

Appendix E
Proposed Skamania Zoning Code

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Proposed Skamania County Code, Title 21, Zoning Update (Planning Commission Draft dated September 2, 2008)

At the time of this Application, the existing SCC Title 21 remains in effect. Relationship of the Project to this code is addressed in Section 4.2 Land and Shoreline Use. However, Skamania County has been in the process of updating its comprehensive plan and SCC Title 21 zoning since 2005. A new comprehensive plan was adopted in 2007, but updated development regulations have not yet been finalized. These updates would apply only to unincorporated areas of the County outside Scenic Area GMAs and SMAs, including Scenic Area Urban Areas. The Project Site, but not the access roadways through the Scenic Area GMA, would be subject to the new Title 21 zoning when and if adopted.

The Board of Skamania County Commissioners (County Commissioners) initiated an updated draft Title 21 zoning code in May 2008. Since then the Skamania County Planning Commission (Planning Commission) has held numerous workshops and public hearings on the initiated draft. The Planning Commission finalized their recommendations in August and September 2008 and formally transmitted them to the County Commissioners on September 30, 2008. A SEPA DNS was issued shortly thereafter by Skamania Community Development.

Throughout the Planning Commission hearing process a vocal minority opposed inclusion of updated code provisions that would govern alternative energy facilities. As discussed in Section 4.2 Land and Shoreline Use, these types of utilities are consistent with existing Title 21 zoning and the 2007 Comprehensive Plan. However, local wind energy opponents argued that alternative energy facilities should only be a conditional use in all zones, and that setbacks from existing residences should be at least 1-2 miles. The Planning Commission decided to recommend a criteria-based conditional use process for siting alternative energy facilities including a half mile setback from existing residences and residentially-zoned property.

Local wind energy opponents appealed the SEPA DNS on the Planning Commission's proposed zoning arguing environmental review of proposed alternative energy provisions is required prior to adoption. In February 2009, the County Hearing Examiner decision stated the SEPA DNS was issued in error. Final action on the proposed Title 21 zoning code cannot be taken until the SEPA process is completed so adoption of the proposed code is indefinitely on hold. In fact, the County may choose to revise the proposed code and conduct additional Planning Commission hearings. Thus, the September 2008 Planning Commission draft may or may not be the final Title 21 zoning code adopted by County Commissioners; it is simply the most recent version of the proposed code available at this time. Given the status of the litigation, the County zoning code applicable to a host of land uses in a large area of the County may be unsettled for years to come, with attendant lack of certainty over local land use planning and permitting.

Until the proposed code is adopted, existing SCC Title 21 would govern local wind energy facility permitting. However, in order for EFSEC to achieve its statutory mandate, EFSEC is authorized to preempt even this code. Although not in effect, or even in final form, the following analysis demonstrates the Whistling Ridge Energy Project would comply with the currently-

proposed zoning and shows the County and Planning Commissions' intent to enable wind energy facilities in Skamania County.

In the proposed Title 21 zoning the Project would be entirely on lands proposed for inclusion in a new Commercial Resource Lands (CRL 40) zone. Large-scale wind energy facilities in this zone would be a conditional use subject to criteria set forth in proposed SCC 21.70.170 and proposed SCC 21.16.070. Proposed SCC 21.16.070 would apply to any conditional use evaluation in any proposed zone. These criteria are substantially, if not exactly, the same as the existing SCC 21.16.070 discussed in detail in Section 4.2 Land and Shoreline Use. As demonstrated, the Whistling Ridge Energy Project would be consistent with this section of proposed code. New criteria are proposed that would govern wind energy facilities in proposed SCC 21.70 Supplementary Development and Use Standards. These are analyzed below.

PROPOSED 21.70.170 ALTERNATIVE ENERGY SYSTEMS

A. It is the purpose of this section to promote the safe, effective, and efficient use of alternative energy systems installed to reduce the consumption of non-renewable resource supplied electricity and to meet the Governor's directive to increase the amount of renewable resources in our State's electricity system.

