this customer meeting to when Hub and Marcus are available.

The primary questions this customer has asked is to understand:

1. if BPA would move forward if their site certificate is being challenged
2. What are the appeal timeframes after BPA issues a ROD
3. They want to understand the LGIA suspension clause

We will have pre-meeting

From: [Montano, Andrew M \(BPA\) - KEC-4](#)
To: [Whalen, Michelle E \(BPA\) - DKE-7](#); [Adams, Hub V \(BPA\) - LN-7](#); [Klumpp, Elizabeth C \(BPA\) - DKR-WSGL](#); [Gardner, Amy M \(BPA\) - TEP-TPP-1](#); [DeClerck, Angela \(BPA\) - TSE-TPP-2](#); [Lynard, Gene P \(BPA\) - KEC-4](#); [Pierce, Kathy \(BPA\) - KEC-4](#); [Mason, Stacy L \(BPA\) - KEC-4](#); [Randall, Cherilyn C \(BPA\) - TPCV-TPP-4](#); [George, Kevin B \(BPA\) - KEP-4](#)
Cc: "Jan Aarts"
Subject: Update on Whistling Ridge Energy Project
Date: Friday, April 06, 2012 9:48:49 AM
Attachments: [img-305122334-0001.pdf](#)

All,

As of April 6, 2012:

Whistling Ridge Appeal Filed (from <http://bicoastal.pairserver.com/gorgeradio/index.php?mact=News,cntnt01,detail,0&cntnt01articleid=388&cntnt01origid=15&cntnt01returnid=39>)

Friends of the Gorge and Save Our Scenic Area files appeal of Governor's decision.

Category: News

Posted by: markbailey

Two groups filed a petition for judicial review in Thurston County Superior Court Thursday challenging Washington Governor Chris Gregoire's approval of the Whistling Ridge Energy Project north of Underwood in Skamania County. The petition by Friends of the Columbia Gorge and Save Our Scenic Area lists 32 claims against the decision...from zoning and forest practice violations to wildlife, scenic, noise, and transportation impacts. It also asks the Superior Court to decide the claims, rather than certifying the case for direct review by the Washington State Supreme Court. Gregoire approved the project last month, allowing construction of up to 35 wind turbines.

From March 6th, 2012:

All

Yesterday, the Governor of Washington approved the amended Whistling Ridge Energy Project (50 originally proposed turbines amended by EFSEC to 35 turbines). Here is the Governor's letter to EFSEC:

The developer, SDS Lumber, however, is possibly putting the project on hold. See article from The Columbian: <http://www.columbian.com/news/2012/mar/05/governor-approves-skamania-county-wind-farm/>

(b)(5)

Let me know if you have any questions.

Andrew M. Montaña, PMP

Environmental Protection Specialist

Bonneville Power Administration | KEC-4

Environmental Planning and Analysis Group

P: 503.230.4145 | F: 503.230.5699 | C: (b)(6)

Pleasure in the job puts perfection in the work. -Aristotle

CHRISTINE O. GREGOIRE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 753-6780 • www.governor.wa.gov

March 5, 2012

James O. Luce, Chair
Energy Facility Site Evaluation Council
1300 S. Evergreen Way Drive SW
PO Box 43172
Olympia, WA 98504-3172

RE: Whistling Wind Energy Project
EFSEC Recommendation Letter dated January 4, 2012

Dear Chairman Luce:

Pursuant to RCW 80.50.100, I have approved and executed the enclosed Site Certification Agreement for the Whistling Ridge Wind Energy Project in Skamania County, with the terms and conditions as recommended by the Energy Facility Site Evaluation Council (EFSEC).

After review of EFSEC's record, my decision on this project was shaped by the following important considerations.

First, I agree with EFSEC's recommendation to limit the project to 35 wind turbines by removing the proposed turbines along ridge lines that are prominently visible from viewpoints within the Columbia River Gorge. The Columbia River Gorge is a unique and beautiful landscape. The Legislature specifically directed the energy facility siting process to consider the public's opportunity to enjoy the esthetic and recreational benefits of our natural resources. Any proposed project in a central location on the north border of the Columbia River Gorge National Scenic Area would impact scenic viewpoints in a wide geographic sweep and warrants careful consideration of visual impacts.

EFSEC carefully considered and weighed the evidence regarding visual impacts. They considered the testimony of competing experts who used differing methodologies and offered conflicting conclusions on the impact of the wind turbines on the scenic value of the Columbia River Gorge. They also considered the testimony and comments of many individuals who live within or visit the Columbia River Gorge and care deeply about its scenic and cultural values. In conjunction with this evidence, EFSEC considered a Final Environmental Impact Statement (FEIS) that described and evaluated the visual impacts of the proposed project action, along with mitigation measures that would lessen impacts. Finally, the Council was informed by members' own observations from two days of field review from different viewpoints.

In the end, members of EFSEC exercised their collective judgment after weighing the evidence and the FEIS in light of their own general knowledge and observations. This exercise of judgment was appropriate.



James O. Luce, Chair
March 5, 2012
Page 2

While some parties argued that the opinions of experts or the FEIS should control, the legislature entrusted EFSEC and the governor with determining what siting decision best serves the public interest. Visual impacts and esthetics are not solely the province of experts; they are within the knowledge and general experience of all who enjoy the natural beauty of our region.

Those entrusted with the decision-making authority are expected to apply their own observations and experience as they examine and weigh the opinions of experts familiar with the subject of visual impacts. Courts have said expert opinions are not to be blindly received, but are to be intelligently examined by decision-makers in the light of their own general knowledge. This principle applies with special force to the evaluation of visual impacts in a region of unique scenic value.

Secondly, I agree with EFSEC's balance of the visual impacts with the public interest in approval of sites for alternative energy facilities. Even with a reduction to 35 turbines, there would be unavoidable impacts on the unique visual resources of the Columbia River Gorge. But the legislature has instructed that other values also be given consideration in evaluating the public interest. EFSEC gave due consideration to these values: the potential for the wind power project to help meet current and future energy needs, contribute to the availability of abundant energy at a reasonable cost, promote clean air, and meet demand created by voter-approved mandates for renewable energy. EFSEC weighed these public benefits with the mitigated visual impacts of allowing only turbines that are lower with respect to the ridgeline and thus less prominent or not visible from key viewpoints. Balancing the public interests, EFSEC determined to recommend approval of the siting of 35 turbines.

I believe EFSEC found an effective balance in its recommendation for the Whistling Ridge Wind Energy Project.

After review of the record, I also conclude that EFSEC appropriately considered and effectively addressed all issues related to the environmental impacts of the project as recommended. I commend EFSEC for its good work.

Sincerely,



Christine O. Gregoire
Governor

Enclosure

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Governor approves Skamania County wind farm

Developers say project is not financially viable in scaled-back form

By **Eric Florip**, Columbian transportation & environment reporter

Published: March 5, 2012, 2:24 PM

Updated: March 5, 2012, 9:35 PM



Gov. Chris Gregoire on Monday approved a controversial wind farm in Skamania County, but the decision handed a hollow victory to developers who say the project isn't economically viable in a scaled-back form.

Gregoire's announcement gives a green light to the Whistling Ridge Energy Project, located just outside the Columbia River Gorge National Scenic Area near White Salmon. It also limits the project to a smaller version — reducing the number of turbines from 50 to 35 — recommended last fall by the state Energy Facility Site Evaluation Council.

Gregoire's announcement wasn't met with much celebration. Project developers have said Whistling Ridge won't pencil out financially under EFSEC's limitations, and can't move forward right away. Meanwhile, opponents appear poised to challenge its approval in any form, hoping to stop the wind farm entirely.

"I don't think either party can say that they're happy in this case," said Jason Spadaro, president of project developer Whistling Ridge Energy LLC.

Spadaro described Gregoire's decision as a "good news, bad news situation" for the project. Even in a downsized form, the governor's approval was welcome, he said, and

better than an outright denial. But limiting development on private land outside the Gorge scenic area boundary sets a “dangerous precedent,” he added.

Low energy prices and uncertainty surrounding federal tax credits will halt the project for now, Spadaro said. Reducing it to 35 turbines won’t allow Whistling Ridge to generate enough energy to be economically viable, he said.

“That does not mean we will be abandoning the project,” Spadaro said. “We’re just going to have to wait for a more certain economic environment.”

The project continues to raise several environmental and property concerns, including visual impacts to the Gorge, and the loss of wildlife habitat and forestland. Conservation groups have also pointed to the presence of spotted owls in the project area. Among the most vocal opponents is Friends of the Columbia River Gorge, a Portland-based advocacy group.

Originally proposed at 75 megawatts, Whistling Ridge would account for only a minor blip on the Northwest’s energy portfolio. Washington and Oregon alone have more than 5,000 megawatts’ worth of wind projects in the ground — most of that near the Columbia River. It’s the scenic area that raises the profile of Whistling Ridge — and raises the bar for development, said Nathan Baker, a staff attorney for Friends of the Columbia River Gorge.

“Some places should be off limits to industrial wind development,” Baker said. “And we believe that the Columbia River Gorge National Scenic Area is one of those places.”

Friends will likely appeal Gregoire’s decision, Baker said. Legal challenges must be filed in Thurston County Superior Court within 30 days.

SDS Lumber Co. and Broughton Lumber Co. first proposed the \$150 million wind farm in 2008. Spadaro is also president of SDS Lumber.

In a statement released Monday, Gregoire said her support of a curtailed Whistling Ridge reflects a “balanced approach” that benefits the state’s environmental and economic goals.

“A modified project with 35 wind turbines would help meet our need for clean energy and bring needed jobs and revenue to Skamania County, while preserving the esthetic and recreational benefits of the Gorge,” Gregoire said.

For now, the project remains in limbo. Gregoire’s approval essentially gives Whistling Ridge a permit to start construction within five years, said EFSEC manager Al Wright. That timeline could be extended for another five years before the permit expires, he said.

Eric Florip: 360-735-4541; http://twitter.com/col_enviro; eric.florip@columbian.com.



[Eric Florip \(/staff/eric-florip/\)](#)

Columbian transportation & environment reporter

- 360-735-4541**
- [@ericflorip \(https://twitter.com/ericflorip\)](https://twitter.com/ericflorip)**
- [Send an Email \(mailto:eric.florip@columbian.com\)](mailto:eric.florip@columbian.com)**

From: [Jan Aarts](#)
To: [Montano,Andrew M \(BPA\) - KEC-4](#)
Subject: RE: Update on Whistling Ridge Energy Project
Date: Friday, April 06, 2012 10:01:09 AM

Thanks for the update Andrew!

I also learned yesterday that the Oregon Natural Desert Association challenged the ROD issued by BLM for the N. Steens Transmission Line project.

Nothing like a little controversy!

Hope you have a great weekend!

Jan

From: Montano,Andrew M (BPA) - KEC-4 [mailto:ammontano@bpa.gov]
Sent: Friday, April 06, 2012 9:49 AM
To: Whalen,Michelle E (BPA) - DKE-7; Adams,Herbert V (BPA) - LC-7; Klumpp,Elizabeth C (BPA) - DKR-WSGL; Freel,Amy M (BPA) - TEP-TPP-1; DeClerck,Angela (BPA) - TSE-TPP-2; Lynard,Gene P (BPA) - KEC-4; Pierce,Kathy (BPA) - KEC-4; Mason,Stacy L (BPA) - KEC-4; Randall,Cherilyn C (BPA) - TPC-TPP-4; George,Kevin B (BPA) - KEP-4
Cc: Jan Aarts
Subject: Update on Whistling Ridge Energy Project

All,

As of April 6, 2012:

Whistling Ridge Appeal Filed (from
[http://bicoastal.pairserver.com/gorgeradio/index.php?
mact=News,cntnt01,detail,0&cntnt01articleid=388&cntnt01origid=15&cntnt01returnid=39](http://bicoastal.pairserver.com/gorgeradio/index.php?mact=News,cntnt01,detail,0&cntnt01articleid=388&cntnt01origid=15&cntnt01returnid=39)
)

| |

Friends of the Gorge and Save Our Scenic Area files appeal of Governor's decision.

Category: News

Posted by: markbailey

Two groups filed a petition for judicial review in Thurston County Superior Court Thursday challenging Washington Governor Chris Gregoire's approval of the Whistling Ridge Energy Project north of Underwood in Skamania County. The petition by Friends of the Columbia Gorge and Save Our Scenic Area lists 32 claims against the decision...from zoning and forest practice violations to wildlife, scenic, noise, and transportation impacts. It also asks the Superior Court to decide the claims, rather than certifying the case for direct review by the Washington State Supreme Court. Gregoire approved the project last month, allowing construction of up to 35 wind turbines.

| |

From March 6th, 2012:

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Yesterday, the Governor of Washington approved the amended Whistling Ridge Energy Project (50 originally proposed turbines amended by EFSEC to 35 turbines). Here is the Governor's letter to EFSEC:

The developer, SDS Lumber, however, is possibly putting the project on hold. See article from The Columbian:
<http://www.columbian.com/news/2012/mar/05/governor-approves-skamania-county-wind-farm/>

The ROD and MAP are currently being finalized and will be put on TAC soon pending some discussions with OGC. Let me know if you have any questions.

Andrew M. Montaña, PMP

Environmental Protection Specialist
Bonneville Power Administration | KEC-4
Environmental Planning and Analysis Group
P: 503.230.4145 | F: 503.230.5699 | C: (b)(6)
Pleasure in the job puts perfection in the work. -Aristotle

From: [Adams,Hub V \(BPA\) - LN-7](#)
To: [Montano,Andrew M \(BPA\) - KEC-4](#); [Bennett,Michelle L \(CONTR\) - KEC-4](#)
Cc: [Pierce,Kathy \(BPA\) - KEC-4](#); [Gardner,Amy M \(BPA\) - TEP-TPP-1](#)
Subject: RE: May Status Chart update- request for information from DOE
Date: Thursday, May 10, 2012 12:41:24 PM

(b)(5)



From: Montano,Andrew M (BPA) - KEC-4
Sent: Thursday, May 10, 2012 12:21 PM
To: Bennett,Michelle L (CONTR) - KEC-4
Cc: Adams,Hub V (BPA) - LC-7; Pierce,Kathy (BPA) - KEC-4; Freel,Amy M (BPA) - TEP-TPP-1
Subject: RE: May Status Chart update- request for information from DOE

Sorry for the delay, but..

For Whistling Ridge.. (b)(5)

Perhaps Hub can chime in (b)(5)

??

From: Bennett,Michelle L (CONTR) - KEC-4
Sent: Tuesday, May 08, 2012 10:43 AM
To: Montano,Andrew M (BPA) - KEC-4; Corkran,Douglas F (BPA) - KEC-4; Gambetta,Daniel A (CONTR) - KEC-4
Subject: FW: May Status Chart update- request for information from DOE
Importance: High

Would you please give me a status update for the below projects? Thanks.

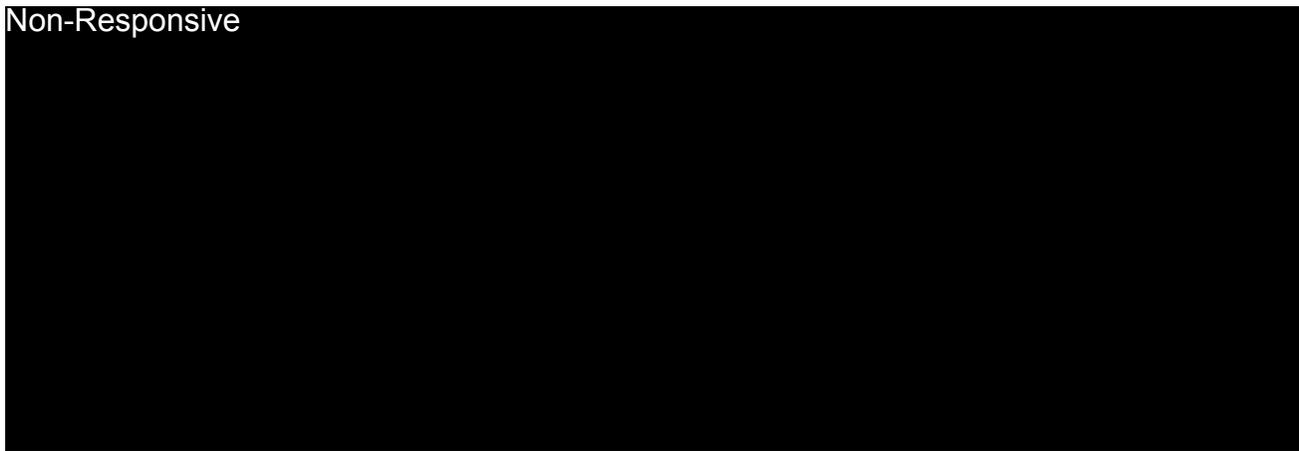
EISs

Non-Responsive



Andrew Whistling Ridge -

Non-Responsive



Non-Responsive

From: Smith, Julie A (GC) [mailto:Julie.Smith2@hq.doe.gov]
Sent: Thursday, May 03, 2012 2:58 PM
To: Johnson, Yvonne E (BPA) - KEC-4; Mason, Stacy L (BPA) - KEC-4
Cc: Pierce, Kathy (BPA) - KEC-4
Subject: FW: Status Chart update- request for information (May update)
Importance: High

Good day to all!

This email is a request for information to update the May 2012 EIS/EA status chart. Your responses would be most appreciated by Friday, May 12th , if possible.

For the EISs and EAs on the attached status chart pages for BPA, please provide the following, where applicable:

- For the EISs, please update milestones accomplished, provide any FR references, add new documents, and identify milestones expected May – August 2012.
- For the EAs, please update milestones accomplished and - as appropriate - comment on any long delays.
- For any completed documents, be sure we have received our copies, electronic file, and certification form.

Thanks for your help! And look forward to seeing you, Stacy and Kathy in DC next week!

Warmest regards - Julie

Julie Ann Smith, PhD
Environmental Protection Specialist
U.S. Department of Energy
Office of NEPA Policy and Compliance
202-586-7668
202-586-7031 (fax)

From: [Day,Leasia R \(CONTR\) - KEC-4](#)
To: [Wright,Stephen J \(BPA\) - A-7](#); [Miller,Lori E \(CONTR\) - DKR-7](#); [Grimm,Lydia T \(BPA\) - KEC-4](#); [Mason,Stacy L \(BPA\) - KEC-4](#); [Pierce,Kathy \(BPA\) - KEC-4](#); [Adams,Hub V \(BPA\) - LN-7](#); [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Gilchrist,Michael R \(BPA\) - TEP-TPP-1](#)
Cc: [Montano,Andrew M \(BPA\) - KEC-4](#)
Subject: Response to Aramburu WREP June 2012 Letter
Date: Thursday, June 07, 2012 3:23:52 PM
Attachments: [Response to Aramburu WREP June2012.pdf](#)

Leasia Day

Administrative Assistant

CIBER Inc.

KEC-4

Bonneville Power Administration



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

ENVIRONMENT, FISH AND WILDLIFE

June 7, 2012

In reply refer to: KEC-4

Mr. J. Richard Aramburu
Aramburu & Eustis LLP
720 Third Avenue, Suite 2112
Seattle, WA 98104

RE: Whistling Ridge Energy Project – Proposed Interconnection

Dear Mr. Aramburu:

Thank you for your recent letter on behalf of Save Our Scenic Area and the Friends of the Columbia Gorge concerning Whistling Ridge Energy LLC's proposed Whistling Ridge Energy Project and their request for interconnection of their proposed project to the Federal Columbia River Transmission System. Your letter references information from our website that indicates our expectation that we would issue a Record of Decision concerning the proposed interconnection in April 2012, and requests that Bonneville Power Administration (BPA) deny this proposed interconnection for various reasons.

As you likely know, BPA has prepared a joint Environmental Impact Statement (EIS) with the State of Washington Energy Facility Site Evaluation Council (EFSEC) for Whistling Ridge Energy LLC's proposed project. The Final EIS for the project was issued in August 2011. We are aware that after the Final EIS for this project was completed, Washington EFSEC recommended to the Washington State Governor that she approve the issuance of a site certificate for the project, but with a reduced number of project wind turbines. We also are aware that the Governor subsequently approved issuance of the site certificate with the reduced number of turbines as recommended by Washington EFSEC, and that Whistling Ridge Energy LLC has expressed serious concerns about the economic viability of that approved project. Finally, we are aware that you have filed suit against Washington EFSEC and the Governor in Washington State Superior Court challenging the approval of the site certificate for Whistling Ridge Energy LLC's proposed project. There is thus great uncertainty at this time as to whether, and in what form, the proposed project will proceed.

Given these circumstances, we believe it is prudent to place any decision by BPA concerning the proposed interconnection on hold until there is greater clarity on the future of Whistling Ridge Energy LLC's proposed project. While we appreciate your offer to meet with us concerning this

project, we believe a meeting is not necessary at this time but will keep your offer in mind as the state court review of the project unfolds. In addition, we will ensure that you are informed of any decision that we may make concerning the proposed project.

Sincerely,

/s/ Andrew Montano 6-7-2012

Andrew M. Montano

Environmental Project Manager – KEC-4

cc:

Gary Kahn, Reeves, Kahn & Hennessy for Friends of the Columbia Gorge

Nathan Baker, Attorney for Friends of the Columbia Gorge

Becc:

S. Wright, A-7

L. Miller, DKR-7 (*RE: #2012-0023 Letter re Whistling Ridge Wind Interconnection Project*)

L. Grimm, KEC-4

S. Mason, KEC-4

K. Pierce, KEC-4

H. Adams, LC-7

A. Freel, TEP-TPP-1

M. Gilchrist, TEP-TPP-1

AMontano:amm:4145:6-6-2012

http://internal.bpa.gov/efw/KEC/tsrvcs/Projects/Response_to_Aramburu_WREP_June2012.docx

From: [McMahan, Tim](#)
To: [Rick Aramburu](#); [Nathan Baker](#); [Gary Kahn](#)
Cc: [Adams, Hub V \(BPA\) - LC-7](#); [Montano, Andrew M \(BPA\) - KEC-4](#); [Wright, Al \(UTC\)](#); [Jason Spadaro](#); [Craig, Barbara](#); [Martin, Eric](#)
Subject: Agency Correspondence
Date: Monday, June 18, 2012 9:26:59 PM
Attachments: [2012-04-13 FINAL SOSA-FOCG to BPA re GI Letter.pdf](#)
[2012-04-13 FINAL SOSA-FOCG to BPA Exhibit A - 2011-10-27 WREP Petition for Reconsideration.pdf](#)
[2012.04.18 Letter to Montaño & Wright.pdf](#)
[2012.06.07 Letter from Andy Montaño to Rick Aramburu.pdf](#)

We would appreciate you copying me in all correspondence with agencies regarding this project. We do get copies of the correspondence, and your efforts to deprive the applicant an opportunity to respond are professionally irresponsible and sophomoric. TLM

Timothy L. McMahan | Partner

Platinum Certified Member, Stoel Rives “Go Green” P² Sustainability Program

STOEL RIVES LLP | 900 SW Fifth Ave, Suite 2600 | Portland, OR 97204-1268

Direct: (503) 294-9517 | Mobile: (b)(6) | Fax: (503) 220-2480

tlmcmahan@stoel.com | www.stoel.com

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ARAMBURU & EUSTIS, LLP

Attorneys at Law

J. Richard Aramburu
rick@aramburu-eustis.com
Jeffrey M. Eustis
eustis@aramburu-eustis.com

720 Third Avenue, Suite 2112
Seattle, WA 98104
Tel 206.625.9515
Fax 206.682.1376
www.aramburu-eustis.com

April 13, 2012

Andrew M. Montaña
Environmental Project Manager
Bonneville Power Administration - KEC-4
P.O. Box 3621
Portland, OR, 97208-3621

ammontano@bpa.gov

Stephen J. Wright
Administrator
Bonneville Power Administration
905 N.E. 11th Avenue
Portland, OR 97232

sjwright@bpa.gov

Re: Whistling Ridge Wind Interconnection Project
Skamania County, Washington

Dear Mr. Montaña and Mr. Wright:

This letter is written on behalf of Friends of the Columbia Gorge (“Friends”) and Save Our Scenic Area (“SOSA”). Friends and SOSA are nonprofit conservation advocacy organizations dedicated to the protection and enhancement of the resources of the Columbia River Gorge region. Petitioners’ members live in the communities and use and enjoy the resources that would be affected by the proposed Whistling Ridge Energy Project, proposed by Whistling Ridge Energy LLC (“WRE”).

BPA has before it a generation interconnection request (“GIR”) for the WRE project (“WREP”), which is described on BPA’s website as follows:

In June 2002, SDS Lumber Company submitted a generation interconnection request for 70-MW on the North Bonneville-Midway 230-kV transmission line approximately five miles West of BPA's

Underwood Substation. Subsequently, SDS Lumber Company created a new limited liability company called Whistling Ridge Energy LLC, which submitted an application with WA EFSEC for site certification for the wind project. Whistling Ridge Energy LLC would finance, develop, own and operate the proposed wind project. The proposed wind facility would consist of up to approximately 50, 1.2- to 2.5-MW wind turbines up to 426 feet tall, as well as infrastructure such as newly-constructed and improved roads, transformers, underground collector lines, a substation, and an operations and maintenance (O&M) facility.

BPA's project description goes on to state that a Final Environmental Impact Statement ("FEIS") has been prepared for the project in consultation with the Washington State Energy Facility Site Evaluation Council (EFSEC). BPA's website goes on to say that

EFSEC must decide on a recommendation to the Governor of Washington to approve or deny the issuance of the requested site certificate to Whistling Ridge Energy LLC, and BPA must decide whether to allow the requested interconnection to its transmission system. EFSEC made its recommendation to the Governor in January 2012, and BPA plans to issue a Record of Decision (ROD) concerning the proposed interconnection by April 2012. If the State of Washington decides to approve the site certificate for the Project and BPA decides to grant the requested interconnection, Project construction activities could begin after all the necessary approvals have been granted. If approved, construction activities are expected to occur for a 12-15 month duration period.

On March 5, 2012, Governor Gregoire adopted EFSEC's recommendation and reduced the number of turbines in the project from 50 to 35 because of aesthetic and other concerns.

As organizations and individuals interested in the Whistling Ridge project and the future of the Columbia Gorge, we write today to ask that BPA deny the GIR sought by WRE, for the reasons stated below.

1. LACK OF AGREEMENT BY WRE TO THE SITE CERTIFICATION AGREEMENT.

As BPA is aware, on March 5, 2012, the Honorable Christine Gregoire denied 15 of the proposed 50 wind turbines and signed the Site Certification Agreement (SCA). The signed copy of the SCA may be found on the EFSEC website:

<http://www.efsec.wa.gov/Whistling%20Ridge/SCA/Govs%20Signed%20OWR%20SCA.pdf>.

The project applicant did not challenge the Governor's decision.¹ As indicated above, the SCA is a contract, requiring the signature of the applicant before it can be implemented. However, as of this writing, the SCA has not been signed by WRE. Absent acceptance by the applicant, none of the terms adopted by the Governor are binding. These include multiple provisions for protection of the environment, including plans for stormwater, site restoration, habitat, vegetation and fish and wildlife mitigation. See SCA pages 18-24. BPA certainly cannot fulfill its environmental responsibilities without verification that these mitigation provisions will be carried out.

