

From: [Paul Krupin](#)
To: [EFSEC \(EFSEC\)](#); [EFSEC mi Comments](#)
Subject: Comment Letter Regarding HHH Statements at the July 15, 2026 EFSEC Council Meeting
Date: Tuesday, August 4, 2026 7:55:58 AM
Attachments: [August 4 Final comment on SEPA discussion in the July 15 Council meeting.pdf](#)

External Email

Chair Beckett, Executive Director Low, EFSEC Staff, and Members of the Council

I am submitting comments regarding the staff presentation delivered at the most recent EFSEC Council meeting on July 15, 2026 concerning the Horse Heaven SEPA Addendum.

I appreciate EFSEC's continued willingness to receive public input. However, several statements made by staff during that briefing raise significant procedural and legal concerns—particularly in light of the pending consolidated appeals now before the Washington Supreme Court.

This comment submittal identifies those concerns and explains why EFSEC should refrain from making or relying upon determinations that presuppose the validity of the FEIS, the adjudication, or the Site Certification Agreement (SCA) while those very matters are under judicial review.

Comment Letter is provided in the attachment and as a link for your review:

[August 4 Final comment on SEPA discussion in the July 15 Council meeting.pdf](#)

Appreciatively,

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August 4, 2026

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Chair Beckett, Executive Director Low, EFSEC Staff and Members of the Council:

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I submit this comment as a resident of Benton County and as one of the voting members of the EFSEC Council for Benton County on the Hop Hill Solar Energy Project. I offer these comments solely in my personal capacity and not on behalf of EFSEC or any other Council members.

I. Staff Statements Improperly Assume the Validity of the FEIS and SCA While Their Legality Is Under Supreme Court Review

During the meeting, staff stated:

“Both turbine options were approved as part of the executed site certification agreement... The certificate holder's decision to use the Option Two turbines does not represent a new or increased impact and is compliant with both the scope of the FEIS and the site certification agreement.”

This assertion presumes the FEIS and SCA were lawfully issued. That question is precisely what Benton County, the Yakama Nation, and Tri-Cities CARES have placed before the Washington Supreme Court. The petitions allege that EFSEC violated SEPA by conducting the adjudication before issuing the FEIS, undermining meaningful public participation and rendering the FEIS procedurally invalid.

EFSEC staff should not rely on the FEIS or SCA as legally controlling documents while their validity is under active judicial review. Doing so risks prejudging the outcome of the pending appeals and undermines the integrity of the Council's ongoing administrative processes.

II. Staff's SEPA Conclusions Regarding Turbine Height Conflict with Issues Before the Court

Staff stated:

"The certificate holder's decision to use the Option Two turbines does not... represent a new or increased impact."

This conclusion is inconsistent with the petitioners' arguments that the FEIS failed to adequately evaluate the environmental, cultural, and visual impacts associated with taller turbines. The Supreme Court is reviewing whether EFSEC's environmental analysis complied with SEPA's procedural requirements.

EFSEC should not adopt categorical conclusions about the absence of new impacts when the adequacy of the underlying analysis is itself under judicial scrutiny.

III. Staff's Dismissal of the Need for a Supplemental EIS Conflicts With SEPA and Petitioners' Claims

Staff stated:

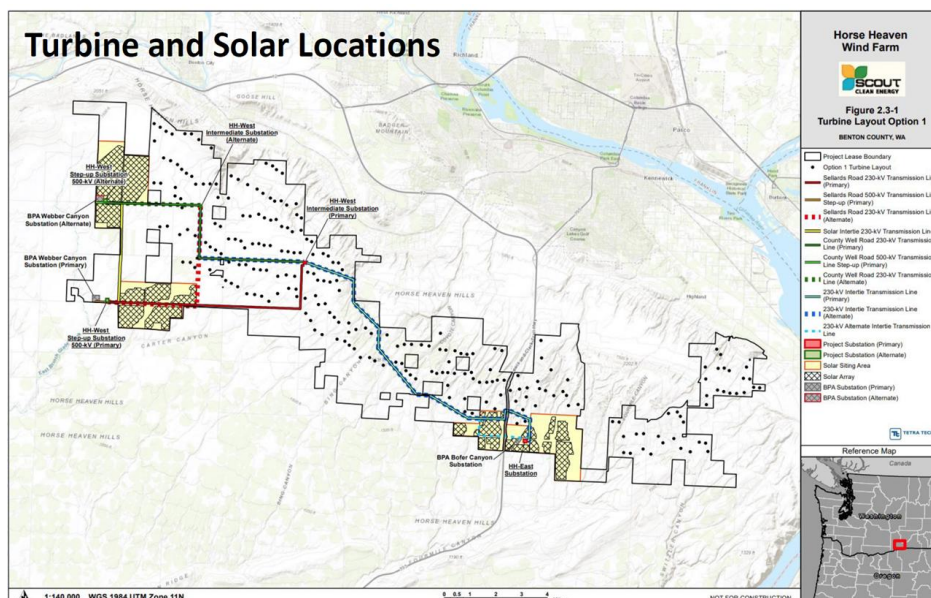
"EFSEC staff have performed a thorough analysis... and found that nearly all of the adjustments either do not represent substantial changes... or would reduce anticipated impacts."

