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FILED  
SUPERIOR COURT  
THURSTON COUNTY, WA

2012 SEP 28 AM 11:42

BETTY J. GOULD, CLERK

1  EXPEDITE  
2  No hearing set  
3  Hearing is set  
4 Date: September 28, 2012  
5 Time: 11:00 a.m.  
6 The Honorable Judge James J. Dixon

7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
8 IN AND FOR THE COUNTY OF THURSTON

9 FRIENDS OF THE COLUMBIA  
10 GORGE, INC., and SAVE OUR  
11 SCENIC AREA,

12 Petitioners,

13 vs.

14 STATE ENERGY FACILITY  
15 SITE EVALUATION COUNCIL  
16 and CHRISTINE O. GREGOIRE,  
17 Governor of the STATE OF  
18 WASHINGTON,

19 Respondents,

20 and

21 WHISTLING RIDGE ENERGY  
22 LLC, SKAMANIA COUNTY, and  
23 KLUCKITAT COUNTY PUBLIC  
ECONOMIC DEVELOPMENT  
AUTHORITY,

Intervenors-Respondents.

No. 12-2-00692-7

~~PROPOSED~~ ORDER

1 THIS MATTER came on for hearing on Petitioners' Objection to the  
2 Administrative Record and Motion to Correct and Add to the Record ("Petitioners'  
3 Objection and Motion"). Petitioner Friends of the Columbia Gorge, Inc. appeared  
4 by and through its attorneys, GARY K. KAHN and NATHAN J. BAKER;  
5 Petitioner Save Our Scenic Area did not appear; Respondents appeared by and  
6 through their attorneys, ROBERT M. MCKENNA, Attorney General, and KYLE  
7 J. CREWS, Assistant Attorney General; Intervenor-Respondent Whistling Ridge  
8 Energy LLC appeared by and through its attorney, TIMOTHY L. MCMAHAN;  
9 and Intervenor-Respondents Skamania County and Klickitat County Public  
10 Economic Development Authority appeared by and through their attorney, SUSAN  
11 E. DRUMMOND.

The Court heard argument and considered the following evidence:

- 12 1. The electronic copy of the administrative record filed by Respondents;
- 13 2. The Declarations of Nathan J. Baker;
- 14 3. The Exhibits attached to Petitioners' Objection to the Administrative  
15 Record and Motion to Correct and Add to the Record; and
- 16 4. The Court's files and records for this case.

17 Being fully advised, the Court finds that Petitioners' motion shall be resolved  
18 as set forth below. NOW THEREFORE,

IT IS HEREBY ORDERED that:

- 19 1. Respondent EFSEC shall revise and file a new electronic copy of the  
20 administrative record with the following changes:
  - 21 a. The individual pages of the electronic record shall be paginated.
  - 22 b. The individual documents in the electronic record shall be text-  
23 searchable.

///

1 c. The record documents shall be consolidated into one or a few PDF  
2 files.

3 2. Respondent EFSEC shall file an electronic, color copy of the map  
4 currently numbered as document #2095 in the administrative record (the spotted  
5 owl map) under separate cover, and this map shall be treated as a sealed document.

6 3. The revised copy of the administrative record shall include electronic  
7 copies of the following documents:

- 8 a. The two wind speed maps that were submitted with the public  
9 comments currently numbered as document #2105 in the  
10 administrative record.
- 11 b. All transcripts and minutes of regular EFSEC meetings from  
12 March 10, 2009 through March 21, 2012 at which the Whistling  
13 Ridge Energy Project was addressed.
- 14 c. The transcript of the EFSEC December 27, 2011 special meeting  
15 regarding the Whistling Ridge Energy Project.
- 16 d. The EFSEC staff-prepared summaries of the "key points" in the  
17 Petitions for Reconsideration of Petitioners Friends of the  
18 Columbia Gorge and Save Our Scenic Area.
- 19 ~~e. All Skamania County land use moratorium ordinances and  
20 accompanying agenda item commentaries from 2007 through  
21 2011 that are attached as part of Exhibit A to Petitioners'  
22 Objection and Motion (not including Ordinance No. 2012-04).~~
- 23 ~~f. Cowlitz County's certificate of land use consistency for the  
Pacific Mountain Energy Center, a copy of which is attached as  
Exhibit B to Petitioners' Objection and Motion.~~

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- 1 g. The July 18, 2011 Decision of the Wyoming Industrial Siting  
2 Council on the Pioneer Wind Parks, a copy of which is attached as  
3 Exhibit C to Petitioners' Objection and Motion.  
4 h. Appendix C to the Coyote Crest Draft and Final Environmental  
5 Impact Statements, entitled "2007-2008 Avian Baseline Study  
6 Draft Report," a copy of which is attached as Exhibit D to  
7 Petitioners' Objection and Motion.  
8 i. "Wildlife Baseline Studies for the Radar Ridge Wind Resource  
9 Area, Pacific County, Washington: Final Report, April 15, 2008 -  
10 June 18, 2009," a copy of which is attached as Exhibit E to  
11 Petitioners' Objection and Motion.  
12 j. Appendix A to the Kittitas Valley Wind Power Project Final  
13 Environmental Impact Statement, a copy of which is attached as  
14 Exhibit F to Petitioners' Objection and Motion.

