

**WASHINGTON STATE**  
**ENERGY FACILITY SITE EVALUATION COUNCIL**  
**RESOLUTION NO. 343**  
***AMENDMENT NO. 1 TO THE***  
***DESERT CLAIM WIND POWER PROJECT SITE CERTIFICATION AGREEMENT***  
***RECONFIGURATION OF FACILITY***

**Nature of Action**

On February 26, 2018, the Certificate Holder, Desert Claim Wind Power LLC (Desert Claim), requested that the Energy Facility Site Evaluation Council (EFSEC or the Council) amend its Site Certification Agreement (SCA) to allow for the reconfiguration of its site boundary and the installation of fewer, but larger turbines than originally authorized in the February 2010 SCA.<sup>1</sup> The revised Desert Claim Wind Power proposal (Revised Project) would consist of 25-31 turbines not to exceed 492 feet in height and a total capacity of no more than 100 Megawatts (MW). The current SCA for the original project (Original Project) authorizes Desert Claim to construct and operate up to 95 turbines, with a maximum capacity of 190 MW. The Revised Project remains at the same site as the Original Project, with acreage reduced to 4,400 acres including approximately 370 acres that have been added to the west and south; 1,271 acres have been removed east of Reecer Creek. Primary site access during construction and operation has been changed from Reecer Creek Road to Smithson Road (accessed from Hwy 97). All turbines will be located at least 2,500 feet from all residences in the Revised Project.<sup>2</sup> A total of 0.347 acres of new permanent wetland impacts and 0.026 acres of permanent stream impacts are identified in the Revised Project. An additional 1.949 acres (0.126 acres stream and 1.823 acres wetland) temporary impacts are proposed to streams and wetlands.<sup>3</sup> The Original Project did not contemplate wetland or stream impacts. As a result of reducing the number of turbines and changing the types of turbines to be installed, there is an expected 66% decrease in turbine delivery trips and 10% increase in concrete trucks per hour during construction.<sup>4</sup>

**Background**

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<sup>1</sup> Desert Claim Wind Power LLC, Desert Claim Wind Power Project Site Certification Agreement Amendment Request, (Amend. Req.) Cover Letter, February 26, 2018 at 1.

<sup>2</sup> Id. at 3

<sup>3</sup> EFSEC's Revised State Environmental Policy Act (SEPA) Staff Memorandum to the EFSEC Stephen Posner (Rev. SEPA Staff Memo), EFSEC staff compiled environmental review notes and rationale for proposed mitigation measures to support the SEPA Addendum to the Final Supplemental Environmental Impact Statement (FSEIS), November 1, 2018 at 7.

<sup>4</sup> Rev. SEPA Staff Memo at 15-16

The Original Project was first reviewed by Kittitas County (the County) in 2005, prior to Desert Claim's application to EFSEC. At that time, the County conducted an environmental review that resulted in preparation of a Final Environmental Impact Statement (FEIS). In April 2005, the County denied the Original Project as it had been proposed. In January 2009, the Original Project was reconfigured and Desert Claim submitted an Application for Site Certification to EFSEC. Under the State Environmental Policy Act (SEPA), EFSEC prepared a Draft Supplemental EIS (DSEIS) and a Final Supplemental EIS (FSEIS) to the County's FEIS. On December 4, 2009 EFSEC transmitted its recommendation of approval for the Original Project to Governor Christine Gregoire. EFSEC's recommendation to the Governor was based on various sources of information including adjudicative proceedings, public comment, and environmental analysis contained in the FSEIS. On February 1, 2010, Governor Christine Gregoire executed on behalf of the State of Washington an SCA authorizing the construction and operation of the Original Project.

The February 2010 SCA for the Original Project authorized Desert Claim to construct and operate a wind power facility consisting of a maximum of 95 wind turbines on tubular steel towers. The 2010 SCA permits an output capacity of 190 total MW and a tower height not to exceed a maximum of 410 feet, within an approximately 5,200 acre project site. The Original Project was located north and west of Ellensburg near the intersection of U.S. Route 97 and Smithson Road. Site access during construction was primarily from Reecer Creek Road. Seven non-participating residences were located between 1,687 and 2,241 feet of one or more turbines. No temporary or permanent stream or wetland impacts were identified during the environmental analysis initially conducted by EFSEC for the Original Project. As a result, measures to address these kinds of impact were not contemplated in the original SCA.

### **Procedural Status**

EFSEC's SCA amendment procedure is governed by chapter 80.50 RCW<sup>5</sup> and chapter 463-66 WAC<sup>6</sup>.

Desert Claim and EFSEC have complied with procedural requirements of Chapter 463-66 WAC as follows:

- Pursuant to WAC 463-66-030, the request for amendment of the SCA was submitted in writing on February 26, 2018.
- At its monthly meeting of March 20, 2018 the Council determined a schedule for action on the request as follows: April 11, 2018 to conduct a public hearing on the Desert Claim SCA amendment request in Ellensburg, WA.<sup>7</sup>

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<sup>5</sup> RCW (Revised Code of Washington) 80.50

<sup>6</sup> Title 463 WAC (Washington Administrative Code) Chapter 66

<sup>7</sup>Verbatim Transcript of EFSEC Monthly Council Meeting, March 20, 2018.

- Pursuant to WAC 463-66-030, notice of a public hearing was distributed to approximately 1,031 people. The public notice issued by EFSEC advised that Desert Claim had requested an amendment to their SCA, and that an informational hearing to consider the matter would be conducted on April 11, 2018. The notice stated that public comments could be made at the April public hearing.
- EFSEC conducted a public hearing session in which the public commented on this matter in Ellensburg, WA on April 11, 2018.<sup>8</sup>
- At the Council's August 21, 2018, monthly meeting EFSEC Siting and Compliance Manager, Sonia Bumpus discussed the status of EFSEC's SEPA review and development of new analysis, such as a visual effects assessment to be completed prior to EFSEC making a determination relative to SEPA.<sup>9</sup>
- At the September 18, 2018 monthly council meeting Sonia Bumpus, on behalf of Stephen Posner, EFSEC's SEPA Responsible Official, proposed that a draft SEPA Addendum to the FSEIS be prepared for the Revised Project. After discussion by the Council and its staff, the Council determined that a 15 day public comment period on the draft SEPA Addendum to the FSEIS would be conducted.<sup>10</sup>
- The draft SEPA Addendum, dated September 25, 2018, was prepared and issued for public comment on September 26, 2018 with a deadline for comments on October 10, 2018.
- Three public comment submissions were submitted on the draft SEPA Addendum, EFSEC staff provided a summary of proposed updates to the SEPA addendum and public comments to the Council at the October 16, 2018 monthly Council meeting.<sup>11</sup>
- The Council considered information in Desert Claim's SCA amendment request, the proposed amendments to the Original Project SCA, input from the public, the Final SEPA Addendum, Revised SEPA Staff Memo, and draft Resolution No. 343 at its November 13, 2018 Council meeting.

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<sup>8</sup> Verbatim Transcript of EFSEC Special Council Meeting, April 11, 2018.

<sup>9</sup> Verbatim Transcript of EFSEC Monthly Council Meeting, August 21, 2018.

<sup>10</sup> Verbatim Transcript of EFSEC Monthly Council Meeting, September 18, 2018.

<sup>11</sup> Verbatim Transcript of EFSEC Monthly Council Meeting, October 16, 2018.

## Public Comment

On April 11, 2018, during the public hearing in Ellensburg, WA EFSEC received 10 handwritten comments and 12 oral comments from public speakers. This hearing provided an opportunity for the public to comment on the SCA amendment request submittals and the presentation about the Revised Project provided by Desert Claim.

September 26, 2018 through October 10, 2018 EFSEC conducted a 15-day public comment period on the draft SEPA Addendum to the FSEIS, dated September 25, 2018. EFSEC proposed mitigation measures for potential impacts from the Revised Project. Key environmental review notes and supportive rationale for the proposed mitigation measures were discussed in the SEPA staff memorandum, dated September 25, 2018. The SEPA staff memo was prepared and sent to the EFSEC Manager and SEPA Responsible Official, Stephen Posner. After review, the SEPA Responsible Official made the SEPA Addendum and staff memo available to the Council. The public comment period served as an opportunity for members of the public to comment on the draft SEPA Addendum, SEPA staff memo, and additional and updated studies related to the Revised Project. Concerns raised during the SEPA public comment period included the following:

- Potential water quality impacts to Dry Creek, Green Canyon Creek, Reecer Creek, and Jones Creek for stream heating and bacterial contamination.
- Potential impacts to wetlands and streams.
- Potential impacts from turbine noise- require highest noise standards and monitoring.
- Potential visual impacts from taller turbines, spacing between turbines- visual confusion and disunity.
- Potential impacts from turbine lighting-encourage use of Aircraft Detection Lighting System.
- Cultural Resource- concern from Desert Claim on the proposed mitigation measure and SCA requirement, to adhere to their Memorandum of Understanding (MOU) with the Yakama Nation.
- Potential impacts to transportation during construction associated with concrete truck delivery trips.

The discreet comments listed above are based on EFSEC's technical review of three public comment submissions EFSEC received during the 15-day comment period. Consequently, one of the proposed mitigation measures related to cultural resources was revised in response to comment. Mitigation measures have been finalized and are documented in the Final SEPA Addendum, dated November 1, 2018 (*See attachment 1 to this Resolution*). Final mitigation along with the responses to comments are documented in the Revised SEPA staff memo, dated November 7, 2018 (*See attachment 2 to this Resolution*).

A summary of the comments and EFSEC's responses to comments are also discussed in this resolution below. Each comment is organized under its respective environmental resource area. It is indicated if there are any further revisions suggested for the proposed mitigation measures.

### **Responses to SEPA Public Comment**

#### Water Quality, Wetlands, and Streams:

Comment: The Washington Department of Ecology (Ecology) commented regarding the protection of impaired waterbodies. In summary, Ecology commented that Dry Creek, Green Canyon Creek, Reecer Creek, and Jones Creek flow through the Revised Project area and are included in the Upper Yakima River Tributaries Temperature Total Maximum Daily Load (TMDL) water quality improvement project. Therefore, these streams must be protected from additional stream heating. The TMDL also recommends that supplementary shade, via installation of new riparian plants, should be added where possible. In addition, the Reecer Creek reach located immediately upstream of the Kittitas Reclamation District canal is included in Washington State's list of 303(d) impaired waterbodies due to high levels of fecal coliform bacteria. Ecology emphasized the importance that planning and construction, and all future use of the site, include water quality protection to avoid further bacterial contamination in Reecer Creek. Ecology noted that a Construction Stormwater General Permit (CSWGP) and the development of a Stormwater Pollution Prevention Plan (SWPPP) will be required for off-site construction stormwater discharges.

Response: The proposed mitigation in the SCA Amendment includes a requirement for coordination with Washington Department of Fish and Wildlife (WDFW) and Ecology regarding finalizing construction and operating plans to avoid or minimize temporary and permanent impacts on streams and wetlands. Prior to construction, a final set of wetland buffers, setbacks, and mitigation standards for permanent and temporary impacts must be determined by EFSEC in consultation with Ecology. The SCA Amendment includes development of a SWPPP, Wetland Compensatory Mitigation Plan, Habitat Mitigation Plan, and Construction Soil Management and Vegetation Plan. These plans will address protection of impaired waterbodies as will the required CSWGP that is required for discharging construction stormwater off-site.<sup>12</sup>

No revision to the mitigation measure in the SCA amendment is proposed.

#### Noise:

Comment: A member of the public commented regarding the noise monitoring plan. In summary, the comment requested that Desert Claim be held to the strictest standards in its noise monitoring plan.

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<sup>12</sup> Rev. SEPA Staff Memo at 6-8

Response: The proposed mitigation in the draft SEPA Addendum includes Complaint-Based Noise Monitoring and Response Plan submittal to EFSEC for review and approval prior to operation to address low frequency noise and aeroacoustic noise.<sup>13</sup>

No revision to the mitigation measure in the SCA amendment is proposed.

Visual:

Comment: A public comment regarding visual impacts of the turbines during operation was received. In summary, the commenter expressed concerns about the “tallest land turbines on earth” being sited next to many homes without EFSEC finding any significant impacts. There were specific concerns regarding visual impacts to residences on Smithson Road, about the variation in size of the turbines, various distances apart from one another, and the use of different turbine models, “causing visual confusion and disunity”.

Response: During EFSEC’s SEPA review of the Revised Project, EFSEC’s consultant determined that from this viewing location, features of the Revised Project would be distinct and would attract viewer attention; however, fewer turbines will be visible than in the previous project configuration in the Original Project.<sup>14</sup>

The independent Visual Effects Assessment conducted by EFSEC’s consultant indicated that construction and decommissioning activities and components of the Revised Project would likely be visible to those viewers adjacent to the work sites (e.g. viewers along Smithson Rd. and at nearby residences) with a localized effect that would be experienced for a relatively short duration (weeks to months). The previous visual effects assessment in the FEIS and FSEIS also indicated a moderate level of visual impact related to this general location from the operating turbines.