Response: The project would provide up to 75 MW of renewable energy resources for our State's electricity system. Wind energy has been proven to be a safe, effective, and efficient use of alternative energy.

B. The requirements of this section shall apply to the installation of any alternative energy facility that is located in unincorporated areas of the county, except for the General and Special Management Areas of the National Scenic Area. No permit or exemption granted pursuant to this chapter shall remove an applicant's obligation to comply in all respects with the applicable provisions of any other federal, state, local law, or regulation, or relieve any person the requirement for proper installation of all equipment.

Response: The project would comply with all proposed requirements in this section, as described in Section 2.20 of this Application.

E. LARGE-SCALE WIND ENERGY FACILITIES

The development standards that follow apply to all large-scale wind energy facilities:

1. STANDARDS

a. Large-scale Wind Energy Facilities, also referred to as "wind farms", may be authorized by the county.

Response: The project would be an electricity-generating facility consisting of wind turbines and related and supporting equipment that would produce up to 75 MW of electric power to be sold and used off-site, meeting the County's definition of a large-scale wind energy facility.

- b. *At each site, the design of buildings shall, to the extent reasonably possible use materials, colors, textures, screening, and landscaping that will blend in with the natural setting and existing environment.*

Response: The proposed turbine towers would be painted a flat neutral gray or light color to blend in with the natural setting and the sky.

- c. *Electrical controls and control wiring and power-lines must be wireless or not above ground, except where wind farm collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network.*

Response: The Project's electrical system would consist of two key elements: (1) a collector system, which would collect energy generated at 575 volts from each wind turbine, transform the voltage to 34.5 kV using a pad-mounted transformer, and deliver the energy via underground cables to (2) the project substation, which would further transform the energy delivered by the underground collector system from 34.5 kV to 230 kV and deliver it to the adjacent BPA transmission line and into the regional transmission system.

- d. *The project applicant shall provide a clean looking facility free of debris and unused or broken down equipment by: storing equipment and supplies off-site (post construction) or in on-site storage buildings, and by promptly removing damaged or unusable equipment from the site.*

Response: Permanent Operations and Maintenance facilities would be constructed on a 2-acre area adjacent to the substation (see Figure 2.1-1). It would have approximately 3,000 square feet of enclosed space for office and workshop areas, kitchen, bathroom, shower, and utility sink. It would be constructed of sheet metal, and would be approximately 16 feet tall (to the roof peak). A graveled parking area for employees, visitors, and equipment would be located adjacent to the building. The entire area would be fenced and have a locked gate.

- e. *The project applicant/owner shall use construction techniques and Best Management Practices to minimize potential impacts to habitat and wildlife.*

Response: Construction techniques and Best Management Practices would be used to minimize potential impacts to habitat and wildlife and are described in Sections 2.14 Construction Methodology, 2.15 Protection from Natural Hazards, 3.1 Earth, and 3.4 Habitat, Vegetation, Fish and Wildlife.

2. HEIGHT

- a. *The maximum height of a wind tower shall not exceed 500 feet, and the height of accessory structures (equipment sheds, cabinets, shelters or platforms) shall not exceed 35 feet in height.*

Response: Depending on which manufacturer is selected, each turbine would be approximately 221 to 262 feet tall at the turbine hub and, with the nacelle and blades mounted; the total height of each wind turbine (to the turbine blade tip) would be up to approximately 426 feet. The main Operations and Maintenance facility would be approximately 16 feet tall (to the roof peak).

- b. *The lowest point on all rotor blades shall be at least thirty (30) feet above ground located below the lowest point on the blade.*

Response: The lowest point on all rotor blades would be approximately 90 feet above the ground as measured below the lowest point on the blade. The actual measurement would depend on the specific turbine model and location.

