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December 21, 2017

VIA UPS OVERNIGHT DELIVERY

Ms. Kathleen Drew, Energy Facility Site Evaluation Council Chair
Members, Energy Facility Site Evaluation Council
Stephen Posner, EFSEC Manager
1300 S. Evergreen Park Dr. S.W.
PO Box 47250
Olympia, WA 98504-7250

**Re: TUUSSO Energy, LLC Columbia Solar Projects Land Use Hearing;
Supplemental Legal Memorandum**

Dear Council Chair Drew, Council Members and Mr. Posner:

On behalf of TUUSSO Energy, LLC, we are submitting a Supplemental Legal Memorandum, with supporting documentation. At the December 12, 2017 Land Use Hearing, the record was left open until Friday, December 22, for additional information. The Council authorized the Applicant to provide additional information responding to testimony and other submittals made at the December 12 hearing.

We have boiled down key issues raised at the hearing to five discrete questions or issues raised by the County and Council Members at the hearing. These are the following:

Issue No. 1: Is the County's moratorium relevant to EFSEC's land use consistency review?

Issue No. 2: Does EFSEC need to find "compliance" and "consistency" with the Shoreline Management Act and the County Shoreline Master Program to make a finding of land use compliance and consistency?

Issue No. 3: Is the OneEnergy Iron Horse trial judge's decision relevant to EFSEC's land use consistency review?

Issue No. 4: Will EFSEC's approval of the Columbia Solar Projects create a precedent that will cause or encourage future solar PV facilities in Kittitas County?

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Issue No. 5: Can the “rural character” criteria in the CUP code be considered by EFSEC in evaluating land use consistency? If so, how should EFSEC consider that and other CUP criteria?

The responses to these issues are supported by attached documents. In particular, in response to Issue No. 5, given the County’s position articulated by Commissioner Jewell at the hearing, and in order for EFSEC to have the entire decision record of Kittitas County concerning its history of permitting solar PV facilities, we have attached the permit documents for the following solar facilities, all mentioned in testimony at the December 12 hearing:

1. The Teanaway Solar Reserve Project (2014);
2. The Osprey Solar Project (2016); and
3. The Iron Horse Solar Project, including the final, unappealed SEPA decision denying the SEPA appeal, as well as the Hearing Examiner’s Proposed Findings of Fact, Conclusion of Law and Decision for the Board of County Commissioners (2017).

Rather than being told what these documents are and what they say, it is our view that EFSEC is in the best position to read them in order to understand how the County has historically addressed rural land uses, in particular those involving solar energy projects. The Siting Council, with a history of reviewing three wind energy projects proposed in Kittitas County, is well aware of the history of those projects, and EFSEC is well grounded in understanding and permitting contentious projects, particularly those that have a compelling and urgent need for the Council’s favorable consideration.

We appreciate the Council’s careful attention to this matter, and look forward to the Council’s decision concerning land use compliance and consistency, and expedited review.

Very truly yours, and Happy Holidays,



Timothy L. McMafran
TLM:kct

Cc: Jason Evans, TUUSO Energy, LLC