The technical approach used in the EFSEC’s Visual Effects Assessment (and in previous visual assessments in the FEIS and FSEIS) included dimensions of vividness, intactness, and unity, as well as the degree of visual dominance of the Revised Project, to determine the changes to visual quality. The established Federal Highway Administration definition of ‘unity’ refers to the visual coherence and compositional harmony of the viewshed where effects are evaluated based on the degree to which they disrupt the harmony of the landscape setting. The Visual Effects Assessment (Section 4.1.1) as well as the photos and simulation provided by Truescape (SCA Amendment request, Appendix A – Sheet 8 and Sheet 9) illustrate that the views of the valley from this area are dominated by agricultural development and currently include evident wind projects in the northwest portion of the study area. Based on the existing visual quality and character visible from this area, while distinct, the Revised Project features would not substantially affect the visual unity of the views or be incoherent within the context of the surrounding landscape.

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<sup>13</sup> Rev. SEPA Staff Memo at 10-11

<sup>14</sup> Rev. SEPA Staff Memo at 12-13

No new or increased adverse environmental impacts to visual and aesthetics are expected from the Revised Project.

No mitigation measures in the SCA Amendment is proposed.

Light and Glare: Turbine Lighting:

Comment: A member of the public commented regarding turbine lighting. In summary, the commenter encouraged the use of Aircraft Detection Lighting System (ADLS).

Response: EFSEC's draft SEPA Addendum proposes mitigation for the Revised Project that requires Desert Claim to investigate the application of ADLS (a more recently available technology) prior to construction and report its finding to EFSEC. The report will include the benefits and feasibility of ADLS for the Revised Project proposal.

No new or increased adverse environmental impacts from light and glare due to turbine lighting are expected from the Revised Project.<sup>15</sup>

No revision to the mitigation measure in the SCA amendment is proposed.

Historic and Cultural Preservation: Cultural Resources-MOU with Yakama Nation

Comment: EFSEC received a comment from Desert Claim regarding the proposed mitigation measure that requires they adhere to their MOU with the Yakama Nation. In their comment letter Desert Claim clarified that the MOU document is a "Scope of Work" between Desert Claim and the Yakama Nation, the contents of which EFSEC does not know; and that the MOU is not a binding agreement between the two parties. Desert Claim's letter further explained that some of the activities identified in the "Scope of Work" document have already been completed. Desert Claim also expressed concerns about the appropriateness of EFSEC including a requirement that relates to a private document between Desert Claim and the Yakama Nation.

Response: The proposed requirement in the draft SEPA Addendum to adhere to the MOU was developed based on EFSEC's initial SEPA review of the FSEIS and the SCA amendment request materials provided by Desert Claim. For example, the FSEIS discussed additional surveys to be conducted by Desert Claim; it states, "*the Applicant has also agreed to conduct additional surveys of Traditional Cultural Properties (TCP's) of importance to the Yakama Nation and to work with the Yakama Nation to prepare a Traditional Cultural Resources Mitigation Plan.*"

Mitigation measures in the FSEIS included the development of a cultural resource mitigation plan in consultation with the Yakama Nation and the Washington Department of Archaeology and Historic Preservation (DAHP). According to the FSEIS, the plan "*would include mitigation*

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<sup>15</sup> Rev. SEPA Staff Memo at 13

*measures tailored to the specific circumstances of each resource and would be consistent with applicable federal, state, and local regulations”.*<sup>16</sup>

The Original Project FSEIS also acknowledged the MOU and characterized its intended purpose, that the *“MOU addresses concerns expressed by the Yakama Nation’s comments on the Draft SEIS<sup>17</sup>, and provides a framework for developing a Traditional Cultural Resources Mitigation Plan with the Yakama Nation”.*<sup>18</sup>

In DAHP’s comments to EFSEC, they concurred with the condition regarding Tribal involvement in developing mitigation for the Revised Project. In its correspondence to EFSEC, DAHP stated, *“We agree with the recommendation for Tribal consultation regarding mitigation for impacts to traditional subsistence and medicinal plant resource areas.”*<sup>19</sup>

In addition, DAHP provided the following recommendations to EFSEC:

- Requested additional photos of Historic-period field clearing pile archaeological sites and evidence of tribal consultation, otherwise these resources must be avoided or obtain a DAHP permit prior to any impacts.
- Stated all Revised Project impacts should be avoided to all pre-contact archaeological sites and one historic-period archaeological site and if they can’t be avoided, a permit from DAHP is required for formal archaeological testing with recommendations for further mitigation.
- Requested a robust Inadvertent Discovery Plan be developed for the Revised Project and training of construction and operations crews.
- Requested additional archaeological survey for micrositing of turbines and for alterations in roadway plans.

In light of the references to the MOU in the FSEIS, and its apparent importance for addressing potential adverse impacts to tribal resources of concern to the Yakama Nation, on September 20, 2018, EFSEC requested a copy of the MOU from Desert Claim. Desert Claim did not provide a copy to EFSEC.

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<sup>16</sup> EFSEC prepared FSEIS, Section 3.3.5, Mitigation Measures.

<sup>17</sup> EFSEC prepared DSEIS, Public Comment Letter #12 from the Yakama Nation in EFSEC prepared FSEIS, Section 4 Draft SEIS Comments and Responses.

<sup>18</sup> EFSEC prepared FSEIS, Section 3.3.2.4, Site Significance Evaluations.

<sup>19</sup> Rev. SEPA Staff Memo at 15

Because the Yakama Nation had not provided public comment to EFSEC relative to the draft SEPA Addendum, in a letter dated October 17, 2018, EFSEC's Siting and Compliance Manager, Sonia E. Bumpus, contacted the Yakama Nation to request that it notify EFSEC of any concerns related to the MOU and/or Desert Claim's SCA amendment request. The Yakama Nation responded to EFSEC and on November 7, 2018 EFSEC staff and the Yakama Nation held a call. The discussion covered four aspects of the Yakama Nation's previous agreements with the Certificate Holder and other concerns related to the Revised Project.

The four aspects discussed included: 1.) Development of a traditional cultural resources mitigation plan prior to construction; 2.) Access for Yakama Tribal members to the root grounds within the Project area; 3.) Yakama Nation participation on the Technical Advisory Committee (TAC); and 4.) Restoration of lands to pre-Project conditions following decommissioning.

This conversation helped to improve EFSEC's understanding of the agreement between Desert Claim and the Yakama Nation and it is expected that Desert Claim's commitments in the FSEIS in conjunction with the new and supplemented mitigation measures in the SCA Amendment, are sufficiently expansive to address the four considerations outlined above.<sup>20</sup>

Recommendations from the Yakama Nation from a 2010 survey of the project area were also discussed during the call. EFSEC staff had previously identified the recommendations during its review of the updated cultural resource assessment prepared by the Certificate Holder's consultant, Archaeological Investigations Northwest, Inc. (AINW), titled, "*Cultural Resource Assessment of Updated Project Design for the Desert Claim Wind Power Project*". Based on input related to EFSEC during the call, it is EFSEC's understanding that the Yakama Nation's recommendations in the AINW report continue to be topics of concern related to the Revised Project. In consideration of the SCA Amendment request, input from DAHP and Desert Claim, and more recently, input from the Yakama Nation, EFSEC staff proposes further revision and clarification to the mitigation initially proposed to improve the mitigation measure to address cultural resource impacts:

**Revised mitigation in the SCA amendment is proposed:<sup>21</sup>**

The development of the Cultural Resources Monitoring and Mitigation Plan must be done in coordination with DAHP and the Yakama Nation and approved by EFSEC. The following must be considered during the plan development:

- Avoidance of the concentrated-resource areas.
- Habitat rehabilitation of impacted-resource area as a means of mitigation for impacts to the diffuse-resource areas.

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<sup>20</sup> Rev. SEPA Staff Memo at 16

<sup>21</sup> Rev. SEPA Staff Memo at 14-16

- Archaeological sites be provided a minimum 30 meter/100 foot buffer.
- Archaeological isolates should be further studied and be provided a minimum 15 meter/50 foot buffer.
- 51 rock features should be re-evaluated and recorded as archaeological sites.
- Archaeological monitoring during construction when ground-disturbing activity is involved.

Transportation: Traffic Impacts during Construction

Comment: A public comment was submitted regarding concerns about concrete truck delivery traffic. In summary, the commenter expressed concerns that, *“approximately 22 concrete delivery trips will be made each hour during a daily 12-hour delivery period which represents a 10% increase in concrete trucks per hour during construction from the transportation numbers presented in the FEIS. Of course the 10% increase is not considered substantial”*. While the commenter seems to acknowledge that the expected 10% increase is not substantial, the commenter asks, *“how long is this daily 12-hour period going to last”* and *“why is the applicant not making its concrete onsite like most other wind farms?”*

Response: Based on the Revised Project description provided by Desert Claim, construction is expected to last approximately 9 months. Concrete trucks would travel to the site during a small portion of the construction period. Desert Claim estimates an average of 22 concrete truck deliveries per hour (see 09/18/2018 email, Desert Claim response to Data Request 3). This is based on:

- 2,067 one-way concrete truck trips for all concrete deliveries;
- Approximately two foundations could be poured in one day; and
- Two foundations would require 134 truck trips- At the rate of 134 delivery truck trips in a day, there would be approximately 15 days of concrete delivery trips.

The draft SEPA Addendum proposed mitigation requiring the submittal of a Construction Traffic Management Plan that would address increased construction traffic on Smithson Road, which is a new access road for the Revised Project. The Construction Traffic Management Plan would address issues such as limiting construction delivery vehicles during peak travel times and accommodating agricultural road use on Smithson Road. The Construction Traffic Management Plan would contain detailed traffic information which would address concerns raised by the commenter. Details about project delivery trips, timeframe, duration and the concrete source would be among the project elements required in the plan (including an option for on-site concrete batch plant).

No revision to the mitigation measure in the SCA amendment is proposed.

## Discussion

WAC 463-66-040 outlines the relevant factors that the Council shall consider prior to a decision to amend a SCA:

In reviewing any proposed amendment, the council shall consider whether the proposal is consistent with:

1. The intention of the original SCA;
2. Applicable laws and rules; and
3. The public health, safety, and welfare; and
4. The provisions of chapter 463-72 WAC.

### 1. Consistency with intention of the original SCA

Under WAC 463-66-040(1), the Council must consider whether the proposed amendment is consistent with the intention of the original SCA.<sup>22</sup> In general, the intention of every SCA is to grant state authorization to a certificate holder to construct and operate an energy facility that has been determined to be in the interest of the State of Washington because the facility will produce a net benefit after balancing need for the facility against impacts on the broad public interest, including human welfare and environmental stewardship.<sup>23</sup> During its initial siting decision of the Original Project, the Council relied upon its overarching policy and intent in RCW 80.50.010. EFSEC Council Order No. 843, Order Recommending Approval of Site Certification Agreement, states *“The Council has carefully considered the state’s need for energy at reasonable cost and the need to minimize environmental impacts.”*<sup>24</sup> The Council determined that the Original Project would, *“provide the region with significant energy benefits while not resulting in unmitigated, significant adverse environmental impacts. Thus, the proposed Project meets the requirements of applicable law and is consistent with the policy and intent of RCW 80.50.”*

In reviewing the SCA amendment request, the Council focused on understanding the proposed changes to the Original Project and any associated impacts identified through its SEPA review. The Council assessed the modified project in conjunction with whether or not the terms and conditions in the SCA Amendment would sufficiently protect *“the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life”* in light of those

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<sup>22</sup> WAC 463-66-040

<sup>23</sup> Tesoro Savage Vancouver Energy Distribution Terminal, Report to the Governor on Application No. 2013-01, Executive Summary, at 4.

<sup>24</sup> EFSEC Council Order No. 843, Order Recommending Approval of Site Certification Agreement for Desert Claim Original Project.

changes.<sup>25</sup> The result of EFSEC's SEPA review indicates the Revised Project will primarily reduce adverse environmental impacts, in comparison to the Original Project. Consistency and compliance with SEPA is discussed in subsection (2) (A) below. The SEPA environmental review also indicates that the Revised Project will meet applicable construction and operation standards for energy facilities, as outlined in WAC 463-62.<sup>26</sup> Consistency with WAC 463-62 is discussed in Subsection (2) (C) below.

As detailed in the Final SEPA Addendum and Revised staff memo, the Revised Project reconfiguration will not result in potential significant adverse impacts to the natural environment of the site and all adverse impacts that have been identified will be avoided or mitigated, see also subsection (3) below. Mitigation measures included in the SCA Amendment address adverse impacts to Water Resources-Water quality, Environmental health, Noise, Light and Glare, Historic and Cultural Preservation, Transportation, and Environmental monitoring.

