



STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98503-3172

September 17, 2024

Governor Inslee
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

Subject: Horse Heaven Wind Farm Project – Summary of Proposed SCA Changes and Council Reconsideration

Dear Governor Inslee:

The Energy Facility Site Evaluation Council (EFSEC or Council) has completed its reconsideration of the draft Site Certification Agreement (SCA) for the Horse Heaven Wind Farm Project (Project). Consistent with the reasons previously provided in the Recommendation Report, but with attention to your request to give greater weight to the need for abundant clean energy and to therefore more narrowly tailor the SCA's mitigation measures, the Council recommends approval of the Project with conditions listed in the revised draft SCA.

On May 23, 2024, you directed the Council to reconsider its draft SCA, asking the Council to “reconsider the conditions and mitigation in its recommendation in favor of an approach to mitigation that is more narrowly tailored to the specific impacts identified. Such an approach would seek to limit the conditions to those measures that are reasonably and feasibly consistent with achieving the full or near-full clean energy generation capacity of the proposed Project.” You stated that the Council should not require mitigation measures that “substantially reduce the generation capacity of the proposed Project.” You also stated your perspective that the record is “robust and satisfactory . . . for the purposes of siting and permitting the proposed Project.” Therefore, the Council did not re-open the adjudication for additional testimony on the proposed Project, and instead focused its response on ensuring mitigation is narrowly tailored to specific impacts previously identified by the Council. As previously stated in the Recommendation Report, neither the economic viability of the proposal, nor market demand for the power that would be produced are within the scope of EFSEC's review. Instead, the Council balances the general statutory directive to provide for abundant clean energy at a reasonable cost with the impact to the environment and the broad interests of the public. There is a range of policy discretion in how that balance is struck, and with this revised SCA, the Council has given deference to your directive that more weight be placed on the abundant energy side of the scale.

On reconsideration, the Council has adopted several changes aimed at more narrowly tailoring mitigation to the identified impacts, which are reflected in the revised SCA. A summary of those changes is as follows:

- 1) **Habitat:** The previous draft SCA prohibited primary project components in medium to very high linkage wildlife corridors. The Council’s revised SCA has removed this condition in favor of a mitigation measure originally proposed in the Final Environmental Impact Statement (FEIS). This measure requires that all project components located within medium or higher linkage corridors must be accompanied by a Corridor Mitigation Plan that includes adjacent habitat improvements, features to accommodate wildlife passage (i.e. culverts), monitoring and restoration of the corridor upon decommissioning, and other mitigative efforts. This mitigation measure results in no reduction in project energy production. This measure is also supported by the applicant in their March 13, 2024¹, comment letter to the EFSEC Council.
- 2) **Ferruginous Hawk:** The Council has adopted several changes to mitigation measures aimed at addressing impacts to ferruginous hawks.
 - a. The Council has reduced the primary project component exclusion zone. This exclusion zone now prohibits the siting of primary project components (wind turbines, solar arrays, and battery storage systems) within a 0.6-mile (1 km) buffer around documented ferruginous hawk nests, as opposed to the previous 2-mile buffer around documented nests.
 - b. Under the revised SCA, primary project components may be sited within a 0.6-2-mile radius of documented ferruginous hawk nests if the Certificate Holder is able to demonstrate that compensation habitat will provide a net gain in ferruginous hawk habitat, and that the nesting site is no longer available or the foraging habitat within the 2-mile radius is no longer viable for the species.
 - c. Additionally, components sited within 2 miles of a documented ferruginous hawk nest would require a Project-specific ferruginous hawk Mitigation and Management Plan, subject to approval by EFSEC. These plans would require the Certificate Holder to describe and undertake mitigation, including establishment of compensation habitat, monitoring during Project operation, and use of adaptive management such as turbine curtailment during periods of ferruginous hawk activity.
- 3) **Traditional Cultural Properties:** Regarding cultural resources, you asked the Council to consider mitigation aimed at securing Yakama Nation access to “highest priority, physical traditional cultural resources within the leased property boundary.” You asked the Council to focus on mitigation approaches that “do not reduce the generation capacity of the Project.”

The Council recognizes that the Yakama Nation has communicated that there are multiple traditional cultural properties present throughout the Project Lease Boundary, and they

¹ [March 13, 2024 Brookfield Energy letter](#)

anticipate permanent impacts to traditional cultural properties from all Project components. In reviewing the record, the Council found the Yakama Nation identified Webber Canyon as an area of particular concern in a March 2, 2021, letter.

To attempt to address these impacts, the Council's revised SCA includes a condition that prohibits turbines within 1 mile of Webber Canyon. In the previous draft SCA, the 2-mile buffer around ferruginous hawk nests accomplished similar mitigation of impacts to traditional cultural properties in Webber Canyon. Accordingly, the Council has introduced this condition as a separate measure that is more narrowly tailored to address Project impacts to cultural resources.

- 4) Public Health and Safety (Aerial Firefighting):** Testimony by Department of Natural Resources staff advised that firefighting aircraft would adhere to a minimum 0.25-mile standoff buffer from all wind turbines. In narrowing the ferruginous hawk mitigation and therefore expanding the potential footprint of Project turbines, the Council recognized the revised SCA would no longer mitigate impacts to aerial firefighting as effectively.

Accordingly, the Council's revised SCA includes a more narrowly tailored mitigation measure that prohibits siting of wind turbines within 0.25 miles of the perimeter of historic wildfires recorded between January 1, 2000, and the start of construction.

- 5) Visual:** The Council's revised SCA does not include additional mitigation for visual impacts, but the Council has concluded that the exclusion of turbines to mitigate impacts to wildlife, tribal cultural resources, and public fire safety will reduce the Project's visual impact on the Tri Cities community.

RCW 80.50.100(3)(b) requires that within sixty days of receipt of the Council's revised recommendation, you either reject the Application or approve it by executing the SCA. Please consider the date of this letter as the beginning of the sixty-day gubernatorial review. If your decision is to approve the Project, please execute the included site certification agreement by signing the document.

Sincerely,



Kathleen Drew
EFSEC Chair