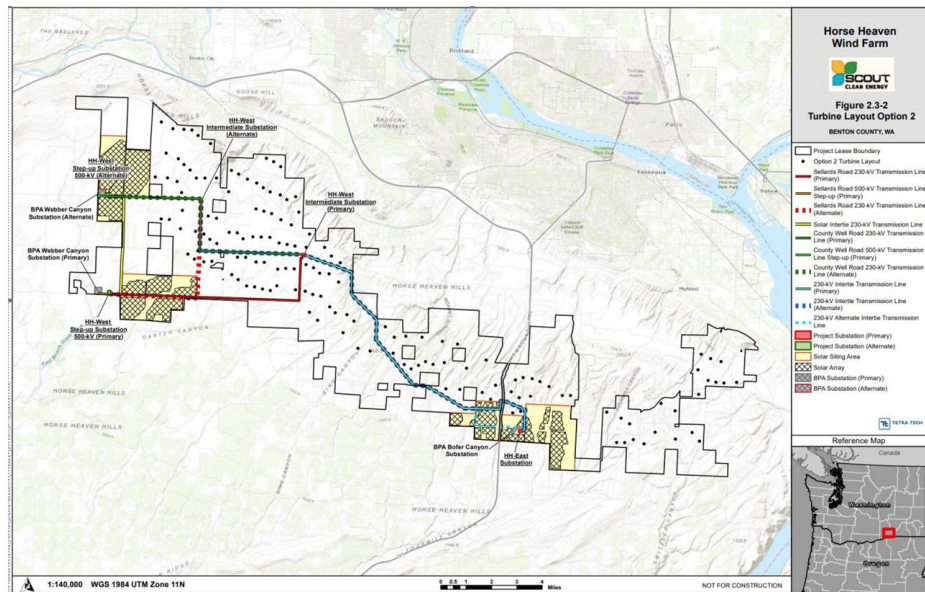
Petitioners argue the opposite: that EFSEC's environmental review process was unlawful and that the agency must restart adjudication with a valid FEIS and addenda. Staff's conclusion that no supplemental EIS is required rests on the assumption that the FEIS is valid and that the micro-siting changes are minor. Those assumptions are contested in the Supreme Court litigation.

EFSEC should avoid making determinations that rely on the validity of documents whose legality is unresolved.

IV. The PTAG Recommendations Have Not Been Accepted by EFSEC, and the 671-Foot Turbine Analysis Is Incomplete and Legally Insufficient