3. SETBACKS

- a. *All wind energy facilities shall be set back from all existing residential structures, or from properties zoned residential, at the time of application a minimum of one half (1/2) of a mile. Unless, the other residence owner(s) signs a waiver to allow the structure to be closer. Such waiver shall be valid for the current residence owner(s) and for all future owners, unless the wind energy generating facilities is dismantled and removed.*

Response: Mill A and Willard are located more than one half mile from the nearest turbine strings. The closest residence existing at the time of this application would be 2,560 feet from the worst-case scenario siting of the nearest proposed wind turbine. This would be 80 feet short of the proposed one half mile setback. If the one half mile setback applied, the location of the closest wind turbine would be finalized during the micrositing process and could likely be accommodated.

The owners of the closest existing residence to the Project site have been vocal opponents of the proposed Title 21 alternative energy provisions, especially wind energy. After the Planning Commission finalized their proposed draft zoning in public hearing, but prior to formal transmittal to the County Commissioners, the homeowners applied to Skamania Community Development for Scenic Area approval to re-locate their existing home within 50 feet of their north property line. This would bring their home to within 2,000 feet of the closest proposed turbine. However, even if the proposed Title 21 standards were controlling, this residence does not “exist” at the time of the application, and the project would not be affected by the proposed, but un-built home.

As is the case with the rest of proposed SCC Title 21, the proposed residential setback distance is not applicable at this time, and would not be applicable in an EFSEC proceeding were the proposed code now in effect.

- b. *Wind turbines shall be no closer to the property line than fifty (5) feet plus the height of the system; except where contiguous properties are leased for an identical duration for development of a wind farm.*

Response: The maximum turbine height would be 426 feet as measured to the blade tip, and would be required to be at least 476 feet (426 feet plus 50 feet) from the property line. Final turbine locations would be determined during the micrositing process.

- c. *All wind turbines shall be located at least fifty (50) feet plus the height of the structure from public roadways, and railroads.*

Response: There are no railroads near the project site.

- d. *Structures related to the wind turbines shall meet the setbacks as required in the underlying zoning district.*

Response: The proposed project would meet setbacks required in the existing Title 21 zoning for the R-10 and For/Ag-20 zones. Because these existing setbacks are larger than those proposed for the CRL 40 zone in current version of proposed Title 21, the project would also meet these. The following setbacks would be required in the proposed CRL 40 zone (proposed SCC 21.70.070 SETBACKS):

“The following are the minimum lot line setbacks for all buildings and accessory buildings:

1. Front yard: No building or accessory building shall be constructed closer than forty-five (45) feet from the centerline of the public road right-of-way or fifteen (15) feet from the front property line, whichever is greater. However, if the front yard is adjacent to a private road easement, then no building or accessory building shall be constructed closer than five (5) feet from the edge of a private road easement.
 2. Side yard: No building or accessory building shall be constructed closer than fifteen (15) feet from the property line on each side of the structure.
 3. Rear yard: No building or accessory building shall be constructed closer than fifteen (15) feet from the rear property line.
 4. A yard that fronts on more than one road: The setback requirement for the front yard of a lot that fronts on more than one road shall be the required setback for that zone classification. All other frontages shall have a setback of fifteen (15) feet from the property line or the edge of the public road right-of-way, whichever is greater. However, if the other frontages are private road easements, then no building or accessory building shall be constructed closer than five (5) feet from the edge of a private road easement.
 5. Cul-de-sacs and hammerhead turnarounds: The setback requirement for a cul-de-sac or hammerhead turnaround shall be fifteen (15) feet from the property line, the edge of the public road right-of-way, or private road easement, whichever is greater.”
4. *REQUIRED STUDIES, PLANS, DESIGNS, AND POTENTIAL CONDITIONS OF APPROVAL*
- a. *LIGHTING*
- i. *Wind turbine farms must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA’s comments and requirements, if any, for the proposal.*

Response: A FAA No-Hazard Determination would be obtained prior to EFSEC permit issuance if required.