Unless and until the SCA is signed by the applicant WRE, only the state of Washington has approved it. As such the GIR cannot be approved by BPA.

2. THE PROJECT DETAILS OF THE WHISTLING RIDGE PROJECT ARE CURRENTLY UNKNOWN, MAKING ANY GENERATION INTERCONNECTION APPROVAL PREMATURE AND INAPPROPRIATE.

As noted above, the application for generation interconnection indicates that the WRE project "would consist of up to approximately 50, 1.2- to 2.5-MW wind turbines up to 426 feet tall." However, this information is now inaccurate for two reasons.

First, the maximum number of turbines has been reduced from 50 to 35.

Second, the applicant has not disclosed the number, size, locations, capacity or manufacturer of the turbines proposed for the site. According to the applicant, 35 turbines with a nameplate capacity of 2.5 MW cannot be located in the turbine corridors approved by the Governor.

By way of background, following EFSEC's recommendation to the governor, WRE filed a Motion for Reconsideration, which is attached hereto as Exhibit A. In its motion, WRE stated clearly that two corridors (E-1-E2 and F1-F3) "likely are not viable if turbines larger than 2 MW are used." Reconsideration Motion at page 2,

¹ The EFSEC statute requires that any challenges to the Governor's approval and the SCA must be brought in Thurston County Superior Court within 30 days. See RCW 80.50.140. WRE did not challenge the Governor' decision on Whistling Ridge, but SOSA and Friends filed a Petition for Review in Thurston County on April 4, 2012 under Cause Number 12-2-00692-7. A copy of this Petition will be sent to you under separate cover.

lines 9-10. WRE goes on to say that “thirty 2.5-MW turbines cannot physically be sited in those remaining turbines corridors.” *Id.* at page 2, lines 20-21. WRE does say that thirty 1.5-MW turbines could be located on the existing corridors, but claims such a layout will not be economically viable (this issue will be discussed below).

Accordingly, per the submissions of the applicant there is in fact no present plan for the project reflecting the restrictions imposed by the Governor, including the number, size, locations, capacity, or manufacturer of the turbines, nor the total nameplate capacity of the project as a whole.

Lacking this information, the proposal does not meet the “Information Required for Interconnections” in the “Technical Requirements for Interconnection to the BPA Transmission Grid STD-N-000001.” The Technical Requirements require the applicant to provide generator data as follows:

4.6.3.2 Generator Data

If one or more generators are included as part of the connection request, the following data is needed. If different types of generators are included, data for each different type of generator and generator step up transformer is needed. Generator data is required at execution of the System Impact Study agreement and again at execution of the Interconnection agreement (LGIA or SGIA) or construction agreement.

4.6.3.2.1 Generator General Specifications

Energy source (e.g., wind, natural gas, hydro, bio-mass, bio-gas, solar, geothermal, etc.)

- Number of rotating generators
- Number of turbines and type: wind, combustion, steam, hydro, engine generator, etc.
- Number and nameplate rating of static conversion devices (e.g. inverters for solar photovoltaic projects)
- Total nameplate rating in MW, (@ 0.95 PF for synchronous generators)
- Station service load for plant auxiliaries, kW and kvar
- Station service connection plan

As to wind farms, specific data for the anticipated installations is also required:

4.6.3.2.4 DC Sources

If the generator project includes dc sources such as fuel cells or photovoltaic devices, provide the number of dc sources and maximum dc power production per source in kW.

4.6.4 Wind Farm and other Variable Generation Data Requirements The following data is required of each asynchronous

variable Generation Plant consisting of multiple generation units connected via a network (collector) system proposed or in operation within BPA's Balancing Area 20 MW or larger (Large Generation Interconnection Requirements). Similar data may be required for Small Generation consisting of multiple generation units and other asynchronous generation. The information is required to meet the WECC/NERC compliance requirements for Generation Owners / Generation Operators (GO/GOp). This information is to be provided at the specific times as follows:

- Interconnection Request - the initial data submittal with the Generation interconnection request shall include at minimum the proposed Wind Turbine Generator (WTG) manufacturer and data sheet(s), and main transformer(s) size and impedance.
- Study Stage - At the initiation of the Interconnection System Impact Study, at minimum provide updated WTG manufacturer and data sheets(s), main transformer size and impedance, and a collector system single line diagram that includes any proposed reactive equipment. Failure to provide this data will delay performance of the Interconnection System Impact Study.

Because WRE has not submitted a plan for the number, nameplate rating, manufacturer or other pertinent information regarding its generation facilities proposed to be connected to the FCRTS, the current application should be denied.

3. BECAUSE THE APPLICANT CONCEDES THE WHISTLING RIDGE PROJECT IS ECONOMICALLY UNVIABLE, BPA SHOULD NOT APPROVE ANY INTERCONNECTION REQUEST.

In the attached motion for reconsideration filed with EFSEC, WRE emphatically claimed that the reduction from 50 to 35 turbines would make the whole Whistling Ridge project "economically unviable." For example, at page 2 of its Reconsideration Motion (attached as Exhibit A), WRE said the following:

- "In fact, extensive testimony in the record evidences that the recommended Project (with the deleted turbine strings) likely is not economically viable." (Emphasis in original).

- In reference to EFSEC's decision to eliminate specific turbine strings, WRE said: "The A1-A7 turbine corridor has a robust wind resource, and eliminating it and the C1-C8 turbine corridor 'kills the project.'" WRE's motion cited the testimony of the president of SDS and WRE, Jason Spadaro.

● At pages 2-3, WRE cites to page 2-21 of the FEIS (also referenced by BPA in its analysis of the project quoted above) as follows:

“In sum, the Project size was selected to optimize Project energy output and economic feasibility. A smaller wind turbine facility would be unlikely to offset Project development costs. A larger project would require additional infrastructure capacity and transmission capacity.”

● At page 3, WRE’s motion states that “an economically unviable project results in no project.”

In summary, the applicant claims that the Whistling Ridge project is not economically viable at 35 or fewer turbines. Perhaps this is the reason that WRE has not presented even the general details of the project, such as the number, size and locations of the proposed turbines.

Under these circumstances, and given the multiple other applicants requesting generation interconnection, it makes no sense for BPA, to approve the Whistling Ridge request. BPA first needs to know that there is strong indication of a serious project.

The Whistling Ridge project is different from other projects vying for a position in the transmission queue. Whistling Ridge has finalized its review before EFSEC and Governor Gregoire, the result of which is that the project is not economically viable, according to the applicant. As WRE has stated, “an economically unviable project results in no project.” Since there is no project, there is no basis for approving the Whistling Ridge project for placement in the transmission interconnection queue.

4. CONCLUSION.

Friends and SOSA request that the BPA deny WRE’s generation interconnection request for the Whistling Ridge project. First, without proof of WRE’s execution of the SCA, demonstrating that the applicant will abide by the approvals given by EFSEC and the Governor, including environmental protection and mitigation measures, no generation interconnection request can be granted. Second, the applicant has provided no information regarding the number, nameplate rating or other essential information regarding the project that allows anyone to even describe the project for interconnection purposes. Third, the applicant has asserted that the project, as limited to 35 turbines, is not economically viable. BPA should not approve a GIR for a project that has become uneconomically unviable as a result of size reductions necessitated by environmental protection and the public interest.

ARAMBURU & EUSTIS, LLP

April 13, 2012

Page 7

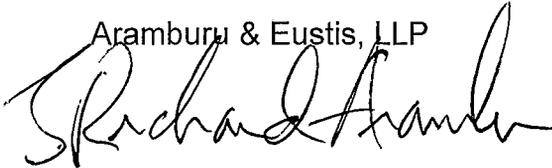
Thank you in advance for your consideration of our request. We would like to meet personally with you and other staff to discuss this matter if you are available. We will call or email in the next several days to set up an appointment if that is possible.

To the extent that there are responses by staff, the applicant or others to the comments made in this letter, please forward them to the undersigned.

Should you have questions regarding this letter, please contact the undersigned.

Sincerely yours,

Aramburu & Eustis, LLP



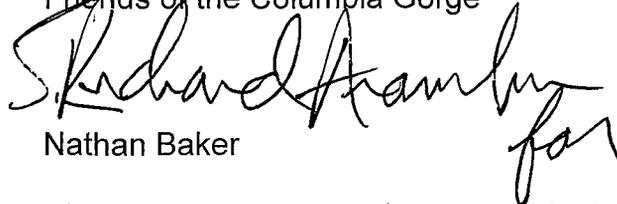
J. Richard Aramburu
Attorney for SOSA

Reeves, Kahn & Hennessy



Gary Kahn

Friends of the Columbia Gorge



Nathan Baker

Attorneys for Friends of the Columbia Gorge

JRA:cc

cc: Clients

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BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the Application No. 2009-01:
WHISTLING RIDGE ENERGY LLC
WHISTLING RIDGE ENERGY PROJECT

APPLICANT’S PETITION FOR
RECONSIDERATION OF COUNCIL
ORDER NO. 868 AND COUNCIL
ORDER NO. 869

COMES NOW the Applicant, Whistling Ridge Energy LLC (“Whistling Ridge”), by and through its attorneys of record Stoel Rives LLP and Darrel L. Peebles and respectfully submits this petition for reconsideration of Council Order No. 868 and Council Order No. 869.¹ Whistling Ridge strongly disagrees with the Council’s recommended denial of the A1-A7 and the entire C1-C8 turbine corridors, but nonetheless expresses its appreciation for the Council’s review of the Application for Site Certification (“ASC”), the voluminous testimony in the adjudicative proceeding, and the Council’s own Final Environmental Impact Statement (“FEIS”) for the Whistling Ridge Energy Project (“Project”).

Order No. 868 states that the Council’s recommended denial of the A1-A7 and the entire C1-C8 turbine corridors “preserves the Applicant’s ability to achieve the generation capacity it requests.” Order No. 868 at 33. In other words, the Council appears to have erroneously

¹ The draft Site Certification Agreement and FEIS are appended to Order No. 869. Footnote 23 in Order No. 869 directs that Whistling Ridge “file legal descriptions of the affected land for inclusion in the Site Certificate Agreement as territory prohibited from use for turbine towers or other Project structures.” That footnote specified that the filing occur “no later than the time for filing petitions for reconsideration.” The legal authority for this condition is unknown to Whistling Ridge, and Whistling Ridge does not have the time to complete this work within the timeframe for filing a petition for reconsideration. Moreover, connecting such a filing to reconsideration can be perceived as an attempt to undercut Whistling Ridge’s legal rights to reconsideration of this issue. The elimination of these turbines is in dispute, and the Applicant is not prepared to warrant that these locations should be “prohibited from use” as described in that footnote. Whistling Ridge requests that this condition be modified to require submission of turbine corridor legal descriptions prior to execution of the Site Certification Agreement.

1 concluded that thirty-five turbines sited in the remaining turbine corridors would still be
2 economically viable because a 75-MW nameplate generating capacity could be reached using
3 turbines with a nameplate generating capacity of more than 2 MW. In fact, extensive testimony
4 in the record evidences that the recommended Project likely is *not* economically viable.

5 The A1-A7 turbine corridor has a robust wind resource, and eliminating it and the C1-C8
6 turbine corridor “kills the project.” *See* Tr. at 74:21-24, 149:2-10 (Spadaro). Moreover, “turbine
7 spacing within a row is largely a function of rotor diameter and avoidance of wake effect
8 between turbines.” Tr. at 99:22-24 (Spadaro); *see also* Tr. at 100:17-101:5 (Spadaro), FEIS at 1-
9 10, 2-5, 3-178. The E1-E2 and F1-F3 turbine corridors likely are not viable if turbines larger
10 than 2 MW are used. Tr. at 74:7-12, 127:6-12 (Spadaro). Thus, the Council has effectively only
11 recommended approval of a thirty—rather than a thirty-five—turbine project. Although thirty
12 2.5-MW turbines could theoretically still reach the necessary 75-MW nameplate generating
13 capacity, in reality thirty 2.5-MW turbines cannot be sited in the remaining turbine corridors
14 (*i.e.*, the A8-A13, B1-B21, and D1-D3 turbine corridors). The thirty-turbine “capacity” of those
15 corridors was calculated using 1.5-MW turbines, which was a common size when the ASC was
16 submitted back in 2009 and has a 77-meter rotor diameter. Tr. at 73:15-17, 101:11-13 (Spadaro).
17 However, 2-MW turbines have rotor diameters greater than 77 meters. Tr. at 101:24-25
18 (Spadaro). Thus, although thirty 1.5-MW turbines could be sited in the A8-A13, B1-B21, and
19 D1-D3 turbine corridors that the Council has recommended for approval, the testimony
20 evidences that thirty 2.5-MW turbines cannot physically be sited in those remaining turbine
21 corridors. As the Council’s own FEIS recognized:

22 “The Applicant also considered the feasibility of a smaller
23 generation facility in the proposed Project Area, either by
24 removing turbines or utilizing a smaller Project Area. However,
25 the Project is proposed as an ‘integrated whole,’ as a single power
26 plant, not pieces of a whole, where some turbines may be
eliminated. * * * The number of wind turbines in the Project Area
has already been minimized to the extent practicable in light of the
Applicant’s objectives. Accordingly, if any turbines are removed
from the Project design, other locations must be found to replace

APPLICANT’S PETITION FOR RECONSIDERATION OF COUNCIL ORDER NOS. 868 & 869 - 2

1 those turbines to maintain the minimum necessary capacity. The
2 constrained site location and topography limits the ability to
relocate turbines within the Project Area.

3 “In sum, the Project size was selected to optimize Project energy
4 output and economic feasibility. A smaller wind turbine facility
5 would be unlikely to offset Project development costs. A larger
project would require additional infrastructure capacity and
transmission capacity.”

6 FEIS at 2-21; *see also* ASC at 4.2-66 n2. Whistling Ridge fully supports further addressing
7 aesthetic concerns during micrositing, consistent with the approach the Council utilized with the
8 Kittitas Valley and Desert Claim projects.² *See* Tr. at 147:9-149:1 (Spadaro). That said, an
9 economically unviable project results in no project, which undercuts “the state’s policy and legal

10 ² Attempting to support its recommended elimination of the A1-A7 and the entire C1-C8 turbine corridors,
11 the Council claims that it “directed modification of proposed turbine siting in response to viewscape concerns” in
12 the Kittitas Valley and Desert Claim projects. Order No. 868 at 18. As the Council well knows, this is a
13 mischaracterization of the Council’s recommendations in those proceedings. For the Kittitas Valley project, the
14 Council found that (i) “a blanket prohibition on the siting of all turbines within one-half mile of existing non-
15 participating residences is unwarranted,” (ii) wind turbines cease being visually dominant when viewed from a
16 distance of at least four times tip height, and (iii) setting wind turbines back a distance of at least four times tip
17 height from residences “sufficiently balances the impacts on those homeowners with the public’s interest in
18 developing new sources of wind power.” Order No. 826 at 30-31. Consequently, the Council imposed a condition
19 embodying this setback. *Id.* at 31-32. No turbines, much less turbine corridors, were eliminated from the Kittitas
20 Valley project. On remand, the Council concluded that non-participating residential landowners would only be
21 satisfied

22 “through the cancellation of the Kittitas Valley Wind Power Project and the
23 prohibition of wind turbine generators from their region of the county. Such an
24 outcome is not supported by the record in this case, by Kittitas County’s own
25 land use and zoning codes, or even by the Kittitas County Board of County
26 Commissioners’ actions when they issued resolution No. 2006-90 in June 2006.”

Order No. 831 at 3. Based on its experience with the Wild Horse project, the Council “determined that mic[r]o-
siting is the only feasible methodology for achieving additional setbacks beyond the four times height requirement”
and imposed a condition that micro-siting “give highest priority” to increasing turbine setbacks from residences
within 2,500 feet of a turbine location “so as to further mitigate and minimize any visual impacts.” *Id.* Again, no
turbines, much less turbine corridors, were eliminated from the Kittitas Valley project. *See also* Order No. 843 at
16-19 (imposing the same condition on the Desert Claim project); Whistling Ridge’s Opening Adj. Brief at 45 n.36.

The Council attempts to justify treating this Project differently from the Kittitas Valley and Desert Claim
projects by stating that “a single standard based on common principles is impossible to identify.” Order No. 868 at
18 n.29. In other words, the Council is going to “make it up as it goes.” That is the definition of an arbitrary and
capricious decision. *See Swoboda v. Town of La Conner*, 97 Wn. App. 613, 619, 987 P.2d 103 (1999). If nothing
else, the Council’s conclusion in this proceeding suggests that balancing aesthetic concerns and Washington’s
mandated policy of developing wind energy depends upon who is likely to see the wind turbines: Washington
homeowners living within 2,500 feet of a proposed project or Oregon residents and commercial truck drivers
cruising down an interstate highway at 65 miles an hour with only intermittent views of wind turbines sited miles
away. *See* Ex. 8.05r.

APPLICANT’S PETITION FOR RECONSIDERATION OF COUNCIL ORDER NOS. 868 & 869 - 3

1 requirements to support renewable resources” and is inconsistent with the statutory directive
2 “[t]o provide abundant energy at reasonable cost.” Order No. 868 at 15; RCW 80.50.010(3).

3 Whistling Ridge also writes to highlight an issue of highly significant statewide concern
4 that has clearly emerged from Order Nos. 868 and 869. The Council’s sole reason for
5 recommending denial of the A1-A7 and the entire C1-C8 turbine corridors was its conclusion
6 that RCW 80.50.010(2)’s balancing directive would not be met because turbines in these
7 corridors would be “prominently visible” and “impermissibly intrusive” in the Council members’
8 self-acknowledged “subjective” determination.³ Order No. 868 at 16, 22. The Council made this
9 determination independent of the FEIS’s objective conclusion “that the visual effects of the
10 Project were moderate and could be mitigated” without eliminating turbine corridors.⁴ See Order
11 No. 868 at 6 (“This order, therefore, does not consider the FEIS[.]”); Order No. 869 at 13
12 (describing the FEIS’s conclusion). In other words, but for RCW 80.50.010(2), there would
13 have been no basis for the Council to recommend denial of the A1-A7 and the entire C1-C8
14 turbine corridors.⁵

15 ³ The Council’s “viewing site analysis” suggests that “subjective” visual impacts from the C1-C8 turbine
16 corridor, in the Council’s opinion, are likely significantly less than those of the A1-A7 turbine corridor. See Order
17 No. 868 at 23. Eliminating only the A1-A7 turbine corridor would effectively eliminate turbine visibility from eight
18 viewpoints (after accounting for the likely elimination of the F1-F3 turbine corridor due to larger rotor diameters),
19 but eliminating only the C1-C8 turbine corridor would not eliminate turbine visibility from any viewpoint.
20 Eliminating both the A1-A7 and the entire C1-C8 turbine corridors would eliminate turbine visibility from two
21 viewpoints, but these two viewpoints are over five miles from the Project site, and the anticipated level of objective
22 visual impact at these two viewpoints if both the A1-A7 and the entire C1-C8 turbine corridors were permitted
23 would be low. ASC Table 4.2-5. Consequently, eliminating the A1-A7 turbine corridor but not the C1-C8 turbine
24 corridor would not have a sizable change on the already low objective visual impacts at these two viewpoints.
25 Furthermore, the Counsel for the Environment (“CFE”) did not argue that the C1-C8 turbine corridor be eliminated.
26 See CFE Closing Brief at 17:6-18:6. Following the CFE’s recommendation more closely could allow the Council to
achieve its statutory directive “[t]o provide abundant energy at reasonable cost.” RCW 80.50.010(3).

⁴ Opponents have argued that the FEIS must be used in the adjudicative proceeding (e.g., “the integrity of
the SEPA/NEPA and decisionmaking processes is accomplished by the integration of agency reviews, not by
segregation of them”). Opponents’ Objections to Prehearing Order No. 4 at 2:20-5:5. Ironically, if this argument
had been correct, the Council would never have reached its recommendation to deny significant parts of the Project
because the FEIS concluded that the Project would have no more than moderate visual impacts that could be further
mitigated without eliminating turbine corridors.

⁵ Outside of the Council’s interpretation of RCW 80.50.010(2) concerning aesthetics, there are no
remaining grounds upon which the Council can recommend denial of the A1-A7 and the entire C1-C8 turbine
corridors. The Council has already determined that the Project is consistent with the Conservancy designation in

(continued . . .)

1 Whistling Ridge recognizes that deference is owed to the Council’s construction of
2 RCW 80.50.010(2). *See Residents Opposed to Kittitas Turbines v. EFSEC*, 165 Wn.2d 275, 310,
3 197 P.3d 1153 (2008). In addition, environmental and ecological concerns are within the
4 Council’s purview under RCW ch. 80.50, and the Council can utilize evidence outside the FEIS
5 in its recommendation. *Id.* at 313, 321.

6 However, the Council’s interpretation of RCW 80.50.010’s so-called balancing
7 directive—the enactment of which dates back to 1970 when the Council was tasked with siting
8 nuclear power plants and before SEPA was even enacted—now directly impedes the
9 implementation of the state’s renewable energy policy. *See* S.B. 49, 1970 1st ex. sess. ch. 45 § 1.
10 In fact, the Chairman, who stated that he “represents the Governor’s office” (Tr. at 524:5-6),

11 _____
(. . . continued)

12 Skamania County’s comprehensive plan. Order No. 868 at 13, 36. The Council has already determined that the
13 Project is consistent with Skamania County’s “Unmapped” zoning classification, within which the C1-C8 turbine
14 corridor is proposed. *Id.* at 12, 36. As for the A1-A7 turbine corridor, the Council has already found that it is in
15 Skamania County’s

16 “FOR/AG20 zone, in which semi-public uses are permitted; uses such as a
17 privately-owned logging railroad have been found to be semi-public and uses
18 including aircraft landing facilities and surface miners are permitted of right or
19 conditionally.”

20 *Id.* at 35. Skamania County’s certificate of land use consistency is *prima facie* evidence that the A1-A7 turbine
21 corridor is consistent with the FOR/AG20 zone. *See id.* at 36; Ex. 2.03; Skamania County & Klickitat County
22 Public Economic Development Authority’s Land Use Brief at 3:3-16.

23 Turning to cultural resources, there is no evidence in either the adjudicative record or the SEPA record
24 that either the A1-A7 or the C1-C8 turbine corridors will impact archaeological or historical sites or culturally
25 sensitive areas. The Yakama Nation Cultural Resources Program was a party in the adjudicative proceeding, yet
26 presented *no* evidence regarding the existence of a Traditional Cultural Property (“TCP”) within the Project site.
FEIS at 3-211; Tr. at 84:18-86:1 (Spadaro). The FEIS references a TCP identified by Yakama Nation cultural
resources specialists during a December 2009 field investigation. FEIS at 3-210. However, the SEPA record also
evidences that the results of this field investigation were officially withdrawn by the Yakama Nation Cultural
Committee and were “not [to be] considered in any manner related to [the Council’s] review of the Whistling Ridge
Energy Project.” Feb. 4, 2010 Memo from Lavina Washines, Chairwoman of the Tribal Council Cultural
Committee, to Jim Laspina, Washington EFSEC, and Andrew Montano, Bonneville Power Administration.
Therefore, the FEIS’s reference to a TCP is highly suspect. However, even if one assumes that a TCP is present
within the Project site, the FEIS concludes that with Whistling Ridge’s stipulation to site no more than five wind
turbines within the A1-A7 turbine corridor, along with other identified mitigation measures, “the proposed Project is
not expected to produce any unavoidable impacts to historic or cultural resources.” FEIS at 3-218. The Council
does not have any performance standards related to cultural resources. *See* WAC ch. 463-62. RCW 80.50.010’s
balancing directive does not reference cultural resources. There are simply no grounds for the Council to
recommend denial of the A1-A7 turbine corridor based on cultural resource concerns.

APPLICANT’S PETITION FOR RECONSIDERATION OF COUNCIL ORDER NOS. 868 & 869 - 5

1 questions whether wind energy projects can meet RCW 80.50.010(2)'s directive that energy
2 facilities "enhance the public's opportunity to enjoy the esthetic and recreation benefits of air,
3 water and land resources." Order No. 868 at 46 (concurring opinion of Chairman Luce). Taking
4 this interpretation to its logical end—which opponents of the next energy project that comes
5 before the Council will undoubtedly seek to do, assuming of course that another energy project
6 does come before the Council—no energy projects of any type will be able to satisfy a balancing
7 directive focused on "enhanc[ing]" aesthetics. *See New Oxford American Dictionary* 561 (2005)
8 (defining "enhance" as to "increase, or further improve the quality, value, or extent of"). This is
9 especially true if RCW 80.50.010(2) requires that the Council undertake "subjective efforts" to
10 assess aesthetic impacts, which stands in stark contrast to the objective evaluation required by
11 SEPA, and in fact undertaken by the Council, through the SEPA process, for this Project. In
12 fact, the only logical way to implement RCW ch. 80.50.010's valid policy of ensuring that "the
13 location and operation of such [energy] facilities will produce minimal adverse effects on the
14 environment, ecology of the land and its wildlife, and the ecology of state waters and their
15 aquatic life" is through the SEPA process. As a matter of statutory construction,
16 RCW 80.50.010's antiquated, subjective balancing directive cannot trump later enacted
17 legislation—specifically SEPA, RCW ch. 43.21C. The Council's recommendation in effect
18 renders SEPA irrelevant for energy facilities under the Council's jurisdiction, and its balancing
19 exercise in this case is at odds with several decades of SEPA precedent.

20 Furthermore, the Council's balancing exercise conflicts with the express statutory
21 directive that the Governor and all state agencies perform their functions and responsibilities in
22 accordance with the Scenic Act. RCW 73.97.025(1). The Scenic Act expressly states that

23 "[t]he fact that activities or uses inconsistent with the management
24 directives for the scenic area or special management areas *can be*
25 *seen or heard from these areas shall not, of itself, preclude such*
activities or uses up to the boundaries of the scenic area or special
management areas."