The majority of environmental impacts addressed within the FSEIS and in the Final SEPA Addendum are similar and by comparison, most resource impacts identified for the Original and Revised Project have not substantively changed. However, impacts to wetlands and streams were not contemplated as part of the Original Project. In light of these new impacts, Desert Claim is required to comply with the mitigation standards for impacted wetlands, as outlined in WAC 463-62-050.<sup>27</sup> The Final SEPA Addendum and Revised SEPA staff memo (Attachments 1 and 2) identify specific mitigation which requires Desert Claim to coordinate, "*with WDFW and Ecology regarding finalizing construction and operating plans to avoid or minimize temporary and permanent impacts on streams and wetlands. Prior to construction a final set of wetland buffers, setbacks, and mitigation standards for permanent and temporary impacts must be determined by EFSEC in consultation with Ecology.*" Additionally, Desert Claim is required to develop a Temporary Erosion and Sediment Control Plan (TESC), Stormwater Pollution Prevention Plan (SWPPP), Wetland Compensatory Mitigation Plan, Habitat Mitigation Plan, and Construction Soil Management and Vegetation Plan. These plans are expected to address protection of impaired waterbodies as will the Construction Stormwater General Permit (CSWGP), which is required for discharging construction stormwater off-site.<sup>28</sup>

The Council carefully considered the results of the new and updated analyses conducted under SEPA, the proposed mitigation measures in the Final SEPA Addendum and Revised SEPA staff

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<sup>25</sup> RCW 80.50.010

<sup>26</sup> Chapter 463-62 WAC outlines EFSEC's Construction and Operation Standards for Energy Facilities under EFSEC's jurisdiction. Performance standards and mitigation requirements are included for: Seismicity, Noise standards, Fish and wildlife, Impact and mitigation standards for wetlands, Water quality, and Air quality.

<sup>27</sup> Chapter 463-62-050 WAC outlines EFSEC's construction and operation standards for impacts and mitigation standards for wetlands.

<sup>28</sup> Rev. SEPA Staff Memo at 6-8

memo, and construction and operational aspects of the Revised Project. The Council determines that the Revised Project meets the requirements of applicable law and is consistent with the policy and intent of RCW 80.50. The Council finds that within the terms of the SCA amendment, which includes the mitigation measures discussed above and below, the Revised Project will not result in unmitigated significant adverse impacts to the environment, the ecology of the land and its wildlife, and the ecology of the state waters and their aquatic life. None of the proposed facility modifications for the Revised Project or the respective SCA amendment terms and conditions effect the Council's previous determination of approval, with respect to "significant energy benefits" the facility is expected to provide to the region, or to the "state's need for energy at reasonable cost."<sup>29</sup>

## **2. Consistency with applicable laws and rules**

Under WAC 463-66-040(2), the Council must consider applicable laws and rules, including chapter 80.50 RCW, chapter 43.21C RCW and chapter 197-11 WAC (the State Environmental Policy Act and SEPA rules)<sup>30</sup>, WAC 463-66-070 through -080, and the construction and operation standards for energy facilities in WAC 463-62<sup>31</sup>.

### **A. Consistency with SEPA (chapter 43.21C RCW and chapter 197-11 WAC).**

The Council is charged with the responsibility to review proposed projects under SEPA, RCW 43.21C and chapter 197-11 WAC. That law provides for the consideration of probable adverse environmental impacts and possible mitigation measures. Pursuant to WAC 463-47-140, EFSEC is the lead agency for environmental review of projects under the jurisdiction of RCW 80.50; the Council Manager is the SEPA responsible official, per WAC 463-47-051.

Desert Claim submitted a SEPA Checklist which EFSEC staff reviewed along with the other materials submitted to EFSEC. The Council invited public comment on the SCA amendment request at a public hearing conducted in April 2018<sup>32</sup> in Ellensburg, WA. While the hearing is not required under SEPA rules, the preliminary concerns expressed by the public at the hearing were taken into account by EFSEC staff during the environmental review of the SCA amendment. Concurrently, EFSEC gathered input from other coordinating agencies. Key notes about the environmental resources analyzed and their respective mitigation are documented in

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<sup>29</sup> EFSEC Council Order No. 843, Order Recommending Approval of Site Certification Agreement for Desert Claim Original Project.

<sup>30</sup> Title 197 WAC (Washington Administrative Code) Chapter 11

<sup>31</sup> Chapter 463-62 WAC EFSEC's Construction and Operation Standards for Energy Facilities under EFSEC's jurisdiction.

<sup>32</sup> Chapter 463-66-030 WAC requires the Council to hold one or more public hearing sessions upon the request for Amendment to an SCA. The Council conducted a public hearing for Desert Claim's SCA Amendment request on April 11, 2018.

the Revised SEPA staff memo, dated November 7, 2018 (See attachment 1 to this Resolution). While no new significant adverse impacts for the Revised Project were identified, EFSEC developed supplemental mitigation measures to address adverse impacts concerning water resources-water quality, wetlands and streams, riparian areas, noise, light and glare, and historic and cultural resources, transportation, and environmental monitoring.

Though not required by SEPA, the Council conducted a 15-day public comment period on the draft SEPA Addendum that included the supporting draft SEPA staff memo. This provided the public with an opportunity to comment on the Revised Project, proposed mitigation measures, and associated reports for the SCA Amendment request. Three public comment submissions were received and considered by EFSEC to finalize mitigation measures. Summarized public comments and responses to comments are discussed in detail in the Revised SEPA staff memo and final mitigation measures are documented in the Final SEPA Addendum. In response to comments, EFSEC further revised the mitigation measure requirement concerning historic and cultural resources, which now requires Desert Claim to develop their Cultural Resource and Mitigation Plan in consultation with the Yakama Nation and DAHP.<sup>33</sup> Based on input EFSEC received from the Yakama Nation, EFSEC revised the mitigation measure to improve and clarify which tribal concerns must be considered during Desert Claim's plan development.

In general, SEPA requires an agency to perform a threshold determination to determine whether a proposed action will have a significant adverse effect on the environment (See WAC 197-11-310). For Desert Claim's SCA amendment request for the Revised Project, EFSEC has conducted an environmental analysis of the changes to the proposal following WAC 197-11-600(3)(b) which states:

For Determinations of Nonsignificance (DNSs) and EISs, preparation of a new threshold determination or supplemental EIS is required if there are:

- (i) Substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts (or lack of significant adverse impacts, if a DS is being withdrawn); or
- (ii) New information indicating a proposal's probable significant adverse environmental impacts (this includes discovery of misrepresentation or lack of material disclosure). A new threshold determination or SEIS is not required if probable significant adverse environmental impacts are covered by the range of alternatives and impacts analysis in the existing environmental documents.

If EFSEC's SEPA Responsible Official determines that the new information and analysis does not substantially change the analysis of significant impacts and alternatives in the existing environmental document (WAC 197-11-600 (4)(c)), an addendum is appropriate for documenting this review under SEPA.

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<sup>33</sup> Rev. SEPA Staff Memo 14-16

The Council's SEPA Responsible Official, Stephen Posner, reviewed and considered the Revised Project and the SCA Amendment request from Desert Claim, submitted on February 26, 2018. The SEPA Responsible Official published the draft SEPA Addendum to the FSEIS for a 15-day public comment period on September 26, 2018. The SEPA Responsible Official considered several sources of information to make a determination with respect to SEPA. Public comments, new information and updated analyses provided by Desert Claim and EFSEC's consultant, EFSEC staff recommendations for proposed mitigation in the draft and revised SEPA staff memo, were all considered by EFSEC's SEPA Responsible Official in order to develop the Final SEPA Addendum, dated November 1, 2018. The SEPA Responsible Official determined that the Revised Project will not result in significant adverse impacts to the natural environment. The Council hereby accepts the determination and acknowledges the measures to be implemented by Desert Claim to modify the Project proposal to further avoid, minimize and mitigate environmental impacts. As described in the preceding SEPA section, the Council took several steps to finalize the SEPA Addendum and comply with SEPA requirements. The Council finds that the Revised Project is consistent and in compliance with chapter 43.21C RCW and chapter 197-11 WAC.

**B. Consistency with WAC 463-66-070: Approval by Council Action and -080: Approval by governor.**

WAC 463-66-070 and -080 discuss the two options available to the Council for approval of a request for amendment to an EFSEC site certification agreement.

WAC 463-66-080 provides:

*"An [SCA] amendment which substantially alters the substance of any provision of the SCA or which is determined to have a significant detrimental effect upon the environment shall be effective upon the signed approval of the governor."*

On the other hand, WAC 463-66-070 provides:

*"An amendment request which does not substantially alter the substance of any provisions of the SCA, or which is determined not to have a significant detrimental effect upon the environment, shall be effective upon approval by the council. Such approval may be in the form of a council resolution."*

The Council examined the Revised Project and the revisions to the SCA Amendment request in consideration of whether provisions in the Original Project SCA would be substantially altered. The Original Project is discussed in more detail in the Background discussion above. The Project Description in Article I, Part C of the SCA Amendment has been updated to reflect the changes to the project description and describes modifications such as the installation of taller but fewer turbines. The remaining revisions are primarily associated with the updates and revisions to mitigation formed through SEPA.

The Council considered whether the SCA Amendment request would result in, "*significant detrimental effects*" on the environment. EFSEC relied upon its SEPA review to identify potential significant adverse impacts. If potential significant unavoidable adverse impacts were identified, these would be categorically characterized as "*significant detrimental effects*". The

SEPA Addendum and SEPA staff memo indicate that no significant unavoidable adverse impacts have been identified. New or revised mitigation in the SCA Amendment will adequately address impacts for Water resources-water quality, Environmental health, Noise, Light and Glare, Historic and Cultural Preservation, Transportation, and Environmental monitoring. The Council acknowledges that impacts to wetlands and streams were not contemplated or analyzed for the Original Project; however, new mitigation measures have been developed and added to the SCA amendment to address those impacts. Additionally, the requirement for a full-time, onsite environmental monitor is also retained as a condition in the SCA amendment, which will provide further protection for any unanticipated impacts to wetland and streams should any arise during construction.

EFSEC's SEPA review supports the conclusion that the Revised Project will not result in significant detrimental effects as no significant unavoidable adverse impacts to the environment have been identified. Final mitigation measures have been incorporated into the SCA Amendment as terms and conditions appropriate for the Revised Project. Owing to the modifications of the Revised Project combined with the fact that none of the modifications result in significant unavoidable adverse environmental effects, the Council determines that the SCA Amendment does not substantially alter the substance of any provisions of the SCA. The Council finds that the majority of provisions in the SCA for the Original Project remain substantively unchanged, recognizing that some conditions have been supplemented with additional or more refined measures (See Revised SEPA Staff Memo). The Council therefore concludes that this amendment may be approved by Council resolution pursuant to WAC 463-66-070.

**C. Consistency with WAC 463-62 Construction and Operation Stands for Energy Facilities.**

The purpose of chapter 463-62 WAC implements EFSEC's policy and intent outlined in RCW 80.50.010. Performance standards and mitigation requirements which address seismicity, noise limits, fish and wildlife, wetlands, water quality, and air quality are identified in the rule. Within the terms and conditions of the SCA amendment, the Revised Project demonstrates compliance with the construction and operation conditions outlined in WAC 463-62. The Revised Project changes relative to these requirements are detailed in the revised SEPA staff memo and Final SEPA Addendum.

**Seismicity:**

While seismicity issues are not anticipated for the Revised Project, final facility design plans are required for the Revised Project prior to start of construction.

**Noise:**

Noise modeling for the Revised Project indicated no exceedances of noise standards.

**Fish and wildlife habitat and function:**

Fish and wildlife habitat and function are addressed through mitigation measures in the SCA amendment. The SCA amendment will require Desert Claim to coordinate with Ecology and WDFW regarding the finalization of construction and operation plans to avoid and minimize temporary and permanent impacts to streams and wetlands. A Wetland Compensatory Mitigation Plan and Habitat Management Plan are also required.

#### Wetland Impacts and mitigation:

Ecology and EFSEC reviewed the May 2018 Wetland Delineation and Analysis Report submitted by Desert Claim. As discussed in the Revised SEPA staff memo, permanent impacts to approximately 0.026 acres associated with 13 streams and 0.347 acres associated with 8 wetlands are anticipated from the Revised Project. Desert Claim proposes to conduct required mitigation by enhancing three onsite wetlands and final mitigation would be developed to fully mitigate for any permanent impacts identified, and for the size of buffers based on Best Available Science (BAS). Wetland enhancement may include removing existing cattle grazing uses, installing exclusion fencing, and planting bare areas with plug sized herbaceous vegetation. EFSEC and Ecology also reviewed the credit/debit analysis proposed by Desert Claim and concluded there would be “no net loss” of wetland function within the project area with proposed mitigation.

#### Water Quality:

Desert Claim is required to obtain a Construction Stormwater General Permit. This permit is a regulatory requirement as part of the SCA. Desert Claim is required to comply with the permit to protect water quality during construction activities. In addition to the permit, Desert Claim is required to prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) which is required for off-site construction stormwater discharges.

#### Air Quality:

No air emissions are anticipated nor are any air permits required to construct and operate the Revised Project.

Based on the results of the SEPA environmental review conducted by EFSEC and within the terms of the SCA amendment, the Council hereby concludes that the standards for construction and operation in chapter 463-62 WAC are satisfied. Therefore, the Council determines that the ore the Revised Project is consistent with WAC 463-62.

