SITE CERTIFICATION AGREEMENT
BETWEEN

THE STATE OF WASHINGTON

AND

HORSE HEAVEN WIND FARM, LLC

For the

HORSE HEAVEN WIND FARM
BENTON COUNTY, WASHINGTON
EXECUTED *MONTH, DAY, YEAR*

ENERGY FACILITY SITE EVALUATION COUNCIL
OLYMPIA, WASHINGTON

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SITE CERTIFICATION AGREEMENT
FOR THE HORSE HEAVEN WIND FARM
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SITE CERTIFICATION AGREEMENT

FOR THE HORSE HEAVEN WIND FARM

between

THE STATE OF WASHINGTON

and

HORSE HEAVEN WIND FARM, LLC

This Site Certification Agreement (Agreement or SCA) is made pursuant to Revised Code of Washington (RCW) 80.50 by and between the State of Washington, acting by and through the Governor of Washington State, and Horse Heaven Wind Farm, LLC (Certificate Holder).

Horse Heaven Wind Farm, LLC and Scout Clean Energy LLC (Scout) filed, as permitted by law, an application with the Energy Facility Site Evaluation Council (EFSEC or Council) for site certification for the construction and operation of a wind energy, battery energy storage system, and solar powered generation facility, to be located in Benton County, Washington. The Council reviewed Application EF-210011 and recommended approval of the Revised Final Application dated September 25, 2023, and execution of a draft Agreement by the Governor. On May 23, 2024, Governor Jay Inslee issued a letter to Council Chair Kathleen Drew directing the Council to reconsider certain aspects of the draft Agreement. After reconsidering such aspects of the Agreement by reviewing the existing record of the application, on September 17, 2024 the Council resubmitted the draft Agreement to the Governor incorporating amendments the Council deemed appropriate upon reconsideration. On [MONTH, DAY, YEAR], the Governor approved this Site Certification Agreement authorizing Horse Heaven Wind Farm, LLC to construct and operate the Horse Heaven Wind Farm Project (Project).

The parties hereby now desire to set forth all terms, conditions, and covenants in relation to such site certification in this Agreement pursuant to RCW 80.50.100(2).

ARTICLE I: SITE CERTIFICATION

A. Site Description

The Certificate Holder plans to construct and operate a renewable energy-generating facility with a combination of wind and solar facilities, as well as battery energy storage systems (BESS). The project components will predominantly be on leased land within the Horse Heaven Hills area in unincorporated Benton County approximately four miles south/southwest of city of Kennewick and the larger Tri-Cities urban area. The legal description is included in Appendix 3 to this Agreement.

B. Site Certification

The State of Washington hereby authorizes Horse Heaven Wind Farm, LLC (Certificate Holder) and any and all parent companies, and any and all assignees or successors approved by the Council, to construct and operate the Horse Heaven Wind Farm Project as described herein, subject to the terms and conditions set forth in this Site Certification Agreement (SCA).

The construction and operation authorized in this Agreement shall be located within the areas designated herein and in the Application for Site Certification (ASC) submitted by Horse Heaven Wind Farm, LLC on February 8, 2021, revised June 15, 2022, December 29, 2022, and finalized September 25, 2023, as restricted in the Project Description set forth in Article I.C.

This Agreement authorizes the Certificate Holder to construct the Horse Heaven Wind Farm Project such that commercial operation commences no later than ten (10) years from the effective date of this SCA, subject to possible extension by the Council if construction is underway and proceeding to timely completion. Project construction must start within ten years of the effective date of the SCA as defined in WAC 463-68-030 and 463-68-040.