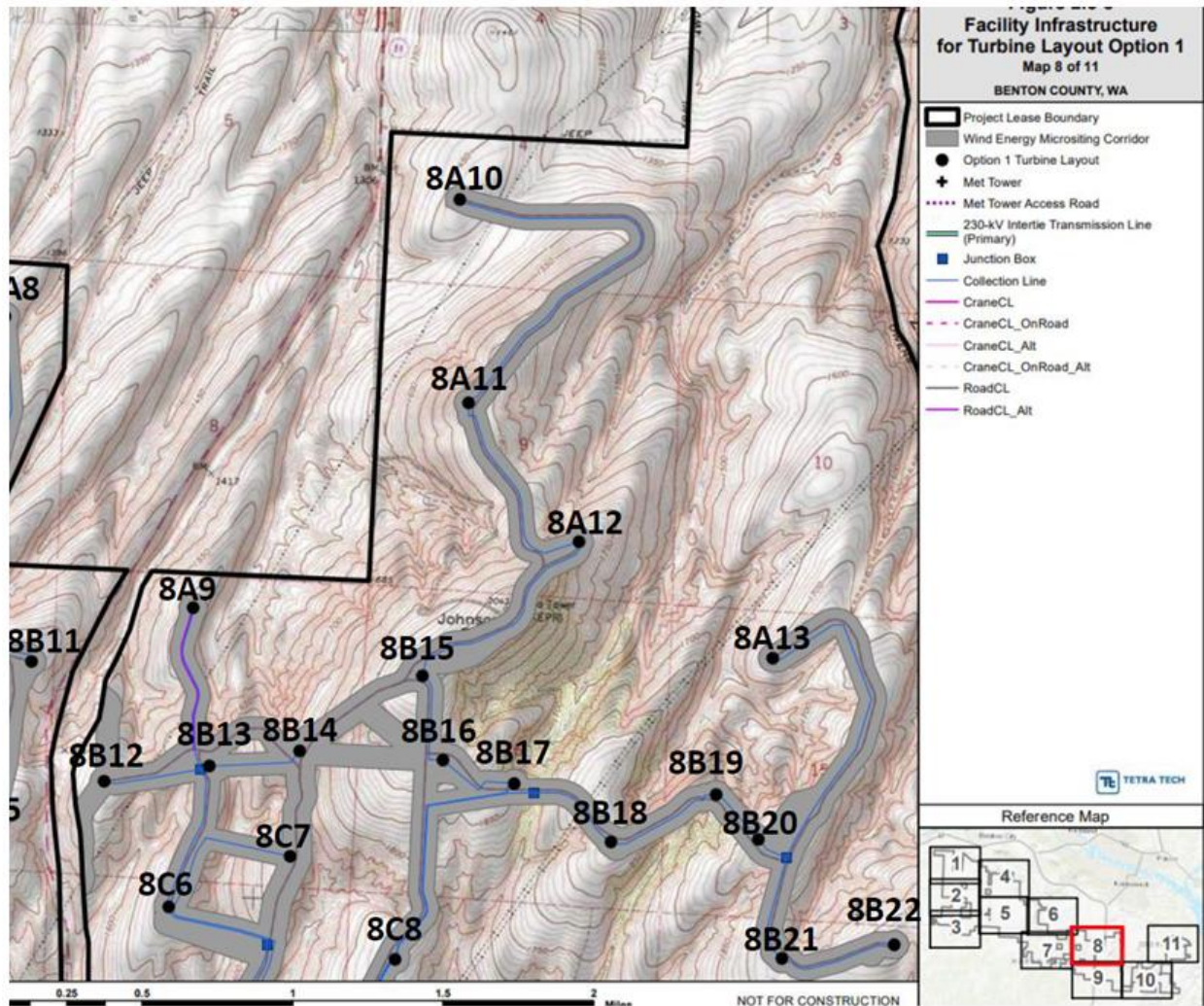
A central issue before the Washington Supreme Court is whether EFSEC unlawfully delegated siting and mitigation responsibilities to the Project Technical Advisory Group





However, the FEIS focus and emphasis is on turbine layout in Option 1 for the 499 foot turbines. Detailed environmental, cultural, visual, aviation, and cumulative-impact analysis for the larger 671 foot turbines identified in Option 2 was not performed equally and comparably by EFSEC in the FEIS.

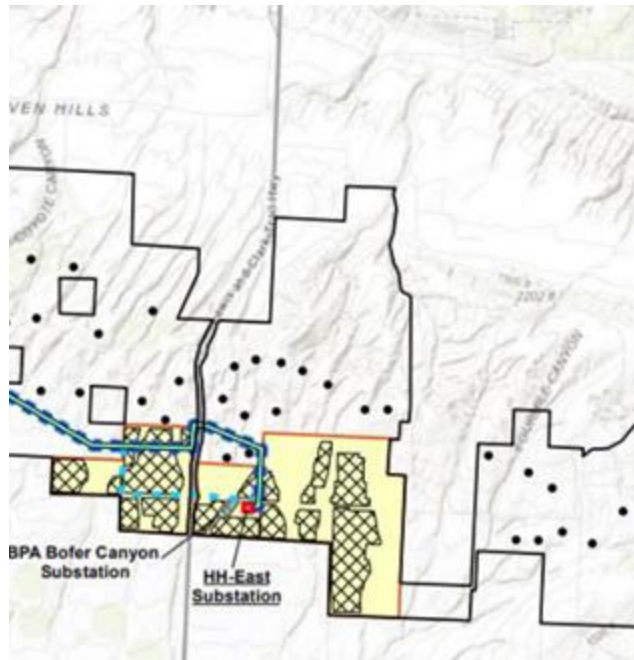
There are a set of 11 large scale maps showing facility infrastructure for Turbine Layout Option 1 in the Final Site Certification Agreement (SCA). Map 8 of 11 from the Final SCA shows the micro-siting corridors for the proposed 499-foot-high turbines near Johnson Butte.



However, there are no comparable large scale maps showing the facility infrastructure for Turbine Layout Option 2 in either the draft or Final EIS's or the Final SCA.

