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April 8, 2022

APR 28 2022

Sonia Bumpus
EFSEC Manager and SEPA Responsible Official
621 Woodland Square Loop SE
Lacey, WA 98504-3172

ENERGY FACILITY SITE
EVALUATION COUNCIL

Re: Comments Concerning Determination Of Significance and Request for
Statements Concerning SEPA Scoping for Proposed Badger Mountain Solar
Project
EFSEC # 210747

Dear Ms. Bumpus:

I write concerning the above. I now act as my own typist, so please excuse typing errors. It happens. As a lawyer with 40 years of extensive courtroom experience, I have learned about many things via expert input. I have also learned to rely on those experts. Personal interest, practical necessity, and expert input have instructed about the Greater Sage Grouse. Solar energy is a good thing, when developed thoughtfully and pragmatically. Common sense is the casualty if Badger Mountain is utilized to develop solar energy.

ALTERNATIVE SITING MUST BE EXAMINED, AS IT IS ABSOLUTELY REQUIRED

Alcoa is leaving the Wenatchee area, being dismantled , and is already unsightly. It has potential toxins on its property, also a concern with solar panels. At the time of the August 2021 Avangrid/ Douglas County hearings and the EFSEC hearing in October 2021, Alcoa had not yet made its closing announcement. They did so in December 2021. The Alcoa facility is in Chelan County, just across the Columbia River from Rock Island and Douglas County. The site already has the precious electrical connectivity sought by Avangrid to connect to the national electrical Grid. Alcoa owns, as does the DNR, considerable inter-connected adjacent land to Alcoa sufficient to meet Avangrid's needs. This site also allows the DNR more income than the DNR leases in Douglas County, primarily because of the amount of DNR land potentially available. If EFSEC is determined to create alternative energy sources, this alternative does that and appropriately places much of the responsibility with the State of Washington, by involvement of their lands. A fire in this area 3 years past has removed most vegetation so no harm to existing flora will occur. It makes the State of Washington a more direct partner in developmental and operational oversight. It's a win for all but the private Douglas County lessors. The biggest winner is the Greater Sage Grouse.

This proposal gives Alcoa and DNR an opportunity to create income on these lands via Avangrid, which are not currently earning income. Lemonade flows from the lemons created by Alcoa leaving, and the burning of DNR land. And Alcoa will look good by contributing positively to the environment in a community they have been in for over 70 years. The DNR has stated in support of the Douglas County leases that it is tasked with the responsibility to make its land profitable. DNR now has the opportunity to obtain even more income from its lands rendered unprofitable by the fire.

Much of the area above the rim at this Chelan County location is flat, and uninhabited, There are no Sage Grouse. Because of the fire, there is no longer any sage brush. It does not suffer from many of the environmental infirmities present if the Badger Mountain site is chosen.

Mitigation Measures to Protect Existing Sage Grouse and Raptors at the Proposed Siting Location Is Practically Impossible

The Greater Sage Grouse has lost most of its habitat in Washington State to pre-existing development. The Greater Sage Grouse, due to Global Warming, remains under constant seasonal threat for further loss of habitat by fire. The 2021 Mansfield Pearl Hill Fire and the 2022 Batterman Fire eliminated approximately 70% of the already tenuous remaining High Steppe Sage habitat for the Greater Sage Grouse. Habitat Preservation of the current Badger Mountain population is critical. Much of that habitat is now on my property. Badger Mountain and my ranch are home to the Greater Sage Grouse, Golden Eagles and Ferruginous Hawks, all sensitive or endangered species. Scientific mitigation literature for solar farms critically denounces mitigation or land compensation strategies as poorly conceived alternatives for solar use. Surrounding areas in a large buffer should be strictly off limits to any development as an ill advised and poorly conceived compromise. In this regard, Douglas County Commissioners responsibly chose 7 miles as an appropriate buffer. It is inappropriate for EFSEC to second guess that decision. This is in keeping with expert opinion on this issue. (Cameron et. al. 2012; Hernandez et. al 2015A and 2015B; Kreitler et. al, 2015; Arnett and May, 2016. See Also Kane previous October 2021 submission to EFSEC Panel). Any development of solar in this area is as good as a signed Death Warrant for the Greater Sage Grouse. That blood will be on the hands of the decision makers.

Washington State University Study

It is my understanding that WSU is currently engaged in an ongoing and soon to be completed study regarding the best locations for siting of wind and solar resources in Washington. Bluntly, any decisions concerning Badger Mountain siting should be delayed pending completion of the WSU study. This just makes sense.