If the Certificate Holder does not begin construction of the Project within five (5) years of the effective date of the SCA, then at least ninety days prior to the end of the five year period, the Certificate Holder must report to the Council its intention to continue and will certify that the representations in the SCA, environmental conditions, pertinent technology, and regulatory conditions have remained current and applicable, or identify any changes and propose appropriate revisions to the Agreement to address changes as required in WAC 463-68-060. Construction may begin only upon prior Council authorization and approval of such certifications per WAC 463-68-070. If the Certificate Holder does not begin construction of the Project within ten (10) years of the effective date of the SCA all rights under this SCA will cease. If commercial operations have not commenced within 10 years of the effective date of the SCA, the Agreement expires unless the Council approves an extension of the term of the Agreement as requested by the Certificate Holder (WAC 463-68-080).

Subject to the restrictions described in Article I.C, below, the Project will consist of a maximum nameplate energy generating capacity of up to 1,150 Megawatts (MW) output as alternating current (MWac) and will include: wind turbines, photo voltaic (PV) panels, single axis tracking PV modules and inverters, an electrical collection system, BESS, underground communication lines, Project substations, operation and maintenance facilities, access roads, interior roads,

security fencing, a collector substation, electrical interconnection infrastructure, meteorological towers, and control houses. The Project may include up to four Project substations.

C. Project Description

The following restrictions are imposed on the facility as described in the final ASC dated September 25, 2023:

1. The Certificate Holder shall not site any turbines, solar arrays, or BESS within a 0.6-mile (1km) radius surrounding ferruginous hawk nests documented in the Priority Habitat and Species (PHS) database on the SCA's effective date, identified in the Certificate Holder's nest surveys, and/or that may be newly established by the species between the SCA's effective date and the time of construction (see Appendix 2; Spec-5 Ferruginous Hawk for additional details),

2. Except on the conditions specified in Appendix 2, Spec-5, the certificate holder shall avoid siting wind turbines, solar arrays, and BESS within a 0.6 - 2-mile radius surrounding documented ferruginous hawk nests (see Appendix 2: Spec-5 Ferruginous Hawk for additional details),

3. Solar arrays shall not be sited on any rabbitbrush shrubland or WDFW-designated Priority Habitat types (see Appendix 2; Veg-10 Shrubland and PHS Avoidance for additional details),

4. No wind turbines shall be sited within 0.25 miles of the maximum perimeter of one or more historic wildfires that have been recorded between January 1, 2000 and the start of construction (see Appendix 2: PHS-2 for additional details), and

5. No wind turbines shall be sited within 1-mile of the topographic drop-off at the top of the Webber Canyon walls (see Appendix 2: CR-3 for additional details).

The project authorized by this Agreement, is defined by applying the above restrictions to the project as described below.

The Project's Lease Boundary encompasses approximately 72,428 acres and is bisected by Interstate 82 (I-82) into a western project area and an eastern project area. The turbines and supporting facilities encompass an 11,850-acre Micrositing Corridor within the Project Lease Boundary. The Solar Siting Areas and supporting facilities encompass 10,755 acres, of which a maximum of 5,447 acres will be occupied by solar arrays totaling up to 800 MWac. The Maximum Extent of the Project is 72,428 acres. The Project will be accessed from I-82, State Route 221, State Route 397, County Well Road, Sellards Road, Webber Canyon Road, Locust Grove Road, and Plymouth Road.

The majority of the Project's Lease Boundary is privately owned; however, five Washington Department of Natural Resources (DNR) parcels that are in state trust lands are located within the lease boundary. Four of these parcels may contain turbines and supporting structures.

The Horse Heaven Wind Farm Project will consist of the following components:

1. *Micrositing Corridor.* The approximately 11,850-acre corridor in which turbines and supporting facilities shall be sited during the final design.

2. *Wind Turbine Generators (WTGs)*. The wind turbine model selection is dependent on the commercial availability and technology at the time of construction. The number of turbines will not exceed 222 and the maximum turbine height at blade tip will not exceed 671 feet. The impacts resulting from the final selected turbine model would not exceed those of the example models considered in the Final Environmental Impact Statement (EIS) and SCA.

3. *Solar Modules.* The solar modules, commonly known as solar panels, are electrical devices that use mono-crystalline, poly-crystalline, or CadTe cells to generate electricity by converting sunlight into Direct Current (DC) electrical energy.