### **3. Consistency with the public health, safety, and welfare**

Under WAC 463-66-040(3) and -050, the Council must consider whether the SCA Amendment request would be consistent with public health, safety, and welfare. In considering whether a proposed amendment is consistent with the public health, safety and welfare, WAC 463-66-050 requires the Council to consider the long-term environmental impacts of the proposal, and further requires a consideration of “*reasonable alternative means by which the purpose of the proposal might be achieved*” along with the “*availability of funding to implement the proposal.*”

#### **A. Public health, safety and welfare:**

The majority of activities associated with the installation and operation of the Revised Project will be conducted in the area approved for the Original Project. The Original Project area previously analyzed in EFSEC’s FSEIS has been reduced for the Revised Project with the removal of the 1,271 acres east of Reecer Creek, with wind turbines no longer to be installed in this area. To the West and South of the site of the Original Project, the Revised Project adds 370

acres to the total Project area. Consequently, the overall permanent footprint for the Revised Project has been reduced in comparison to the footprint of the Original Project.<sup>34</sup> The Revised Project also reduces the number of turbines originally permitted from 95 to no more than 31. For the 31 turbines to be installed, the maximum height of the turbines increased from 410 feet (ft.) to a max height of 492 ft. The distance between the turbines and residences originally permitted for the Original Project has been increased and turbines in the Revised Project will no longer be located within 2,500 feet of any residence.

Due to the reconfiguration of the turbines and increased turbine height, EFSEC's consultant conducted an independent Visual Effects Assessment to determine impacts to visual and aesthetics. The assessment considered factors such as the reconfiguration design, the reduced number of turbines to be installed, and the increased height of the turbines. The results of the assessment indicated no significant impacts to visual and aesthetics.

Noise modeling for the Revised Project was conducted which does not show any exceedances of noise standards; however, the SCA conditions have been supplemented to include a new requirement for a complaint-based noise monitoring and response plan, the intent is to address noise complaints should any arise during facility operations.<sup>35</sup>

Mitigation measures to address shadow flicker were retained for the Revised Project. While additional mitigation measures have been developed to address certain aspects of the Revised Project, none of these changes substantially alter the substance of the SCA or result in any significant or new detrimental effects on the public health, safety or welfare. The Revised Project continues to implement the purpose of the Original Project, though with a smaller energy output, to address the pressing need for energy facilities, and will provide additional abundant affordable renewable power. The Revised Project will not have potential significant adverse impacts on public health and safety. Consequently, as supported by the documentation in the Final SEPA Addendum and the Amended SCA, the Revised Project is consistent with the public health, safety and welfare.

**B. Environmental impacts:**

Environmental impacts related to public health, safety and welfare have been addressed either in the FSEIS or in the Final SEPA Addendum. For the reasons set forth above and below related to SEPA compliance and EFSEC's environmental review, the Revised Project will not result in significant unavoidable adverse environmental impacts. Desert Claim will continue to abide by all the terms and conditions of the Amended SCA.

EFSEC's SEPA review relied on the FSEIS analysis combined with information gathered for the Final SEPA Addendum. The FSEIS analyzed impacts to water resources and water quality, plants and animals, historic and cultural resources, visual and aesthetics, environmental health,

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<sup>34</sup> Amend. Req. at 6.

<sup>35</sup> Rev. SEPA Staff Memo at 10-11.

and transportation. For water resources, Desert Claim is required to obtain a Construction Stormwater General Permit (CSWGP). This permit is a regulatory requirement and is part of the SCA approval. Desert Claim is required to comply with the permit to protect water quality during construction activities.

For new impacts to wetlands and streams, which were not previously analyzed for the Original Project, the SCA amendment requires Desert Claim to coordinate with Ecology and WDFW agencies regarding the finalization of construction and operation plans to further avoid and minimize temporary and permanent impacts to streams and wetlands. A Wetland Compensatory Mitigation Plan and Habitat Management Plan are also required.<sup>36</sup> Ecology and EFSEC reviewed the May 2018 Wetland Delineation and Analysis Report submitted by Desert Claim. As discussed in the Revised SEPA staff memo, permanent impacts to approximately 0.026 acres associated with 13 streams and 0.347 acres associated with 8 wetlands are anticipated from the Revised Project. Desert Claim proposes to conduct required mitigation by enhancing three onsite wetlands and final mitigation would be developed to fully mitigate for any permanent impacts identified, and for the size of buffers based on Best Available Science (BAS). Wetland enhancement may include removing existing cattle grazing uses, installing exclusion fencing, and planting bare areas with plug sized herbaceous vegetation. EFSEC and Ecology also reviewed the credit/debit analysis proposed by Desert Claim and concluded there would be “no net loss” of wetland function within the project area with proposed mitigation.<sup>37</sup>

To determine impacts to visual and aesthetics due to installation of fewer but taller turbines, EFSEC conducted an independent effects assessment.<sup>38</sup> That assessment determined that no new or increased adverse environmental impacts to visual and aesthetics are expected. Furthermore, mitigation for shadow flicker from the wind turbines remains in the SCA amendment to address potential issues should any arise during operation. The Revised Project is not expected to have short-term or long-term significant adverse impacts to the environment, consequently, as documented in the SEPA Addendum and the Amended SCA, the proposed amendment is consistent with the public health, safety and welfare.

**C. Reasonable alternatives means to achieve the purpose of the proposal; Funding to implement the proposal:**

Alternatives to the Original Project as it was presented to the County were considered in the FEIS. The Revised Project does not change those considerations and related findings and conclusions. Desert Claim has conducted environmental surveys over the course of reconfiguring its proposal; consequently it is uniquely familiar with the terrain and habitat of the site where the Revised Project is to be located. Desert Claim intends to lease 2,625.8 acres from

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<sup>36</sup> Amend. SCA, Article IV.E.

<sup>37</sup> Ecology letter to EFSEC, dated September 07, 2018.

<sup>38</sup> Golder Associates, Inc. Visual Effects Assessment for Desert Claim Wind Power Project, dated September 7, 2018.

four private land owners, with 636.7 acres leased from the Washington Department of Natural Resources, and 1,130.5 acres owned by an affiliate of Desert Claim.<sup>39</sup> Five Bonneville Power Administration (BPA) owned transmission lines and Puget Sound Energy's Rocky Reach-Cascade 230 Kilovolt (kV) line are located in the Revised Project area. According to Desert Claim, these regional transmission lines have been identified as options for interconnecting the Revised Project to the regional transmission network.<sup>40</sup> Due to the unique ability of Desert Claim to develop the Revised Project area and its location that provides access for transmission interconnection, the Council finds there is no reasonable alternative means to efficiently achieve the objectives of the amended proposal—the production of renewable energy available to Desert Claim on the Revised Project site. Based on Desert Claim's written request that EFSEC amend its SCA, the Council concludes that Desert Claim has the capability to fund and complete the construction of the amended Project reconfiguration.

#### **4. Consistency with WAC 463-72**

WAC 463-72-020 provides:

Site restoration or preservation plans shall be prepared in sufficient detail to identify, evaluate, and resolve all major environmental and public health and safety issues, to include provisions for funding or bonding and monitoring. Specific plans shall:

(1) Describe the process and/or assumptions used to evaluate the options considered and the measures selected to restore or preserve the site to protect the environment and all segments of the public against risks and dangers resulting from the site operations and activities.

(2) Address provisions for funding or bonding to meet restoration or preservation costs. Financial assurance shall be provided to ensure that funding is available and sufficient for site restoration or preservation. Such financial assurances shall include evidence of pollution liability insurance coverage in an amount justified for the project, and a site closure bond, sinking fund, or other financial instrument or security in an amount justified in the initial site restoration plan.

(3) Address the scope of monitoring to be conducted during site restoration or preservation and possible continued monitoring to ensure site restoration is achieved.

Compliance with WAC 463-72 is addressed in the SCA amendment under site restoration, which requires Desert Claim to develop and prepare an Initial Site Restoration Plan (ISRP) in consultation with WDFW, and to submit the plan for EFSEC approval.<sup>41</sup> The objective of the

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<sup>39</sup> Amend. Req., Revised Project description, Section 2.3 Land Ownership at 36.

<sup>40</sup> Amend. Req., Revised Project description, Section 3.2.3 Transmission Interconnections at 10.

<sup>41</sup> Amended SCA, Article III. H Site Restoration at 10.

ISRP is to conduct restoration of the site to “approximate pre-Project condition or better”.<sup>42</sup> Based on its previous findings that the proposed amendment has no significant adverse environmental impacts and no significant adverse impacts on public health, safety, and welfare; and second, that it does not substantially alter the substance of Desert Claim’s legal responsibilities under the SCA, the Council concludes that this amendment is consistent pursuant to WAC 463-72.

### **Conclusion**

The Council concludes as follows: (1) the proposed SCA Amendment is consistent with the intent of the Original Project SCA; (2) the proposed SCA Amendment of Desert Claim’s SCA to allow reconfiguration of the Project as-proposed is consistent with the public health, safety, and welfare; (3) the proposed SCA Amendment is consistent with all applicable laws (including SEPA); and (4) the proposed amendment is consistent with the purpose pursuant to WAC 463-72. The Council hereby determines that it is appropriate to approve Amendment 1 to the Desert Claim Wind Power Project SCA, necessary to reflect the proposed changes to the Project; *Provided*, Desert Claim Wind Power LLC, shall continue to implement mitigation measures identified in the SCA, as amended by this decision.

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<sup>42</sup> Amended SCA, Article IV.D Initial Site Restoration Plan at 14.

## RESOLUTION

For the foregoing reasons, the Council grants Desert Claim's request to amend its SCA to allow Desert Claim to construct and operate the Revised Project. The Council's approval is memorialized in the attached SCA Amendment.

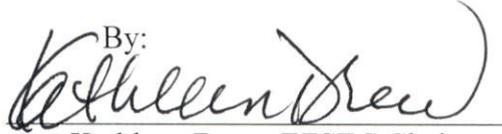
- The proposed amendment to the SCA for the reconfiguration of the Project and its boundaries, reducing the Project area to approximately 4,400 acres, by removal of 1,271 acres located east of Reecer Creek and the addition of approximately 370 acres to the west and south of the Project area.
- Primary site access during construction and operation will be changed to Smithson Road, for internal access roads.
- The Project will include approximately twenty (20) miles of internal roads for access to the wind turbine generators and other Project facilities.
- Installation of wind turbine generators for a maximum of thirty-one (31), 3-bladed wind turbines on tubular steel towers, not to exceed a maximum height (hub height plus blade tip height) of 150 meters (492 feet), with a capacity ranging from 2.0 to 4.2 megawatts (MW). The total capacity for the reconfigured Project will not exceed 100 MW. Wind turbines will be equipped with turbine control, safety and braking systems, and will be interconnected to a central Supervisory Control and Data Acquisition (SCADA) system.
- Turbine setbacks shall meet the following setback requirements:
  - Setback from occupied residences = 2,500 feet
  - Setback from external Project Area boundaries = 1.25 x tip height
  - Setback from road and transmission line rights of way = 1.25 x tip height
  - Setback from barns and buildings = tip height
- All applicable SCA conditions and mitigation measures apply to the construction and operation of the Facility. Desert Claim Wind Power LLC, shall comply with all additional mitigation measures as set forth in the SCA, as amended.
- The SCA changes are shown in the Amended SCA.
- The mitigation measures and supporting SEPA review notes are set out in attachment 1 and attachment 2 to this resolution.

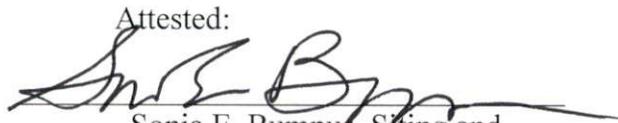
**Appeals:**

A request for judicial review of the SCA amendment for the Revised Project is subject to the requirements of the Administrative Procedures Act, Chapter 34.05 RCW.

DATED at Olympia, Washington and effective on November 13, 2018

WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

By:   
Kathleen Drew, EFSEC Chair

Attested:   
Sonia E. Bumpus, Siting and  
Compliance Manager

- Attachments: 1. EFSEC SEPA Addendum to the FSEIS  
2. EFSEC SEPA revised staff memorandum to Stephen Posner

# **Attachment 1**

EFSEC SEPA Addendum to the FSEIS

## FINAL ADDENDUM TO FINAL SUPPLEMENTAL EIS

Pursuant to Chapter 463-47 WAC,  
WAC 197-11-600 (3)(b), and (4)(c) and WAC 197-11-625

Addendum to the **Desert Claim Wind Power Project Final Supplemental EIS** issued by the Energy Facility Site Evaluation Council (EFSEC), November 6, 2009; in response to a Request for Amendment to the Site Certification Agreement (SCA) for the Desert Claim Wind Power Project.

**Date of Addendum:** November 1, 2018

**Date of original FSEIS and FEIS:**

- Desert Claim Wind Power Project Final Supplemental EIS, November 6, 2009, prepared by the Energy Facility Site Evaluation Council.
- Desert Claim Wind Power Project, August 2004; prepared by Kittitas County.

**Description of current proposal's changes:** The Certificate Holder, Desert Claim Wind Power LLC, requests that EFSEC amend the SCA to address the proposed changes to the Project.