26 16 U.S.C. § 544o(a)(10) (emphasis added). Yet here, the Council's sole reason for

APPLICANT'S PETITION FOR RECONSIDERATION OF COUNCIL ORDER NOS. 868 & 869 - 6

1 recommending denial of the A1-A7 and the entire C1-C8 turbine corridors is due to their
2 visibility. The Council’s purported reliance on the area’s “aesthetic, cultural and natural
3 heritage” rather than its Scenic Area designation is an utterly transparent and ineffective attempt
4 to circumvent Congress’s express prohibition against precluding uses outside the Scenic Area for
5 the sole reason that they can be seen from within the Scenic Area.⁶

6 The Council misreads *Northwest Motorcycle Association v. United States Department of*
7 *Agriculture*, 18 F.3d 1468 (9th Cir. 1994). See Order No. 868 at 21-22. The Ninth Circuit did
8 not affirm the U.S. Forest Service’s decision to prohibit motorized trail bikes from using trails
9 outside a wilderness area “because the record showed an adverse effect of such vehicles upon a
10 wilderness area.” *Id.* at 22. Instead, the court found that the “primary reason” behind the U.S.
11 Forest Service’s decision was reducing conflicts between motorized trail bikes and hikers in an
12 area *outside* a wilderness area and “[t]he fact that this determination was additionally based on
13 other factors, including the proximity [to the wilderness area], does not invalidate it.” 18 F.3d at
14

15 ⁶ The Council’s attempt to rely on Project visibility outside the Scenic Area is a weak and similarly
16 transparent and ineffective attempt to bootstrap its “subjective” conclusion regarding visual impacts inside the
17 Scenic Area. Visual impacts were assessed in the adjudication from four viewpoints outside the Scenic Area. See
18 ASC Fig. 4.2-5; see also FEIS Table 3.9-2 (three viewpoints outside Scenic Area assessed in FEIS). Using the same
19 objective methodology the Council used in its FEIS, the anticipated level of visual impact from the Project at these
20 four viewpoints was no change, low to moderate, moderate, and moderate. ASC Table 4.2-5; see also FEIS Table
21 3.9-2 (same conclusion for the three viewpoints outside the Scenic Area evaluated in the FEIS). The closest of these
22 viewpoints was over 7,100 feet from the nearest turbine, which is approximately four times the distance at which the
23 Council has previously determined wind turbines that cease being visually dominant. See *supra* footnote 2.

20 Notwithstanding this, the Council properly rejected Opponents’ argument that the Scenic Act’s aesthetic
21 regulations should be used to evaluate a project outside the Scenic Area, concluding that the Scenic Act does not

21 “require or permit use of its protections outside of the Scenic Area; by terms of
22 the federal law, the scenic area standards have no application outside that area.
23 Our decision recognizes this distinction and rests its validity . . . not on its
24 Scenic Act designation. Therefore, we will apply neither the NSA restrictions
25 nor the County’s NSA-based restrictions to the Project site.”

23 Order No. 868 at 21; see also Order No. 869 at 7 (“It would be improper to apply NSA standards to territory outside
24 the NSA.”). Furthermore, the Council’s own FEIS, which utilized an accepted, objective visual impact
25 methodology employing visual simulations from key viewing areas in the Scenic Area from which the project would
26 be visible, concluded “that the visual effects of the Project were moderate.” Order No. 869 at 13. Consequently, the
Council’s ultimate conclusion regarding aesthetics provides no basis to restrict development outside the Scenic Area
or within exempt Urban Areas unless that development is subject to RCW 80.50.010’s balancing directive.

APPLICANT’S PETITION FOR RECONSIDERATION OF COUNCIL ORDER NOS. 868 & 869 - 7

1 1481. Here, the Council’s sole reason for recommending denial is due to “subjective” visual
2 impacts *inside* the Scenic Area. This is exactly what Congress has prohibited.

3 When applying of its interpretation of RCW 80.50.010(2), the Council erroneously
4 indicates that, based on Dautis Pearson’s testimony, Whistling Ridge’s visual analysis
5 “understates the visual intrusion” of the A1-A7 and the entire C1-C8 turbine corridors. Order
6 No. 868 at 21. Whistling Ridge’s visual analysis was based on the same objective methodology
7 that the Council has used in the past, and “[t]he methodology used is appropriate since it
8 provides a clear understanding of how the proposed Project would affect the visual landscape as
9 seen from the key viewing areas.” FEIS at 3-162 to -163. In contrast to the testimony about
10 visual impacts offered by the Opponents, Whistling Ridge’s visual analysis and impact
11 assessment was not based on the opinion of one individual, but rather on the conclusions reached
12 by an interdisciplinary team formed “to make sure that what we do is we look at keeping our
13 biases and our perceptions out of the process as much as possible.” Tr. at 299:6-8 (Pearson); Ex.
14 No. 9.00 at 20:12-13. Most importantly, unlike the opinions offered by the Opponents, the
15 results of Whistling Ridge’s visual analysis are entirely consistent with the objective conclusions
16 reached in the Council’s own FEIS. *Compare* ASC Table 4.2-5 *with* FEIS Table 3.9-2. Any
17 suggestion that Whistling Ridge’s visual analysis inappropriately discounted visual impacts is
18 not supported by the evidence in the record.

19 CONCLUSION

20 Nearly three years ago Whistling Ridge submitted an ASC for a “very, very small” wind
21 energy facility (*i.e.*, no more than fifty 1.5- to 2.5-MW turbines with a maximum nameplate
22 generating capacity of 75 MW). Tr. at 80:2 (Spadaro); ASC at 2.3-1. Indeed, it was “the
23 smallest [generating capacity] that is possible” for a commercial project. Tr. at 116:18
24 (Spadaro). Whistling Ridge subsequently stipulated to building no more than thirty-eight 2-MW
25 or larger turbines because “[w]e want to do what we can to minimize the visual impact, but we
26 must maintain a viable project.” Tr. at 74:1-3 (Spadaro). If this tiny Project, for which the

1 Council’s own FEIS concluded would only have low to moderate visual impacts, cannot be
2 permitted under RCW ch. 80.50, the state’s energy facility siting process is irreparable broken,⁷
3 and it is highly questionable whether the Council will ever be able to site another wind energy
4 project.

5 At a time when Oregon’s Energy Facility Siting Council (“EFSC”) cannot keep up with
6 demand, in its application of RCW 80.50.010 this Council has written itself into history,
7 signaling that it is an unreliable agency to implement state energy policy. In effect the Council
8 has delegated Washington’s energy future to Washington counties, the Bonneville Power
9 Administration, and Oregon. Oregon understands the important public need inherent in siting
10 energy facilities and has therefore also implemented a “balancing” standard. However, Oregon
11 permits energy facilities even when such facilities cannot meet applicable objective regulatory
12 standards. *See* ORS 469.501(3) (authorizing Oregon EFSC to issue a site certificate for an
13 energy facility that “does not meet one or more” of its standards if the Oregon EFSC “determines
14 that the overall public benefits of the facility outweigh the damage to the resources protected by
15 the standards the facility does not meet”); *see also* OAR 345-022-0000(2). This Council now
16 takes the opposite approach: energy facilities (or portions thereof) will be **denied** even when
17 they **meet** objective regulatory standards, and that denial will be based on ungrounded and vague
18 “subjective” findings that **conflict** with objective, science- and regulatory-based findings made
19 by the very same agency.

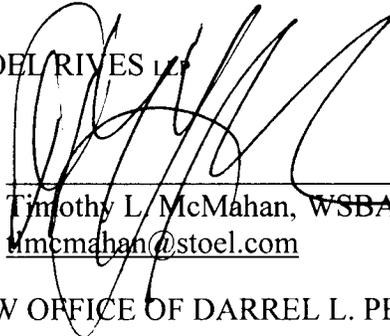
20 This Council has signaled that Washington is an unreasonable place to site critical public
21 infrastructure—a place where adopted regulatory standards are trumped by decisions that fly in

22 ⁷ This inevitable conclusion is supported by two other undeniable facts. First, Order Nos. 868 and 869
23 conclude that the Project is consistent with Skamania County’s land use regulations; that the Project is in full
24 compliance with WDFW’s 2009 *Wind Power Guidelines*; that the Project meets the state’s noise standards; that
25 there is no evidence of actual geologic hazards that would preclude siting the Project; that the Project would have
26 real and significant economic benefits to Skamania County, which is “uniquely challenged financially”; and that the
Project would further the state’s renewable energy policy. Second, the Council’s nearly three-year review of this
Project has been unnecessarily long, has been wasteful of State resources, and has placed an incredibly high
financial burden on all parties involved in this proceeding.

1 the face of an agency’s own environmental analysis, with rationales that are not based on the
2 Council’s adopted rules, but emerge for the first time in the final order—decisions that are
3 acknowledged by the Council itself as “subjective.” Whistling Ridge respectfully petitions the
4 Council for reconsideration of its recommended denial of the A1-A7 and the entire C1-C8
5 turbine corridors.

6 DATED: October 27, 2011.

7 STOEL RIVES LLP

8 By: 

9 Timothy L. McMahan, WSBA #16377
10 tmcmahan@stoel.com

11 LAW OFFICE OF DARREL L. PEEPLES

12 By: 

13 Darrel L. Peoples, WSBA #885
14 dpeoples@ix.netcom.com

15 Attorneys for Applicant Whistling Ridge Energy LLC
16
17
18
19
20
21
22
23
24
25
26

FRIENDS OF THE COLUMBIA GORGE

April 18, 2012

Andrew M. Montañó
Environmental Project Manager
Bonneville Power Administration - KEC-4
P.O. Box 3621
Portland, OR, 97208-3621

Stephen J. Wright
Administrator
Bonneville Power Administration
905 N.E. 11th Avenue
Portland, OR 97232

**Re: Whistling Ridge Energy Project
Skamania County, Washington**

Dear Mr. Montañó and Mr. Wright:

Please find enclosed a courtesy copy of the Petition for Judicial Review recently filed by Friends of the Columbia Gorge and Save Our Scenic Area in Thurston County Superior Court in the above-referenced matter.

Thank you for your time and consideration. If you have any questions or comments, please do not hesitate to contact me.

Sincerely,



Nathan Baker
Staff Attorney

Enclosure

cc: Gary K. Kahn
J. Richard Aramburu



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

ENVIRONMENT, FISH AND WILDLIFE

June 7, 2012

In reply refer to: KEC-4

Mr. J. Richard Aramburu
Aramburu & Eustis LLP
720 Third Avenue, Suite 2112
Seattle, WA 98104

RE: Whistling Ridge Energy Project – Proposed Interconnection

Dear Mr. Aramburu:

Thank you for your recent letter on behalf of Save Our Scenic Area and the Friends of the Columbia Gorge concerning Whistling Ridge Energy LLC's proposed Whistling Ridge Energy Project and their request for interconnection of their proposed project to the Federal Columbia River Transmission System. Your letter references information from our website that indicates our expectation that we would issue a Record of Decision concerning the proposed interconnection in April 2012, and requests that Bonneville Power Administration (BPA) deny this proposed interconnection for various reasons.

As you likely know, BPA has prepared a joint Environmental Impact Statement (EIS) with the State of Washington Energy Facility Site Evaluation Council (EFSEC) for Whistling Ridge Energy LLC's proposed project. The Final EIS for the project was issued in August 2011. We are aware that after the Final EIS for this project was completed, Washington EFSEC recommended to the Washington State Governor that she approve the issuance of a site certificate for the project, but with a reduced number of project wind turbines. We also are aware that the Governor subsequently approved issuance of the site certificate with the reduced number of turbines as recommended by Washington EFSEC, and that Whistling Ridge Energy LLC has expressed serious concerns about the economic viability of that approved project. Finally, we are aware that you have filed suit against Washington EFSEC and the Governor in Washington State Superior Court challenging the approval of the site certificate for Whistling Ridge Energy LLC's proposed project. There is thus great uncertainty at this time as to whether, and in what form, the proposed project will proceed.

Given these circumstances, we believe it is prudent to place any decision by BPA concerning the proposed interconnection on hold until there is greater clarity on the future of Whistling Ridge Energy LLC's proposed project. While we appreciate your offer to meet with us concerning this

project, we believe a meeting is not necessary at this time but will keep your offer in mind as the state court review of the project unfolds. In addition, we will ensure that you are informed of any decision that we may make concerning the proposed project.

Sincerely,



Andrew M. Montañó
Environmental Project Manager – KEC-4

cc:

Gary Kahn, Reeves, Kahn & Hennessy for Friends of the Columbia Gorge
Nathan Baker, Attorney for Friends of the Columbia Gorge

From: [McMahan, Tim](#)
To: [Montano, Andrew M \(BPA\) - KEC-4](#)
Cc: [Adams, Hub V \(BPA\) - LC-7](#)
Subject: RE: Agency Correspondence
Date: Tuesday, June 19, 2012 9:56:06 AM

It's really OK, Andrew. It annoys me that FOG and SOSA keep trying to kill the project outside of the public process we're in.

Timothy L. McMahan | Partner

Platinum Certified Member, Stoel Rives "Go Green" P² Sustainability Program

STOEL RIVES LLP | 900 SW Fifth Ave, Suite 2600 | Portland, OR 97204-1268

Direct: (503) 294-9517 | Mobile: (b)(6) | Fax: (503) 220-2480

tlmcmahan@stoel.com | www.stoel.com

This email may contain material that is confidential, privileged and/or attorney work product for the sole use of the intended recipient. Any unauthorized review, use, or distribution is prohibited and may be unlawful.

From: Montano, Andrew M (BPA) - KEC-4 [mailto:ammontano@bpa.gov]
Sent: Tuesday, June 19, 2012 9:54 AM
To: McMahan, Tim
Cc: Adams, Hub V (BPA) - LC-7
Subject: RE: Agency Correspondence

Mr. McMahan:

It was by no means intentional to leave your office and/or the project proponent out of BPA's response back to the special interest groups that have been sending us letter after letter. BPA had been sitting on a response as we had been waiting to meet and internally discuss what our course of action was going to be. I'm sorry that I forgot to have our admin staff in Environmental Planning CC you in our response back to these groups.

Andrew M. Montano, PMP

Environmental Protection Specialist

Bonneville Power Administration | KEC-4

Environmental Planning and Analysis Group

P: 503.230.4145 | F: 503.230.5699 | C: (b)(6)

Pleasure in the job puts perfection in the work. -Aristotle

From: McMahan, Tim [mailto:TLMCMAHAN@stoel.com]
Sent: Monday, June 18, 2012 9:27 PM
To: Rick Aramburu; Nathan Baker; Gary Kahn
Cc: Adams, Hub V (BPA) - LC-7; Montano, Andrew M (BPA) - KEC-4; Wright, AI (UTC); Jason Spadaro; Craig, Barbara; Martin, Eric
Subject: Agency Correspondence

We would appreciate you copying me in all correspondence with agencies regarding this project. We do get copies of the correspondence, and your efforts to deprive the applicant an opportunity to respond are professionally irresponsible and sophomoric. TLM

Timothy L. McMahan | Partner

Platinum Certified Member, Stoel Rives “Go Green” P² Sustainability Program

STOEL RIVES LLP | 900 SW Fifth Ave, Suite 2600 | Portland, OR 97204-1268

Direct: (503) 294-9517 | Mobile: (b)(6) | Fax: (503) 220-2480

tlmcmahan@stoel.com | www.stoel.com

This email may contain material that is confidential, privileged and/or attorney work product for the sole use of the intended recipient. Any unauthorized review, use, or distribution is prohibited and may be unlawful.

From: [Rachel Tamigniaux](#)
To: [Posner, Stephen \(UTC\)](#)
Cc: [Montano, Andrew M \(BPA\) - KEC-4](#)
Subject: RE: FEIS Documents from BPA
Date: Thursday, July 19, 2012 3:27:54 PM

I am unable to bypass the password protection, let me check with IT – they might know a way to remove the lock.

Rachel Tamigniaux
PROJECT COORDINATOR
CARDNO ENTRIX

Phone (+1) 206-269-0104 Fax (+1) 206-269-0098 Direct (+1) 206-281-4431
Address 200 First Avenue West, Suite 500, Seattle, WA 98119 USA
Email rachel.tamigniaux@cardno.com Web www.cardno.com - www.cardnoentrix.com

From: Posner, Stephen (UTC) [mailto:Sposner@utc.wa.gov]
Sent: Thursday, July 19, 2012 3:26 PM
To: Montano, Andrew M (BPA) - KEC-4
Cc: Rachel Tamigniaux
Subject: RE: FEIS Documents from BPA

Rachel,

Any way you or your IT team can bypass the password requirement and open the document?

Stephen Posner
Energy Facility Site Evaluation Council
Utilities and Transportation Commission
P.O. Box 43172
Olympia, WA 98504-3172
(360) 664-1903
stephen.posner@utc.wa.gov
www.efsec.wa.gov

From: Montano, Andrew M (BPA) - KEC-4 [mailto:ammontano@bpa.gov]
Sent: Thursday, July 19, 2012 3:24 PM
To: Posner, Stephen (UTC)
Cc: 'Rachel Tamigniaux'
Subject: RE: FEIS Documents from BPA

There are fewer pages in the final because of this of the disclaimer on the 3rd page of the *.pdf when you follow this link:

http://efw.bpa.gov/environmental_services/Document_Library/Whistling_Ridge/DOE-BP-4320_Appendix_H.pdf

From: Posner, Stephen (UTC) [mailto:Sposner@utc.wa.gov]

Sent: Thursday, July 19, 2012 3:18 PM
To: Rachel Tamigniaux
Cc: Montano,Andrew M (BPA) - KEC-4
Subject: RE: FEIS Documents from BPA

We don't have a problem with the personal information as that is considered public info. We may have a problem with the document being different from the final version as this is being prepared for the court. I will also need to check with our legal office.

Thanks for your help and I will get back to you.

Stephen Posner
Energy Facility Site Evaluation Council
Utilities and Transportation Commission
P.O. Box 43172
Olympia, WA 98504-3172
(360) 664-1903
stephen.posner@utc.wa.gov
www.efsec.wa.gov

From: Rachel Tamigniaux [mailto:rachel.tamigniaux@cardno.com]
Sent: Thursday, July 19, 2012 3:13 PM
To: Posner, Stephen (UTC)
Cc: Montano,Andrew M - KEC-4
Subject: RE: FEIS Documents from BPA

No, there are no cover pages and all addresses etc are visible. There also seems to be more pages in the old document than the new, not sure whether we deleted duplicates or something along those lines...

Rachel Tamigniaux
PROJECT COORDINATOR
CARDNO ENTRIX

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Address 200 First Avenue West, Suite 500, Seattle, WA 98119 USA
Email rachel.tamigniaux@cardno.com Web www.cardno.com - www.cardnoentrix.com

From: Posner, Stephen (UTC) [mailto:Sposner@utc.wa.gov]
Sent: Thursday, July 19, 2012 3:08 PM
To: Rachel Tamigniaux
Cc: Montano,Andrew M - KEC-4
Subject: FW: FEIS Documents from BPA

Rachel,

Is the older version exactly the same as the final version?

Stephen Posner
Energy Facility Site Evaluation Council

Utilities and Transportation Commission
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Olympia, WA 98504-3172
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stephen.posner@utc.wa.gov
www.efsec.wa.gov

From: Rachel Tamigniaux [mailto:rachel.tamigniaux@cardno.com]
Sent: Thursday, July 19, 2012 3:03 PM
To: Montano,Andrew M (BPA) - KEC-4
Cc: Posner, Stephen (UTC)
Subject: RE: FEIS Documents from BPA

Hi Andrew and Stephen, it's great hearing from you both and I hope you're doing well. I'm so sorry but I'm drawing a blank on the password for Appendix H. I've tried all my usuals and nothing seems to be sticking.

I do have an older version which is not password protected – however the black boxes covering people's names/addresses are not visible. The file is too large to email, but if you think it would be useful I can throw it up on an ftp site for you to download. Just let me know.

Rachel Tamigniaux
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Address 200 First Avenue West, Suite 500, Seattle, WA 98119 USA
Email rachel.tamigniaux@cardno.com Web www.cardno.com - www.cardnoentrix.com

From: Montano,Andrew M (BPA) - KEC-4 [mailto:ammontano@bpa.gov]
Sent: Thursday, July 19, 2012 2:16 PM
To: Rachel Tamigniaux
Cc: 'Posner, Stephen (UTC)'
Subject: RE: FEIS Documents from BPA

Hi Rachel!

I hope that things are going well for you. I saw Jan today for lunch – was nice catching up with him.

Hey.. I know it's been a long time, but according to our email chain listed below I remember asking to have you password protect Appendix H. Do you happen to remember what that password is? Stephen Posner is trying to unlock the document but I do not know what that password is...

If you could reply all, that would be great. Thank you!

Andrew

From: Rachel Tamigniaux [mailto:rachel.tamigniaux@cardno.com]
Sent: Wednesday, August 10, 2011 10:04 AM

To: Montano,Andrew M - TEP-TPP-1
Subject: RE: FEIS Documents from BPA

Hi Andrew, I got your message. Thanks for uploading the revised appendix H. I'll go ahead and add password protection before sending it out anywhere. Do you want me to reupload the password protected version to the FTP site, or do you have things covered on your end?

Take care,

Rachel Tamigniaux

Project Coordinator

Cardno ENTRIX

200 First Avenue West, Suite 500, Seattle, WA 98119

Phone: 206 269 0104 **Direct:** 206 281 4431 **Fax:** 206 269 0098

From: Montano,Andrew M - TEP-TPP-1 [mailto:ammontano@bpa.gov]

Sent: Tuesday, August 09, 2011 2:34 PM

To: Rachel Tamigniaux; 'Posner, Stephen (UTC)'

Cc: Adams,Herbert V - LC-7

Subject: FEIS Documents from BPA

Rachel and Stephen,

Yesterday I uploaded the FEIS documents to Entrix's FTP site. All seem to be ready to go (with BPA's Covers on them) EXCEPT for Appendix H. I was made aware later yesterday that all Personally-Identifiable Information from Appendix H need to be redacted to protect the privacy of the commenters (email addresses, mailing addresses, etc).

I know that Stephen wanted to release the FEIS information ahead of BPA's timeframe. Therefore.. If EFSEC will be releasing this Appendix prior to BPA's release, please remove our document covers from your release.

I'll be uploading the redacted Appendix H to your server later this afternoon. It's completed, but I have to go through all 2500 pages and double-check that all personal information was removed. If you have any questions, please contact me.

Andrew M. Montano

Environmental Protection Specialist

Bonneville Power Administration | TEP-TPP-1

Transmission Project Management Group (on Detail)

P: 360.619.6046 | F: 360.619.6934 | C: (b)(6)

From: [Rachel Tamigniaux](#)
To: [Montano,Andrew M \(BPA\) - KEC-4; "Posner, Stephen \(UTC\)"](#)
Subject: RE: FEIS Documents from BPA
Date: Thursday, July 19, 2012 3:42:11 PM

I've sent in a plea for help from our IT guys and they're going to try something. I'll let you know as soon as I know anything.

Rachel Tamigniaux
PROJECT COORDINATOR
CARDNO ENTRIX

Phone (+1) 206-269-0104 Fax (+1) 206-269-0098 Direct (+1) 206-281-4431
Address 200 First Avenue West, Suite 500, Seattle, WA 98119 USA
Email rachel.tamigniaux@cardno.com Web www.cardno.com - www.cardnoentrix.com

From: Montano,Andrew M (BPA) - KEC-4 [mailto:ammontano@bpa.gov]
Sent: Thursday, July 19, 2012 3:29 PM
To: Rachel Tamigniaux; 'Posner, Stephen (UTC)'
Subject: RE: FEIS Documents from BPA

That as well as a few blank pages and some duplicates

From: Rachel Tamigniaux [mailto:rachel.tamigniaux@cardno.com]
Sent: Thursday, July 19, 2012 3:27 PM
To: Montano,Andrew M (BPA) - KEC-4; 'Posner, Stephen (UTC)'
Subject: RE: FEIS Documents from BPA

You think it was the removal of cultural resource info that is making the final file shorter?

Rachel Tamigniaux
PROJECT COORDINATOR
CARDNO ENTRIX

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Sent: Thursday, July 19, 2012 3:24 PM
To: 'Posner, Stephen (UTC)'
Cc: Rachel Tamigniaux
Subject: RE: FEIS Documents from BPA

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To: Rachel Tamigniaux
Cc: Montano,Andrew M (BPA) - KEC-4
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From: Montano, Andrew M (BPA) - KEC-4 [mailto:ammontano@bpa.gov]
Sent: Thursday, July 19, 2012 2:16 PM
To: Rachel Tamigniaux
Cc: 'Posner, Stephen (UTC)'
Subject: RE: FEIS Documents from BPA

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Rachel Tamigniaux

Project Coordinator

Cardno ENTRIX

200 First Avenue West, Suite 500, Seattle, WA 98119

Phone: 206 269 0104 **Direct:** 206 281 4431 **Fax:** 206 269 0098

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To: Rachel Tamigniaux; 'Posner, Stephen (UTC)'
Cc: Adams,Herbert V - LC-7
Subject: FEIS Documents from BPA

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Andrew M. Montañó

Environmental Protection Specialist

Bonneville Power Administration | TEP-TPP-1

Transmission Project Management Group (on Detail)

P: 360.619.6046 | F: 360.619.6934 | C: (b)(6)

From: [Posner, Stephen \(UTC\)](#)
To: [Montano, Andrew M \(BPA\) - KEC-4](#)
Subject: RE: Whistling Ridge letter
Date: Monday, September 10, 2012 10:31:39 AM

Thanks Andrew.

Stephen Posner
Energy Facility Site Evaluation Council
Utilities and Transportation Commission
P.O. Box 43172
Olympia, WA 98504-3172
(360) 664-1903
stephen.posner@utc.wa.gov
www.efsec.wa.gov

From: Montano, Andrew M (BPA) - KEC-4 [<mailto:ammontano@bpa.gov>]
Sent: Monday, September 10, 2012 9:28 AM
To: Posner, Stephen (UTC)
Subject: FW: Whistling Ridge letter
Importance: High

Stephen,

BPA's contact at the FWS office in Lacey, WA, is John Grettenberger. John took over for Jim Michaels when Jim retired. John's contact information is below as well as the FWS's updated letter regarding the BPA/FWS consultation.

All letters can be found on the project website as well: www.bpa.gov/go/whistling

Andrew M. Montano, PMP

Environmental Protection Specialist
Bonneville Power Administration
Environmental Planning and Analysis Group, KEC-4
P: 503.230.4145 | F: 503.230.5699 | C: (b)(6)
Pleasure in the job puts perfection in the work. -Aristotle

-----Original Message-----

From: John_Grettenberger@fws.gov [mailto:John_Grettenberger@fws.gov]
Sent: Wednesday, February 15, 2012 10:36 AM
To: Montano, Andrew M (BPA) - KEC-4; Gleason, John M (BPA) - LC-7
Cc: Ken_Berg@fws.gov
Subject: Whistling Ridge letter
Importance: High

(See attached file: Whistling Ridge Clarification Letter 2-15-12.pdf)

Andrew/John,

Could you please confirm with me that you have received this. As I'd left in my phone message with Andrew, Ken is meeting with Shawn Cantrell of Seattle Audubon at noon and will be providing him with the letter.

John Grettenberger
Supervisor, Division of Consultation & Technical Assistance
U.S. Fish and Wildlife Service
510 Desmond Dr. SE, Suite 102
Lacey, WA 98503
Phone # (360) 753-6044
[Http://westernwashington.fws.gov](http://westernwashington.fws.gov)

From: [Montano,Andrew M \(BPA\) - KEC-4](#)
To: [Pierce,Kathy \(BPA\) - KEC-4](#)
Cc: [DeClerck,Angela \(BPA\) - TSE-TPP-2](#); [Randall,Cherilyn C \(BPA\) - TPCV-TPP-4](#); [Peck,Nick \(CONTR\) - TPC-TPP-4](#); [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Gilchrist,Michael R \(BPA\) - TEP-TPP-1](#)
Subject: RE: Whistling Ridge SA and ROD
Date: Monday, January 13, 2014 5:30:36 PM

Kathy,

No schedule yet.. waiting to hear back from the project team as to the status of the work order, etc. I've asked the project team (see CC list) to ping me once we are ready to move forward...