The small scale Figure 2.3-2 Turbine Layout Option 2 from the Final SCA also clearly shows that they have not identified 671 ft high turbines near Johnson Butte.

The Layout Changes stated in the letter signed by Scout President Rucker on September 26, 2026 committed to not putting 671' turbines in those corridors



And as just noted, there is no large scale map set showing the facility infrastructure for Turbine Layout for Option 2 in either the draft or Final EIS's or the Final SCA., showing the smaller area with high detail.

Instead, EFSEC relied on PTAG's post-FEIS technical work—work that has not been adopted and is now under challenge for unlawful delegation.

The PTAG recommendation, staff analysis, and EFSEC Addendum recognizes the Scout's rationale, less turbines= less impact. The PTAG recommendation, staff analysis, and the EFSEC Addendum ignore any spatial considerations, and the testimony of adjudication expert witnesses, including EFSEC's own visual FEIS consultant report, and without either EFSEC or Scout offering any technical source for their rationale.

The small scale maps contained in the PTAG recommendation identify 671 foot-high-turbines in the Johnson Butte area.

Contrasting the summary statements made by the EFSEC SEPA staff member at the Council meeting, the proposed EFSEC addendum just adds additional improper issues to the many irregularities that have been allowed to happen in the SEPA process.

3. Staff's assertion that taller turbines introduce "no new or increased impact" is unsupported.

Without accepted PTAG analysis, EFSEC lacks a legally valid basis to conclude that 671-foot turbines do not create new or increased impacts. Petitioners argue that the FEIS

never lawfully evaluated these impacts and that PTAG's subsequent analysis cannot cure foundational SEPA defects.

Without large scale maps that show the facility infrastructure with accurate Option 2 turbine locations, it is not possible for EFSEC to support the statement that the EIS evaluated the Option 2 impacts adequately.

EFSEC must publically release large scale maps that show the facility infrastructure with accurate Option 2 turbine locations before making any decisions regarding the proposed turbine layouts.

4. EFSEC cannot rely on PTAG's unaccepted work while the Supreme Court is reviewing whether PTAG's role was lawful.

Any reliance on PTAG's unadopted recommendations—especially to dismiss public concerns or avoid a supplemental EIS—risks prejudicing the Supreme Court's review and perpetuating the very procedural defects under challenge.

For these reasons, EFSEC should expressly acknowledge that:

- PTAG recommendations have not been accepted,
- PTAG analysis cannot be treated as part of the FEIS or SCA, and
- EFSEC cannot rely on PTAG's unadopted work to assert that 671-foot turbines pose no new impacts.

V. Staff's Statement That "No Council Action Is Required" Is Legally Problematic

Staff stated:

"As there is no site certificate amendment associated with this addendum, there is no associated council action at this time."

This presumes that EFSEC may continue implementing the SCA while the Supreme Court is deliberating. Petitioners argue that EFSEC should halt the addendum process entirely until the Court rules, because continuing the process "perpetuates foundational errors under SEPA and the PTAG process."

EFSEC should exercise caution and avoid administrative actions that may interfere with or undermine judicial review. Staff should carefully explain the status of the ongoing processes while the Supreme Court is still deliberating on the decisions in the litigation.

VI. Staff's Characterization of Public Comments as "General Opposition" Minimizes Legally Material Issues

Staff described many comments as:

“general opposition or general approval” “concerns related to the project in general”

However, the objections raised by petitioners and the public are not general sentiment—they are specific statutory violations under SEPA and EFSLA.

Minimizing these concerns risks mischaracterizing legally substantive issues during active judicial review.

VII. EFSEC Should Suspend Further Action on the Addendum Until the Supreme Court Issues Its Decision

Given the pending appeals, EFSEC should refrain from:

- making determinations that rely on the validity of the FEIS or SCA,
- issuing conclusions about the adequacy of environmental analysis,
- advancing micrositings decisions tied to the PTAG process, and
- characterizing public comments in ways that diminish their legal significance.

A temporary suspension of action on the addendum would respect judicial respect, mutual trust, and cooperation and avoid prejudicing the Court’s review.

VIII. Conclusion

The staff statements made at the recent EFSEC meeting reflect assumptions that are inconsistent with the issues now before the Washington Supreme Court. EFSEC should avoid taking administrative positions that presuppose the legality of the FEIS, the adjudication, the PTAG process, or the SCA until the Court has resolved those questions.

Thank you for considering these comments. I appreciate the Council’s attention to these important procedural and legal matters.

Respectfully submitted,

Paul Krupin

Kennewick, Washington