- ii. A wind turbine shall not be artificially lighted, unless, such lighting is required by the FAA.*

Response: Some of the towers would be furnished with blinking lights visible to aircraft; the need for turbine lights and the type of lighting would be determined in consultation with the FAA.

- iii. Lighting for security shall be minimized and lighting fixtures shall be directed away from adjacent properties. Sensors shall be used to trigger light when necessary rather than being lit the entire night.*

Response: Security lighting would be minimized and directed downward and toward the facilities to protect from light spill over onto adjacent properties.

b. NOISE

- i. The owner/operator shall operate the project in compliance with applicable Washington State Environmental Noise Levels, Chapter 173-60 WAC.*

Response: The project would be operated in compliance with applicable Washington State Environmental Noise Levels, Chapter 173-60 WAC.

- ii. Applicants shall provide documentation of expected noise generation levels.*

Response: Section 4.1.1 Noise includes analysis of existing noise levels and expected noise generation levels from both the construction and operation phases of the Project. It also shows the expected level of noise impact on neighboring properties. The project would comply with the applicable noise standards.

c. PUBLIC SAFETY

- i. Develop and maintain an on-site health and safety plan that informs employees and others on site what to do in case of emergencies, including the locations of fire extinguishers and nearby hospitals, telephone numbers for emergency responders, and first aid techniques. Employees shall be trained to address health and safety emergencies, and to safely operate and maintain the turbines and other mechanical equipment.*

Response: An on-site health and safety plan meeting the above proposed criteria would be developed and submitted to EFSEC for approval prior to start of operation if required.

- ii. Post signs warning of electrical dangers.*

Response: Signs would be posted at locations determined in coordination with EFSEC. It is likely EFSEC would coordinate with the Skamania County Building Official.

- iii. *Fencing is required around each guyed wire anchor on those towers that use guy wires, accessory structures and any other building to prevent unauthorized access.*

Response: Fencing would be determined by EFSEC, likely in coordination with the Skamania County Building Official, and would be shown on plans submitted for building permit approval if one were required.

d. *SIGNS*

- i. *No outdoor displays, signs, or billboards shall be erected within the energy project site, except:*

(1) Signs required for public or employee safety or otherwise required by law.

(2) No more than two signs relating to the name and operation of the energy project.

(3) Signs specifically approved in the land use permit.

Response: The Applicant would comply with the above proposed limitations on signage if they were in force. The location and design of signing would be determined in coordination with EFSEC who would likely coordinate with the Skamania County Building Official. Signage locations would be shown on plans for building permit approval if required.

e. *TRANSPORTATION*

- i. *For all wind energy facility projects, a transportation plan shall be included in all application packages that describe the intended routes, the size (length, weight, and axle spacing), the number of daily trips, the duration of the project and the time of year the work will take place.*
- ii. *Traffic Engineer shall provide a detailed traffic analysis of the project at all points on the proposed route and how it may affect Skamania County.*
- iii. *A Professional Engineer specializing in roadway design shall provide a detailed analysis of the proposed route. This analysis shall include the existing roads structural integrity, the roads existing widths and identify any vertical clearance issues. In comparison, this report shall show the minimum requirements for these items within this approved route for the designed load capacities, and provide a detailed list of required improvements.*
- iv. *Once this report has been received, Skamania County will review for completeness and content of the report. During the review process, Skamania County will make a list of requirements that may include complete reconstruction of all or part of the haul route based on the contents of the report.*
- v. *Skamania County Department of Public Works may complete its own review and make the final determinations if the County determines the report is incomplete. The cost of this additional review shall be borne by the permit applicant.*

Response: Section 4.3 Transportation analyzes the transportation impacts for the project. Additional detailed analysis of the proposed transportation route would be prepared by a Professional Engineer specializing in roadway design if required in the EIS. This analysis would include the existing roads' structural integrity, existing widths, and would identify any vertical clearance issues. This report would also show the minimum requirements for these items within the approved route for the designed load capacities, and provide a detailed list of required improvements. The report would be submitted to EFSEC for review.