- Change Project footprint. The proposal now includes 324 acres in T19N-R17E Section 13 at the northwest edge of the previous Project Area (4 turbines proposed) and 140 acres in Section 30 along the southwest edge of the previous Project Area (no turbines proposed). T19N-R18E Sections 9, 16, 22, and 27 are removed from the proposal. The Project area has been reduced from 5,200 acres in the SCA to 4,400 acres and there will no longer be any turbines or associated facilities located on approximately 1,500 acres east of Reecer Creek.
- Reduce number of turbines. The total number of turbines has been reduced from no more than 95 to no more than 31. The capacity of the project has been reduced from a maximum of 190 megawatts (MW) to a maximum 100 MW.
- Change to taller, higher capacity turbines. The Project would utilize different turbines than originally approved. The Certificate Holder proposes to use commercially available turbines with nameplate capacities of between 2.0 and 4.2 MW, as opposed to the 2.0 MW REpower turbines originally proposed for the Project. There would be fewer turbines that are taller with a hub height between 262 and 279 feet rather than 258 feet originally approved. The tip height would change from 410 feet to 440-492 feet depending on which turbine model would be used. Two of three layout options proposed by the Certificate Holder include 20-25 units of the taller model.
- Increase minimum turbine distance to all residences. Turbine distance from all residences will be at least 2,500 feet rather than 1,687 to 2,241 feet for previously described non-participating residences.
- Change site access route. Access to the site has changed from Reecer Creek Road and Pheasant Lane to Smithson Road.

- Change access route road width. The access route road width has increased from a 15-foot wide travel surface to a 16-foot wide travel surface for the straight sections.
- Change temporary disturbance area along access roads. The temporary disturbance area along the Project access road is assumed to be 60-foot wide on average as compared to 35-50 feet wide in the SCA.
- Reconstruction of Access Road Bridge. The Kittitas Division North Branch Canal Farm Bridge Station No 346 on the proposed access road may be reconstructed.
- Reduce temporary construction disturbance around turbine pads. The temporary construction disturbance around the turbine pads has been reduced from 13 acres per turbine to 3 acres per turbine.
- Reduction in rotor swept area. Due to the reduction in the number of turbines, the rotor swept area will be reduced by 36-48 percent.
- Identify wetland impacts and mitigate measures. Wetland impacts were not identified for the 2009 proposal although wetland impacts were likely that would have needed to be delineated and mitigated. A wetland delineation has been conducted for the revised proposal and it identifies approximately 2 acres of temporary impact and less than 0.5 acre of permanent impact to wetlands.
- Reduce the total number of miles of site access roads. Due to fewer turbines there would be approximately 20 miles of internal access roads as compared to 27 miles identified in the SCA.

**Proponent:** Desert Claim Wind Power LLC

**Location of proposal:** The Project Area is located approximately 8 miles north of the City of Ellensburg and consists of contiguous property owned by the Washington State Department of Natural Resources (1,529 acres), four private landowners (2,551 acres), and an affiliate of the Applicant (1,120 acres). It consists of sections and portions of sections in Township 19N, Range 18E, Sections 17, 18, 19, 20, 21, 29, and 30; along with the NW corner of Section 25 and the east half of Section 13 in Township 19N, Range 17E.

**Mitigation:** The following measure are identified for nonsignificant impacts:

## Mitigating Conditions:

Resource	Impact	Mitigation
Water	Wetland and stream impacts during construction	While finalizing construction plans, the Certificate Holder will coordinate with WDFW and Ecology regarding finalizing construction and operating plans, in relation to micro-siting of project facilities and roads, in order to avoid or minimize the facility elements' temporary and permanent impacts on streams and wetlands.
	Wetland mitigation monitoring	The Certificate Holder will be required to conduct wetland mitigation monitoring for a period of 10 years.
	Wetland, stream, and buffer impacts	Prior to construction of the site, a final set of wetland buffers, setbacks, and mitigation standards for permanent and temporary impacts shall be determined by EFSEC in consultation with Ecology. Wetland buffers shall be determined in accordance with applicable provisions of the Kittitas County Code for Critical Areas in KCC 17A. Where supported by the following Ecology guidance documents, EFSEC may require buffers of greater width than would be required under KCC 17A: Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance, Ecology Publication #06-06-011a (March 2006); Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans, Ecology Publication #06-06-011b (March 2006); Update on Wetland Buffers: The State of the Science, Final Report, Ecology Publication #13-06-011 (October 2003). Based on the final wetlands requirements from EFSEC, the Certificate Holder shall submit a Wetlands Mitigation Plan to EFSEC for approval at least sixty (60) days prior to the beginning of Site Preparation, which shall summarize how the Site is in compliance with those wetland buffers, setbacks, and mitigation standards.
Environmental Health	Shadow flicker	Develop a mitigation and complaint monitoring plan to respond to any residential complaints. The mitigation plan will include avoidance, minimization, and mitigation of shadow flicker through turbine shut down, planting trees, shading windows, or other mitigation measures. The complaint monitoring plan will be reviewed and approved by EFSEC prior to operation and, at a minimum, will include: <ul style="list-style-type: none"> <li>• Notification of EFSEC within five (5) business days of receipt of any request to mitigate shadow flicker,</li> <li>• Notification of EFSEC, within two (2) weeks of original receipt, of the actions taken in response, and</li> <li>• EFSEC shall retain authority to review and override the Certificate Holder's denial(s) of any requests or choice of mitigation in this regard.</li> </ul>
Noise	Wind Turbine operation Low frequency noise and aeroacoustic noise	The Certificate Holder shall submit a Complaint-Based Noise Monitoring and Response Plan to EFSEC for review and approval prior to operation, to address low frequency noise and aeroacoustic noise.
Light and Glare	Wind turbine tower lighting in the Night sky	The Certificate Holder shall investigate the application of an Aircraft Detection Lighting System (ADLS) prior to construction and report its findings to EFSEC. The report should include the benefits and feasibility of ADLS for the Desert Claim project.
Historic and Cultural Preservation	Cultural or Historic Resource disturbance or degradation during construction	The development of the Cultural Resources Monitoring and Mitigation Plan must be done in coordination with DAHP and the Yakama Nation and approved by EFSEC. The following must be considered during the plan development: <ul style="list-style-type: none"> <li>• Avoidance of the concentrated-resource areas.</li> <li>• Habitat rehabilitation of impacted-resource area as a means of mitigation for impacts to the diffuse-resource areas.</li> <li>• Archaeological sites be provided a minimum 30 meter/100 foot buffer.</li> <li>• Archaeological isolates should be further studied and be provided a minimum 15 meter/50 foot buffer.</li> <li>• 51 rock features should be re-evaluated and recorded as archaeological sites.</li> <li>• Archaeological monitoring during construction when ground-disturbing activity is involved.</li> </ul>
Transportation	Traffic impacts during construction	The Certificate Holder's Construction Traffic Management Plan should address increased construction traffic on Smithson Road to limit construction delivery vehicles during peak travel times and to accommodate agricultural road use on Smithson Road.
Environmental Monitoring	Environmental impacts during construction	EFSEC will provide full-time on-site environmental monitoring for the construction phase of the Project, at the Certificate Holder's cost.

**Purpose of Addendum:** In 2004, Kittitas County issued a Final EIS (FEIS) for a maximum capacity 180 megawatt wind energy facility at this location. In November 2009, EFSEC issued a Final Supplemental FEIS (FSEIS) for a revised proposal for a maximum capacity 190 megawatt wind energy facility at this location. An SCA between EFSEC and the Certificate Holder was signed on February 2, 2010. The Project was not built. In 2017 the Certificate Holder contacted EFSEC and indicated they wished to revise the Proposal and were seeking an amendment to the SCA. The Certificate Holder submitted a package of information including a revised Project description, proposed amended SCA, and a SEPA checklist on February 26, 2018. EFSEC reviewed the revised proposal and analyzed the environmental impacts (see Revised SEPA Memorandum to Stephen Posner, November 5, 2018).

Consistent with WAC 197-11-600 (3)(b) (i) and (ii) concerning when a proposal has been changed following completion of SEPA review, EFSEC has determined that the new information and analysis from the proposed changes does not substantially change the analysis of significant impacts and alternatives in the existing environmental documents. Consistent with WAC 197-11-600 (4)(c), an addendum is appropriate for documenting this environmental review under SEPA.

**A 15 day Public Comment period on the SEPA Addendum was held September 26, 2018 through October 10, 2018.**

**The Desert Claim Final SEPA Addendum and supporting documentation can be found on EFSEC's website: [www.efsec.wa.gov/Desert\\_Claim/SCA.html](http://www.efsec.wa.gov/Desert_Claim/SCA.html)**

**Name of agency:** Energy Facility Site Evaluation Council  
PO Box 47250  
Olympia, WA 98504-7250

**Responsible Official:** Stephen Posner, EFSEC Manager

**Signature:**  \_\_\_\_\_

**Contact person:** Sonia Bumpus, EFSEC Siting and Compliance Manager  
(360) 664-1363

Attachment:

November 1, 2018 Revised SEPA Staff Memorandum to Stephen Posner from Sonia Bumpus.

## **Attachment 2**

EFSEC SEPA revised staff memorandum to Stephen Posner



STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL  
*PO Box 47250 • Olympia, Washington 98504-7250*

## Memorandum

**To:** Stephen Posner, EFSEC Manager, (360) 664-1903  
**From:** Sonia E. Bumpus, EFSEC Siting and Compliance Manager, (360) 664-1363  
**Date:** November 7, 2018

**RE: Revised Environmental Review and Staff Recommendation for State Environmental Policy Act (SEPA) Review for Desert Claim Wind Power Project Request for Amendment to the Site Certification Agreement**

**PROPOSAL:** On February 26, 2018, the Certificate Holder, Desert Claim Wind Power LLC, requested an amendment to their Site Certification Agreement (SCA) that was issued on February 1, 2010. The approved SCA is for constructing a wind power facility consisting of a maximum of 95 wind turbines on tubular steel towers with 190 total megawatts (MW) and a tower height not to exceed a maximum height of 410 feet within an approximately 5,200 acre project site. The project is located north and west of Ellensburg near the intersection of U.S. Route 97 and Smithson Road. Site access during construction was primarily from Reecer Creek Road. Seven non-participating residences are located between 1,687 and 2,241 feet of one or more turbines. No temporary or permanent stream or wetland impacts were identified during the environmental analysis initially conducted by EFSEC. As a result, measures to address these types of impacts were not included in the original SCA.

The revised proposal is for constructing and operating a smaller facility consisting of 25-31 turbines not to exceed 492 feet in height and 100 MW. The project remains at the same site with acreage reduced to 4,400 acres in which approximately 370 acres have been added to the west and south and 1,271 acres have been removed east of Reecer Creek. Primary site access during construction and operation has been changed to Smithson Road (accessed from Hwy 97). All turbines are located at least 2,500 feet from all residences in the revised proposal. A total of 0.347 acres of permanent wetland impacts and 0.026 acres of permanent stream impacts are proposed. An additional 1.949 acres (0.126 acres stream and 1.823 acres wetland) temporary impacts are proposed to streams and wetlands. There is an expected 66% decrease in turbine delivery trips and 10% increase in concrete trucks per hour during construction.

CASE NUMBER: EFSEC SCA No. 2006-02  
Docket No. 180105

CERTIFICATE  
HOLDER: Desert Claim Wind Power LLC

LOCATION: Kittitas County, Washington.