Andrew

From: Pierce,Kathy (BPA) - KEC-4
Sent: Monday, January 13, 2014 5:16 PM
To: Montano,Andrew M (BPA) - KEC-4
Subject: Whistling Ridge SA and ROD

What is the latest schedule for these documents?

From: [DeClerck,Angela \(BPA\) - TSE-TPP-2](#)
To: [Klumpp,Elizabeth C \(BPA\) - DKR-WSGL](#)
Cc: [Montano,Andrew M \(BPA\) - KEC-4](#); [Adams,Hub V \(BPA\) - LN-7](#); [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Randall,Cherilyn C \(BPA\) - TPCV-TPP-4](#)
Subject: RE: WA state question on Whistling Ridge Energy Project
Date: Monday, June 17, 2013 1:35:18 PM

From: Klumpp,Elizabeth C (BPA) - DKR-WSGL
Sent: Monday, June 17, 2013 1:29 PM
To: DeClerck,Angela (BPA) - TSE-TPP-2
Cc: Montano,Andrew M (BPA) - KEC-4; Adams,Hub V (BPA) - LC-7; FreeI,Amy M (BPA) - TEP-TPP-1; Randall,Cherilyn C (BPA) - TPCV-TPP-4

Subject: RE: WA state question on Whistling Ridge Energy Project

Thanks. I've heard succinctly from Andrew, Cherilyn, and Amy, too.

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THANK YOU.

Liz
360-943-0157

(b)(5)
[Redacted]
[Redacted]
[Redacted]
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Sent: Monday, June 17, 2013 1:08 PM
To: Klumpp,Elizabeth C (BPA) - DKR-WSGL
Cc: Montano,Andrew M (BPA) - KEC-4; Adams,Hub V (BPA) - LC-7; FreeI,Amy M (BPA) - TEP-TPP-1; DeClerck,Angela (BPA) - TSE-TPP-2; Randall,Cherilyn C (BPA) - TPCV-TPP-4

Subject: RE: WA state question on Whistling Ridge Energy Project

[This is what I know...see below](#)

From: Klumpp,Elizabeth C (BPA) - DKR-WSGL

Sent: Friday, June 14, 2013 12:26 PM

To: Montano,Andrew M (BPA) - KEC-4; Adams,Hub V (BPA) - LC-7; Freel,Amy M (BPA) - TEP-TPP-1; DeClerck,Angela (BPA) - TSE-TPP-2; Randall,Cherilyn C (BPA) - TPCV-TPP-4

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(b)(5)

Thank you!!

Liz Klumpp
Western Washington Liaison
Bonneville Power Administration
360-943-0157

Liz

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(b)(5)
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[Redacted]

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Liz Klumpp

Western Washington Liaison

Bonneville Power Administration

360-943-0157

From: [Montano,Andrew M \(BPA\) - KEC-4](#)
To: [Enyeart,Stephen H \(BPA\) - TPC-TPP-4](#); [DeClerck,Angela \(BPA\) - TSE-TPP-2](#); [Klumpp,Elizabeth C \(BPA\) - DKR-WSGL](#)
Cc: [Cosola,Anna M \(BPA\) - TPCC-TPP-4](#); [Randall,Cherilyn C \(BPA\) - TPCV-TPP-4](#); [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Lynard,Gene P \(BPA\) - KEC-4](#)
Subject: RE: WA state question on Whistling Ridge Energy Project
Date: Monday, June 17, 2013 3:14:44 PM

I've already had a conversation with Liz pertaining to this. If a meeting is needed, please let me know.

From: Enyeart,Stephen H (BPA) - TPC-TPP-4
Sent: Monday, June 17, 2013 2:34 PM
To: DeClerck,Angela (BPA) - TSE-TPP-2; Klumpp,Elizabeth C (BPA) - DKR-WSGL; Montano,Andrew M (BPA) - KEC-4
Cc: Cosola,Anna M (BPA) - TPCC-TPP-4; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Freel,Amy M (BPA) - TEP-TPP-1; Lynard,Gene P (BPA) - KEC-4
Subject: RE: WA state question on Whistling Ridge Energy Project

[Angela](#)

(b)(5)

Next Steps? (b)(5)

[Timeline to interconnection - to be determined](#)

[Reconfigure POS - As provided to the customer in the NEPA report documents or updated planning documents after WA state decision is known.](#)

[Steve Enyeart, TPC/TPP-4](#)
[Customer Service Engineering](#)
[\(360\) 619-6059](#)

From: Cosola,Anna M (BPA) - TPCC-TPP-4
Sent: Monday, June 17, 2013 1:30 PM
To: Enyeart,Stephen H (BPA) - TPC-TPP-4
Subject: FW: WA state question on Whistling Ridge Energy Project

From: DeClerck,Angela (BPA) - TSE-TPP-2
Sent: Monday, June 17, 2013 12:52 PM

To: Peck,Nick (CONTR) - TPC-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4; Montano,Andrew M (BPA) - KEC-4; Freel,Amy M (BPA) - TEP-TPP-1; Randall,Cherilyn C (BPA) - TPCV-TPP-4

Cc: Klumpp,Elizabeth C (BPA) - DKR-WSGL

Subject: FW: WA state question on Whistling Ridge Energy Project

[What is publicly available to say about this??](#)

From: Klumpp,Elizabeth C (BPA) - DKR-WSGL

Sent: Friday, June 14, 2013 12:26 PM

To: Montano,Andrew M (BPA) - KEC-4; Adams,Hub V (BPA) - LC-7; Freel,Amy M (BPA) - TEP-TPP-1; DeClerck,Angela (BPA) - TSE-TPP-2; Randall,Cherilyn C (BPA) - TPCV-TPP-4

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Thank you!!

Liz Klumpp

Western Washington Liaison

Bonneville Power Administration

360-943-0157

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Subject: RE: WA state question on Whistling Ridge Energy Project
Date: Tuesday, June 18, 2013 9:28:27 AM

Definitely agree with Hub's suggestions. (b)(5)

From: Klumpp, Elizabeth C (BPA) - DKR-WSGL
Sent: Monday, June 17, 2013 4:56 PM
To: Montano, Andrew M (BPA) - KEC-4; Freel, Amy M (BPA) - TEP-TPP-1; DeClerck, Angela (BPA) - TSE-TPP-2; Randall, Cherilyn C (BPA) - TPCV-TPP-4; Adams, Hub V (BPA) - LC-7
Subject: FW: WA state question on Whistling Ridge Energy Project

Stephen made another change. Can you each check one more time before I send to the AAG tomorrow after noon?

I understand now that Hub made some of the red edits below - thank you. Yes, (b)(5)

My apologies for getting compulsive about accuracy, but in the event an AAG refers to us in the record, I'd like her to get it right.

Thanks.

From: Enyeart, Stephen H (BPA) - TPC-TPP-4
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To: Klumpp, Elizabeth C (BPA) - DKR-WSGL
Cc: Randall, Cherilyn C (BPA) - TPCV-TPP-4
Subject: RE: WA state question on Whistling Ridge Energy Project

[See suggested edits - \(b\)\(5\)](#)

[Steve Enyeart, TPC/TPP-4](#)
[Customer Service Engineering](#)
[\(360\) 619-6059](#)

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Sent: Monday, June 17, 2013 2:07 PM

To: DeClerck,Angela (BPA) - TSE-TPP-2; Klumpp,Elizabeth C (BPA) - DKR-WSGL

Cc: Montano,Andrew M (BPA) - KEC-4; Freel,Amy M (BPA) - TEP-TPP-1; Randall,Cherilyn C (BPA) - TPCV-TPP-4

Subject: RE: WA state question on Whistling Ridge Energy Project

My 2 cents – (b)(5)

[Redacted]

I've made suggested edits in red below to address this, along with a couple other edits.

Thanks,

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From: Klumpp,Elizabeth C (BPA) - DKR-WSGL

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Liz

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(b)(5)

(b)(5) [Redacted]

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Subject: RE: WA state question on Whistling Ridge Energy Project
Date: Tuesday, June 18, 2013 10:45:57 AM

Steve's further edits look good to me.

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Sent: Monday, June 17, 2013 4:56 PM
To: Montano,Andrew M (BPA) - KEC-4; Freel,Amy M (BPA) - TEP-TPP-1; DeClerck,Angela (BPA) - TSE-TPP-2; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Adams,Hub V (BPA) - LC-7
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Subject: RE: WA state question on Whistling Ridge Energy Project
Date: Tuesday, June 18, 2013 10:47:26 AM

Im fine with it.

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Subject: RE: WA state question on Whistling Ridge Energy Project

[This is what I know...see below](#)

From: [Klumpp,Elizabeth C \(BPA\) - DKR-WSGL](#)
To: [Gardner,Amy M \(BPA\) - TEP-TPP-1](#)
Subject: RE: Amy - question timelines Whistling Ridge
Date: Wednesday, June 19, 2013 4:00:56 PM

Got it. Thanks.

From: Freel,Amy M (BPA) - TEP-TPP-1
Sent: Wednesday, June 19, 2013 3:58 PM
To: Klumpp,Elizabeth C (BPA) - DKR-WSGL
Subject: RE: Amy - question timelines Whistling Ridge

Liz,

So, from the time that a contract is signed with the developer this is my general schedule.
12 months to design.

Then 12-18 months to construct.

This is all dependent on the time of year that we finish design. I will not start construction in August because by September or October the weather could turn on me. I would start as early in spring as possible. The actual break ground to complete is approximately 10-11 months. If we had a rough weather year, I may have to break it into 2 construction cycles. We will have to look at our outage windows as well. Not really a simple answer I know. But I think you could easily say 12-18 months depending on weather and outage availability.

Amy

Amy Marie Freel, PMP
Bonneville Power Administration
Transmission Project Management
Senior Project Manager
Electrical Engineer
TEP-TPP-1
Office: (360) 619-6154
Dats: 922-71-6154
Cell: (b)(6)
Fax: (360) 619-6934
Email: amgardner@bpa.gov

From: Klumpp,Elizabeth C (BPA) - DKR-WSGL
Sent: Wednesday, June 19, 2013 1:08 PM
To: Freel,Amy M (BPA) - TEP-TPP-1
Subject: Amy - question timelines Whistling Ridge

Amy,

I think you might be able to answer the question from the assistant attorney general below about timelines for energizing a wind farm. Thank you!

Liz

360-943-0157

From: Essko, Ann (ATG) [mailto:AnnE@ATG.WA.GOV]
Sent: Wednesday, June 19, 2013 1:01 PM

To: Klumpp,Elizabeth C (BPA) - DKR-WSGL
Cc: (b)(6) Posner, Stephen (UTC)
Subject: RE: BPA- Friends of the Gorge settlement

Liz – I thought of one final question. How long does it typically take between ground breaking on the substation and actually turning on “On” switch on the interconnection?

Thank you again for your help,

Ann

From: Klumpp,Elizabeth C (BPA) - DKR-WSGL [mailto:ecklumpp@bpa.gov]
Sent: Tuesday, June 18, 2013 4:33 PM
To: Essko, Ann (ATG)
Cc: Jim Luce (b)(6)
Subject: RE: BPA- Friends of the Gorge settlement

Ann,

Here is the language that I've circulated internally to ensure its accuracy. I hope this answers your questions. Please call me if it does not.

(b)(5)
[Redacted text block]

[Redacted text block]

Liz Klumpp
Western Washington Liaison
Bonneville Power Administration
360-943-0157

From: Klumpp,Elizabeth C (BPA) - DKR-WSGL
Sent: Friday, June 14, 2013 12:27 PM
To: anne@atg.wa.gov
Cc: Jim Luce (b)(6)
Subject: BPA- Friends of the Gorge settlement

Ann,

This settlement is for our Big Eddy-Knight transmission line that crosses the Columbia River in the Scenic Gorge area. If you want a map of the area, let me know and I'll send a link.

This agreement is in the midst of funding some property acquisition in the Scenic Gorge and assisting Klickitat PUD in funding the undergrounding of some utility distribution lines that were in need of repair. They may not advertise this agreement per se, since they are in the midst of negotiating land purchases, but it is a public document that has been shared with local officials.

I've asked for responses to your other questions by Tuesday or Wednesday next week.

Liz Klumpp
Western Washington Liaison
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360-943-0157

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Cc: [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Gilchrist,Michael R \(BPA\) - TEP-TPP-1](#)
Subject: RE:
Date: Tuesday, July 02, 2013 9:23:15 AM

Thank you very much for the update, Liz!

From: Klumpp,Elizabeth C (BPA) - DKR-WSGL
Sent: Monday, July 01, 2013 4:27 PM
To: Montano,Andrew M (BPA) - KEC-4; Adams,Hub V (BPA) - LC-7; Grimm,Lydia T (BPA) - KEC-4
Subject:

The update below is my summary of the State Supreme Court hearing on the appeal to the Governor's issuance of a site certificate for Whistling Ridge. The AAG was very well informed and she responded to arcane comments and questions with agility.

Hub and Andrew might appreciate knowing that the discussion implied the FEIS provided the thorough and necessary documentation that the applicant met the state standards. Whereas it was debatable that the EFSEC adjudicated proceeding documented that the applicant met the state standards. Friends of the Gorge argued (seemingly incorrectly?) that EFSEC based its decision strictly on its adjudication and therefore was missing critical documentation to support its recommendation.

EFSEC would clarify this by stating that the FEIS was being completed while EFSEC adjudicated proceedings were taking place. So, EFSEC's proceedings could not reference the FEIS, though the final EFSEC order referenced both the FEIS and the adjudicated proceedings.

I'm guessing it will be months before we hear anything. This gave me a flavor for the types of lawsuits brought against energy companies regardless of thousands of pages documenting analysis.

Liz

Friends of the Gorge Appeal Whistling Ridge Site Certificate at Washington Supreme Court

This week the Washington Supreme Court heard oral arguments on the appeal by Friends of the Gorge (FOG) and Save our Scenic Area against the Governor's decision and EFSEC's recommendation to issue a site certificate for Whistling Ridge wind farm, north of Underwood, adjacent to, but outside the boundary of, the National Scenic Gorge. Mr. Gary Kahn, attorney for FOG spent his 20 minutes arguing and taking a lot of questions about

RCWs 463.60 and 463.62 and the standards they set and APPA requirements and SEPA (which doesn't fall under APPA) and EFSEC's decision-making process. He also outlined the need for additional survey data for specific bird species. The debate was in the scientific and statutory weeds.

The Assistant Attorney General did a very good job defending the Governor's decision to issue a limited site certificate for the wind farm. She addressed the review and decision-making process, the statutes and even managed to explain that state law requires seasonal plant and animal surveys and defended the state's survey of the March migration of a species of Fly-Catcher (a bird).

It was a lively, somewhat arcane debate. The questions from the bench suggested to me that the Governor's decision will be upheld. The question that really struck me was a justice asking Mr. Kahn, "What's the remedy you are seeking?" His response was that the site certificate be remanded as the decision record – field data collection – was incomplete. All I could imagine was the majority of the justices thinking, "You want more data than the thousands of pages of analysis in the record...and then you might return to our court?"

State law directs any appeal to a Governor's decision to issue an energy site certificate to the state supreme court because the EFSEC proceeding is already an adjudicated proceeding.

From: [Montano,Andrew M \(BPA\) - KEC-4](#)
To: [Klumpp,Elizabeth C \(BPA\) - DKR-WSGL](#); [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Gilchrist,Michael R \(BPA\) - TEP-TPP-1](#); [Randall,Cherilyn C \(BPA\) - TPCV-TPP-4](#)
Subject: FW: SDS Whistling Ridge Supreme Ct Victory
Date: Friday, August 30, 2013 10:25:02 AM
Attachments: [image001.png](#)
[88089-1 opinion.pdf](#)

FYI. Looks like Whistling Ridge had a significant gain in their process! I've asked SDS's attorney if the developer wants to move forward with this project as we'd need to finalized the ROD for this project. Stay tuned.

Andrew

Andrew M. Montano, PMP

Environmental Protection Specialist
Bonneville Power Administration
Environmental Planning and Analysis Group, KEC-4
P: 503.230.4145 | F: 503.230.5699
Pleasure in the job puts perfection in the work. -Aristotle

From: McMahan, Tim [mailto:TLMCMAHAN@stoel.com]
Sent: Friday, August 30, 2013 10:12 AM
To: Adams,Hub V (BPA) - LC-7; Montano,Andrew M (BPA) - KEC-4
Cc: Jason Spadaro [jasons@sdslumber.com]
Subject: SDS Whistling Ridge Supreme Ct Victory

Hi guys: You may have heard about this yesterday. A very nice win for Jason and SDS. Rather a crushing blow to FOG, I would say. I hope you're well. Thanks for all your assistance in this one. Catch you later. T.

Our press release has been distributed and is available [here](#). It's also on the homepage.

In addition, we added a note to our firm's LinkedIn profile. If you'd like to share the news with your professional network on this service, you can do so by using the "share" or "like" buttons.

<http://www.linkedin.com/company/stoel-rives-llp>

Timothy L. McMahan | Partner

STOEL RIVES LLP | 900 SW Fifth Avenue, Suite 2600 | Portland, OR 97204-1268

Direct: (503) 294-9517 | Mobile: (b)(6) | Fax: (503) 220-2480

tlmcmahan@stoel.com | www.stoel.com | [Bio](#) | [vCard](#) | [LinkedIn](#)

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FILE

IN CLERKS OFFICE

SUPREME COURT, STATE OF WASHINGTON

DATE AUG 29 2013

[Signature]
for **CHIEF JUSTICE**

This opinion was filed for record
at 8:00 am on Aug 29 2013

[Signature]
Ronald R. Carpenter
Supreme Court Clerk

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

FRIENDS OF THE COLUMBIA GORGE,)
INC., and SAVE OUR SCENIC AREA,)

No. 88089-1

Petitioners,)

v.)

En Banc

STATE ENERGY FACILITY SITE)
EVALUATION COUNCIL and)
CHRISTINE O. GREGOIRE, governor)
of the STATE OF WASHINGTON,)

Respondents,)

and)

WHISTLING RIDGE ENERGY LLC,)
SKAMANIA COUNTY, and KCLICKITAT)
COUNTY PUBLIC ECONOMIC)
DEVELOPMENT AUTHORITY,)

Intervenors-Respondents.)

Filed AUG 29 2013

C. JOHNSON, J.—This case concerns the siting of a wind powered energy facility under the energy facilities site locations act (EFSLA), chapter 80.50 RCW. This statutory scheme creates an administrative body not only to evaluate applications for the construction and operation of energy facilities in the state, but also to conduct hearings and adjudications before ultimately making a

recommendation to the governor. Here, the administrative body, after reducing the scope of the project applied for, recommended that Governor Gregoire approve the project, which she did. Opponents of the project then sought judicial review under the Administrative Procedure Act (APA), chapter 34.05 RCW. The superior court certified the issue directly to this court as allowed under EFSLA.

The challenge here focuses on the site certification agreement and whether it, and the process leading up to it, complied with the statutory and regulatory requirements. In *Residents Opposed to Kittitas Turbines v. State Energy Facility Site Evaluation Council*, 165 Wn.2d 275, 197 P.3d 1153 (2008) (*Residents*), we resolved many of the foundational jurisdictional, procedural, reviewability, and substantive issues relevant to the statutory interplay and applicability. Some of the issues in this case touch upon the analysis and conclusions resolved by that opinion. For the reasons that follow, we find no basis to reverse the Energy Facility Site Evaluation Council's (EFSEC) recommendation or the governor's approval of the project.

I. FACTS AND PROCEDURAL HISTORY

a. GENERAL OVERVIEW

Whistling Ridge Energy Project (WREP) submitted an application to EFSEC to build and operate a wind powered energy facility in southeastern Washington.

EFSEC conducted the required hearings and adjudications¹ before making a recommendation, which the governor followed, to approve a modified version of the project. The governor executed a site certification agreement (SCA) that acts essentially as a contract between the State and applicant, specifying the conditions and requirements of approval. Administrative Record (AR) at 29266-330.

Petitioners now challenge the process and substance of that approval.

There are several parties to the current appeal. Two environmental groups, Friends of the Columbia Gorge and Save Our Scenic Area (collectively Friends), are the petitioners and seek invalidation of the SCA and remand to EFSEC for further study and evaluation of the project. The other parties write in support of the project. EFSEC and the governor defend approval of the project in a joint brief, as do Skamania County and the Klickitat County Public Economic Development Authority. WREP also filed a brief arguing that this court should affirm EFSEC's recommendation and the governor's execution of the SCA.

The project site is located in a rural portion of southeast Washington. The initial application was for 50 wind turbines, though the ultimate recommendation and agreement provide for 35, partially in response to concerns regarding views from the Columbia River Gorge National Scenic Area. The project would sit on

¹ Petitioners make no argument that EFSEC failed to conduct any required hearing, adjudication, or public meeting. Instead, our review is of the record made by EFSEC.

roughly 1,152 acres, though only about 57 acres would be permanently developed. The land is owned by a parent company of WREP and has been logged for most of the last century. There are few large conifers, no late-successional stands, and no old forest habitats. The land contains a network of logging roads, two clear-cut corridors for Bonneville Power Administration high voltage lines, as well as a natural gas pipeline on the north end of the site. No wind turbine would be within 4,000 feet of a residence.

The project site is also within sight of a national scenic area that is protected by both federal law and a compact between Washington and Oregon. No issues in the present appeal relate directly to the national scenic area or compact. Further, the Columbia River Gorge is recognized by many for its pristine natural environment and beauty. The project site also appears to lie within the habitat of many species of wildlife. It is part of a northern spotted owl special emphasis area² and is either home or a migratory route for 90 species of birds and 15 species of bats.

Economically, the area has seen a significant decline since the spotted owl was listed as an endangered species, which greatly reduced the output of the lumber industry in the region. Much of the land in the county is owned by the state and federal governments, protected under various statutes, or used for commercial

² WAC 222-16-086.

forestland. Only three percent of the county is available for residential, commercial, or industrial use.

b. STATUTORY SCHEME

The legislature passed EFSLA as an expedited and centralized process for reviewing potential energy sites in Washington State. The stated policy of the statute is “to recognize the pressing need for increased energy facilities” and promote the creation of such facilities in a way that “will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.” RCW 80.50.010.

In order to promote this policy, the legislature created EFSEC, which evaluates proposals, conducts public hearings and adjudications, and makes a recommendation to the governor. RCW 80.50.030. EFSEC’s members include a chair appointed by the governor with the advice and consent of the senate; representatives from the Washington State Department of Ecology, Department of Fish and Wildlife, Department of Commerce, and Department of Natural Resources, as well as the Washington Utilities and Transportation Commission of the locality where the site would be located; and an assistant attorney general as a Counsel for the Environment. Other representatives may become involved as special circumstances require.

Once an application is received, EFSEC must conduct informational public hearings in the county of the proposed site. After these hearings, EFSEC conducts a hearing to determine whether the proposed project is consistent with current land use and zoning regulations. Finally, EFSEC must conduct an adjudicative hearing consistent with the APA that allows interested parties to challenge initial determinations. EFSEC may also conduct additional hearings as necessary. RCW 80.50.090.

After completing these steps, EFSEC submits a recommendation to the governor and, if recommending approval, submits a draft certification agreement. The governor then decides whether to approve the application and execute an SCA, reject the application, or direct EFSEC to reconsider parts of the application. The governor's rejection of the application is final, though a new application can be submitted if there is new information or conditions change. RCW 80.50.100.

An executed SCA acts essentially as a contract between the State and applicant, setting forth the conditions that must be satisfied for implementation of the project. The SCA acts "in lieu" of any other requirements imposed by other regulatory bodies. *See* RCW 80.50.120(3). Further, the provisions of EFSLA can preempt any other rules or regulations promulgated within the state, including local land use rules. RCW 80.50.110(1); *Residents*, 165 Wn.2d 275.

c. REVIEW PROCESS

Here, petitioners do not argue that EFSEC failed to follow the statutorily required steps. This process included a visit to the proposed site, several public hearings, an adjudication under the APA, a land use consistency hearing, and review under the State Environmental Policy Act (SEPA), chapter 43.21C RCW. This process lasted three years and, according to EFSEC, “set a record for length, volume, and number of issues addressed.” AR at 29346. These proceedings will be described briefly here with a more detailed account only in certain sections where necessary.

EFSEC conducted two public hearings and received over 300 public comments. In opposition, people were concerned about the environmental impact of development, as well as the scenic and aesthetic impact on the national scenic area. Those in favor of the project viewed wind energy as an environmentally friendly energy source that was coexistent with the surrounding beauty and also emphasized the economic impact of the project.

The land use consistency hearing was conducted as a separate adjudication. The project site is located in an unmapped zone of Skamania County, which means that the county does not have comprehensive zoning that covers the area. Thus, Friends focused much of its argument on the county’s comprehensive code, which

designated the land as a conservancy area, and argued that this designation was inconsistent with an energy project. EFSEC found that wind powered energy was consistent with a conservancy designation and, even if not, the zoning code allowed any use in unmapped zones not found to be a nuisance by a court. Wind power had not been found a nuisance by any court and was thus allowable.

The formal adjudication took place over three days and involved 17 parties. EFSEC found that need existed for the project, especially considering RCW 80.50.010's recognition of the "pressing need for increased energy facilities" and legislation that required sustainable energy to account for 15 percent of the State's energy supply by 2020. *See* RCW 19.285.010. Accordingly, it found the main issue to be determining if the project would create a net benefit after considering the impacts.

The "most hotly contested issue" involved the project's impact on the aesthetic and cultural heritage of the area, largely due to the project's visibility from the national scenic area. AR at 29346. EFSEC noted that the project was not the first development to occur in the area, as barge traffic, highways, and rail lines already existed. At the same time, it wanted to preserve the view from the national scenic area as much as possible.³ Based on these concerns, EFSEC reduced the

³ The parties disputed whether federal law came into play under the Columbia River Gorge National Scenic Area Act. 16 U.S.C. § 544. EFSEC found that the act regulated land only

number of allowable windmills from 50 to 35 and restricted where those windmills could be sited.

EFSEC also addressed concerns regarding the project's impact on wildlife and wildlife habitat. It recognized that although there was a significant wildlife habitat, the project site was not pristine natural land. The Washington Department of Fish and Wildlife (WDFW) acknowledged that with appropriate mitigation measures the project would comply with its guidelines. After considering various arguments and evidence, EFSEC determined that with appropriate mitigation measures and monitoring, the project should go forward.

Finally, EFSEC addressed several issues that are not part of the current challenge, including noise issues, geological challenges, access road issues, cultural and archeological concerns, health and safety planning, and site restoration planning. However, both the adjudicative order and SCA recognized that further study and agreement would be required on several issues. For example, a mitigation parcel was discussed but not formally adopted, and WREP was required to continue discussions with relevant agencies to determine the parcel's adequacy.⁴

within the national scenic area and did not apply to the project. That decision has not been challenged.

⁴ The parties dispute whether the mitigation parcel was accepted or played any role of EFSEC's determination. This issue will be addressed below.