- vi. *Access roads to the facility shall be constructed and maintained for all-weather use to assure adequate, safe, and efficient vehicle access.*

Response: The Applicant would comply with this proposed requirement.

- vii. *The facility operators, if different than the original permit holder shall repair any road damage sustained on this haul route for a period of up to two (2) years after the last of the equipment is delivered, or removed from the site.*

Response: The Applicant acknowledges the proposed requirement to repair road damage sustained on the haul route attributed to the construction project. Repair requirements would be determined by EFSEC. Absent EFSEC review, these requirements would be contained in a Haul Route Agreement submitted to the County Engineer and approved by Resolution of the BCC.

f. **FIRE**

The owner/operator shall ensure that the wind energy facility complies with the following fire control and prevention measures:

- i. *Establish a fire prevention and emergency response plan for all phases of the life of the facility. The plan shall address concerns associated with the terrain, dry conditions, and limited access.*

Response: The Applicant addresses this proposed requirement in Section 4.1 Environmental Health. Further, a fire prevention and emergency response plan would be prepared in accordance with the above proposed requirements and submitted to EFSEC for review and approval prior to operation.

- ii. *Use fireproof or fire resistant building materials and establish fire control buffers or use fire retardant landscaping materials.*

Response: Fireproof or fire resistant building materials would be used, and either fire control buffers or fire retardant landscaping materials would be used. These materials would be approved by EFSEC and would be shown on a building permit application submittal if one were required.

- iii. *Maintain firebreak areas cleared of vegetation and maintained as a fire/fuel break as long as the wind energy facility is in operation. Firebreaks shall be at least 30 feet around the periphery of the proposed wind energy structure, 10 feet around all transformers and 30 feet around all buildings.*

Response: A Fire Prevention and Emergency Response Plan, described in Section 4.1 Environmental Health, would be submitted to EFSEC for approval prior to operations.

g. AIR QUALITY

- i. All applicable air emission permits shall be obtained and all conditions complied with.*

Response: Air quality considerations are addressed in Section 3.2 Air Quality. During construction, it is anticipated that temporary air quality permits would be needed for rock crushing for roadbeds and for a portable concrete batch plant for mixing materials for foundations. These permits would be obtained from EFSEC in coordination with Ecology. No air emission permits are anticipated to be required for the operation of the Project; however, the Applicant intends to comply with all applicable and proposed air emission requirements.

- ii. Revegetate any disturbed areas that are not permanently occupied by the project features and required firebreaks.*

Response: The proposed requirement to revegetate any disturbed areas that are not permanently occupied by the project features and required firebreaks is addressed in Section 2.14 Construction Methodology, and would be further addressed in the EIS.

- iii. Provide a minimum of 15-cm (16 inch) gravel surface on project roads to reduce wind erosion and dust.*

Response: Newly constructed and improved roadways would be provided with a minimum of 15-cm (16 inch) gravel surface to reduce wind erosion and dust.

- iv. Maintain a water truck on-site during construction for dust-suppression.*

Response: The Applicant would comply with this proposed requirement on an as-needed basis during the construction process. Dust-suppression would be further addressed in the EIS.

h. GROUNDWATER PROTECTION

- i. The owner/operator shall operate the facility so as not to cause groundwater contamination in violation of applicable state and federal laws. Nothing contained in the permit is intended to authorize any degradation of the quantity or quality of the groundwater in connection with the wind energy facility. Furthermore, no new wells may be drilled within 1.1 times the height of a wind turbine. In addition, the applicant shall provide an engineered plan for managing surface water and/or storm water runoff to prevent pollution of groundwater in the vicinity of each wind energy facility.*

Response: A SWPPP would be prepared and submitted to EFSEC for approval. The SWPPP would meet the proposed Surface Water/Stormwater Management Plan standard.