15 4. The same day a revised electronic copy of the record is filed with the  
16 Court on a flash drive, Respondents shall mail an identical copy of the record in  
17 the same format to counsel for each of the parties. Respondents may charge a party  
18 up to \$35.00 for each mailed electronic copy of the record.

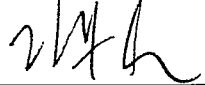
19 5. After a revised electronic copy of the record is filed with the Court and  
20 within ten (10) days of receiving a bill from Respondent EFSEC, Petitioner Friends  
21 shall reimburse EFSEC up to ~~21.4 cents per page~~ <sup>\$ 2.50</sup> for the costs of adding to the  
22 record any documents listed in paragraphs 3.e through 3.j of this order.  
23

DONE IN OPEN COURT this 28 day of September, 2012.

  
\_\_\_\_\_  
JUDGE JAMES J. DIXON

1 **PRESENTED BY:**

2 REEVES, KAHN, HENNESSY & ELKINS

3 

4 Gary K. Kahn, WSBA No. 17928  
Counsel for Friends of the Columbia Gorge, Inc.

5 

6 Nathan J. Baker, WSBA No. 35195  
Staff Attorney, Friends of the Columbia Gorge

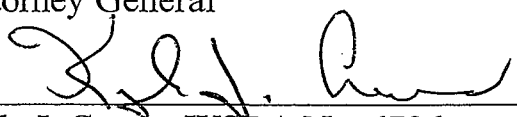
8 ARAMBURU & EUSTIS LLP

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10 J. Richard Aramburu, WSBA No. 466  
Counsel for Save Our Scenic Area

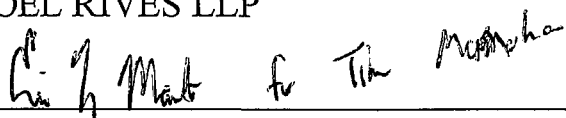
14 **APPROVED AS TO FORM;  
NOTICE OF PRESENTATION WAIVED**

16 ROBERT M. MCKENNA  
Attorney General

17 

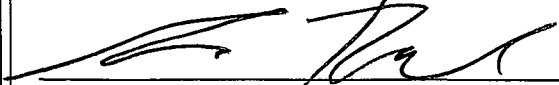
18 Kyle J. Crews, WSBA No. 6786  
Assistant Attorney General

20 STOEL RIVES LLP

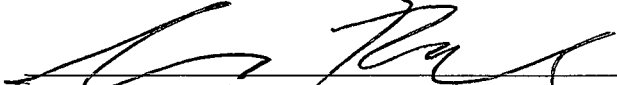
21 

22 Timothy L. McMahan, WSBA No. 16377  
Counsel for Intervenor-Respondent  
Whistling Ridge Energy LLC

1 LAW OFFICES OF SUSAN  
2 ELIZABETH DRUMMOND

3   
4 Susan Elizabeth Drummond, WSBA No. 30689  
5 Counsel for Intervenors-Respondents  
6 Skamania County and Klickitat County Public  
7 Economic Development Authority

8 SKAMANIA COUNTY PROSECUTOR

9   
10 Adam N. Kick, WSBA No. 27525  
11 Counsel for Intervenor-Respondent  
12 Skamania County  
13  
14  
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CERTIFICATE OF SERVICE

I certify that I have this day caused to be served the [PROPOSED] ORDER in the above-entitled action and this Certificate of Service by electronic mail and first-class United States mail, postage prepaid, to the following persons at the specified addresses:

Kyle Crews, AAG  
Office of the Attorney General (GOV)  
P.O. Box 40108  
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Counsel for Skamania County and Klickitat  
County Public Economic Development Authority

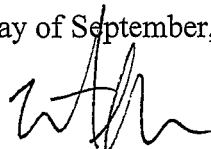
Tim McMahan  
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rick@aramburu-eustis.com  
Attorney for Petitioner Save Our Scenic Area

I certify, or declare, under penalty of perjury under the laws of the State of Washington that the foregoing statements are true and correct.

Signed at Portland, Oregon this 26th day of September, 2012.



Nathan J. Baker, WSBA No. 35195  
Staff Attorney for Petitioner Friends