OTHER PERMITS: Implementation of this revised proposal would require the following permits or approvals (\*included in Proposed SCA Amendment):

<b>Permit or Requirement</b>	<b>Agency Code, Ordinance, Statute, Rule, Regulation, or Permit</b>
Threatened or Endangered Species	U.S. Fish and Wildlife Service  Endangered Species Act of 1973 (16 USC, Section 1531, et seq.) and implementing regulations. Designates and provides for protection of threatened and endangered plants and animals and their critical habitat.
Migratory Birds	U.S. Fish and Wildlife Service  Migratory Bird Treaty Act (16 USC 703-711)
Bald Eagles	U.S. Fish and Wildlife Service  Bald and Golden Eagle Protection Act (16 CFR 668-668c)  Eagle permit regulations (50 CFR 22)
Waters of the United States*	U.S. Army Corps of Engineers, Seattle District  Clean Water Act of 1972 (Waters of the U.S. 1986/1988 regulatory definition in 40 CFR 230.3)  Joint Aquatic Resource Permit Application (JARPA) for Section 404 fill in Waters of the U.S.
Electrical Construction Permit	Washington Department of Labor and Industries  WAC 296-746A, Washington Department of Labor and Industries Safety Standards – Installing Electrical Wires and Equipment – Administration Rules.
Noise Control	Washington Department of Ecology  RCW 70.107, Noise Control; WAC 173-58, Sound Level Measurement Procedures  WAC 173-60, Maximum Environmental Noise Levels; WAC 463-62-030, Noise Standards*

<b>Permit or Requirement</b>	<b>Agency Code, Ordinance, Statute, Rule, Regulation, or Permit</b>
Water Quality Storm Water Discharge: Construction Activities	<p>Washington Department of Ecology</p> <p>RCW 90.48, Water Pollution Control Act, establishes general stormwater permits for the Washington Department of Ecology National Pollutant Discharge Elimination System Permit Program</p> <p>WAC 173-201A, Washington Department of Ecology Water Quality Standards for Surface Waters of the State of Washington, which regulates water quality of surface waters</p> <p>WAC 173-220, National Pollutant Discharge Elimination System Permit Program. Construction Stormwater General Permit</p> <p>Federal statute(s) and regulations implemented by the above state statute(s) and regulations include: Federal Clean Water Act, 42 USC 1251; 15 CFR 923-930</p> <p>Kittitas County Code (KCC) 12.06 – Roads and Bridges – Storm Water Management Standards</p> <p>KCC 12.07 – Roads and Bridges - Bridges and Major Drainage Structures</p>
Fish and Wildlife	<p>Washington Department of Fish and Wildlife</p> <p>WAC 220-610, defines State species status and protections</p> <p>WAC 232-12, Washington Department of Fish and Wildlife Permanent Regulations, provides information on classification of wildlife species, including “Priority Habitats and Species”*</p> <p>RCW 77, Hydraulic Code for in-water work</p>
State Environmental Policy Act (SEPA)	<p>RCW 43.21C, Washington Environmental Policy Act</p> <p>WAC 197-11, Washington Department of Ecology SEPA Rules, which establishes uniform requirements for compliance with SEPA</p>
Archaeology and Historic Preservation	<p>National Historic Preservation Act (Public Law 89-665)</p> <p>Washington State Department of Archaeology and Historic Preservation*</p> <p>RCW 27.53, Archaeological Sites and Resources</p> <p>RCW 27.53, Indian Sites and Resources Act</p> <p>RCW 27.44, Indian Graves and Records Act</p>
Comprehensive Plan	Kittitas County Comprehensive Plan, 2000–2020
Zoning Ordinance, including Critical Areas Ordinance	<p>KCC 17 - Zoning</p> <p>KCC 17A – Critical Areas</p>
Access Permit	KCC 12.05, Roads and Bridges – Driveways and Accesses
Grading Permit (if necessary)	KCC 14.05, Buildings and Construction - Grading
Aviation & Lighting	<p>Federal Aviation Administration – Federal Aviation Regulations</p> <p>49 USC 44718, Structures interfering with air commerce or national security</p> <p>14 CFR 77, Safe, Efficient Use, and Preservation of the Navigable Airspace</p>

Notes: CFR = Code of Federal Regulations; KCC = Kittitas County Code; RCW = Revised Code of Washington; USC = United States Code; WAC = Washington Administrative Code

## REQUIRED

SUBMITTALS: The following documents are required as noted in the original SCA and the proposed SCA Amendment:

- Temporary Erosion and Sediment Control (TESC) Plan
- Stormwater Pollution Prevention Plan (SWPPP)
- Construction Spill Prevention, Control and Countermeasure Plan (Construction SPCCP)
- Initial Site Restoration Plan (Initial SRP)
- Final Site Restoration Plan (Final SRP)
- Wetland Compensatory Mitigation Plan
- Wetlands Restoration Plan
- Construction Soil Management and Vegetation Plan
- Habitat Restoration Plan
- Pre-Construction Raptor Nest Survey
- Pre-Construction Townsends Ground Squirrel Survey
- Habitat Mitigation Plan
- Noxious Weed Control Plan
- Establish a Technical Advisory Committee (TAC)
- Site Management Plan (to identify environmental features and wildlife areas)
- Cultural Resources Monitoring and Mitigation Plan
- Fire Control Plan – Construction Phase
- Fire Control Plan – Operations Phase
- Construction Traffic Management Plan
- Construction Emergency Plan
- Construction Phase Health and Safety Plan
- Construction Phase Site Security Plan
- Construction Management Plan
- FAA Determination of Non-Hazard Certificates
- Final Construction Plans (plans, specifications, drawings, and design documents)
- Final Project Layout Plan
- Environmental Compliance Program
- Operations SWPPP
- Operations SPCCP
- Operations Emergency Plan
- Post-Construction Avian Monitoring Plan
- Post-Construction Bald Eagle Study Plan
- Pre-Operational Bat Survey and Bat Monitoring Plan
- Operations Phase Health and Safety Plan
- Operations Phase Site Security Plan

## A. ENVIRONMENTAL RECORD and EXHIBITS

The environmental review conducted by EFSEC consisted of analysis based on the following documents included in the environmental record. The documents listed are available for review on EFSEC's website at: [http://www.efsec.wa.gov/Desert\\_Claim/SCA.html](http://www.efsec.wa.gov/Desert_Claim/SCA.html)

- Environmental Checklist received February 26, 2018
- Desert Claim Wind Power Project Request for an Amendment to the Site Certification Agreement (SCA) received February 26, 2018, EFSEC Original Application No. 2006-02
- Desert Claim Wind Power Project May 30, 2018 Staff Site Visit Report
- Desert Claim Wind Power Project EFSEC Site Certification Agreement Amendment Wetlands Report, Grette Associates, January 31, 2018.
- Desert Claim Wind Power Project Wetland Delineation and Analysis Report, Grette Associates, May 2018
- Desert Claim Wind Power Project Compensatory Mitigation Plan, Grette Associates, July 2018

- Desert Claim Wind Project Environmental Noise Assessment Technical Report, Ramboll US Corporation, February 2018
- Environmental Noise Assessment Technical Report for the revised Desert Claim Wind Project, Ramboll US Corporation, May 25, 2018
- Shadow Flicker Study Desert Claim Wind Project, EDF Renewable Energy, January 30, 2018
- Kittitas County 2016 Comprehensive Plan
- Visual Effects Assessment, Desert Claim Wind Power Project, Golder Associates Inc., September 7, 2018
- Certificate Holder Responses to Data Request 1, April 16, 2018
- Certificate Holder Responses to Data Request 2, May 25, 2018
- Certificate Holder Responses to Data Request 3, August 1, 2018 and August 21, 2018
- Cultural Resource Assessment of Updated Project Design for the Desert Claim Wind Power Project, Archaeological Investigations Northwest, Inc., February 9, 2018

The environmental review also consisted of input or recommendations from State and Federal agencies, tribes, and EFSEC’s consultant via several forms of communication, as listed below.

Commenter and Acronym	Date of Comment	Form of Comment	Resource Subject
Washington Department of Ecology (Ecology)	08/30/2018	Letter from Lori White	Wetlands
Washington Department of Fish and Wildlife (WDFW)	05/02/2018	Phone - with Scott Downes	Animals (birds and bats)
Washington State Department of Archaeology and Historic Preservation (DAHP)	07/31/2018	Historic Property Report for N. Branch Canal Farm Bridge Station No 346	Historic
Washington State Department of Archaeology and Historic Preservation (DAHP)	04/19/2018	Letter from Gretchen Kaehler	Cultural Resource Assessment
Washington Department of Fish and Wildlife (WDFW)	04/20/2018	Email and attached Letter from Scott Downes	Wildlife, habitat and wetland/ streams
Washington Department of Ecology (Ecology)	09/07/2018	Letter from Lori White	Wetland Addendum
Washington Department of Natural Resources (DNR)	05/09/2018	Phone call with Wyatt Leighton	Environmental Health (Aerial firefighting)
EFSEC Consultant (Golder Associates)	09/07/2018	Email Correspondence	Comprehensive Plan Review (compare 2016 to 1996)
Federal Aviation Administration (FAA)	09/14/2018	Email Correspondence	FAA Non-Hazard Certification
Federal Aviation Administration	07/19/2018	Email Correspondence	Aircraft Detection Lighting System (ADLS)
Confederated Tribes and Bands of the Yakama Nation (Yakama Nation)	11/07/2018	Phone call and Email from Jessica Lally	Cultural Resource Assessment

## B. STAFF REVIEW OF THE ENVIRONMENTAL CHECKLIST AND PUBLIC COMMENTS

EFSEC and its consultant (Golder Associates), the Certificate Holder (Desert Claim Wind Power LLC) and their consultant (Grette Associates), and Department of Ecology’s wetlands specialist visited the site on May 30, 2018.

The following sections correspond with elements of the environment listed in WAC 197-11-444 and with the sections in the environmental checklist WAC 197-11-960, and were used to organize and document EFSEC’s environmental review of the revised proposal. Additional

information provided by the Certificate Holder in their SCA amendment request, existing SEPA documents, and EFSEC's consultants were used as part of the environmental review.

EFSEC published a draft SEPA Addendum, dated September 25, 2018. A public comment period was held September 26, 2018 through October 10, 2018. Three public comments were submitted and reviewed by EFSEC staff to identify substantive issues. Consequently, one of the proposed mitigation measures related to cultural resources was revised in light of the public comments received. Final mitigation measures have been updated and documented in the Final SEPA Addendum, dated November 5, 2018. The following sections in this Revised SEPA Staff Memo have been updated to include discreet comments relevant to SEPA environmental review and EFSEC responses. Discreet issues are discussed in detail under their respective resource area below. Concerns raised during the 15 day SEPA public comment period include the following:

- Potential water quality impacts to Dry Creek, Green Canyon Creek, Reecer Creek, and Jones Creek for stream heating and bacterial contamination.
- Potential impacts to wetlands and streams.
- Potential impacts from turbine noise- require highest noise standards and monitoring.
- Potential visual impacts from taller turbines, spacing between turbines- visual confusion and disunity.
- Potential impacts from turbine lighting- encourage use of Aircraft Detection Lighting System (ADLS).
- Cultural Resource- concern from the Certificate Holder on the proposed mitigation measure and SCA requirement to adhere to their Memorandum of Understanding (MOU) with the Yakama Nation.
- Potential impacts to transportation during construction associated with concrete truck delivery trips.

## **1. EARTH**

No new or increased adverse environmental impacts are expected from the amended proposal. No mitigation measures recommended.

## **2. AIR**

No new or increased adverse environmental impacts are expected from the amended proposal. No mitigation measures recommended.

## **3. WATER**

- a. A Construction Stormwater General Permit (CSWGP) would be required as part of the Site Certification Agreement approval. The Certificate Holder would be required to comply with the permit to protect water quality during construction activities.
- b. Impacts to Wetlands, Streams, and Riparian Areas On-Site.

Ecology and EFSEC reviewed the May 2018 Wetland Delineation and Analysis Report. Permanent impacts to approximately 0.026 acres associated with 13 streams and 0.347 acres associated with 8 wetlands are anticipated. The Certificate Holder proposes to conduct required mitigation by enhancing three onsite wetlands. Final mitigation would be developed to fully mitigate for any permanent impacts identified, and for the size of buffers based on Best Available Science (BAS).

Wetland enhancement may include removing existing cattle grazing uses, installing exclusion fencing, and planting bare areas with plug sized herbaceous vegetation. EFSEC and Ecology reviewed the credit/debit analysis proposed by the Certificate Holder and concluded there would be “no net loss” of wetland function within the project area with proposed mitigation (Ecology 09/07/2018).

The Certificate Holder proposed wetland mitigation monitoring for 5 years in the SCA Amendment; however, Ecology recommended a monitoring period of 10 years for the project (Ecology 09/07/2018). A compensatory mitigation plan will be submitted prior to beginning site preparation, EFSEC will coordinate with Ecology and WDFW for approval of the plans.

Temporary impacts to approximately 0.126 acres of streams and 1.823 acres of wetlands are anticipated as a result of underground utility installation and crane access. Temporary impacts would be minimized through sediment and erosion control Best Management Practice (BMP) implementation and Spill Prevention, Control, and Countermeasure Plan implementation.

**10/5/18 Public Comment** received from the Washington Department of Ecology (Ecology) regarding the protection of impaired waterbodies. In summary, Ecology commented that Dry Creek, Green Canyon Creek, Reecer Creek, and Jones Creek flow through the project area and are included in the Upper Yakima River Tributaries Temperature Total Maximum Daily Load (TMDL) water quality improvement project. Therefore, these streams must be protected from additional stream heating. Ecology requested that the project avoid removal of existing streamside vegetation during construction, as well as during future operations. The TMDL also recommends that supplementary shade, via installation of new riparian plants, should be added where possible. In addition, the Reecer Creek reach located immediately upstream of the Kittitas Reclamation District canal is included in Washington State’s list of 303(d) impaired waterbodies due to high levels of fecal coliform bacteria. It is important that project planning and construction, and all future use of the site, include water quality protection to avoid further bacterial contamination in Reecer Creek. Ecology stated that a CSWGP and the development of a SWPPP will be required for off-site construction stormwater discharges.

**Comment Response:** The proposed mitigation in the SCA Amendment requires the Certificate Holder to coordinate with WDFW and Ecology regarding finalizing construction and operating plans to avoid or minimize temporary and permanent impacts on streams and wetlands. Prior to construction a final set of wetland buffers, setbacks, and mitigation standards for permanent and temporary impacts must be determined by EFSEC in consultation with Ecology. The SCA Amendment includes the requirement to develop a Temporary Erosion and Sediment Control (TESC), Stormwater Pollution Prevention Plan, Wetland Compensatory Mitigation Plan (SWPPP), Habitat Mitigation Plan, and Construction Soil Management and Vegetation Plan. These plans will address

protection of impaired waterbodies as will the Construction Stormwater General Permit that is required for discharging construction stormwater off-site.

No further mitigation measures are recommended.