i. *EROSION*

- i. *An erosion control plan shall include the seeding of all road cuts or related bare road areas as a result of all construction, demolition, and rehabilitation with an appropriate mix of native vegetation.*

Response: A SWPPP would be prepared and submitted to EFSEC for approval. It would meet the proposed Erosion Control Plan, requirements.

j. *WEED CONTROL*

- i. *Develop a reseeding/restoration and weed management plan in consultation with the Skamania County Weed Control Board. The weed control plan shall address prevention and control of all Skamania County identified noxious weeds along all access route and on-site of the large-scale wind energy facility during preparation, construction, operation, and demolition/rehabilitation.*

Response: A Weed Control Plan, prepared in accordance with these proposed requirements, would be prepared and submitted to EFSEC for review and approval.

k. *WILDLIFE AND WILDLIFE HABITAT*

- i. *Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, or other significant natural resources.*

Response: Section 3.4 Habitat, Vegetation, Fish and Wildlife, addresses these proposed requirements. The EIS will further address efforts to protect and preserve existing trees, vegetation, water resources, and other significant natural resources.

- ii. *Limit construction disturbance by flagging the limits of construction and conduct ongoing environmental monitoring during construction to assure that flagged areas are avoided.*

Response: Prior to construction, the limits of construction would be flagged and ongoing environmental monitoring would be conducted during construction to assure that flagged areas are avoided. Independent stop work authority would also be granted to the environmental monitor.

- iii. *Large-scale wind energy facilities and their related structures shall be designed and constructed to discourage bird nesting and wildlife attractions. Use tubular supports with pointed tops rather than lattice supports and avoid placing external ladders and platforms on tubular towers to minimize bird perching and nesting opportunities. If reasonable, avoid the use of guy wires for turbine or meteorological tower supports. If guy wires are used, then all guy wires shall be marked with bird deterrent devices.*

Response: The Applicant would comply with these proposed requirements.

- iv. *Controlling weeds, as provided in the weed control plan, to avoid the creation of artificial habitat suitable for raptor prey.*

Response: A Weed Control plan would be designed to avoid the creation of artificial habitat suitable for raptor prey.

- v. *Use of anti-perching protection devices on transmission line support structures and appropriate spacing of conductors.*

Response: Anti-perching protection devices would be used on transmission line support structures and appropriate spacing of conductors would be addressed in the Project's EIS.

- vi. *Large-scale wind energy facilities shall be set back at least 2,500 feet from known nesting sites of State and/or Federally threatened and endangered raptor species as identified by the Washington State Department of Fish and Wildlife (WDFW) Priority Habitat and Species (PHS) maps and at least 1,500 feet from wetlands identified on the National Wetlands Inventory (NWI) maps. These distances may be adjusted to be greater or lesser at the discretion of the County, based on topography, land cover, land uses, recommendations from WDFW, and other factors that influence the flight patterns of resident and migrating birds.*

Response: These proposed requirements are addressed in Section 3.4 Habitat, Vegetation, Fish and Wildlife. Further, the EIS would include maps showing known nesting sites of State and/or Federally threatened and endangered raptor species and wetlands identified on the National Wetlands Inventory Maps should any exist within appropriate distances

- vii. *Monitor raptor nests on-site for activity prior to construction and modify construction timing and activities to avoid impacts to nesting raptors. At a minimum, one raptor nest survey during breeding season within 1-mile of the project site shall be conducted to determine the location and species of active nests potentially disturbed by construction activities, and to identify active and potentially active nest sites with the highest likelihood of impacts from the operation of the energy facility. A larger survey area (E.g. a 2-mile buffer) is required if there is some likelihood of the occurrence of nesting sites of state and/or federally threatened and endangered raptor species or if empirical data on displacement impacts may be monitored after construction.*

Response: These proposed requirements are addressed in the Section 3.4 Habitat, Vegetation, Fish and Wildlife. A Baseline Avian Use Study has been prepared, including inventories during the 2004 Fall Migration and the 2006 Summer Breeding Season. These issues would be further addressed in the EIS.