Based on the adjudicative order, EFSEC recommended that the governor approve the project and provided a draft SCA.⁵ Governor Gregoire chose to execute the SCA, which allowed the project to go forward as long as numerous conditions were met. Friends argues that many of these conditions necessarily imply that all issues were not “resolved” within the meaning of the APA. Where relevant, they will be discussed below.

After the governor’s decision, Friends timely filed for judicial review as allowed under RCW 80.50.140(1) and the APA. The superior court certified the petition this court. RCW 80.50.140(1).

II. ISSUES

(1) Whether WREP’s application satisfied chapter 463-60 WAC’s requirements that an application include:

- an assessment of the risk of avian collisions “during day and night.”
- consideration of the WDFW’s *Wind Power Guidelines*.
- a discussion of mitigation measures.⁶

(2) Whether EFSEC complied with chapter 463-62 WAC, which requires:

- an applicant demonstrate no net loss of fish and wildlife habitat.
- fish and wildlife surveys be conducted during all seasons of the year.

⁵ When EFSEC filed the adjudicative order, the final environmental impact statement (FEIS) had not yet been prepared. The formal recommendation was not made until EFSEC had evaluated and approved of the FEIS.

⁶ WASH. DEP’T OF FISH AND WILDLIFE, *Wind Power Guidelines* (Apr. 2009), <http://wdfw.wa.gov/publications/00294/wdfw00294.pdf>.

- (3) Whether EFSEC formally adopted a specific mitigation parcel for the project.
- (4) Whether, by failing to require safety lighting to be radar activated or limit the amount of time turbine blades would spin, EFSEC violated RCW 80.50.010's directive to use available and reasonable methods to produce minimal adverse effects on the environment.
- (5) Whether EFSEC erred in finding that the proposed project was consistent with local land use ordinances.
- (6) Whether EFSEC erred in delaying review under the Forest Practices Act of 1974 (Forest Practices Act), chapter 76.09 RCW.
- (7) Whether the SCA is internally inconsistent in its treatment of the Forest Practices Act.
- (8) Whether Friends is entitled to any costs and fees.

III. ANALYSIS

a. STANDARD OF REVIEW

Under EFSLA, our review is governed by the APA. Although the governor's execution of the SCA would likely be considered the "final decision" triggering review, we have recognized that there are no rules governing how the governor may exercise his or her discretion in approving or rejecting the project. Thus, the decision would arguably be insulated from judicial review despite EFSLA's direction otherwise. Therefore, we consider this process as the granting of a "license," which "includes the agency process respecting the issuance . . . of a

license.” RCW 34.05.010(9)(b). Under the APA, relief is granted only in the following situations:

- (a) The order, or the statute or rule on which the order is based, is in violation of constitutional provisions on its face or as applied;
- (b) The order is outside the statutory authority or jurisdiction of the agency conferred by any provision of law;
- (c) The agency has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure;
- (d) The agency has erroneously interpreted or applied the law;
- (e) The order is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter;
- (f) The agency has not decided all issues requiring resolution by the agency;
-
- (h) The order is inconsistent with a rule of the agency unless the agency explains the inconsistency by stating facts and reasons to demonstrate a rational basis for inconsistency; or
- (i) The order is arbitrary or capricious.

RCW 34.05.570(3); *Residents*, 165 Wn.2d at 303-05.

Although it is sometimes difficult to tell which standard *Friends* is attempting to assert, most of the allegations appear to involve EFSEC’s supposed failure to follow its own regulations or resolve all issues requiring resolution and we address the arguments through that lens. We review whether an agency has followed prescribed procedure *de novo*.⁷ An agency

⁷ *Kittitas County v. E. Wash. Growth Mgmt. Hearings Bd.*, 172 Wn.2d 144, 155, 256 P.3d 1193 (2011).

fails to resolve all issues when findings are not made on matters that establish the existence or nonexistence of determinative factual matters.⁸

At the outset, it is worth emphasizing EFSLA's unique statutory framework. The legislature granted much discretion to both EFSEC and the governor. The governor's decision to approve or deny does not appear to be subject to any restrictions, and the restrictions placed on EFSEC appear to be largely procedural with some guidance as to what issues should be considered. The framework requires the involvement of various stakeholders, including environmental groups, throughout this process and in EFSEC's ultimate decision. The legislature has recognized the importance of increasing the State's energy output, as have the voters when they called for Washington's energy to be provided by increasingly sustainable sources. When these factors are combined with the deferential nature of review under the APA and the fact that review can easily be certified to this court, the nature of our review is necessarily limited.

⁸ *Weyerhaeuser v. Pierce County*, 124 Wn.2d 26, 36, 873 P.2d 498 (1994).

b. CHALLENGES UNDER THE WASHINGTON ADMINISTRATIVE CODE

Friends' challenges under the Washington Administrative Code (WAC) arise out of two separate chapters. The chapters serve slightly different functions, so the challenges are addressed by WAC chapters.

i. Chapter 463-60 WAC: Applications for Site Certification

Friends raises several challenges as to the sufficiency of WREP's application. Applications are discussed in chapter 463-60 WAC, which opens with a general "[p]urpose" section. The chapter

sets forth guidelines for preparation of applications [under EFSLA] . . .

The application *shall* provide the council with information regarding the applicant, the proposed project design and features, the natural environment, and the built environment. This information shall be in such detail *as determined by the council* to enable the council to go forward with its application review.

WAC 463-60-010 (emphasis added). The WACs further state that "[t]he applicant *must* address all sections of this chapter and must substantially comply with each section, show it does not apply or secure a waiver from the council." WAC 463-60-115 (emphasis added).

Friends essentially challenges the completeness of the application by quoting several regulations that provide that the application "shall" include certain information. As discussed below, many of the alleged omissions are rather

technical and ignore the broader framework of the application process. The above-quoted WACs show that these regulations are intended to provide “guidelines” as to what information will be considered, with the overall goal of providing EFSEC with enough information to proceed. The application need only substantially comply with the regulations and, ultimately, it is within EFSEC’s purview to determine when it has sufficient information to proceed. Though we need not adopt WREP’s broad rule that no challenge can be brought for EFSEC’s failure to follow its own rules on the completeness of an application, we recognize that the approval process is a broad one. Once the application is submitted, EFSEC must gather public feedback,⁹ hold a land use consistency hearing,¹⁰ go through a water and air permitting process,¹¹ and follow SEPA¹² before making its recommendation. And, even once the project is approved, the SCA can impose additional studies and ongoing requirements. Essentially, the application is the starting point of a longer process and more specific decisions are addressed throughout the process. Any minor deficiencies in the application itself are to be expected and do not warrant

⁹ RCW 80.50.090(1) (requiring EFSEC to conduct a public hearing).

¹⁰ RCW 80.50.90(2).

¹¹ RCW 80.50.040(9) (requiring compliance with water pollution controls under chapter 90.48 RCW).

¹²Ch. 43.21C RCW; WAC 197-11-938(1).

reversal. Invalidation of the completed review and recommendation would also defeat the purpose of the extended hearings and ongoing oversight of the project. Further, Friends could not be “substantially prejudiced” by claimed application shortcomings as required by RCW 34.05.570(1)(d). For these reasons, we conclude that WREP substantially complied with the requirements of chapter 463-60 WAC in its application.

1. Risk of Nighttime Avian Collisions

Friends argues that WREP did not meet the application requirements of WAC 463-60-332(2)(g), which state that the required “discussion of impacts shall also include . . . [a]n assessment of risk of collision of avian species with any project structures, during day and night, migration periods, and inclement weather.” Importantly, the referenced “discussion of impacts” is part of the application, not part of EFSEC’s ultimate findings. Thus, Friends’ complaint that EFSEC failed to make any specific factual or legal findings based on WAC 463-60-332(2)(g) in its adjudicative order is misfocused. Opening Br. of Pet’rs at 21.

The remaining challenge here seems to focus on the adequacy of the assessment because the application actually did contain an “assessment” of nighttime collision risks. Friends cites to language on the absence of data on nighttime flight patterns but this language refers to the lack of nighttime

observation data. In its application, WREP used daytime survey data to create an index based on other similar wind powered projects that allowed it to create a total—both day and night—fatality estimate based on actual reported postconstruction data.¹³ A total fatality estimate necessarily includes an assessment of nighttime collision risks, especially since the estimate is based on real collision data, which includes nighttime collisions, at other sites. The methodology used to arrive at this number was part of the application, and EFSEC had every opportunity to and did consider its adequacy. All that WAC 463-60-332(2)(g) requires is that the application contain an “assessment” of collision risk during day and night. EFSEC has discretion to evaluate the methodology used in the assessment. The application contains such an assessment, and WREP satisfied what is required in the application.

2. Conformance with WDFW Wind Power Guidelines

Friends next asserts that EFSEC “erred when it determined that the Applicant satisfied the requirements of the WDFW’s Wind Power Guidelines.” Opening Br. of Pet’rs at 22. Again, this challenge is based on a regulation in

¹³ To obtain the estimates, WREP’s consultant used its daytime observations to develop an index number that was compared with other already existing sites. Based on this index, postconstruction fatality numbers at other sites, and a regression analysis, the consultant estimated a fatality rate of 0.9 to 2.9 fatalities per megawatt per year. AR at 5086-116. The estimated energy output for the originally proposed project was 75 megawatts, which would make an estimated 67.5 to 217.5 fatalities per year, though the revised estimate would likely be smaller due to the reduced size of the project.

chapter 463-60 WAC and whether EFSEC erred in finding that the requirements satisfied are irrelevant to a challenge as to the sufficiency of the application, especially since the regulation itself does not require full compliance. It states, “The application shall give due *consideration* to any project-type specific guidelines established by state and federal agencies The application shall describe how such guidelines are satisfied. For example, wind generation proposals shall *consider* [WDFW guidelines].” WAC 463-60-332(4) (emphasis added). This is not a mandatory compliance rule, but simply requires that the application consider these guidelines. EFSEC can then later decide the guidelines with which an applicant must comply.

Furthermore, as the title suggests, the guidelines themselves provide only guidance. The document’s introduction states that “[t]he purpose of the WDFW Wind Power Guidelines is to provide consistent statewide guidance for the development of land-based wind energy projects that avoid, minimize and mitigate impacts.”¹⁴ WDFW has found WREP’s habitat evaluation to be consistent with its guidelines, stating that the “pre-project assessment and avian/bat use surveys *are consistent . . . with the WDFW Wind Power Guidelines.*”¹⁵ AR at 15820 (emphasis

¹⁴ WIND POWER GUIDELINES, *supra*, at 1.

¹⁵ Friends accuses WDFW of initially finding that the application did not comply with the *Wind Power Guidelines* and changing its statement in response to pressure from WREP. Reply

added). Friends does not meet its burden under the APA to reverse the agency's recommendation.

3. Absence of a Wildlife Mitigation Plan

Every application must include a “detailed discussion of mitigation measures.” WAC 463-60-332(3). Friends faults WREP for submitting an application with minimal discussion of mitigation measures. While the application did not fully detail the mitigation measures, such a requirement would be unrealistic. The application is the first step in a longer process. In many situations, as here, the final size and location of the site is not known until after the adjudication, making a full discussion of specific mitigation measures in the application unnecessary. Moreover, the adjudication process serves to bring to light more specific environmental concerns that may need to be mitigated. The WACs require that an application contain a discussion of proposed mitigation measures. WREP's application contained a discussion, which EFSEC apparently found sufficient to substantially comply with its requirements. Further, mitigation measures are required by both the adjudicative order and SCA, which means that

Br. of Pet'rs at 20 n.62. Not only is this argument raised in the reply brief, its implication that WREP exerted undue influence seems unjustified. The first letter reflects a first impression of the initial application and, rather than suggesting that the project should not go forward, WDFW appeared to simply want additional information. The subsequent chain of letters suggests that WREP addressed these initial concerns with additional materials and documentation that WDFW found satisfactory. *See* AR at 17973-75, 4026-47, 20222-28. Nothing in the record suggests that WREP improperly persuaded WDFW to change its opinion.

adequate mitigation is a condition required for the completed project. Friends has not met its burden under the APA to show that WREP did not substantially comply with WAC 463-60-332(3).

Friends also seeks remand because of apparent inconsistencies in the amount of impacted wildlife habitat, which in turn affects the mitigation requirements in WAC 463-60-332(3). As with the above sections, any inconsistencies in the adjudicative order are not properly addressed in a challenge to the application under chapter 463-60 WAC. However, when the record is viewed in its entirety, it becomes clear that the claimed inconsistencies are the result of typographical errors or misstatements and that, overall, the numbers have been fairly consistent throughout: the total project area is roughly 1,152 acres; the area subject to micrositing (i.e., where windmills might ultimately be located) is roughly 384 acres; and roughly 108 acres will be developed, but only about 57 acres will be permanently developed. Any differences that exist are insignificant, making remand unnecessary on this issue.

ii. Chapter 463-62 WAC: Construction and Operation

Chapter 463-62 WAC's purpose is to "implement" the legislative policy found in RCW 80.50.010, namely, to balance the need for new energy production with environmental and societal considerations. "The council shall apply these

rules to site certification agreements issued” by the council. WAC 463-62-010(1). Moreover, “[t]he provisions of this chapter shall apply to the construction and operation of energy facilities.” WAC 463-62-010(2).

Friends’ arguments here misunderstand the nature of the chapter by pointing to alleged deficiencies in WREP’s preapplication wildlife survey, as well as EFSEC’s adjudicative order. These regulations apply to the SCA and the later ongoing operation and construction of the facility and do not control the application and review process. As discussed in greater detail below, we find no basis in the regulations supporting Friends’ arguments.

1. No Net Loss

EFSLA requires that projects result in “no net loss” of wildlife habitat. WAC 463-62-040(2)(a). Friends notes that the no net loss rule is not mentioned in the application or the EFSEC order and argues that EFSEC violated the APA with this omission. However, as discussed above, the no net loss rule is part of the ongoing operation standards for energy facilities, not an application requirement. Thus, the topic did not need to be addressed in the EFSEC order as long as it is required by the SCA and complied with by WREP. The SCA requires that WREP submit a mitigation plan prior to site preparation and outlines several ways in which WREP can satisfy the no net loss rule. For example, WREP could establish a mitigation

parcel on its own or contribute money to a third party. AR at 36709. At this stage, Friends has not shown that WREP failed to comply with the no net loss rule.

2. EFSEC Wildlife Survey and Assessment Requirements

WAC 463-62-040(2)(f) states that in order to achieve EFSEC's intent of no net loss of habitat functions, "[f]ish and wildlife surveys shall be conducted during all seasons of the year to determine breeding, summer, winter, migratory usage, and habitat condition of the site." Friends relies on this quoted language to argue that surveys are required "during all seasons of the year to determine . . . migratory usage . . . of the site." Opening Br. of Pet'rs at 19 (alterations in original), *also quoted in* Reply Br. of Pet'rs at 16. From this language, Friends argues that because WREP did not conduct surveys during the migratory period of the olive-sided flycatcher, the requirement to "determine migratory usage" was not satisfied.

However, this requirement is part of the ongoing oversight of the project and is not relevant to the sufficiency of preapplication studies. In essence, WAC 463-62-040(2)(f) requires that the SCA and the ongoing oversight mechanisms ensure that WREP studies wildlife impacts in all seasons. If, for example, an unexpectedly high number of olive-sided flycatcher mortalities occur, WREP might be required to implement additional mitigation measures. This section does not, however,

provide a basis for challenging preapplication wildlife studies. Friends had the opportunity to submit contradictory evidence during the adjudication. EFSEC considered the evidence submitted by Friends and determined that the benefits of the project outweighed the costs.

Even if the regulation did apply as Friends suggests it does, no violation has been shown. When the regulation is read as a whole, it requires the surveys to be conducted throughout the year so as to understand flight patterns during different seasons. Here, as Friends acknowledges, surveys were conducted between September 11 and November 4, 2004; May 15 and July 14, 2006; and December 4, 2008 and May 29, 2009. Thus, WREP conducted surveys during 11 months of the year and all four seasons. Friends' ability to find a roughly two-month period where no surveys were conducted fails to demonstrate that surveys were not "conducted during all seasons," especially since there is no indication that WREP intentionally skipped this period of time in its studies. This argument was raised in the process. EFSEC properly considered the conflicting evidence and made its recommendation in light of the entire record. Friends thus fails to meet its burden under the APA.

c. EXISTENCE OF A MITIGATION PARCEL

As the no net loss rule suggests, mitigation parcels are often required. *See* WAC 463-62-040. During the adjudication, WREP proposed a 100-acre mitigation parcel. Friends argues that WREP proposed the site too late in the adjudication for Friends to contest the site and that EFSEC made contradictory statements as to the nature of its decision regarding the mitigation parcel. Though none of the parties address ripeness, this dispute does not appear to be ripe. The only finding EFSEC made as to habitat mitigation was that it was required.¹⁶ Similarly, the SCA acknowledges that a parcel has been proposed but makes no finding as to the adequacy of that parcel, instead requiring WREP to work with WDFW to take appropriate mitigation measures. As the actual mitigation measures are yet to be determined, there appears to be no agency action for Friends to challenge.¹⁷

¹⁶ Friends also argues that EFSEC made inconsistent statements about the mitigation parcel, making it impossible to tell whether it was accepted or not. However, this argument relies on selective quotation of the record. For example, it cites EFSEC manager Al Wright's statement that "EFSEC had 'considered and favorably regarded' the mitigation parcel" as evidence that the parcel played a role in EFSEC's decision. Opening Br. of Pet'rs at 39 (citing AR at 28720). However, the sentence concludes that "[EFSEC] did not make a finding on that particular issue because it was never culminated into a stipulated agreement to the Council." AR at 28720. Read as a whole, EFSEC's order and the SCA state that the parcel might be adequate and that further negotiations would need to occur between WREP and WDFW before a final determination was made.

¹⁷ EFSEC and the governor make the alternative argument that offering the mitigation parcel in rebuttal testimony was proper because the testimony was filed on December 16, 2010, and the adjudication did not begin until January 3, 2011. We need not address this argument because, regardless of whether this was enough to time for Friends to prepare a challenge to the parcel, EFSEC itself held that the parcel had not been formally offered and the issue is not ripe.

Friends also makes the argument that deferring acceptance of the mitigation parcel essentially insulates the decision from scrutiny or participation by either Friends or by the public. WREP appears to agree with this argument, suggesting that opponents have already had their chance to challenge the project. Resp. Br. of Intervenor—Resp’t WREP at 35-38. EFSEC and the governor make a more measured response, writing that Friends will still have an opportunity for input. Br. of Resp’ts at 34, 65. Although it is unclear what the scope of Friends’ involvement can or will be in the future, it is premature to address the issue here. Adopting Friends’ position would require that the final order and SCA completely resolve every potential issue. But complete resolution at the planning stage would be impractical due to the complicated nature of the projects and the likelihood that additional issues will arise later. Moreover, EFSEC has discretion to seek public comment or conduct additional adjudications if necessary. Friends may have ample opportunity for continued participation. The issue is not ripe for our resolution.

d. AESTHETIC, HERITAGE, AND RECREATIONAL MITIGATION

Friends next argues that the project violates RCW 80.50.010’s directive to use “available and reasonable methods” so that approved projects “produce minimal adverse effects on the environment.” These potential adverse effects include aesthetic, heritage, and recreational resources. RCW 80.50.010(2); WAC

463-47-110(1)(b). Friends points to two potential measures that were overlooked: radar-activated safety lighting and a reduction in the amount of time turbine blades would spin.¹⁸

Friends' argument seems to be that the statute's use of "minimal" requires EFSEC to impose every mitigation measure so that the impact is objectively minimized. However, this argument reflects an extreme reading of the statute and misunderstands EFSEC's role in balancing competing interests. EFSEC did restrict the number and location of turbines largely in response to aesthetic concerns. Further, both the adjudicative order and the SCA require additional aesthetic mitigation tactics, including the use of micrositing and limiting how onsite maintenance buildings will look. These measures are sufficient to show compliance with RCW 80.50.010. And since the proposal was reduced and conditioned, the argument, in essence, is that these measures were not enough to satisfy the statute. However, since the burden is on Friends to establish noncompliance, we reject the challenge. RCW 34.05.570(1)(d).

¹⁸ The requirement to "produce minimal adverse effects on the environment" is also stated in WAC 463-14-020(1), as well as alluded to in WAC 463-60-085(1). Friends reiterates this same argument with regards to these WAC sections. These arguments are unpersuasive for the same reasons described here.

e. CONSISTENCY WITH COUNTY CODE

i. Relevant Facts

Before WREP submitted its application, the county sought to update its zoning code to specifically authorize wind generation facilities and then issued a mitigated determination of nonsignificance, which would have avoided SEPA review for the changes. However, the county's hearing examiner found this inappropriate and determined that SEPA review would be required before the code changes could be adopted. The county, citing budgetary concerns, decided not to challenge that decision or go through SEPA review. Because of this action, WREP submitted an application through EFSLA.

The land use consistency hearing occurred on May 7, 2009, and was conducted as an adjudication under the APA. In the adjudicative order, EFSEC chastised Friends for raising numerous "arguments [that] have little or no relevance." AR at 29339. Ultimately, the dispute largely centered on the legal effect of the county's comprehensive plan and various forest practices rules. EFSEC dismissed these arguments and found that the project complied with the county's code because the project site was located in an unmapped zone and all activities not declared a nuisance by a court were allowed in unmapped zones. It

also found that renewable energy fit with the comprehensive plan's conservancy designation. Friends now challenges the determination of consistency.

ii. Analysis

After the informational public hearing, EFSEC is required to "conduct a public hearing to determine whether or not the proposed site is consistent and in compliance with city, county, or regional land use plans or zoning ordinances." RCW 80.50.090(2). If consistent, the local jurisdiction cannot subsequently amend any rules to affect the proposed site. If inconsistent, EFSEC can preempt the conflicting regulations and allow the project to move forward. RCW 80.50.110(2); *Residents*, 165 Wn.2d at 311 n.13. A certificate from local authorities is considered "*prima facie* proof of consistency and compliance with such land use plans and zoning ordinances *absent contrary demonstration by anyone present at the hearing.*" WAC 463-26-090 (second emphasis added).

The parties make numerous arguments regarding whether the project is consistent with Skamania County's comprehensive plan or if consistency with the comprehensive plan is even required. These arguments are unnecessary, however, as the project is authorized outright by the local zoning code. Under the county's zoning code, areas "where no formal adoption of any zoning map has taken place will be designated as unmapped." Skamania County Code (SCC) § 21.64.010. In

these unmapped areas, “all uses which have not been declared a nuisance by statute, resolution, ordinance, or court of jurisdiction are allowable.” SCC § 21.64.020. The code’s conditions are satisfied here because the proposed project site lies outside of the formal zoning map and because wind farms have not been declared a nuisance by any of the relevant authorities. Using a disjunctive, EFSLA requires only that the project be consistent with either “land use plans *or* zoning ordinances.” RCW 80.50.090(2) (emphasis added). Because the use is allowed by the zoning ordinance, it need not be consistent with “land use plans.” Thus, we affirm EFSEC’s determination of consistency and need not address the majority of the remaining arguments.

iii. Moratorium

At the time of the EFSEC hearing, Skamania County had passed a moratorium prohibiting, in relevant part, the “acceptance and processing of [SEPA] checklists related to forest practice conversions.” AR at 16856. Friends argues that this moratorium is a “land use regulation” and is inconsistent with the project. EFSEC and WREP make a threshold argument that the moratorium is not a “zoning ordinance” under EFSLA, which would mean that its consistency with the project is irrelevant.

EFSLA defines a “zoning ordinance” as “an ordinance of a unit of local government regulating the use of land and adopted pursuant to chapter . . . 36.70[] or 36.70A.” RCW 80.50.020(22). In addition to being passed by a local unit of government, the moratorium is entitled “*Ordinance 2010-10*” (emphasis added) and it explicitly references chapters 36.70 and 36.70A RCW. *See* AR 16854-856. However, the moratorium does not regulate how land is *used*. Rather, it regulates the county’s processing of SEPA checklists and is not land use regulation within the definition provided by EFSLA.

But even if the moratorium were a land use regulation within the meaning of EFSLA, it would not be inconsistent with the project because the moratorium only restricts the county’s acceptance and processing of SEPA checklists. Under the county’s code, a SEPA checklist is “not needed if . . . SEPA compliance has been initiated by another agency.” SCC 16.04.070(A). Here, EFSEC initiated SEPA review and the county will not need to accept or process a SEPA checklist. Since the county will neither accept nor process any SEPA checklists, the moratorium is not implicated. It should also be noted that the moratorium appears to have been directed more toward stopping residential expansion than preserving forestland or prohibiting all construction. Thus, we hold that the moratorium does not apply to this project.

f. FAILURE TO FULLY RESOLVE ISSUES

Friends alleges that EFSEC's postponement of two remaining issues means that it failed to resolve all contested issues, thereby warranting remand. The first issue involves the fact that the micrositing will take place, making the final location of the windmills unknown. However, Friends withdrew this argument in its reply brief based on the admission that the windmills will be located in predefined corridors. We need not address this issue.

The remaining issue is whether EFSEC's decision to defer review of compliance with the Forest Practices Act was improper. The SCA requires an application to be submitted 60 days before engaging in certain activities. This requirement continues throughout the life of the project. The Department of Natural Resources (DNR), which typically processes applications under the Forest Practices Act, has input on any permitting under the Act. WREP is required to coordinate with DNR before submitting final applications to EFSEC. As in much of its briefing, Friends appears to argue that every subissue must be resolved before an issue is "dispos[ed] of" for the purposes of WAC 463-30-320(6). No authority is cited for the idea that the Forest Practices Act must be dealt with in an EFSEC adjudication. To the extent that the Act's applicability is a "contested issue[]," WAC 463-30-320(6), EFSEC resolved this issue by requiring continuing

compliance with the Act. Also, by requiring applications to be submitted 60 days before engaging in forest practices, EFSEC mirrored the statute's time frame for submitting applications rather than requiring the applications to be submitted years in advance. We hold that EFSEC sufficiently resolved this issue.

As discussed above in section III.C, Friends' remaining concerns about the availability of public participation and judicial review are not ripe.

g. SCA'S INTERNAL INCONSISTENCY

Friends further asserts that the SCA is inconsistent in its treatment of Forest Practices Act compliance. This inconsistency is explained by the different nature of the two quoted sections. Section IV.L of the SCA relates to the construction of the facility, while section VII.E relates to the ongoing operations at the facility and any later activities that might involve forest practices. AR 29293, 29302. Even if this did not fully explain the slightly different language, it is unclear why this inconsistency would cause sufficient prejudice to warrant reversal. The Forest Practices Act applies and any problem at some future time would have to be resolved on the specific facts at issue.

h. ATTORNEY FEES AND COSTS

Friends also seeks costs and fees. However, Friends is not a prevailing party and is therefore not entitled to recover its costs and fees under the equal access to justice act, RCW 4.84.350.¹⁹

IV. CONCLUSION

Because Friends fails to meet its burden under the APA, we affirm EFSEC's recommendation and the governor's acceptance and approval of the WREP project.