**Proposed mitigation:** Wetlands, Streams and Riparian Areas.

While finalizing construction plans, the Certificate Holder will coordinate with WDFW and Ecology regarding finalizing construction and operating plans, in relation to micro-siting of project facilities and roads, in order to avoid or minimize the facility elements' temporary and permanent impacts on streams and wetlands.

The Certificate Holder will be required to conduct wetland mitigation monitoring for a period of 10 years.

Prior to construction of the site, a final set of wetland buffers, setbacks, and mitigation standards for permanent and temporary impacts shall be determined by EFSEC in consultation with Ecology. Wetland buffers shall be determined in accordance with applicable provisions of the Kittitas County Code for Critical Areas in KCC 17A. Where supported by the following Ecology guidance documents, EFSEC may require buffers of greater width than would be required under KCC 17A: Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance, Ecology Publication #06-06-011a (March 2006); Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans, Ecology Publication #06-06-011b (March 2006); Update on Wetland Buffers: The State of the Science, Final Report, Ecology Publication #13-06-011 (October 2013). Based on the final wetlands requirements from EFSEC, the Certificate Holder shall submit a Wetlands Mitigation Plan to EFSEC for approval at least sixty (60) days prior to the beginning of Site Preparation, which shall summarize how the Site is in compliance with those wetland buffers, setbacks, and mitigation standards.

**This mitigation applies to SCA Amendment: ARTICLE IV.E and ARTICLE V.**

**4. PLANTS**

No new or increased adverse environmental impacts to plants are expected from the amended proposal. No mitigation measures recommended.

**5. ANIMALS**

- a. The Certificate Holder has agreed to establish a Technical Advisory Committee (TAC). A Post-Construction Avian Monitoring Plan will be developed in coordination with the TAC.
- b. Possible impacts on birds and bats from turbines located in the amended project area, from taller turbines and longer blades.

EFSEC in coordination with WDFW, reviewed the SCA Amendment materials and determined the amended project location is not in an obvious migration route. An excessive amount of birds around the rotor-swept area is not expected. WDFW's review concluded that impacts and mortality are expected to be similar to those experienced by EFSEC's Kittitas Valley Wind Farm facility (WDFW 5/2/2018). Although the turbine

blades will be longer and create a larger wind swept area for each turbine, the decrease from a maximum of 95 turbines to a maximum of 31 turbines for the amended project would result in a 36-48% reduction in rotor swept area. This reduction would reduce bird/bat interaction with turbine blades than was analyzed in the FSEIS for the original project, (Desert Claim Wind Power Revised Project Description). WDFW requests that the Certificate Holder work with them on several plant, animal, and wetland topics listed in the amended SCA and finalize well before construction, including an opportunity to participate in micro-siting of roads that might further reduce stream or wetland impacts (WDFW 4/20/2018). Per the SCA Amendment, the Certificate Holder is required to coordinate with WDFW to develop a Habitat Mitigation Plan, Habitat Restoration Plan, Pre-Construction Raptor Nest Survey, and a Pre-Construction Townsends Ground Squirrel Survey.

No new or increased adverse environmental impacts to animals and their habitats are expected from the amended proposal. No other mitigation measures recommended.

## **6. ENERGY AND NATURAL RESOURCES**

- a. The creation of congestion on existing lines would not be considered an adverse environmental impact. It may limit the usability of the energy that is produced by the project.

No new or increased adverse environmental impacts to energy are expected from the amended proposal. No mitigation measures recommended.

## **7. ENVIRONMENTAL HEALTH**

- a. Possible impact to aerial firefighting abilities of planes to fly and drop water on fires in areas with turbines.

Turbines can create an additional hazard and complication for aerial firefighting which is a desirable method for protecting residences from fire. As long as there is some buffer between the turbines and residences, aerial firefighting methods can be used. EFSEC coordinated with DNR. Based on that coordination, EFSEC determined the turbine distance of 2,500 feet from a residence is adequate. In regards to fire fighting in general, wind farms can be advantageous because they add roads to an otherwise rural area where roads may not exist (DNR/Wyatt Leighton 05/09/2018).

- b. Possible impacts from taller turbines to aeronautic approaches to Kittitas County Airport (Bowers field) and Federal Aviation Administration (FAA) review of the amended proposal for hazards to aeronautic approaches to Bowers field.

The SCA requires that the Certificate Holder provide copies of the determination of non-hazard certificates issued by the FAA and other information to EFSEC, which demonstrate that the Project will not impact approved flight approaches, flight communications, or operations at the Kittitas County Airport (Bowers Field) prior to the start of construction.

- c. Potential for shadow flicker affecting residences.

Turbines will be placed greater than 2,500 feet from residences. Residences may experience brief periods of shadow flicker.

EFSEC reviewed a study on shadow flicker (EDF Renewable Energy 01/30/2018), which indicates that up to 30 residences would experience a maximum of 22-50 minutes per day (2.4 hours to 40.5 hours per year) of shadow flicker from wind turbines. The Certificate Holder proposed a revised mitigation measure for shadow flicker in their SCA Amendment request. The original SCA condition required the Certificate Holder to shut down a turbine for the duration of a shadow flicker impact upon the written request of a nonparticipating landowner for residences within 2,500 feet. Based on EFSEC's environmental review of this issue, shut down of the turbine by programming the control system of a wind turbine to stop the blades, when operating conditions result in a perceptible shadow flicker, is the most effective measure for mitigating shadow flicker impacts. Shadow flicker may also be addressed by planting trees, shading windows, or implementing other mitigation measures. Because the original SCA mitigation measure for shadow flicker included only one mitigation option (avoidance) there was no need for EFSEC to provide any oversight on mitigation options. However, the amended language allows for multiple options.

The proposed mitigation in the September 25, 2018 SEPA Addendum has been supplemented to include a clarification that EFSEC review and approval of the mitigation and complaint monitoring plan includes review and approval of any denials of any complaint requests as well as review and approval of the mitigation selected to address individual complaints.

**Proposed mitigation:** Shadow Flicker Mitigation Measures

Develop a mitigation and complaint monitoring plan to respond to any residential complaints. The mitigation plan will include avoidance, minimization, and mitigation of shadow flicker through turbine shut down, planting trees, shading windows, or other mitigation measures. The complaint monitoring plan will be reviewed and approved by EFSEC prior to operation and, at a minimum, will include:

- Notification of EFSEC within five (5) business days of receipt of any request to mitigate shadow flicker,
- Notification of EFSEC, within two (2) weeks of original receipt, of the actions taken in response, and
- EFSEC shall retain authority to review and override the Certificate Holder's denial(s) of any requests or choice of mitigation in this regard.

**This mitigation applies to SCA Amendment: ARTICLE VII.H.**

**8. NOISE**

a. Noise from operation of wind turbines.

EFSEC and its consultant reviewed the Environmental Noise Assessment Technical Reports to assess the Project's compliance with Washington Administrative Code 173-

60-040 for noise. Based on the noise inputs and baseline data detailed in the assessment report and follow-up technical memo, the expected noise levels were below the most limiting standard of 50 decibels (dBA) for the wind turbine generator and electrical substation for all modeled scenarios. These levels comply with WAC 173-60-040.

Review by EFSEC and its consultant determined that low frequency noise (or aeroacoustic noise) generated by the turbine blade moving through the atmosphere was not addressed in the technical information provided by the Certificate Holder. Although noise from wind turbine generators are not anticipated to exceed noise standards, it is possible that low frequency noise may be perceived as a nuisance. A complaint-based noise monitoring plan/protocol could be developed prior to construction and implemented during operation to respond to complaints related to operational noise.

Noise models conducted show no exceedances of noise standards and while low frequency nuisance noise is not expected, a complaint-based monitoring plan and follow up response procedure for any reported nuisance noise would ensure any unexpected noise issues could be mitigated during operation.

**10/10/18 Public Comment** from a member of the public regarding the noise monitoring plan. In summary, the comment requested that the applicant be held to the strictest standards in their noise monitoring plan.

**Comment Response:** The proposed mitigation in the SCA Amendment includes Complaint-Based Noise Monitoring and Response Plan submittal to EFSEC for review and approval prior to operation to address low frequency noise and aeroacoustic noise.

No further mitigation measures are recommended.

**Proposed mitigation:** Noise Emissions.

The Certificate Holder shall submit a Complaint-Based Noise Monitoring and Response Plan to EFSEC for review and approval prior to operation, to address low frequency noise and aeroacoustic noise.

**This mitigation applies to SCA Amendment: ARTICLE VII.B.**

## **9. LAND AND SHORELINE USE**

- a. The Desert Claim project is not within the Wind Farm Resource overlay district as defined in the Kittitas County 2016 Comprehensive Plan (KCCP).

However, the 2016 KCCP identifies siting criteria for areas outside the Wind Farm Resource overlay district. The Wind Farm Overlay Zone is included in Kittitas County Code (KCC) 17.61A. The Desert Claim project is not within this zone. The Desert Claim project area is classified as rural working land, zoned as Ag 20 and Forest and Range. This zoning is consistent with the zoning that was in place in 2010 when the Desert Claim SCA was issued by EFSEC.

- b. The Kittitas County 1996 Comprehensive Plan (KCCP) did not contain language specific to energy facilities or wind energy when the original SCA for Desert Claim was issued.

EFSEC and its consultant reviewed and compared the 1996 KCCP to the updated 2016 KCCP. The 2016 KCCP identifies goals, policies, and objectives (GPOs) to protect, preserve, maintain, and enhance the County's natural resource industry base including energy resources. According to the 2016 KCCP, factors that should be used as the basis for siting decisions for energy facilities are: 1) Minimal health risk to residents of neighboring properties, whether from noise, fumes, radiation or other hazards; 2) Minimal visual impact, achieved with buffering through distance and/or landscaping; 3) For power lines and transmission/ reception towers, no adverse impact on aviation traffic patterns; 4) Convenient access (may not be needed if the facility is automated); 5) Encourage use of cold weather engineering practices to cope with power outages; and 6) Ensure that new developments are designed with facilities to withstand a minimum 48-hour power outage.

No new or increased adverse environmental impacts to land use, are expected from the amended proposal. No mitigation measures recommended.

## 10. HOUSING

- a. The turbines will be located greater than 2,500 feet from residences.

No new or increased adverse environmental impacts to housing are expected from the amended proposal. No mitigation measures recommended.

## 11. VISUAL AND AESTHETICS

- a. Possible impacts from increased turbine height.

EFSEC's consultant conducted an independent Visual Effects Assessment which concluded that the proposed turbine configuration in the amended SCA would reduce visual impacts relative to the previously permitted project.

Taller turbines would not increase visual/aesthetic impacts to a significant level and in areas where the number of turbines have been reduced as compared to the previously approved proposal, the amended proposal would reduce impacts.

**10/10/18 Public Comment** from a member of the public regarding visual impacts of the turbines during operation. In summary, the commenter expressed concern regarding the tallest land turbines on earth being sited next to many homes without EFSEC finding any significant impacts and more specifically concern regarding visual impacts to residences on Smithson Road. Concern was also expressed regarding the variation in size of the turbines and various distances apart from one another and differing turbine models causing visual confusion and disunity.

**Comment Response:** EFSEC's consultant determined that from this viewing location, Project features would be distinct and would attract viewer attention; however, fewer turbines will be visible than the previous configuration in the SCA.

The independent Visual Effects Assessment indicated that construction and decommissioning activities and components would likely be visible to those viewers adjacent to the work sites (e.g. viewers along Smithson Rd. and at nearby residences) with a localized effect that would be experienced for a relatively short duration (weeks to months). The previous visual assessment in the FEIS and FSEIS also indicated a moderate level of visual impact related to this general location.

The technical approach used in the Visual Assessment (and previous visual assessments in the FEIS and FSEIS) did consider dimensions of vividness, intactness, and unity, as well as the degree of visual dominance of the Project to determine the changes to visual quality. The established Federal Highway Administration (FHWA) definition of 'unity' refers to the visual coherence and compositional harmony of the viewshed where effects are evaluated based on the degree to which they disrupt the harmony of the landscape setting. The visual assessment (Visual Effects Assessment Section 4.1.1) as well as the photos and simulation provided by Truescape (Visual Effects Assessment Appendix A – Sheet 8 and Sheet 9) illustrate that the views of the valley from this area are dominated by agricultural development and currently include evident wind projects in the northwest portion of the study area. Based on the existing visual quality and character visible from this area, while distinct, the Project features would not substantially affect the visual unity of the views or be incoherent within the context of the surrounding landscape.

No new or increased adverse environmental impacts to visual and aesthetics are expected from the amended proposal. No mitigation measures recommended.

## 12. LIGHT AND GLARE

### a. Possible impacts from turbine lighting.

The FSEIS identifies flashing lights at night as an impact to viewing the night sky. New mitigation in the form of radar based aircraft detection lighting has become available that could offset some of this impact. While no new or increased impacts are expected for the amended SCA, the application of an Aircraft Detection Lighting System (ADLS) would be beneficial at reducing the nonsignificant impacts of the amended proposal.

**10/10/18 Public Comment** from a member of the public regarding turbine lighting. In summary, the commenter encouraged the use of ADLS.