- viii. *A minimum of one full season of avian use surveys is required following current best available science protocols to estimate the use of the project area by avian species during the season of most concern (usually spring/early summer). Additional seasonal data (e.g. fall or winter) is recommended in the following cases: 1) Use of the site for the avian groups of concern is estimated to be high relative to other projects; 2) There is very little existing data regarding seasonal use of the project*

site; and/or 3) The project is especially large. This additional avian use data should be collected to refine impact predictions and make decisions on project layout.

Response: These proposed requirements are addressed in Section 3.4 Habitat, Vegetation, Fish and Wildlife.

ix. *Identify and remove all carcasses of livestock, big game, etc. from within the project that may attract foraging bald eagles or other raptors.*

Response: The Operations and Maintenance plan would include provisions for the removal of all carcasses of livestock, big game, or other animals that may attract foraging bald eagles or other raptors.

x. *Project applicants are advised to consult with WDFW and local habitat/wildlife experts regarding turbine siting before making final siting decisions.*

Response: The Applicant conducted these consultations. Section 3.4 addresses Habitat, Vegetation, Fish and Wildlife.

l. RESTORATION OF HABITAT IN TEMPORARILY DISTURBED AREAS

i. *The applicant/owner shall develop a habitat restoration plan for temporarily disturbed areas, and shall conduct habitat reseeding programs when optimal germination and establishment conditions are present, as determined in consultation with WDFW, and not necessarily immediately following the disruption. Prior to project approval a post-construction restoration plan for the temporarily disturbed areas shall be submitted for review and approval. The post construction plan shall include a restoration schedule that shall identify timing windows during which restoration should take place, and an overall timeline for when all restoration activities shall be completed.*

Response: Section 3.4 Habitat, Vegetation, Fish and Wildlife, addresses these requirements. Further, a Habitat Restoration Plan has been prepared (see Section 2.17). These issues would also be addressed in the EIS.

m. ANNUAL REPORT

Within 120 days after the end of each calendar year the facility owner/operator shall provide Skamania County an annual report including the following information:

- i. Energy production by month and year;*
- ii. Non-proprietary information about wind conditions. (e.g. monthly averages, high wind events, bursts);*
- iii. A summary of changes to the facility that do not require facility requirement amendments;*

- iv. *A summary of the avian and bat monitoring program – bird and bat injuries, casualties, positive and negative impacts on area wildlife and any recommendations for changes in the monitoring program;*
- v. *Success or failures of weed control practices;*
- vi. *The annual report requirement shall be implemented throughout the life of the project.*

Response: The applicant acknowledges the requirement to submit an annual report, in accordance with the above proposed requirements, within 120 days after the end of each calendar year for the life of the project should the above standards be adopted by the BCC prior to submittal of this Application to EFSEC. EFSEC would determine any reporting requirements and schedule.

n. SITE RECLAMATION PLAN FOR PROJECT DECOMMISSIONING AND SITE RESTORATION

- i. *The applicant/owner is responsible for project decommissioning and site restoration. A site restoration and decommissioning plan shall be developed pursuant to the following requirements.*
- ii. *The initial site restoration and decommissioning plan shall be prepared in sufficient detail to identify, evaluate, and resolve all major environmental and public health and safety issues presently anticipated. It shall describe the process used to evaluate the options and select measures that will be taken to restore or preserve the site or otherwise protect all segments of the public against risks or danger resulting from the site restoration. The plan shall include a discussion of economic factors regarding the costs and benefits of various restoration options and shall address provisions for funding or bonding arrangements to meet the site restoration or management costs. After approval of an initial site restoration and decommissioning plan the applicant/owner shall review the site restoration and decommissioning plan based on relevant new conditions, technologies, and knowledge, and report to the County the results of its review, at least every five years or upon any change in project status.*