¹⁹ Friends also argues that regardless of whether it prevails, it should be entitled to one-half the cost of preparing and transmitting the administrative record under RCW 34.05.566(5)(a) because respondent parties unreasonably refused to stipulate to a shortened record. We also deny this request. Friends spent a great deal of time and money to create this record and, given the number of parties and issues, it would have been difficult and time-consuming to arrive at a stipulated record, especially before the issues had been narrowed by any stipulation. Friends' request for one-half the cost of preparing and transmitting the adjudicative record is denied.

Glenn

WE CONCUR:

Madsen, C.J.

Steppe, J.

Olson, J.

Wiggins, J.

Fairhurst, J.

Conzalez, J.

J.M. Murphy

Loch McLeod, Jr.

Stoel Rives LLP Client SDS Lumber Company and its subsidiary, Whistling Ridge Energy, LLC, won a significant victory at the Washington Supreme Court today. In a decision that sets an important precedent for energy facility siting in Washington, the Court rejected efforts by two environmental groups to overturn the approval of the company's Whistling Ridge wind energy project located near the Columbia River Gorge. Tim McMahan led the Stoel Rives team, with substantial assistance from Eric Martin, Erin Anderson, Barbara Craig, Elaine Albrich, Sarah Curtiss and Michael O'Connell. [less](#)

Court Rejects Challenge to Columbia Gorge Vicinity Wind Project

[stoel.com](#) • In a decision that sets an important precedent for energy facility siting in Washington, the Washington Supreme Court today rejected efforts by two environmental groups to overturn...

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From: [Klumpp,Elizabeth C \(BPA\) - DKR-WSGL](#)
To: [Montano,Andrew M \(BPA\) - KEC-4](#); [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Gilchrist,Michael R \(BPA\) - TEP-TPP-1](#); [Randall,Cherilyn C \(BPA\) - TPCV-TPP-4](#)
Subject: RE: SDS Whistling Ridge Supreme Ct Victory
Date: Wednesday, September 18, 2013 6:14:05 PM
Attachments: [image001.png](#)

Thanks for update, Andrew! I'd also appreciate a short note if SDS moves forward. I don't recall how long their license is good for. I'll check with EFSEC.

Liz Klumpp

From: Montano,Andrew M (BPA) - KEC-4
Sent: Friday, August 30, 2013 10:25 AM
To: Klumpp,Elizabeth C (BPA) - DKR-WSGL; Freel,Amy M (BPA) - TEP-TPP-1; Gilchrist,Michael R (BPA) - TEP-TPP-1; Randall,Cherilyn C (BPA) - TPCV-TPP-4
Subject: FW: SDS Whistling Ridge Supreme Ct Victory

FYI. Looks like Whistling Ridge had a significant gain in their process! I've asked SDS's attorney if the developer wants to move forward with this project as we'd need to finalized the ROD for this project. Stay tuned.

Andrew

Andrew M. Montañó, PMP

Environmental Protection Specialist
Bonneville Power Administration
Environmental Planning and Analysis Group, KEC-4
P: 503.230.4145 | F: 503.230.5699
Pleasure in the job puts perfection in the work. -Aristotle

From: McMahan, Tim [mailto:TLMCMAHAN@stoel.com]
Sent: Friday, August 30, 2013 10:12 AM
To: Adams,Hub V (BPA) - LC-7; Montano,Andrew M (BPA) - KEC-4
Cc: Jason Spadaro [jasons@sdslumber.com]
Subject: SDS Whistling Ridge Supreme Ct Victory

Hi guys: You may have heard about this yesterday. A very nice win for Jason and SDS. Rather a crushing blow to FOG, I would say. I hope you're well. Thanks for all your assistance in this one. Catch you later. T.

Our press release has been distributed and is available [here](#). It's also on the homepage.

In addition, we added a note to our firm's LinkedIn profile. If you'd like to share the news with your professional network on this service, you can do so by using the "share" or "like" buttons.



<http://www.linkedin.com/company/stoel-rives-llp>

Timothy L. McMahan | Partner

STOEL RIVES LLP | 900 SW Fifth Avenue, Suite 2600 | Portland, OR 97204-1268

Direct: (503) 294-9517 | Mobile: (b)(6) | Fax: (503) 220-2480

tlmcmahan@stoel.com | www.stoel.com | [Bio](#) | [vCard](#) | [LinkedIn](#)

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Whistling Ridge EFSEC History

Recent Activity:

- ▶8-30-2013 Supreme Court [Decision](#)
- ▶5-13-2013 [Petitioner's Reply Brief](#)
- ▶4-16-2013 - Whistling Ridge Supreme Court Briefs: [Petitioners Brief](#), [Respondents Brief](#), [Counties Brief](#), [Whistling Ridge Brief](#)
- ▶11-30-12 [Supreme Court Briefing Schedule](#)
- ▶10-26-12 [Order](#) Taking Judicial Notice of Legal Authorities and Facts
- ▶10-26-12 [Order](#) Certifying Petition for Review to Supreme Court for Direct Review Pursuant to RCW 80.50.140
- ▶10-23-12 [Reply](#) to Petitioners' Response to Motion to Certify Petition for Review to Supreme Court Pursuant to RCW 80.50.140
- ▶10-22-12 [Respondents'](#) Response to Petitioners' Motion to Take Judicial Notice
- ▶10-17-12 [Petitioners'](#) Response to Motion to Certify Petition for Review to Supreme Court Pursuant to RCW 80.50.140
- ▶9-28-12 [Order](#)
- ▶9-26-12 [Petitioners' Reply in Support](#) of Objection To The Administrative Record & Motion to Correct & Add to the Record
- ▶9-21-12 [Petitioners' Motion](#) on Shortened Time to Set Over Hearing Date & Modify Briefing Schedule for Respondents' Motion to Certify Petition for Review to Supreme Court
- ▶9-20-12 [Motion](#) to Certify Petition for Review to Supreme Court Pursuant to RCW 80.50.140
- ▶9-20-12 [Answer](#) to Petitioners' Objection to the Administrative Record and Motion to Correct and Add to the Record
- ▶8-31-2012 [Petitioner's Objection](#) to Administrative Record and Motion to Correct and Add to the Record
- ▶3-5-2012 Governor Gregoire approves the EFSEC recommendation package for the Whistling Ridge Energy Project, LLC
 - [Governor Gregoire's Press Release](#)
 - [Governor Gregoire's Approval Letter](#)
 - [Final SCA](#)
- ▶1-5-2012 Transmittal to Governor
 - [SCA](#)
 - [Recommendation Order No. 869](#)
 - [Adjudicative Order No. 868](#)

Whistling Ridge EFSEC History

- [Final EIS](#)
- [Petitions for Reconsideration](#)
- [Parties' Responses to Petitions](#)
- [Council Order No. 870](#) Denying Petitions For Reconsideration
- [Resolution/Letter of Response to Objection](#)
- [Response to SEPA Request](#)
- [Adjudicative Proceedings Record](#) and [Exhibit List](#)
- [Motion by FOCG and SOSA to take Official Notice](#)
- [Applicant's Reply](#) to FOCG and SOSA's Request to take Official Notice
- [Council Order No. 871](#) Denying FOCG and SOSA Motion to take Official Notice

From: [Montano, Andrew M \(BPA\) - KEC-4](#)
To: [Jason Spadaro <jasons@sdslumber.com>](mailto:jasons@sdslumber.com) (jasons@sdslumber.com); (b)(6) [DeClerck, Angela \(BPA\) - TSE-TPP-2](#); [Randall, Cheryl C \(BPA\) - TPCV-TPP-4](#); [Peck, Nick \(CONTR\) - TPC-TPP-4](#)
Cc: [Whalen, Michelle E \(BPA\) - DKE-7](#); [Cosola, Anna M \(BPA\) - TPCC-TPP-4](#)
Subject: Timeline Question for Whistling Ridge
Date: Tuesday, October 15, 2013 3:05:40 PM

Hello all.

Good chatting with you all today regarding Whistling Ridge. To answer the question that we had on today's call: (b)(5)

The answer from Hub was: (b)(5)

To be more clear, the timeline would start once the decision has been published in the Federal Register.

Let me know if you have any other questions. Thanks!

Andrew M. Montaña, PMP

Environmental Protection Specialist
Bonneville Power Administration
Environmental Planning and Analysis Group, KEC-4
P: 503.230.4145 | F: 503.230.5699
Pleasure in the job puts perfection in the work. -Aristotle

From: [Montano, Andrew M \(BPA\) - KEC-4](#)
To: [Jason Spadaro <jasons@sdslumber.com> \(jasons@sdslumber.com\); \(b\)\(6\)](#); [DeClerck, Angela \(BPA\) - TSE-TPP-2](#); [Randall, Cherilyn C \(BPA\) - TPCV-TPP-4](#); [Peck, Nick \(CONTR\) - TPC-TPP-4](#)
Cc: [Whalen, Michelle E \(BPA\) - DKE-7](#); [Cosola, Anna M \(BPA\) - TPCC-TPP-4](#); [Pierce, Kathy \(BPA\) - KEC-4](#); [Mason, Stacy L \(BPA\) - KEC-4](#)
Subject: FW: Timeline Question for Whistling Ridge
Date: Thursday, October 17, 2013 11:29:47 AM
Attachments: [SkamaniaCountyListedSPP.pdf](#)

UPDATE ON LISTED SPECIES IN SKAMANIA COUNTY

All,

Now that the Fish and Wildlife Service is up and running, I double checked to make sure that no new species have been added to the Threatened/Endangered Species list and there have not been any new additions since our FEIS. This is good news!

Let me know if you have any questions.

Thanks,
Andrew

From: Montano, Andrew M (BPA) - KEC-4
Sent: Tuesday, October 15, 2013 3:06 PM
To: Jason Spadaro <jasons@sdslumber.com> (jasons@sdslumber.com); (b)(6); DeClerck, Angela (BPA) - TSE-TPP-2; Randall, Cherilyn C (BPA) - TPCV-TPP-4; Peck, Nick (CONTR) - TPC-TPP-4
Cc: Whalen, Michelle E (BPA) - DKE-7; Cosola, Anna M (BPA) - TPCC-TPP-4
Subject: Timeline Question for Whistling Ridge

Hello all.

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Andrew M. Montano, PMP

Environmental Protection Specialist
Bonneville Power Administration
Environmental Planning and Analysis Group, KEC-4
P: 503.230.4145 | F: 503.230.5699
Pleasure in the job puts perfection in the work. -Aristotle

**LISTED AND PROPOSED ENDANGERED AND THREATENED SPECIES AND
CRITICAL HABITAT; CANDIDATE SPECIES; AND SPECIES OF CONCERN
IN SKAMANIA COUNTY**

**AS PREPARED BY
THE U.S. FISH AND WILDLIFE SERVICE
WASHINGTON FISH AND WILDLIFE OFFICE**

(Revised September 3, 2013)

LISTED

Bull trout (*Salvelinus confluentus*)
Canada lynx (*Lynx canadensis*)
Gray wolf (*Canis lupus*)
Grizzly bear (*Ursus arctos* = *U. a. horribilis*)
Northern spotted owl (*Strix occidentalis caurina*)

Major concerns that should be addressed in your Biological Assessment of project impacts to listed species include:

1. Level of use of the project area by listed species.
2. Effect of the project on listed species' primary food stocks, prey species, and foraging areas in all areas influenced by the project.
3. Impacts from project activities and implementation (e.g., increased noise levels, increased human activity and/or access, loss or degradation of habitat) that may result in disturbance to listed species and/or their avoidance of the project area.

DESIGNATED

Critical habitat for bull trout
Critical habitat for the northern spotted owl

PROPOSED

North American wolverine (*Gulo gulo luteus*) – contiguous U.S. DPS
Oregon spotted frog (*Rana pretiosa*)
Critical habitat for Oregon spotted frog

CANDIDATE

Fisher (*Martes pennanti*) – West Coast DPS
Pinus albicaulis (whitebark pine)

SPECIES OF CONCERN

Bald eagle (*Haliaeetus leucocephalus*)
Cascades frog (*Rana cascadae*)
Coastal cutthroat trout (*Oncorhynchus clarki clarki*) [southwest Washington DPS]
Fender's soliperlan stonefly (*Soliperla fenderi*)
Larch Mountain salamander (*Plethodon larselli*)
Long-eared myotis (*Myotis evotis*)
Long-legged myotis (*Myotis volans*)
Mardon skipper (*Polites mardon*)
Northern goshawk (*Accipiter gentilis*)
Northwestern pond turtle (*Emys* (= *Clemmys*) *marmorata marmorata*)
Olive-sided flycatcher (*Contopus cooperi*)
Pacific lamprey (*Lampetra tridentata*)
Pacific Townsend's big-eared bat (*Corynorhinus townsendii townsendii*)
Peregrine falcon (*Falco peregrinus*)
River lamprey (*Lampetra ayresi*)
Tailed frog (*Ascaphus truei*)
Van Dyke's salamander (*Plethodon vandykei*)
Western gray squirrel (*Sciurus griseus griseus*)
Western toad (*Bufo boreas*)
Cimicifuga elata (tall bugbane)
Corydalis aquae-gelidae (Clackamas corydalis)
Cypripedium fasciculatum (clustered lady's slipper) [historic]
Erigeron howellii (Howell's daisy)
Erigeron oreganus (gorge daisy)
Penstemon barrettiae (Barrett's beardtongue)
Rorippa columbiae (Columbian yellowcress)
Sisyrinchium sarmentosum (pale blue-eyed grass)
Sullivantia oregana (Oregon sullivantia)

From: [Peck,Nick \(CONTR\) - TPC-TPP-4](#)
To: [Gardner,Amy M \(BPA\) - TEP-TPP-1](#)
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEO
Date: Wednesday, November 20, 2013 2:22:20 PM

And then some!

Nick Peck
Customer Service Engineering
Bonneville Power Administration : TPC/TPP-4
Unisys Corporation
Tel: (360) 619-6419 : Cell: (b)(6)
cnpeck@bpa.gov
Strategic | Achiever | Responsibility | Adaptability | Learner

Attitude is everything

From: Gardner,Amy M (BPA) - TEP-TPP-1
Sent: Wednesday, November 20, 2013 2:21 PM
To: Peck,Nick (CONTR) - TPC-TPP-4
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEO

No problem. Especially with this one. It is touchy.

Amy Marie Gardner, PMP
Bonneville Power Administration
Transmission Project Management
Senior Project Manager
Electrical Engineer
TEP-TPP-1
Office: (360) 619-6154
Dats: 922-71-6154
Cell: (b)(6)
Fax: (360) 619-6934
Email: amgardner@bpa.gov

From: Peck,Nick (CONTR) - TPC-TPP-4
Sent: Wednesday, November 20, 2013 1:38 PM
To: Gardner,Amy M (BPA) - TEP-TPP-1
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEO

Kool!!!!

Thanks Amy!

I'd rather be overly cautious than overly risky on these things. So I cross 't's and dot 'i's. And ask a lot of questions.

Hope all is good with you!

Nick Peck
Customer Service Engineering
Bonneville Power Administration : TPC/TPP-4
Unisys Corporation
Tel: (360) 619-6419 : Cell: (b)(6)
cnpeck@bpa.gov
Strategic | Achiever | Responsibility | Adaptability | Learner

Attitude is everything

From: Gardner,Amy M (BPA) - TEP-TPP-1
Sent: Wednesday, November 20, 2013 1:34 PM
To: Peck,Nick (CONTR) - TPC-TPP-4; DeClerck,Angela (BPA) - TSE-TPP-2; Montano,Andrew M (BPA) - KEC-4
Cc: Randall,Cherilyn C (BPA) - TPCV-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4; Gilchrist,Michael R (BPA) - TEP-TPP-1
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEO

Nick,
No change in the plan of service or foot print.
Amy

Amy Marie Gardner, PMP
Bonneville Power Administration
Transmission Project Management
Senior Project Manager

Electrical Engineer
TEP-TPP-1
Office: (360) 619-6154
Dats: 922-71-6154
Cell: (b)(6)
Fax: (360) 619-6934
Email: amgardner@bpa.gov

From: Peck,Nick (CONTR) - TPC-TPP-4
Sent: Wednesday, November 20, 2013 1:33 PM
To: DeClerck,Angela (BPA) - TSE-TPP-2; Montano,Andrew M (BPA) - KEC-4
Cc: Randall,Cherilyn C (BPA) - TPCV-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4; Gardner,Amy M (BPA) - TEP-TPP-1
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

If the substation footprint remains at 5 acres, Enviro should be OK. That would be what to check with the PMs.

Nick Peck
Customer Service Engineering
Bonneville Power Administration : TPC/TPP-4
Unisys Corporation
Tel: (360) 619-6419 : Cell: (b)(6)
cnpeck@bpa.gov
Strategic | Achiever | Responsibility | Adaptability | Learner

Attitude is everything

From: DeClerck,Angela (BPA) - TSE-TPP-2
Sent: Wednesday, November 20, 2013 1:30 PM
To: Peck,Nick (CONTR) - TPC-TPP-4; Montano,Andrew M (BPA) - KEC-4
Cc: Randall,Cherilyn C (BPA) - TPCV-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4; Gardner,Amy M (BPA) - TEP-TPP-1
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

The question is do they need a site visit to finish the environmental review. If the PMs need money they should get that from another agreement when we look at a schedule.

Angela

From: Peck,Nick (CONTR) - TPC-TPP-4
Sent: Wednesday, November 20, 2013 1:27 PM
To: DeClerck,Angela (BPA) - TSE-TPP-2; Montano,Andrew M (BPA) - KEC-4
Cc: Randall,Cherilyn C (BPA) - TPCV-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

Angela, I just chatted with Andrew; we think the concept came from comments Jason made 'if we needed, he'd be happy to take us round the site'. However, Andrew recommends checking in with the PMs before finally taking the dollars out – Amy Gardner or Mike Gilchrist.

For what it's worth, I concur!

N

Nick Peck
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From: DeClerck,Angela (BPA) - TSE-TPP-2
Sent: Wednesday, November 20, 2013 1:16 PM
To: Montano,Andrew M (BPA) - KEC-4; Peck,Nick (CONTR) - TPC-TPP-4
Cc: Randall,Cherilyn C (BPA) - TPCV-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

OK we should take it out and re issue. We will follow up with another agreement for engineering.

From: Montano,Andrew M (BPA) - KEC-4
Sent: Wednesday, November 20, 2013 1:13 PM
To: DeClerck,Angela (BPA) - TSE-TPP-2; Peck,Nick (CONTR) - TPC-TPP-4
Cc: Randall,Cherilyn C (BPA) - TPCV-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

I do not need one for my environmental review. You may want to bring in Amy Gardner/Mike Gilchrist (the PMs) into this discussion.

A

From: DeClerck,Angela (BPA) - TSE-TPP-2
Sent: Wednesday, November 20, 2013 1:10 PM
To: Peck,Nick (CONTR) - TPC-TPP-4
Cc: Montano,Andrew M (BPA) - KEC-4; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

When will we know if we need a site visit

From: Peck,Nick (CONTR) - TPC-TPP-4
Sent: Wednesday, November 20, 2013 1:09 PM
To: DeClerck,Angela (BPA) - TSE-TPP-2
Cc: Montano,Andrew M (BPA) - KEC-4; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

The only squish I can find would be to take out the site visit dollars,(b)(5)

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From: DeClerck,Angela (BPA) - TSE-TPP-2
Sent: Wednesday, November 20, 2013 1:05 PM
To: Peck,Nick (CONTR) - TPC-TPP-4
Cc: Cosola,Anna M (BPA) - TPCC-TPP-4; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Montano,Andrew M (BPA) - KEC-4
Subject: Re: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

Ok

From: Peck,Nick (CONTR) - TPC-TPP-4
Sent: Wednesday, November 20, 2013 11:37 AM
To: DeClerck,Angela (BPA) - TSE-TPP-2
Cc: Cosola,Anna M (BPA) - TPCC-TPP-4; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Montano,Andrew M (BPA) - KEC-4
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

All,

I came to the numbers using the following set of assumptions (here is method to the madness occasionally):

(b)(5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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Bonneville Power Administration : TPC/TPP-4
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Tel: (360) 619-6419 : Cell: (b)(6)
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From: Montano,Andrew M (BPA) - KEC-4
Sent: Wednesday, November 20, 2013 11:34 AM
To: DeClerck,Angela (BPA) - TSE-TPP-2
Cc: Peck,Nick (CONTR) - TPC-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4; Randall,Cherilyn C (BPA) - TPCV-TPP-4
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

I believe so. I do not see it taking more than two weeks of my time to prepare both an SA and ROD. I'm not sure what that means in terms of actual dollars, but.. I'm fairly confident that I can draft and hopefully get final approval from OGC and our NEPA Compliance Officers within a two week period.

Keep me updated as to when we have a work order issued and as to what your project schedule is so that I can fit my two weeks' time within that timeframe.

Thanks,
Andrew

From: DeClerck,Angela (BPA) - TSE-TPP-2
Sent: Wednesday, November 20, 2013 11:27 AM
To: Montano,Andrew M (BPA) - KEC-4
Cc: Peck,Nick (CONTR) - TPC-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4; Randall,Cherilyn C (BPA) - TPCV-TPP-4
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

Andrew do you think it will take 30 K to finish. That is what we asked for but he had an outstanding balance and I would like to ask for as little as possible.

From: Montano,Andrew M (BPA) - KEC-4
Sent: Wednesday, November 20, 2013 11:01 AM
To: Kennedy,David K (BPA) - KEC-4; Wittpenn,Nancy A (BPA) - KEC-4; Rose,Donald L (BPA) - KEC-4
Cc: Grimm,Lydia T (BPA) - KEC-4; Mason,Stacy L (BPA) - KEC-4; Pierce,Kathy (BPA) - KEC-4; Adams,Hub V (BPA) - LC-7; Lynard,Gene P (BPA) - KEC-4; Whalen,Michelle E (BPA) - DKE-7; DeClerck,Angela (BPA) - TSE-TPP-2
Subject: RE: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

EIS TITLE, LOCATION	COOPERATING AGENCIES	COOPERATING AGENCY STATUS NOT ESTABLISHED OR ENDED (reasons at end of report)	STATUS OF EIS
DOE/EIS-0419 Whistling Ridge Energy Project, Washington	Washington Energy Facility Site Evaluation Council (co-lead)	None	NOI: 04/21/2009 DEIS NOA: 05/28/2010 FEIS NOA: 09/02/2011 ROD:

All,

Regarding Whistling Ridge...

Transmission Customer Service just sent out a request for additional funds from the customer (see attachment). If we received additional funding, the plan of action is to prepare a **Supplement Analysis and ROD** by the first quarter of 2014 (calendar year). I do not have a set schedule at this time as to when those environmental review documents will be needed, but when we met recently with the customer, that was what was decided as far as our plan of action.

Does this help?
Andrew

Andrew M. Montano, PMP

Environmental Protection Specialist
Bonneville Power Administration
Environmental Planning and Analysis Group, KEC-4
P: 503.230.4145 | F: 503.230.5699
Pleasure in the job puts perfection in the work. -Aristotle

From: Kennedy,David K (BPA) - KEC-4
Sent: Wednesday, November 20, 2013 9:11 AM
To: Montano,Andrew M (BPA) - KEC-4; Wittpenn,Nancy A (BPA) - KEC-4; Rose,Donald L (BPA) - KEC-4
Cc: Grimm,Lydia T (BPA) - KEC-4; Mason,Stacy L (BPA) - KEC-4; Pierce,Kathy (BPA) - KEC-4
Subject: FW: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

Three projects are listed in this report-I-5, Whistling Ridge and Klickitat are listed with their milestone dates and cooperating agency information. Can you let me know if the information is correct and I can let Yardena know. Thanks! dk

From: Mansoor, Yardena [mailto:Yardena.Mansoor@hq.doe.gov]
Sent: Wednesday, November 20, 2013 5:57 AM
To: Bierbower, William; Burbaum, Jonathan; Pierce,Kathy (BPA) - KEC-4; Mason,Stacy L (BPA) - KEC-4; Kennedy,David K (BPA) - KEC-4; Grimm,Lydia T (BPA) - KEC-4; Loving, Jeanie; Levenstein, David; Kliczewski, Theresa; Matarrese, Mark; Gray, Lori (GO); Jorgensen, Lisa (GO); Kerwin, Kristin (GO); Sweeney, Robin (GO); Ganz, John (NETL); Garcia, Jesse (NETL); Lusk, Mark (NETL); 'mmckoy@netl.doe.gov'; Pozzuto, Fred (NETL); Whyte, Cliff (NETL); 'Detwiler, Paul (NETL)'; Fayish, Pierina (NETL); Gwilliam, William (NETL)
Subject: FW: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

I'm looking for a response covering the following organizations' EISs and EAs in the cooperating agency draft report. The attachment has been updated to reflect comments already received on the November 1 version from other NCOs and NEPA Document Managers.

ARPA-E: Please provide cooperating agency information for new EIS-0481 on page 8.

BPA, EM, FE, Golden, NETL: Please confirm that your entries are correct. One person may respond for the organization

Thanks,
Yardena

From: Mansoor, Yardena
Sent: Friday, November 01, 2013 11:56 AM
To: Bierbower, William; Gray, Lori (GO); Jorgensen, Lisa (GO); Kerwin, Kristin (GO); Summerson, Jane; Sweeney, Robin (GO); Loving, Jeanie; Matarrese, Mark; Stirling, John; Bush, Richard (LM); Ribeiro, Tracy (LM); Mcmillen, Matthew C; Martin, Mary; Robbins, Joseph F. (Jeff); Summerson, Jane; Sharma, Rajendra; Mills, Brian; Goel, Sat; 'slmason@bpa.gov'; 'kspierce@bpa.gov'; 'ltgrimm@bpa.gov'; 'dkkennedy@bpa.gov'; 'douglas.spencer@sepa.doe.gov'; Szatmary, Ronald A; 'kimbrough@wapa.gov'; 'cspalmer@wapa.gov'; 'marianito@wapa.gov'; Iley, Eugene (WAPA); 'grobins@wapa.gov'; Stas, Nicholas (WAPA); 'polanish@bnl.gov'; 'susan.mccauslin@wipp.ws'; 'peter.siebach@ch.doe.gov'; 'pete.yerace@emcbc.doe.gov'; 'stephanie.jennings@emcbc.doe.gov'; Depperschmidt, Jack D (NE-ID); Caughey, David (KCSO); Oden, Karen L; Rael, George; Culver, Daniel; 'elmorejl@oro.doe.gov'; Hartman, Gary; Ganz, John (NETL); Garcia, Jesse (NETL); Lusk, Mark (NETL); 'mmckoy@netl.doe.gov'; Pozzuto, Fred (NETL); Whyte, Cliff (NETL); DETWILER,RALPH P; Fayish, Pierina (NETL); Cohn, Linda M.; 'james.barrows@npo.doe.gov'; Hoar, Kenneth; Morris, Susan; 'craig.snider@npo.doe.gov'; Hartman, Gary; 'theresa.aldridge@pnso.science.doe.gov'; Wiehle, Kristi L (Lex); Zvonar, Cynthia (Lex); 'peter.siebach@ch.doe.gov'; 'diori.kreske@rl.doe.gov'; Taylor, Mike (RMOTC); Lacy, Susan D.; Batiste, Katherine; Grainger, Andrew R.; 'blevins@wapa.gov'; 'martin.krentz@wv.doe.gov'
Cc: McAlhany, Sachiko W.; Chambellan, Curtis; Kliczewski, Theresa; Fong, Steve; Burandt, Mary E; 'hartman@wapa.gov'; Levenstein, David; Stribley, Todd; Gwilliam, William (NETL); Alexander, Lynn; 'wieringa@wapa.gov'; 'reilly@wapa.gov'; 'sblazek@wapa.gov'; Weckerle, John; Chapin, Douglas H; 'osullivan@wapa.gov'; Plieness, Ray (LM)
Subject: Review of draft FT 2013 DOE Cooperating Agency Report to CEQ

To: NEPA Compliance Officers
cc: NEPA Document Managers with EISs listed in the FY 2013 DOE Cooperating Agency Report

I am asking for your review of this required annual report to CEQ. This may look intimidating, but you each have only a few entries to check, so please respond promptly – by **November 13**, if possible. CEQ has complimented us on our timely and complete submittals of DOE's Report.