**Comment Response:** The proposed mitigation in the SCA Amendment requires the Certificate Holder to investigate the application of ADLS prior to construction and report its finding to EFSEC. The report will include the benefits and feasibility of ADLS for the project.

No further mitigation measures are recommended.

**Proposed mitigation:** Light, Glare and Aesthetics.

The Certificate Holder shall investigate the application of an Aircraft Detection Lighting System (ADLS) prior to construction and report its findings to EFSEC. The report should include the benefits and feasibility of ADLS for the Desert Claim project.

**This mitigation applies to SCA Amendment: ARTICLE V.J.**

### **13. RECREATION**

Hunting will not be allowed in the Project Area during construction. No mitigation measures recommended.

No new or increased impacts to recreation are expected from the amended proposal. No mitigation measures recommended.

### **14. HISTORIC AND CULTURAL PRESERVATION**

- a. Possible impacts to historic and cultural resources included review of the Desert Claim amended project proposal's compliance with RCW 27.53.

In conducting its environmental review, EFSEC coordinated with the Department of Archaeology and Historic Preservation (DAHP) and reviewed the FSEIS prepared by EFSEC, which identified a Memorandum of Understanding (MOU) between Desert Claim and the Yakama Nation.

EFSEC staff also reviewed information submitted related to the historic status of the Kittitas Division North Branch Canal Farm Bridge Station No 346.

DAHP recommended a pre-construction archaeological survey and the development of an archaeological monitoring schedule for any archaeological sites that can't be avoided during construction (4/19/2018 and 9/2/2018). DAHP also recommend the development of an Inadvertent Discovery Plan (IDP). DAHP determined the Kittitas Division North Branch Canal Farm Bridge Station No 346 is not eligible for the historic register.

The Certificate Holder consulted with the Yakama Nation and entered into a Memorandum of Understanding (MOU) concerning surveys that will be performed prior to construction to identify traditionally important plants and root gathering grounds, Traditional Cultural Properties (TCPs), and archaeological sites of interest to the Yakama Nation.

No new or increased impacts are expected from the amended proposal after DAHP final review and recommendations are implemented. Prior to construction, the Certificate Holder shall obtain all necessary DAHP permits and perform all necessary archaeological work in order to comply with RCW 27.53. The Certificate Holder will comply with their MOU with the Yakama Nation.

**10/10/18 Public Comment** from the Certificate Holder regarding the requirement to adhere to their MOU with the Yakama Nation. The comment explained that the MOU document is a "Scope of Work" between the Certificate Holder and the Yakama Nation, the contents of which EFSEC does not know; and this it is not a binding agreement between the two parties. The Certificate Holder's comment further explained that some activities identified in the "Scope of Work" document have already been completed. The Certificate Holder also expressed concerns about the appropriateness of EFSEC including a requirement that relates to a private document between the Certificate Holder and the Yakama Nation.

**Comment Response:** Proposed mitigation in the draft SEPA Addendum, dated September 25, 2018, requiring the Certificate Holder to adhere to the MOU was developed based on EFSEC's initial SEPA environmental review of the FSEIS and the SCA Amendment request materials submitted by the Certificate Holder (Desert Claim). Input to EFSEC from DAHP was also considered to develop the proposed mitigation measure in the draft SEPA Addendum.

For example, the FSEIS discussed additional cultural resource surveys to be conducted by the Certificate Holder; it states, "the Applicant has also agreed to conduct additional surveys of Traditional Cultural Properties (TCPs) of importance to the Yakama Nation and to work with the Yakama Nation to prepare a Traditional Cultural Resources Mitigation Plan." The mitigation measure included that the cultural resource mitigation plan be developed in consultation with the Yakama Nation and DAHP. According to the FSEIS, the plan "would include mitigation measures tailored to the specific circumstances of each resource and would be consistent with applicable federal, state, and local regulations", (FSEIS, Section 3.3.5, Mitigation Measures).

The FSEIS also acknowledged the MOU and characterized its intended purpose, that the "MOU addresses concerns expressed by the Yakama Nation's comments on the Draft SEIS, and provides a framework for developing a Traditional Cultural Resources Mitigation Plan with the Yakama Nation", (FEIS, Section, 3.3.5, Mitigation Measures).

In DAHP's comments to EFSEC, they concurred with the condition regarding Tribal involvement in developing mitigation, stating, "We agree with the recommendation for Tribal consultation regarding mitigation for impacts to traditional subsistence and medicinal plant resource areas", (FSEIS, Section 3.3.2.4, Site Significance Evaluations).

In addition, DAHP provided the following recommendations to EFSEC:

- Requested additional photos of historic-period field clearing pile archaeological sites and evidence of tribal consultation, otherwise these resources must be avoided or obtain a DAHP permit prior to any impacts.
- Stated all Revised Project impacts should be avoided to all pre-contact archaeological sites and one historic-period archaeological site and if they can't be avoided, a permit from DAHP is required for formal archaeological testing with recommendations for further mitigation.
- Requested a robust Inadvertent Discovery Plan be developed for the Revised Project and training of construction and operations crews.
- Requested additional archaeological survey for micrositing of turbines and for alterations in roadway plans.

In light of the references to the MOU in the FSEIS, and its apparent importance for addressing potential adverse impacts to tribal resources of concern to the Yakama Nation, on September 20, 2018, EFSEC requested a copy of the MOU from Desert Claim. Desert Claim did not provide a copy to EFSEC.

Because the Yakama Nation did not provide comments relative to EFSEC's draft SEPA Addendum, in a letter dated October 17, 2018, EFSEC Siting and Compliance Manager, Sonia E. Bumpus, contacted the Yakama Nation to request that it notify EFSEC of any concerns related to the MOU and/or Desert Claim's SCA amendment request. The Yakama Nation responded to EFSEC and on November 7, 2018 EFSEC staff and the

Yakama Nation held a call to discuss four aspects of their previous agreements with the Certificate Holder and any other concerns related to the amended proposal.

The four areas of agreement entail: 1.) Development of a traditional cultural resources mitigation plan prior to construction; 2.) Access for Yakama Tribal members to the root grounds within the Project area; 3.) Yakama Nation participation on the Technical Advisory Committee (TAC); and 4.) Restoration of lands to pre-Project conditions following decommissioning. This conversation helped to improve EFSEC's understanding of the agreement between Desert Claim and the Yakama Nation and it is expected that Desert Claim's commitments in the FSEIS in conjunction with the new and supplemented mitigation measures in the SCA Amendment, are sufficiently expansive to address the four considerations outlined above.

Recommendations from the Yakama Nation from a 2010 survey of the project area were also discussed during the call. EFSEC staff had previously identified the recommendations during its review of the updated cultural resource assessment prepared by the Certificate Holder's consultant, Archaeological Investigations Northwest, Inc. (AINW), titled, "*Cultural Resource Assessment of Updated Project Design for the Desert Claim Wind Power Project*". Based on input related to EFSEC during the call, it is EFSEC's understanding that the Yakama Nation's recommendations in the AINW report continue to be topics of concern related to the Revised Project. In consideration of the amended proposal, the input from DAHP and the Certificate Holder, and more recently, the input from the Yakama Nation (11/07/2018), EFSEC staff proposes further revision and clarification to the mitigation to improve the mitigation measure to address cultural resource impacts:

**Revised mitigation in the SCA Amendment is recommended:**

The development of the Cultural Resources Monitoring and Mitigation Plan must be done in coordination with DAHP and the Yakama Nation and approved by EFSEC. The following must be considered during the plan development:

- Avoidance of the concentrated-resource areas.
- Habitat rehabilitation of impacted-resource area as a means of mitigation for impacts to the diffuse-resource areas.
- Archaeological sites be provided a minimum 30 meter/100 foot buffer.
- Archaeological isolates should be further studied and be provided a minimum 15 meter/50 foot buffer.
- 51 rock features should be re-evaluated and recorded as archaeological sites.
- Archaeological monitoring during construction when ground-disturbing activity is involved.

**This mitigation applies to SCA Amendment: ARTICLE IV.H.**

## **15. TRANSPORTATION**

- a. Possible impacts to traffic on Smithson Road during construction.

Smithson Road is a new access road, and is the only access road to the Desert Claim project site in the amended SCA. EFSEC reviewed traffic information provided by the Certificate Holder regarding road improvements and traffic on Smithson Road. Based on updated transportation numbers provided by the Certificate Holder, there will be

approximately 558 total turbine delivery trips which represents a 66% decrease in turbine delivery trips over the life of the project. In contrast to the FEIS construction traffic analysis which assumed 7 truck trips for each of the 120 turbines to be delivered to the site, the amended SCA proposal expects that 9 truck trips will be necessary to carry each of the 31 turbines to the amended project site. The Certificate Holder indicated that approximately 22 concrete delivery trips will be made each hour during a daily 12-hour delivery period which represents a 10% increase in concrete trucks per hour during construction from the transportation numbers presented in the FEIS. The estimated increase in concrete trucks per hour during construction is dependent on the concrete production vendor and is not considered a substantial increase.

Access roads will be 1-foot wider on the straight sections than presented in the FEIS from 15 feet to 16 feet wide.

**10/10/18 Public Comment** from a member of the public regarding concrete truck delivery traffic. The commenter is concerned that “approximately 22 concrete delivery trips will be made each hour during a daily 12-hour delivery period which represents a 10% increase in concrete trucks per hour during construction from the transportation numbers presented in the FEIS. Of course the 10% increase is not considered substantial”. The commenter asked “how long is this daily 12-hour period going to last” and “why is the applicant not making its concrete onsite like most other wind farms?”

**Comment Response:** Based on the project description provided by the Certificate Holder, project construction would last approximately 9 months. Concrete trucks would travel to the site during a small portion of the construction period. The Certificate Holder estimates an average of 22 concrete truck deliveries per hour (see 09/18/2018 email from Karen McGaffey in the Certificate Holder Responses to Data Request 3). This is based on:

- 2,067 one-way concrete truck trips for all concrete deliveries;
- Approximately two foundations could be poured in one day; and
- Two foundations would require 134 truck trips.

At the rate of 134 delivery truck trips in a day, there would be approximately 15 days of concrete delivery trips.

The proposed SCA Amendment required the submittal of a Construction Traffic Management Plan that addresses increased construction traffic on Smithson Road to limit construction delivery vehicles during peak travel times and to accommodate agricultural road use on Smithson Road. The Construction Traffic Management Plan includes delivery trips, timeframe, duration, and concrete source (including an option for on-site concrete batch plants).

No further mitigation measures are recommended.

**Proposed mitigation:** Construction Traffic Development Standards.

The Certificate Holder’s Construction Traffic Management Plan should address increased construction traffic on Smithson Road to limit construction delivery vehicles during peak travel times and to accommodate agricultural road use on Smithson Road.

**This mitigation applies to SCA Amendment: ARTICLE IV.F.**

## **16. PUBLIC SERVICES**

No new or increased adverse environmental impacts to public services are expected from the amended proposal. No mitigation measures recommended.

## **17. UTILITIES**

No new or increased adverse environmental impacts to utilities are expected from the amended proposal. No mitigation measures recommended.

## **18. ENVIRONMENTAL MONITORING**

- a. Possible impacts resulting from removal of the full-time on-site environmental monitor requirement.

The Certificate Holder proposed an amended SCA that deletes the requirement for “full-time on-site” environmental monitoring during the construction phase. The original SCA stipulates full-time on-site environmental monitoring for the construction phase, there is no information indicating why this requirement should be revised to omit “full-time” and “on-site” for this requirement. EFSEC would retain the original language in the SCA requiring “full-time” and “on-site” to ensure environmental compliance throughout the construction phase of the Project.

**Proposed mitigation:** Environmental Monitoring during Construction

EFSEC will provide full-time on-site environmental monitoring for the construction phase of the Project, at the Certificate Holder’s cost.

**This mitigation applies to SCA Amendment: ARTICLE V.A.**

## **C. APPLICABLE SEPA RULES**

EFSEC has conducted an environmental analysis of the changes to the proposal following WAC 197-11-600(3)(b) which states:

For DNSs and EISs, preparation of a new threshold determination or supplemental EIS is required if there are:

- (i) Substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts (or lack of significant adverse impacts, if a DS is being withdrawn); or
- (ii) New information indicating a proposal’s probable significant adverse environmental impacts (This includes discovery of misrepresentation or lack of material disclosure). A new threshold determination or SEIS is not required if probably significant adverse environmental impacts are covered by the range of alternatives and impacts analysis in the existing environmental documents.

If EFSEC determines the new information and analysis does not substantially change the analysis of significant impacts and alternatives in the existing environmental document (WAC 197-11-600 (4)(c)), an addendum is appropriate for documenting this review under SEPA.

Nothing in this environmental review or the associated Final SEPA Addendum shall preclude further review or conditioning of future development proposals for the subject property.

I have reviewed and considered the referenced Amended Proposal, the Environmental Checklist, agency comments, public comments and proposed responses, recommended and proposed mitigation, and other available material. I hereby recommend an Addendum to the Desert Claim Wind Power Project Final Supplement EIS issued November 2009.



Sonia E. Bumpus,  
EFSEC Siting and Compliance Manager

11/08/2018

Date