Response: A Site Reclamation Plan for Project Decommissioning and Site Restoration, prepared in accordance with these requirements, would be prepared in accordance with EFSEC (see Section 2.17).

o. DECOMMISSIONING FUNDING AND SURETY

- i. *The owner or any transferee shall provide financial assurance sufficient for decommissioning costs in the form of a performance bond, or guaranty to ensure the availability of funds for such cost. A detailed engineering estimate of the cost of decommissioning shall be included in the initial site restoration and decommissioning plan. The initial site restoration and decommissioning plan shall provide that the decommissioning cost shall be reevaluated annually during the construction of the*

project and once every five (5) years thereafter from the date of substantial completion to ensure sufficient funds for decommissioning are bonded or available.

- ii. The duty to provide such security shall commence thirty (30) days prior to the beginning of construction of the project, and shall be renewed on an annual basis.*

Response: Financial assurance sufficient for decommissioning costs would be addressed in accordance with EFSEC.

p. COMPLIANCE WITH PROJECT CONDITIONS

- i. County officials shall have the right to enter the project site to verify compliance with project conditions. Compliance with project conditions and code requirements are required.*

Response: Enforcement of project conditions would be coordinated with EFSEC.

5. REMOVAL OF DEFECTIVE OR ABANDONED WIND ENERGY SYSTEMS

- a. Any wind energy system found to be unsafe by the building official shall be repaired by the owner to meet federal, state, and local safety standards or removed within six months. A large-scale wind energy facility that is out of service for a continuous 12-month period will be deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. The Administrator shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the large-scale wind energy facility has not been abandoned.*

Response: The Applicant acknowledges this proposed code requirement. Decommissioning would be assured in compliance with EFSEC requirements.

- b. If the large-scale wind energy facility is determined to be abandoned, the owner of a large-scale wind energy facility shall remove all wind generators, towers, buildings and related structures at the Owner's sole expense within twelve (12) months of receipt of Notice of Abandonment. If the owner fails to remove the wind generators, towers, buildings and related structures, the Administrator may pursue a legal action to have all wind energy facility related structures removed at the owner's expense, or use the performance bond to decommission the site. The period of time to remove the abandoned wind energy system may be extended if there is a delay caused by conditions beyond the owner's control including but not limited to, inclement weather conditions.*

Response: The Applicant acknowledges this proposed code requirement. EFSEC requires the preparation and submittal of a Site Restoration Plan (WAC 463-72). The Plan must address provisions for funding or bonding to meet restoration or preservation costs. This plan would be submitted to EFSEC.

- c. Scope: Decommissioning the project shall involve removal of the turbines; removal of foundations to the depth of three (3) feet below grade; regrading the areas around the*

project facilities; removal of project access roads and overhead cables (except any roads and/or power cables that project area landowners wish to retain for other authorized uses); and final reseeded of disturbed lands (all of which shall comprise "Decommissioning"). Decommissioning shall occur in the order of removing the turbines as the first priority and performing the remaining elements immediately thereafter.

Response: The Applicant acknowledges this proposed requirement. Decommissioning would be addressed in the Site Restoration plan, and would be assured in compliance with EFSEC.

d. Monthly Reports: If requested by the County, the owner/operator will provide monthly status reports until this decommissioning work is completed.

Response: The project applicant acknowledges this proposed permit requirement and would comply if required by EFSEC.

6. EXPIRATION

The permit holder shall have five (5) years to commence construction and then five (5) years to finish construction once commenced. The permit shall expire if construction of the large scale wind energy facility has not begun or has not been completed in the allotted time frame. If the permit expires and the facility is partially constructed, it will be declared abandoned and decommission as stated above shall be commenced.

Response: The project Applicant acknowledges this proposed permit requirement. However, the EFSEC permit conditions would govern permit expiration.