How to Review this Draft Report:

EISs (pages 1-9): These are EISs for which DOE is the lead or co-lead agency **and** with NOI in FY 2005–FY 2013 **and** completed in FY 2013 or still ongoing. Rows highlighted in blue are new EISs since the FY 2012 Report.

Please check your entries for completeness and accuracy, especially the most important information in this report:

Second column: agencies that have entered into a cooperating agency agreement or potential cooperating agencies whose status is not yet decided.

Third column: agencies that have requested cooperating agency status and DOE declined **or** that DOE invited and the agency declined **or** that ended a cooperating agency relationship before the end of the EIS. We are supposed to state the reason from among the 5 explanations shown at the bottom of page 10.

EAs (pages 10-11): Only page 10 will be submitted to CEQ, but the information to review is on page 11. These are EAs completed in FY 2013 for which DOE is the lead or co-lead agency. Please check the cooperating information listed for your EAs.

Thanks!

Yardena

From: [DeClerck,Angela \(BPA\) - TSE-TPP-2](#)
To: [Montano,Andrew M \(BPA\) - KEC-4](#); [Peck,Nick \(CONTR\) - TPC-TPP-4](#); [Randall,Cherilyn C \(BPA\) - TPCV-TPP-4](#); [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Gilchrist,Michael R \(BPA\) - TEP-TPP-1](#)
Subject: RE: G0180, Tendered: Agreement 03TX-11486 M2, SDS Co
Date: Tuesday, December 24, 2013 11:31:32 AM

LOL

From: Montano,Andrew M (BPA) - KEC-4
Sent: Tuesday, December 24, 2013 11:31 AM
To: Peck,Nick (CONTR) - TPC-TPP-4; DeClerck,Angela (BPA) - TSE-TPP-2; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Gardner,Amy M (BPA) - TEP-TPP-1; Gilchrist,Michael R (BPA) - TEP-TPP-1
Subject: RE: G0180, Tendered: Agreement 03TX-11486 M2, SDS Co

I'm hoping Santa will help me write up the Supplement Analysis and ROD for this project! ☺

Happy Holidays, everyone.

Andrew

From: Peck,Nick (CONTR) - TPC-TPP-4
Sent: Tuesday, December 24, 2013 11:29 AM
To: DeClerck,Angela (BPA) - TSE-TPP-2; Montano,Andrew M (BPA) - KEC-4; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Gardner,Amy M (BPA) - TEP-TPP-1; Gilchrist,Michael R (BPA) - TEP-TPP-1
Subject: RE: G0180, Tendered: Agreement 03TX-11486 M2, SDS Co

The revised agreement was tendered 12/19, is due back NLT January 16.

I hope Santa is really good to everyone tomorrow!

N

Nick Peck
Customer Service Engineering
Bonneville Power Administration : TPC/TPP-4
Unisys Corporation
Tel: (360) 619-6419 : Cell: (b)(6)
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Strategic | Achiever | Responsibility | Adaptability | Learner

Attitude is everything

From: DeClerck,Angela (BPA) - TSE-TPP-2
Sent: Tuesday, December 24, 2013 11:04 AM
To: Montano,Andrew M (BPA) - KEC-4; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Peck,Nick (CONTR) - TPC-TPP-4; Gardner,Amy M (BPA) - TEP-TPP-1; Gilchrist,Michael R (BPA) - TEP-TPP-1
Subject: RE: G0180, Tendered: Agreement 03TX-11486 M2, SDS Co

OK we will let you know (: have a nice holiday

From: Montano,Andrew M (BPA) - KEC-4
Sent: Thursday, December 19, 2013 12:49 PM

To: DeClerck,Angela (BPA) - TSE-TPP-2; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Peck,Nick (CONTR) - TPC-TPP-4; Gardner,Amy M (BPA) - TEP-TPP-1; Gilchrist,Michael R (BPA) - TEP-TPP-1
Subject: FW: G0180, Tendered: Agreement 03TX-11486 M2, SDS Co

I'm not sure who assigns out the work orders, but once there is an open work order for Whistling Ridge, can we meet to discuss schedule, etc??

Thanks!
Andrew

From: Tueller,Beverly R (CONTR) - TPC-TPP-4
Sent: Thursday, December 19, 2013 12:38 PM
To: CCM_Support; Shier,Robert P (BPA) - FRG-2; Acosta,Esteban (BPA) - FTT-2; Fernandez,Javier (BPA) - FTD-2; Montano,Andrew M (BPA) - KEC-4; Chong Tim,Marcus H (BPA) - LT-7; Sigurdson,Ryan M (BPA) - LT-7; Holst,Michele R (BPA) - TEPO-TPP-1; Sutherland,Colin J (CONTR) - TEPO-TPP-1; Hensley,Stacie R (BPA) - TEP-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4; Decker-Cobb,Jennifer D (CONTR) - TPCC-TPP-4; Sauer,Dena J (BPA) - TPCC-TPP-4; Randall,Cherilyn C (BPA) - TPCV-TPP-4; DeClerck,Angela (BPA) - TSE-TPP-2; Vaughn,Shauna L (BPA) - TSES-TPP-2
Cc: PWASudy; Caines-Willman,Sandra L (CONTR) - TSES-TPP-2
Subject: G0180, Tendered: Agreement 03TX-11486 M2, SDS Co

The attached agreement 10486 has been sent to the customer (SDS Company, LLC)

From: [DeClerck,Angela \(BPA\) - TSE-TPP-2](#)
To: [Peck,Nick \(CONTR\) - TPC-TPP-4](#); [Montano,Andrew M \(BPA\) - KEC-4](#); [Randall,Cherilyn C \(BPA\) - TPCV-TPP-4](#); [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Gilchrist,Michael R \(BPA\) - TEP-TPP-1](#)
Subject: RE: G0180, Tendered: Agreement 03TX-11486 M2, SDS Co
Date: Friday, December 27, 2013 8:01:15 AM

Thank you Happy Holidays all!

From: Peck,Nick (CONTR) - TPC-TPP-4
Sent: Tuesday, December 24, 2013 11:44 AM
To: Montano,Andrew M (BPA) - KEC-4; DeClerck,Angela (BPA) - TSE-TPP-2; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Gardner,Amy M (BPA) - TEP-TPP-1; Gilchrist,Michael R (BPA) - TEP-TPP-1
Subject: RE: G0180, Tendered: Agreement 03TX-11486 M2, SDS Co

I'll keep an eye out for the deposit.

Nick Peck
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Sent: Thursday, December 19, 2013 12:38 PM
To: CCM_Support; Shier,Robert P (BPA) - FRG-2; Acosta,Esteban (BPA) - FTT-2; Fernandez,Javier (BPA) - FTD-2; Montano,Andrew M (BPA) - KEC-4; Chong Tim,Marcus H (BPA) - LT-7; Sigurdson,Ryan M (BPA) - LT-7; Holst,Michele R (BPA) - TEPO-TPP-1; Sutherland,Colin J (CONTR) - TEPO-TPP-1; Hensley,Stacie R (BPA) - TEP-TPP-4; Cosola,Anna M (BPA) - TPCC-TPP-4; Decker-Cobb,Jennifer D (CONTR) - TPCC-TPP-4; Sauer,Dena J (BPA) - TPCC-TPP-4; Randall,Cherilyn C (BPA) - TPCV-TPP-4; DeClerck,Angela (BPA) - TSE-TPP-2; Vaughn,Shauna L (BPA) - TSES-TPP-2
Cc: PWASStudy; Caines-Willman,Sandra L (CONTR) - TSES-TPP-2
Subject: G0180, Tendered: Agreement 03TX-11486 M2, SDS Co

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To: [Randall,Cherilyn C. \(BPA\) - TPCV-TPP-4](#)
Cc: [Gardner,Amy M \(BPA\) - TEP-TPP-1](#); [Peck,Nick \(CONTR\) - TPC-TPP-4](#)
Subject: RE: Whistling Ridge ESTPAY SCH updated v2.xls
Date: Wednesday, January 15, 2014 3:37:45 PM

Thank you very much

From: Randall,Cherilyn C (BPA) - TPCV-TPP-4
Sent: Thursday, January 02, 2014 11:32 AM
To: DeClerck,Angela (BPA) - TSE-TPP-2
Cc: Gardner,Amy M (BPA) - TEP-TPP-1; Peck,Nick (CONTR) - TPC-TPP-4
Subject: Whistling Ridge ESTPAY SCH updated v2.xls

<< File: Whistling Ridge ESTPAY SCH updated v2.xls >>

Angela,

This morning, I received an updated substation estimate for the Whistling Ridge wind project. I have updated the estimate summary. Please note, the total went from ~\$8M to just over \$10M.

Thanks,

Cherilyn

From: [Montano,Andrew M \(BPA\) - KEC-4](#)
To: [Gilchrist,Michael R \(BPA\) - TEP-TPP-1](#); [Sinha,Amit \(BPA\) - TEP-TPP-1](#)
Cc: [Gardner,Amy M \(BPA\) - TEP-TPP-1](#)
Subject: RE: Whistling Ridge SA and ROD
Date: Thursday, January 16, 2014 1:00:38 PM

I'll be the PM. Are you guys hiring??

From: Gilchrist,Michael R (BPA) - TEP-TPP-1
Sent: Thursday, January 16, 2014 12:54 PM
To: Sinha,Amit (BPA) - TEP-TPP-1
Cc: Gardner,Amy M (BPA) - TEP-TPP-1; Montano,Andrew M (BPA) - KEC-4
Subject: FW: Whistling Ridge SA and ROD

Who is the PM for this project? Originally it was Amy and then she gave it to me when I first came to BPA and shortly therefore it died or at lease went into a coma. It appears like it may be alive again.

Michael Gilchrist
Senior Project Manager
TEP-TPP-1
360.619.6069 (Office)
(b)(6) (Cell)
360.619.6934 (Fax)

From: Montano,Andrew M (BPA) - KEC-4
Sent: Monday, January 13, 2014 6:04 PM
To: Peck,Nick (CONTR) - TPC-TPP-4; Pierce,Kathy (BPA) - KEC-4
Cc: DeClerck,Angela (BPA) - TSE-TPP-2; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Gardner,Amy M (BPA) - TEP-TPP-1; Gilchrist,Michael R (BPA) - TEP-TPP-1
Subject: RE: Whistling Ridge SA and ROD

Thanks, Nick!

From: Peck,Nick (CONTR) - TPC-TPP-4
Sent: Monday, January 13, 2014 5:34 PM
To: Montano,Andrew M (BPA) - KEC-4; Pierce,Kathy (BPA) - KEC-4
Cc: DeClerck,Angela (BPA) - TSE-TPP-2; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Gardner,Amy M (BPA) - TEP-TPP-1; Gilchrist,Michael R (BPA) - TEP-TPP-1
Subject: RE: Whistling Ridge SA and ROD

Andrew,

We have (since Friday) the executed agreement; Anna will ping the team as soon as the money reaches us.

N

Nick Peck
Customer Service Engineering
Bonneville Power Administration : TPC/TPP-4
Unisys Corporation
Tel: (360) 619-6419 : Cell: (b)(6)

cnpeck@bpa.gov

Strategic | Achiever | Responsibility | Adaptability | Learner

Attitude is everything

From: Montano,Andrew M (BPA) - KEC-4
Sent: Monday, January 13, 2014 5:31 PM
To: Pierce,Kathy (BPA) - KEC-4
Cc: DeClerck,Angela (BPA) - TSE-TPP-2; Randall,Cherilyn C (BPA) - TPCV-TPP-4; Peck,Nick (CONTR) - TPC-TPP-4; Gardner,Amy M (BPA) - TEP-TPP-1; Gilchrist,Michael R (BPA) - TEP-TPP-1
Subject: RE: Whistling Ridge SA and ROD

Kathy,

No schedule yet.. waiting to hear back from the project team as to the status of the work order, etc. I've asked the project team (see CC list) to ping me once we are ready to move forward...

Andrew

From: Pierce,Kathy (BPA) - KEC-4
Sent: Monday, January 13, 2014 5:16 PM
To: Montano,Andrew M (BPA) - KEC-4
Subject: Whistling Ridge SA and ROD

What is the latest schedule for these documents?

From: [Montano, Andrew M \(BPA\) - KEC-4](#)
To: [Adams, Hub V \(BPA\) - LN-7](#)
Cc: [Gardner, Amy M \(BPA\) - TEP-TPP-1](#); [DeClerck, Angela \(BPA\) - TSE-TPP-2](#); [Randall, Cherylyn C \(BPA\) - TPCV-TPP-4](#); [Peck, Nick \(CONTR\) - TPC-TPP-4](#)
Subject: Whistling Ridge inquiry
Date: Monday, January 27, 2014 11:46:10 AM

Hub,

As we discussed today, I got a call from Rick Aramburu asking for a call back on BPA's status on issuing a ROD for Whistling Ridge. I'd feel more comfortable if you could possibly reach out to him for me? His tone on the voicemail, which I unfortunately deleted, was friendly. His number is 206-625-9515.

To bring you up to date on what's happening internally: we got the money needed from SDS lumber to continue with our work (issuing an Supplement Analysis and ROD), but I do not know the status of if the work order has been reopened or not. Also, the project team has not yet met to discuss our plan on moving forward to get these documents out. I've been waiting for the PM to set up a meeting.

Thanks for your assistance,
Andrew

Andrew M. Montano, PMP

Environmental Protection Specialist
Bonneville Power Administration
Environmental Planning and Analysis Group, KEC-4
P: 503.230.4145 | F: 503.230.5699
Pleasure in the job puts perfection in the work. -Aristotle

1/28/2014 – NOTE on phone conversation between myself and Tim Romanski, FWS. His number is 360-753-5823.

I asked Tim about the Northern Spotted Owl (NSO) consultation that BPA did with FWS (NLAA) and he said that since nothing has really changed in that no new listings listed since our last consultation in 2012 and since the project was analyzed at its full expected impacts (up to 50 turbines) and the state only is allowing them up to 35 turbines, that there is no need to reconsult on this project.

Andrew

From: [Bryan Jr. Bruce A \(BPA\) - TES-CSB-2](#)
To: [Gardner, Amy M \(BPA\) - TEP-TPP-1](#)
Subject: FW: G0108 Whistling Ridge Wind Interconnection Project; Work Orders/Current Project Info and PRD
Date: Friday, February 21, 2014 1:32:22 PM
Attachments: [WhistlingRidge03102010.pdf](#)
[WhistlingRidgePlan2.pdf](#)
[APE_ProposedBPASubstation.pdf](#)

From: Montano, Andrew M - KEC-4
Sent: Wednesday, June 29, 2011 3:47 PM
To: Gilchrist, Michael R - TEP-TPP-1; Hiett, Daniel J - TECT-CSB-1; Ashburn, Harold T - TELC-TPP-3; Graves, Jolena K - TECT-CSB-1; Heredia, Richard H - TELF-TPP-3; Hoang, Anthony D - TERS-3; Rex IV, Charles W - TERS-3; DeJong, Alan J - TER-TPP-4; Shoemaker, Brandee R - TERM-TPP-4; Stanton, Clinton D - TELF-TPP-3; Loop, Laura A - TERR-3; Nicholson, Todd S - TERM-TPP-4; Golisch, Steven C - TECT-CSB-1; Papka, Melissa D - TEPO-TPP-1; Tyson, Ivy L - TELP-TPP-3; Duwe, Michael D - TEPO-TPP-1; Folden, Bradley G - TFHE-CSB-1; Walker, Andrew L - TELD-TPP-3; O'Hogan, Laurene T - TESD-CSB-2; Kelly, James C - TESD-CSB-2
Subject: RE: G0108 Whistling Ridge Wind Interconnection Project; Work Orders/Current Project Info and PRD

[Some graphics that may help the project team:](#)

Andrew M. Montano

Environmental Protection Specialist

Bonneville Power Administration | Environmental Planning & Analysis Group, KEC-4
ammontano@bpa.gov | P: 503. 230. 4145 | F: 503. 230. 5699 | C: (b)(6)

Pleasure in the job puts perfection in the work. -Aristotle

From: Gilchrist, Michael R - TEP-TPP-1

Sent: Wednesday, June 29, 2011 3:33 PM

To: Hiett, Daniel J - TECT-CSB-1; Ashburn, Harold T - TELC-TPP-3; Graves, Jolena K - TECT-CSB-1; Heredia, Richard H - TELF-TPP-3; Hoang, Anthony D - TERS-3; Rex IV, Charles W - TERS-3; DeJong, Alan J - TER-TPP-4; Shoemaker, Brandee R - TERM-TPP-4; Stanton, Clinton D - TELF-TPP-3; Loop, Laura A - TERR-3; Montano, Andrew M - KEC-4; Nicholson, Todd S - TERM-TPP-4; Golisch, Steven C - TECT-CSB-1; Papka, Melissa D - TEPO-TPP-1; Tyson, Ivy L - TELP-TPP-3; Duwe, Michael D - TEPO-TPP-1; Folden, Bradley G - TFHE-CSB-1; Walker, Andrew L - TELD-TPP-3; O'Hogan, Laurene T - TESD-CSB-2; Kelly, James C - TESD-CSB-2

Subject: G0108 Whistling Ridge Wind Interconnection Project; Work Orders/Current Project Info and PRD

FYI.

<< File: Whistling Ridge Project Sheet.xls >> << File: 271980-01.pdf >>

Michael Gilchrist

Bonneville Power Administration

Transmission Project Management

TEP-TPP-1

Senior Project Manager

Electrical Engineer

360.619.6069 (Office)

(b)(6) (Cell)

360.619.6934 (Fax)

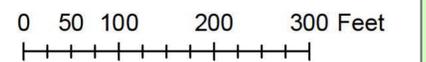
Whistling Ridge Substation Site



Legend

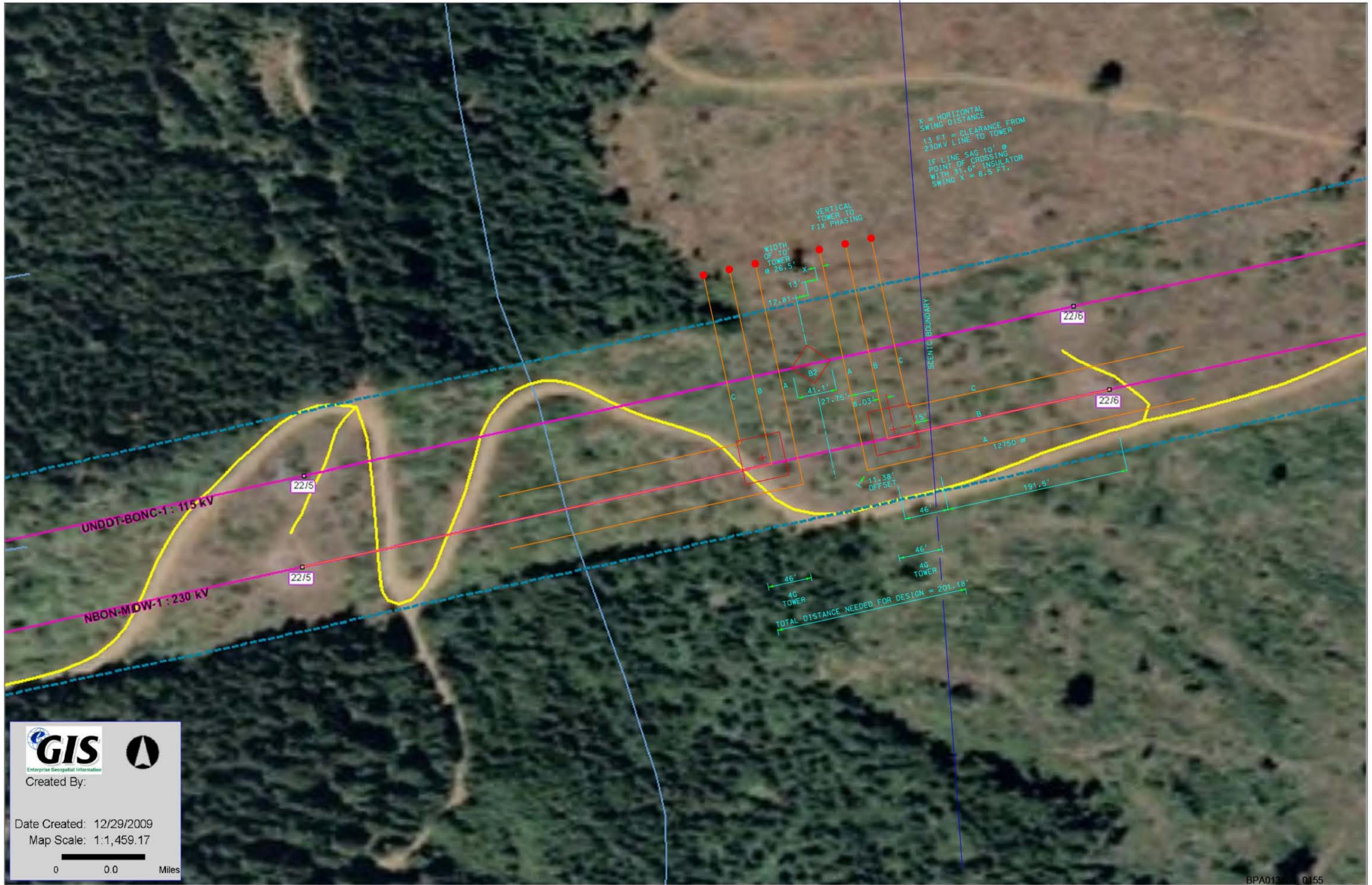
- BPA Towers
-  BPA Transmission Lines
-  BPA Right-of-Way Corridors
-  Columbia River Gorge National Scenic Area Boundary

This product was made for informational and display purposes only and was created with best available data at time of production. It does not represent any legal information or boundaries. Source: BPA Regional GIS Database, 2009.



X:\work\SubstationProjects\WhistlingRidge\WhistlingRidge.mxd



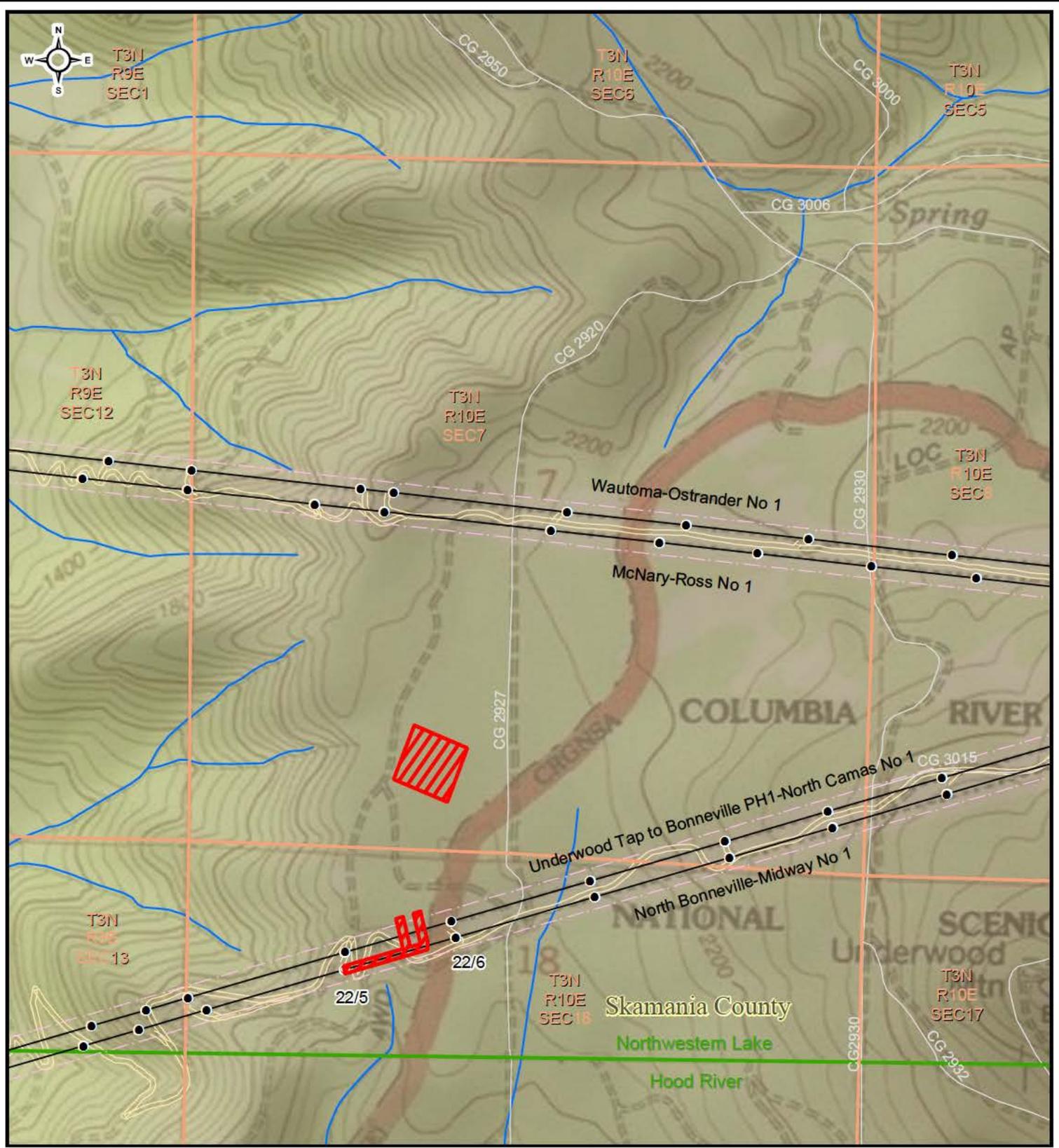


GIS
Enterprise Geospatial Information

Created By:

Date Created: 12/29/2009
Map Scale: 1:1,459.17

0 0.0 Miles



Proposed BPA Substation - Whistling Ridge Energy Project
 Area of Potential Effects



- Area of Potential Effect
- Quad Name & Boundary
- Township/Range/Section
- BPA Right-of-Way Corridors
- BPA Towers
- Access Roads
- BPA Transmission Lines



June 28, 2010



BPA01346F_01566

From: [Christopher McMurren](#)
To: [Gardner, Amy M \(BPA\) - TEP-TPP-1](#)
Subject: Whistling Ridge Wind Project
Date: Wednesday, February 26, 2014 1:59:08 PM

Hi Amy,

My name is Chris McMurren, I am a wind turbine technician working on a wind farm near Arlington, OR. I am hoping to find an update on the status of the Whistling Ridge Wind Project. As of now I understand that the project has been approved but is facing appeals from various organizations. Is this accurate? Is there anything else stalling the progress, such as manufacturer selection, a purchaser for the power, etc? Thanks for the help.