Counsel for the Environment has seemingly taken the position that any alternate siting should remain in Douglas County. I can find no authority for that assertion. Similarly, Counsel for the Environment has taken the position that those opposed to the Badger Mountain site should propose alternative locations. I can also find no authority for placing this onus on objecting members of the public. It would seem that Counsel for the Environment is appointed for the very important and specific purpose of protecting the environment by acting as an independent resource for EIS scoping. The Attorney General via expert input, should be submitting their own comments concerning EIS scoping. Otherwise, those obligations as Counsel for the Environment are rendered hollow and meaningless and lack of action tacitly sanctions abdication of the underlying important reason Counsel for the Environment's existence in the first instance. The

only thing necessary in order to eliminate the Greater Sage Grouse from the face of Douglas County is for Counsel for the Environment to do exactly what they are seemingly doing: Nothing at all.

Because the Greater Sage Grouse, Golden Eagles and Ferruginous Hawks, are all sensitive or endangered species which cannot speak for themselves, Counsel for the Environment exists via legislative directive with an obligation to speak for them. These creatures of nature are without means to terminate any attorney general from representation for ineffective assistance of counsel. As Justice William O. Douglas so aptly stated: "Contemporary public concern for protecting nature's ecological equilibrium should lead to the conferral of standing upon environmental objects to sue for their own preservation." *Sierra Club v. Morton*, 405 U.S. 727, 741-43 (USSC 1972). Douglas also said: "To be whole and harmonious, man must also know the music of the beaches and the woods. He must find the thing of which he is only an infinitesimal part and nurture it and love it, if he is to live." Stated concern of species extinction should be more than just lip service.

DETAILED EXAMINATION OF AFFECTED WILDLIFE BY THE PROPOSED SITE IS CRITICAL VIA THE EIS

Existing Affected Animals In Proximity to Badger Site

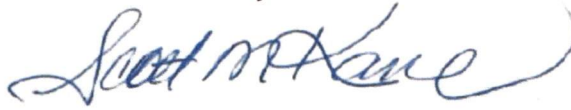
Intimate acquaintance with this subject based upon many decades associated with the land of Badger Mountain does give me authority to speak. My family is currently involved in habitat restoration for the Mountain Beaver in Rock Island Creek, which will also increase native plants and insects by watershed pond creation. Greater Sage Grouse utilize the insects. The point is that this approach demonstrates a focus on environmental interconnectedness demonstrating, how species within an ecosystem relate to each other, both qualitatively (i.e., competitive, trophic, etc.) and quantitatively (i.e., the strength of the ecological interaction). The concept is so important it has been demonstrated over and over as absolutely critical after the reintroduction of historical species previously extincted from ecosystems in the 20th century.

Although surprisingly close to the cities of Wenatchee and East Wenatchee, the following are just a partial list of some of the many animals which utilize Badger Mountain. Many intermittently live on my ranch and we have seen each and every one within the last few years. Some are indeed exceedingly rare: Greater Sage Grouse; Franklin and Blue Grouse; Golden and Bald eagles; Ferruginous hawks; Kestrel; Mule & Whitetail deer; Badgers; Grey wolf; Coyote; Bob Cat; Black bear; Elk; Antelope; Cougar; Grey fox; Red Band trout; Cray fish; Porcupine; Skunk; and Raccoon, just to name a few. The point is that once this wildlife, some of which is now living on the edge, is gone, they cannot be brought back. Washington Greater Sage Grouse in particular are vulnerable because they are easily predated, have near extinct numbers, will not breed in captivity, and will not breed with Greater Sage Grouse from other states, due to genetic differences created by isolation of the Washington Sage Grouse which prevents transplanting. Sage steppe habitat preservation, and thus its importance to all of the species listed above, is of paramount concern.

I have had opportunity to testify in front of legislative committees scores of times. Those with the most money have the greatest ability to make themselves heard by those in power. I am trying to insure the environment, and more specifically, the Greater Sage Grouse, both which do not seem to have a voice or anyone to speak for them, are heard. It is my hope, and indeed my

prayer, that EFSEC is listening.

Sincerely,

A handwritten signature in blue ink, reading "Scott M. Kane". The signature is fluid and cursive, with the first name "Scott" and last name "Kane" clearly legible.

SCOTT M. KANE

SMK/smk

Letters Bumpus 04.08.2022

Never Forget



September 11

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