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Submitted via: comments@efsec.wa.gov

October 13, 2025

Energy Facility Site Evaluation Council
PO Box 43172
621 Woodland Square Loop
Olympia, WA 98504-3172

RE: Horse Heaven Wind Farm LLC – EF-210011
Comments on EFSEC’s Proposed Resolution No. 357

Attn Energy Facility Site Evaluation Council:

Thank you for the opportunity to comment on the Energy Facility Site Evaluation Council’s proposed Resolution No. 357, Horse Heaven Wind Farm Site Certification Agreement Implementation: Partly Approving and Partly Denying Proposal to Construct Primary Infrastructure within Two Miles of Documented Ferruginous Hawk Nests. Counsel for the Environment (CfE) has an independent statutorily created role to represent the public interest in protecting the quality of the environment. RCW 80.50.080. The siting of energy facilities in Washington State requires the Energy Facility Site Evaluation Council (EFSEC) to “recognize the pressing need for increased energy facilities.” RCW 80.50.010. The Council must also ensure that the location and operation of such facilities “produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.” *Id.* CfE submits this comment to help ensure that the implementation of the Horse Heaven Wind Farm Site Certification Agreement (SCA) will advance the public’s broad interest and need for clean energy while producing minimal adverse effects on the environment and wildlife such as the State Endangered ferruginous hawk.

CfE encourages the Council to consider the weight of best available scientific evidence and adopt adequate measures aimed at avoiding, minimizing, and mitigating the Project’s adverse impacts on the ferruginous hawk as required by Spec-5.¹ To this end, CfE recommends the Council adopt the Proposed Resolution’s recommendation to deny the Certificate Holder’s request to site primary infrastructure within 0.6-to two-miles of the four nests in closest

¹ See Site Certification Agreement Between the State of Washington and Horse Heaven Wind Farm, LLC for the Horse Heaven Wind Farm Benton County, Washington (SCA), Appx. 2, at 12-13 (Spec-5)(Oct. 2024).

ATTORNEY GENERAL OF WASHINGTON

Energy Facility Site Evaluation Council
October 13, 2025
Page 2

proximity to the nest where ferruginous hawk activity was observed in 2025.² A two-mile buffer zone for these four nests is appropriate at this time as the weight of best available scientific evidence supports the finding that a) the cluster of five nests are available, and b) the foraging habitat within the two-mile buffer around this nest cluster is still viable to support the species.³

Significantly, the weight of best available scientific evidence supports the finding that the foraging habitat surrounding this similar cluster of five nests is viable as the habitat quality and its attributes support ferruginous hawk activity.⁴ The Certificate Holder's discovery of new ferruginous hawk activity in one of the nests in this cluster and the observation of a ferruginous hawk occupying a nest with potential fledglings is important validation that the habitat in this cluster of five nests is viable.⁵ The expert opinions of many Pre-operational Technical Advisory Committee (PTAG) members with relevant scientific expertise further supports the conclusion that the quality of the habitat in this similar cluster is attractive to the ferruginous hawk and viable to support the species.⁶ These experts cite compelling evidence that shows the quality and attractiveness of the habitat to the ferruginous hawk, and the fact that the habitat in these nesting sites has remained relatively unchanged overtime as further supporting its continued viability.⁷

The application of the two-mile buffer zones to this cluster of nests is consistent with the intent of Spec-5 and effectuates its requirement to adopt an adequate mitigation measure aimed at avoiding, minimizing, and mitigating the Project's adverse impacts on the ferruginous hawk. The Spec-5 conditional two-mile buffer zone mitigation measure is not arbitrary, but developed and supported by ample evidence provided during the State Environmental Policy Act process and adjudication in this matter, including expert testimony from an independent ecologist, wildlife biologist, and relevant studies.⁸ While it may be appropriate for the Council to consider a future proposal from the Certificate Holder to further tailor the buffer zones around this nest cluster, the weight of the best available evidence does not support an alternative approach at this time.

² See EFSEC's proposed Resolution No. 357, Horse Heaven Wind Farm Site Certification Agreement Implementation: Partly Approving and Partly Denying Proposal to Construct Primary Infrastructure within Two Miles of Documented Ferruginous Hawk Nests (Oct. 2025), at 2, 5-6, 11-12.

³ More specifically, Spec-5 requires a buffer zone out to two-miles from each documented ferruginous hawk nest locations unless the Certificate Holder is able to show that compensation habitat will provide a net gain in ferruginous hawk habitat and either: (a) the nesting site is no longer available *or* (b) the foraging habitat within the two-mile buffer around that nest is no longer viable to support the species. See Horse Heaven Site Certification Agreement, Appx. 2, at 12.

⁴ See Kearns West, Horse Heaven Wind Farm Prep-operational Technical Advisory Group Facilitator Report: Spec-5 at 11 (June 2025); Horse Heaven PTAG Meeting 7 Minutes (Feb. 28, 2025) at 10-14.

⁵ See *id.* See also EFSEC's proposed Resolution No. 357, Horse Heaven Wind Farm Site Certification Agreement Implementation at 5-6.

⁶ Horse Heaven PTAG Meeting 7 Minutes (Feb. 28, 2025) at 10-15.

⁷ See *id.* See also PTAG Facilitator Report: Spec-5 at 11.

⁸ See Supplemental Responsive Testimony of Expert Don McIvor, Horse Heaven Wind Project – land use and adjudication, Benton County, Washington, EXH-2016_R (Aug. 2023); Prefiled Reply Testimony of Mark Nuetzmann, Horse Heaven Wind Project – land use and adjudication, Benton County, Washington, EXH_4012_R (July 2023).

ATTORNEY GENERAL OF WASHINGTON

Energy Facility Site Evaluation Council
October 13, 2025
Page 3

Thank you for your consideration of this comment. CfE appreciates the work of the Council, Council staff and the PTAG and encourages the Council to continue to work towards Project implementation that appropriately protects the ferruginous hawk while balancing environmental protection and the public need for clean energy.

Sincerely,

A handwritten signature in blue ink, reading "Sarah Reyneveld". The signature is fluid and cursive, with the first name "Sarah" being more prominent than the last name "Reyneveld".

Sarah Reyneveld
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