From: [Montano,Andrew M \(BPA\) - KEC-4](#)
To: [Adams,Hub V \(BPA\) - LN-7](#)
Cc: [Lynard,Gene P \(BPA\) - KEC-4](#); [Gardner,Amy M \(BPA\) - TEP-TPP-1](#)
Subject: RE: Whistling Ridge Inquiries
Date: Wednesday, March 12, 2014 12:28:58 PM

I'm sorry about that. I even called the telephone office to ensure that I was doing it correctly.

His tone was friendly. He just asked what our schedule is for releasing our ROD. He did not sound confrontational at all. His phone number is 206-625-9515. If you'd rather I call him back just let me know and I'll gladly do so.

(b)(5)



Does that help somewhat? Sorry for the vagueness, but there are extenuating circumstances as to why I cannot get any clearer than that at this particular time. I will update you and the team on a firm schedule possibly by next week.

Andrew

From: Adams,Hub V (BPA) - LC-7
Sent: Wednesday, March 12, 2014 12:19 PM
To: Montano,Andrew M (BPA) - KEC-4
Cc: Lynard,Gene P (BPA) - KEC-4; Gardner,Amy M (BPA) - TEP-TPP-1
Subject: RE: Whistling Ridge Inquiries

Hi Andrew – your message from Mr. Aramburu did not get forwarded. Could you leave me a voice message conveying what a little more exactly he said in it, and how you took his general tone and approach (eg, friendly, confrontational, etc)? I was not able to connect with him earlier so that would be good to know.

Also, when you leave me the message, could you please give me more info on the schedule/plan for release of the ROD and SA? (b)(5)



what's the rest of the schedule for getting them finished, signed, and distributed out to the public?

Thanks,
Hub

From: Montano,Andrew M (BPA) - KEC-4
Sent: Tuesday, March 11, 2014 11:32 AM
To: Adams,Hub V (BPA) - LC-7
Cc: Lynard,Gene P (BPA) - KEC-4; Gardner,Amy M (BPA) - TEP-TPP-1
Subject: Whistling Ridge Inquiries

Hub

I forwarded you, I think, another message left on my phone from Rick Aramburu – the attorney for the Friends of the Gorge/Save Our Scenic Area. He’s asking about BPA’s plan on releasing a ROD, etc, for Whistling Ridge. A work order was recently reopened and I have the green light to move forward with working on re-drafting the ROD as well as drafting a Supplement Analysis (based upon the example you gave me) and hope to have those ready for review by mid-April.

(b)(5)

Would you mind giving Mr. Aramburu a call back? Please let me know if you need more information.

Thanks!

Andrew

Andrew M. Montaña, PMP

Environmental Protection Specialist

Bonneville Power Administration

Environmental Planning and Analysis Group, KEC-4

P: 503.230.4145 | F: 503.230.5699

Pleasure in the job puts perfection in the work. -Aristotle

From: [Gardner, Amy M \(BPA\) - TEP-TPP-1](#)
To: [Montano, Andrew M \(BPA\) - KEC-4](#); [Tyson, Ivy L \(BPA\) - TPS-TPP-1](#); sean.mccain@hdrinc.com
Cc: [Mason, Stacy L \(BPA\) - KEC-4](#); [Adams, Hub V \(BPA\) - LN-7](#)
Subject: RE: Whistling Ridge (b)(5)
Date: Wednesday, March 19, 2014 10:32:00 AM

Andrew,
Sean is following up on this.
Amy

Amy Marie Gardner, PMP
Bonneville Power Administration
Transmission Project Management
Senior Project Manager
Electrical Engineer
TEP-TPP-1
Office: (360) 619-6154
Dats: 922-71-6154
Cell: (360) 518-1976
Fax: (360) 619-6934
Email: amgardner@bpa.gov

From: Montano, Andrew M (BPA) - KEC-4
Sent: Wednesday, March 19, 2014 9:14 AM
To: Gardner, Amy M (BPA) - TEP-TPP-1; Tyson, Ivy L (BPA) - TELP-TPP-3
Cc: Mason, Stacy L (BPA) - KEC-4; Adams, Hub V (BPA) - LC-7
Subject: Whistling Ridge (b)(5)

Amy/Ivy

(b)(5)

(b)(5) I'm leaving BPA at the end of April and would really like to finish off this project (environmental clearance) prior to my departure. Please let me know as soon as possible what information we find out (b)(5)

If you happen to have any language now that you can provide me with, I'd greatly appreciate it

(b)(5)

Call me with any questions. Thanks!
Andrew

Andrew M. Montano, PMP

Environmental Protection Specialist
Bonneville Power Administration
Environmental Planning and Analysis Group, KEC-4
P: 503.230.4145 | F: 503.230.5699

Pleasure in the job puts perfection in the work. -Aristotle

From: [Montano,Andrew M \(BPA\) - KEC-4](#)
To: [Grange,Katey C \(BPA\) - KEC-4](#)
Subject: FW: Whistling Ridge Energy Project (Application No. 2009-01)
Date: Friday, April 18, 2014 9:55:02 AM

fyi

From: Wraspir, Kali (UTC) [mailto:kwraspir@utc.wa.gov]
Sent: Friday, April 18, 2014 9:54 AM
To: Montano,Andrew M (BPA) - KEC-4
Subject: RE: Whistling Ridge Energy Project (Application No. 2009-01)

Hi Andrew:

Thank you for letting us know I will update our records to reflect the change.

Sincerely,

Kali Wraspir

From: Montano,Andrew M (BPA) - KEC-4 [mailto:ammontano@bpa.gov]
Sent: Friday, April 18, 2014 9:47 AM
To: Wraspir, Kali (UTC)
Cc: Grange,Katey C (BPA) - KEC-4
Subject: RE: Whistling Ridge Energy Project (Application No. 2009-01)

Kali

Good morning. I'm no longer the environmental project manager for the Whistling Ridge Energy Project at Bonneville Power Administration. Katey Grange will be handling that project. Please direct all future correspondence to her by using the following email address and contact information:

kcgrange@bpa.gov, phone: 503-230-4047

Thank you,
Andrew

Andrew M. Montano, PMP

Environmental Protection Specialist
Bonneville Power Administration
Environmental Planning and Analysis Group, KEC-4
P: 503.230.4145 | F: 503.230.5699

Pleasure in the job puts perfection in the work. -Aristotle

From: Wrspir, Kali (UTC) [<mailto:kwrspir@utc.wa.gov>]
Sent: Thursday, April 17, 2014 3:54 PM
To: gkahn@rke-law.com; rick@aramburu-eustis.com
Cc: Posner, Stephen (UTC); Essko, Ann (ATG); EFSEC (UTC); jasons@sdslumber.com;
tlmcmahan@stoel.com; dpeeples@ix.netcom.com; elanderson@stoel.com; Karg, Gordon (ATG); Usibelli,
Tony (COM); Mitchell, Kristen (ATG); Nathan@gorgefriends.org; sosa@gorge.net;
Bwittenberg@SkamaniaPUD.com; ken@woodrich.com; rwaymire@skamania-edc.org;
itspeggy@hotmail.com; jcrumpacker@gorge.net; krist@awb.org; brianw@seattleaudubon.org;
John@portofskamania.org; bandersen@schwabe.com; mayor@ci.white-salmon.wa.us;
MikeC@co.klickitat.wa.us; Harry@yakama.com; Warren@yakama.com; gwcolby@embarqmail.com;
Johnson@yakama.com; Jessica@yakama.com; susan@susandrummond.com; Montano, Andrew M (BPA)
- KEC-4; Phillips, Keith (GOV); emainzer@bpa.gov; agardner@bpa.gov
Subject: Whistling Ridge Energy Project (Application No. 2009-01)

Good Afternoon:

Attached is a letter from EFSEC Chair William Lynch regarding the Whistling Ridge Energy Project.
Please contact me if you have any issues opening this document.

Thank you,

Kali Wrspir
EFSEC
360-664-1365

From: [DeClerck,Angela \(BPA\) - TSE-TPP-2](#)
To: [Adams,Hub V \(BPA\) - LN-7](#); [Grange,Katey C \(BPA\) - KEC-4](#); [Gardner,Amy M \(BPA\) - TEP-TPP-1](#)
Subject: FW: Whistling Ridge Website
Date: Wednesday, April 23, 2014 8:17:48 AM

FYI

-----Original Message-----

From: Michael Raschio [(b)(6)]
Sent: Tuesday, April 22, 2014 10:53 AM
To: Jason Spadaro
Cc: DeClerck,Angela (BPA) - TSE-TPP-2
Subject: Whistling Ridge Website

Jason

I was talking with Angela at BPA and she indicated that BPA attorney's were concerned with Whistling Ridge Website that indicates that the project had an LGIA. Since BPA is in the process of ROD on the project, BPA would like you to change the site to reflect the project is in the process of acquiring LGIA from BPA.

BPA is concerned about the perception that the Decision as already been made and the potential issues that could arise from opponents to the project.

Mike

From: Grange,Katey C (BPA) - KEC-4
To: "[Romanski, Tim](#)"
Subject: RE: Whistling Ridge Energy Project Informal Consultation Follow Up
Date: Monday, May 19, 2014 9:04:06 AM

Thank you, Tim. We have not yet issued BPA's NEPA decision, but I will definitely keep you updated when I know more about the timeline. Right now, we are looking to potentially issue a NEPA Record of Decision sometime this summer.

-Katey

Katey Grange
Environmental Protection Specialist | KEC-4
BONNEVILLE POWER ADMINISTRATION
kcgrange@bpa.gov | 503.230.4047
Please consider the environment before printing this email.

From: Romanski, Tim [mailto:tim_romanski@fws.gov]
Sent: Monday, May 19, 2014 8:56 AM
To: Grange,Katey C (BPA) - KEC-4
Subject: Re: Whistling Ridge Energy Project Informal Consultation Follow Up

Katey,

That is all correct. Increasing from 50 to 35 might require re-initiation, but reducing from 50 to 35 is within the project impacts we looked at, and would not. Thanks for checking in. What is the timeline for construction?

Tim Romanski
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
Washington Fish and Wildlife Office
Branch Manager of Conservation and Hydropower Planning
510 Desmond Drive SE, Lacey, WA 98503
360.753.5823 (phone) 360.753.9518 (fax)

On Mon, May 19, 2014 at 8:48 AM, Grange,Katey C (BPA) - KEC-4 <kcgrange@bpa.gov> wrote:
Hi Tim,

Thank you for returning my call last week. Based on your message and the phone call notes from Andrew Montano (based on a call to you earlier in the year), I understand that no conditions have changed in the Whistling Ridge project area that would necessitate new surveys or a reinitiation of consultation for NSO (or any other listed species). Further, I understand that reducing the number of potential turbines from 50 to 35 would also not necessitate reinitiation. I would appreciate it if you could confirm this understanding via email.

Thanks for your assistance.
-Katey

Katey Grange

Environmental Protection Specialist | KEC-4

BONNEVILLE POWER ADMINISTRATION

kcgrange@bpa.gov | 503.230.4047

Please consider the environment before printing this email.

From: [Grange, Katey C \(BPA\) - KEC-4](#)
To: [Jason Spadaro](#)
Cc: [McMahan, Tim](#); [Adams, Hub V \(BPA\) - LC-7 \(hvadams@bpa.gov\)](#)
Subject: RE: BPA new enviro lead for WREP
Date: Friday, May 30, 2014 7:17:22 AM

Hi Jason,

With the exception of Monday, I am available most days next week. I do have a smattering of meetings, but I think we could easily find a time to meet around those times. I'm also available at the phone number listed in my signature block below if you would like to check in via telephone.

Thanks,
Katey

Katey Grange
Environmental Protection Specialist | KEC-4
BONNEVILLE POWER ADMINISTRATION
kcgrange@bpa.gov | 503.230.4047
Please consider the environment before printing this email.

From: Jason Spadaro [mailto:jasons@sdslumber.com]
Sent: Thursday, May 29, 2014 10:53 AM
To: Adams, Hub V (BPA) - LN-7
Cc: McMahan, Tim; Grange, Katey C (BPA) - KEC-4
Subject: Re: BPA new enviro lead for WREP

Thanks Hub.

Hi Katey,
Is there a day next week you would be available for a meeting?

regards,
Jason

On Thu, May 29, 2014 at 10:43 AM, Adams, Hub V (BPA) - LN-7 <hvadams@bpa.gov> wrote:
Hello Jason,

As a follow up to our call earlier this week, I'm sending you Katey Grange's email (cc'ed above) so that you can coordinate directly with her re any additional info you might have concerning any project changes/refinements that we may need to consider in completing our NEPA process for your proposed project. I've given Katey a heads up that you might be in touch in the near future.

Thanks,
Hub

--

Jason Spadaro
SDS Lumber Company
509-493-6103 (office)
(b)(6) (cell)
jasons@sdslumber.com

From: [Grange, Katey C. \(BPA\) - KEC-4](#)
To: ["Jason Spadaro \(jasons@sdslumber.com\)"](mailto:jasons@sdslumber.com)
Subject: Project boundary and CR survey shapefiles
Date: Tuesday, June 10, 2014 8:07:00 AM

Hi Jason,

By chance do you have the overall project boundary shapefile? If not, it's not a problem- I can digitize the boundaries off the topo maps I just didn't want to recreate if it was readily available. Also, do you have a shapefile that depicts the 2009/2010 cultural survey boundary? The survey boundary shapefile would be helpful to include on the revised APE map that may need to be submitted if we propose to change the substation location.

Thanks,
Katey

Katey Grange
Environmental Protection Specialist
Bonneville Power Administration
PO Box 3621 - KEC-4
Portland, OR 97208-3621
503.230.4047
kcgrange@bpa.gov

From: [Jason Spadaro](#)
To: [Grange, Katey C \(BPA\) - KEC-4](#)
Subject: Re: WREP phone message follow up
Date: Friday, June 27, 2014 1:03:46 PM

I haven't forgotten this. I'm meeting with Angela today. I hope to get back to you next week.

Jason

On Thu, Jun 19, 2014 at 10:03 AM, Grange, Katey C (BPA) - KEC-4 <kcgrange@bpa.gov> wrote:

Hi Jason,

I wanted to follow up my phone message via email. I'm working on several BPA documents in support of the Whistling Ridge Project and I wanted to check in with you about a few questions I have as I am reviewing the project information:

- As part of the mitigation implementation and micro-siting process, has there been any follow up surveys or data collection activities within the project area? Also, through your continued consultations with resource agencies, are you aware of any new environmental or cultural information/data for the area?
- Have there been any changes in vegetation conditions since 2011 (i.e. has any of the project area been harvested since that time)?
- Can you provide a shapefile that depicts the project boundary and the cultural resources survey area? (this would be used in support of additional cultural consultation mapping.)
- Can you provide clarification about the spatial extent of the wetland delineations and the sensitive plant surveys that have been completed? I reviewed the CH2MHill vegetation and wetland delineation reports and noticed that portions of the BPA sub area was not surveyed. The introduction text for the bio resources section of the EIS indicate that additional field survey data was collected in 2009. Could you provide the locations where the 2009 field work was conducted?

I know that you spoke to Hub Adams the other week for a BPA update, but if you want to give me a call, we can discuss the above items and I can give you a brief update on the progress made since you discussed the project with hub.

Thanks,
Katey

Katey Grange
Environmental Protection Specialist | KEC-4
BONNEVILLE POWER ADMINISTRATION
kcgrange@bpa.gov | [503.230.4047](tel:503.230.4047)
Please consider the environment before printing this email.

--

Jason Spadaro
SDS Lumber Company
509-493-6103 (office)
(b)(6) (cell)
jasons@sdslumber.com

From: [DeClerck,Angela \(BPA\) - TSE-TPP-2](#)
To: ["Jason Spadaro"](#)
Subject: RE:
Date: Friday, June 27, 2014 5:22:40 PM
Importance: High

Thank you Jason...sorry this is so painful. I will do what I can to see if there are additional alternatives.

Have a good weekend.

Angela

From: Jason Spadaro [mailto:jasons@sdslumber.com]
Sent: Friday, June 27, 2014 5:12 PM
To: DeClerck,Angela (BPA) - TSE-TPP-2
Subject:

Angela

Whistling Ridge consents to use of the NEPA contract for services to refine the site for BPA NEPA review.

Jason Spadaro

--

Jason Spadaro
SDS Lumber Company
509-493-6103 (office)
(b)(6) (cell)
jasons@sdslumber.com

From: Grange, Katey C (BPA) - KEC-4
To: [Adams, Hub V \(BPA\) - LC-7 \(hvadams@bpa.gov\)](mailto:hvadams@bpa.gov)
Subject: FW: Whistling Ridge- (b)(5)
Date: Monday, June 30, 2014 3:32:28 PM

You probably can't tell from Angela's meeting invite- we met with Jason Spadaro on Friday (b)(5)

Jason understandably had additional concerns that I can catch you up on when you are back. I just wanted to give you a heads up about the reason for Angela scheduling the call that specifically addressed the EFSEC question.

-Katey

Katey Grange
Environmental Protection Specialist | KEC-4
BONNEVILLE POWER ADMINISTRATION
kcgrange@bpa.gov | 503.230.4047
Please consider the environment before printing this email.

From: Grange, Katey C (BPA) - KEC-4
Sent: Monday, June 30, 2014 3:07 PM
To: DeClerck, Angela (BPA) - TSE-TPP-2
Cc: Adams, Hub V (BPA) - LC-7 (hvadams@bpa.gov); Gardner, Amy M (BPA) - TEP-TPP-1
Subject: FW: Whistling Ridge- (b)(5)

Hi Angela,

Below is the language that I found when I reviewed in the EFSEC certificate. (b)(5)

Apologies I didn't have the certificate to pull this language for the discussion on Friday.

-Katey

Katey Grange
Environmental Protection Specialist | KEC-4
BONNEVILLE POWER ADMINISTRATION
kcgrange@bpa.gov | 503.230.4047
Please consider the environment before printing this email.

From: Gardner, Amy M (BPA) - TEP-TPP-1
Sent: Wednesday, May 28, 2014 11:24 AM
To: Grange, Katey C (BPA) - KEC-4
Cc: Adams, Hub V (BPA) - LN-7; McCain, Sean (Sean.McCain@hdrinc.com)
Subject: RE: Whistling Ridge- (b)(5)

Katey,

That is really good to know. Thanks for following up. (b)(5)

Thanks,

Amy

From: Grange, Katey C (BPA) - KEC-4
Sent: Wednesday, May 28, 2014 10:49 AM
To: Gardner, Amy M (BPA) - TEP-TPP-1
Cc: Adams, Hub V (BPA) - LN-7; McCain, Sean (Sean.McCain@hdrinc.com)
Subject: Whistling Ridge- (b)(5)

Hi Amy,

As a follow up to last week's meeting, I checked the Site Certificate and it looks like the micro siting of the project facilities after issuance shouldn't be a problem. The Certificate states the below (b)(5)

[Redacted]

[Redacted] Here is the relevant text

from the Certificate:

"The location of project facilities including, but not limited to, the turbines, roadways, electrical collection and distribution system, operations and maintenance facility, electrical substations, electrical feeder lines, and other related project facilities, is generally described in the Revised Application, as modified within the Site Certificate Agreement. The final location of the TGS and other project facilities within the project area may vary from the locations shown on the conceptual drawings in the Revised Application, but shall be consistent with the conditions of this Agreement, and in accordance with the final construction plans approved by EFSEC..." (Page 9).

(b)(5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Thanks,
Katey

Katey Grange
Environmental Protection Specialist
Bonneville Power Administration
PO Box 3621 - KEC-4
Portland, OR 97208-3621
503.230.4047
kcgrange@bpa.gov

From: [Grange, Katey C \(BPA\) - KEC-4](#)
To: [DeClerck, Angela \(BPA\) - TSE-TPP-2](#)
Cc: [Adams, Hub V \(BPA\) - LN-7](#); [Gardner, Amy M \(BPA\) - TEP-TPP-1](#); [Schmidt, Sunshine R \(BPA\) - KEC-4](#)
Subject: RE: Whistling Ridge- (b)(5)
Date: Tuesday, July 01, 2014 7:20:22 AM
Attachments: [APE_ProposedBPASubstation.pdf](#)

Understood and I had previously raised the same concern. I was just trying to provide some EFSEC information since that was the subject of your call.

(b)(5)

Let me know if you have any additional questions.

Katey Grange
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From: DeClerck, Angela (BPA) - TSE-TPP-2
Sent: Monday, June 30, 2014 4:00 PM
To: Grange, Katey C (BPA) - KEC-4
Cc: Adams, Hub V (BPA) - LN-7; Gardner, Amy M (BPA) - TEP-TPP-1
Subject: RE: Whistling Ridge- (b)(5)

Overall Jason is concerned (b)(5)

That was Jason's main concern at this point.

Angela

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Sent: Monday, June 30, 2014 3:07 PM
To: DeClerck, Angela (BPA) - TSE-TPP-2
Cc: Adams, Hub V (BPA) - LN-7; Gardner, Amy M (BPA) - TEP-TPP-1
Subject: FW: Whistling Ridge- potential northern sub site follow up

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-Katey

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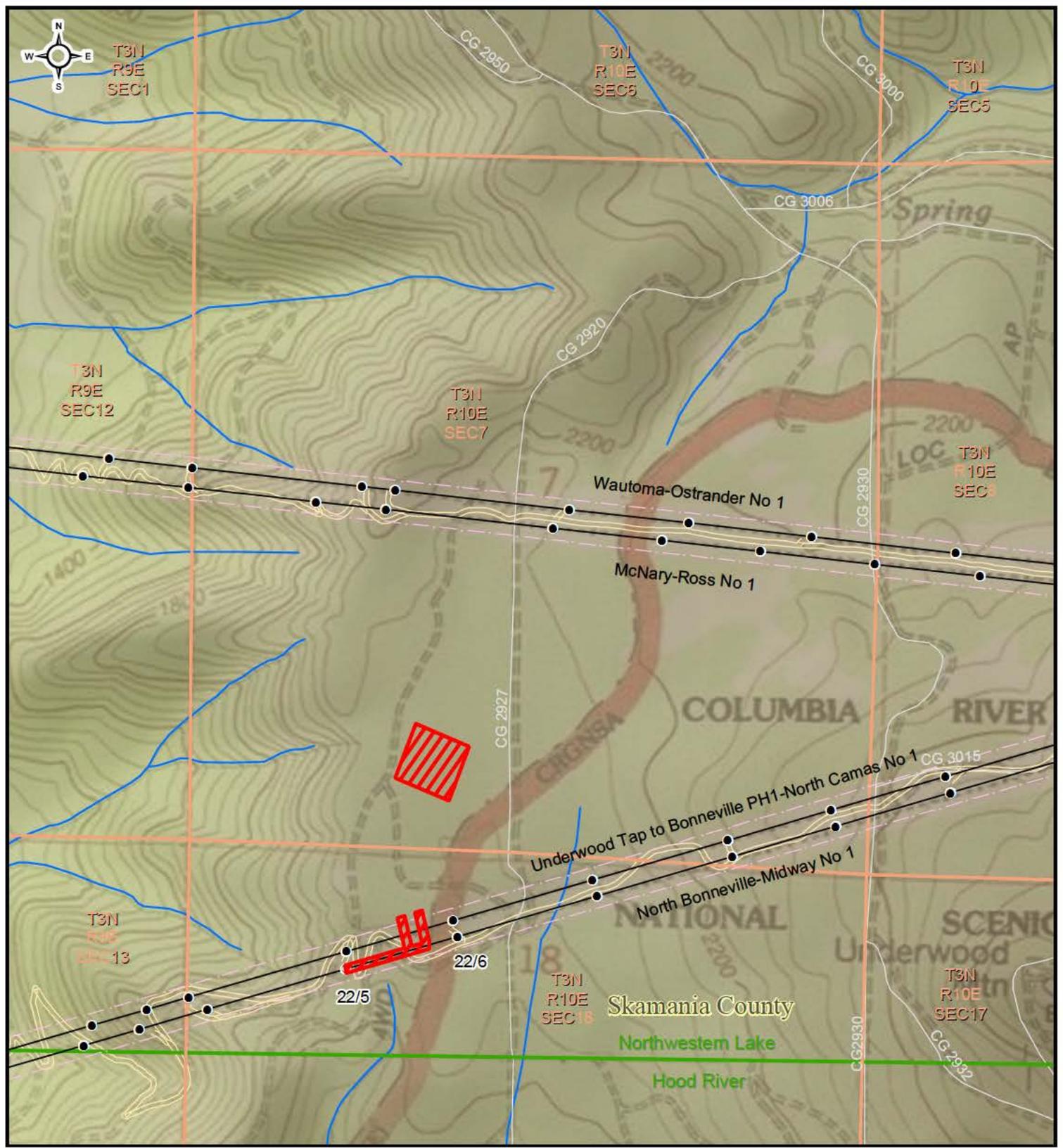
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(b)(5)
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Thanks,
Katey

Katey Grange

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kcgrange@bpa.gov



Proposed BPA Substation - Whistling Ridge Energy Project
 Area of Potential Effects



- Area of Potential Effect
- Quad Name & Boundary
- Township/Range/Section
- BPA Right-of-Way Corridors
- BPA Towers
- Access Roads
- BPA Transmission Lines



June 28, 2010



BPA01346F_01F8et

From: Grange, Katey C (BPA) - KEC-4
To: [DeClerck, Angela \(BPA\) - TSE-TPP-2](#); [Gardner, Amy M \(BPA\) - TEP-TPP-1](#)
Cc: [Adams, Hub V \(BPA\) - LC-7 \(hvadams@bpa.gov\)](#); [McClory, Claire D \(BPA\) - KEC-4](#)
Subject: RE: Whistling Ridge- (b)(5)
Date: Monday, July 07, 2014 1:00:22 PM

Hi Angela and Amy,

I spoke to Hub on Thursday afternoon and caught him up on the WREP meeting with the developer.

(b)(5)
[Redacted]

Also, Claire McClory will be monitoring the project (b)(5) while I'm out. I will brief Claire on the status of the project and what needs to be done in my absence. My due date is July 22 and I plan to work as long as possible. I will be taking 6 weeks off and then working (teleworking) 1 day per week for 6 weeks. After the 12 weeks, I will be returning full time.

-Katey

Katey Grange
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Thanks,
Katey

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