4. *Solar Arrays*. A solar array is the complete power-generating unit, consisting of multiple solar modules, tracking systems, posts, and related electrical equipment. Solar arrays will occupy up to three distinct solar areas on no more than 5,447 acres surrounded by six-foot tall security fencing. The location of the solar arrays shall be selected from three proposed locations during the final design.

5. *Solar Siting Areas*. Solar Siting Areas consist of solar arrays, BESS, and substations.

6. *Tracking System.* The solar panels shall be mounted together into solar modules on a steel racking system which utilizes a single-axis tracking system (SAT).

7. *Posts.* The tracking system is secured by steel posts which serve as the foundation. The posts are driven into the ground to a depth of approximately eight to 15 feet depending on site specific soil conditions.

8. *Cabling.* Cables collect and aggregate DC electricity prior to conversion to AC and being sent to substations. Approximately 30,000 to 35,000 linear feet of low-voltage cabling will connect the solar modules of each string in series, and likely combined multiple strings to a single combiner box. Cabling from multiple combiner boxes connect single inverters to the collection system. Cabling is mounted to the tracking system, placed in cable trays, or buried.

9. *Inverters and Transformers*. The electricity produced by the solar panels is in direct current (DC) form and converted by and inverter into alternating current (AC). The electricity from the inverters will be routed to transformers that will increase the output voltage (660 volts per individual unit) to the collection system voltage (34.5 kV). The transformers may be co-located with the inverters or centrally located within the solar array.

10. *Electrical Collector Lines.* Underground collection lines will be installed to an approximate depth of 36 inches. Some collector lines will be installed on aboveground overhead structures when a buried cable is infeasible, such as a canyon crossing. Aboveground junction boxes will be installed as required for connections and splices for the collection lines, approximately every 5,000 to 8,000 feet.

11. *Fiber-optic Cables.* Fiber-optic cables used for telemetry, control, and communication purposes will be installed to an approximate depth of 36 inches in the same location as the collector lines.

12. *Facility Substation.* The Project includes up to four substations, of which two substations will be co-located with the Operations and Maintenance facilities. Three of the substation locations are within the western project area and one in the eastern project area. Each substation will permanently occupy a 4-acre site enclosed within a security wire mesh fence and will consist of substation transformers, circuit breakers, switching devices, auxiliary equipment, control enclosure (containing equipment for control, protection, monitoring, and communications), and other associated equipment and facilities.

13. *Operations and Maintenance Facilities.* The Project includes up to two Operations and Maintenance (O&M) facilities with one directly adjacent to the project's eastern substation and one located adjacent to the western step-up substation. Each O&M facility will occupy approximately four acres and will include a single or two-story building housing operating personnel, offices, operations and communication equipment, parts storage and maintenance activities, and a vehicle parking area. The O&M facilities will also include an outdoor storage area for larger equipment and materials. The O&M facilities will be entirely surrounded by security fencing.

14. *Civil Infrastructure*. Infrastructure will include access gates, internal access roads, and security fencing.

15. *Battery Energy Storage System.* The Project includes up to two AC-coupled battery energy storage systems (BESS) capable of storing and later deploying up to 300 MW of solar-generated electricity using lithium-ion batteries and supplying it back to the grid when needed. The BESS will be placed in equipment containers on a concrete slab. The equipment containers will hold the batteries, a supervisory and power management system, cooling system, and a fire detection system. The BESS enclosures will be secured with a fence.

16. *Meteorological Towers*. The Project includes up to four permanent unguyed meteorological towers (met towers) to obtain wind data for performance management during operations. The free-standing met towers will be located within the micrositing area with heights not to exceed the maximum hub height of the turbines (up to 411 feet). The permanent towers must be marked and lighted as specified by the Federal Aviation Administration (FAA).

17. *Aircraft Detection Lighting System*. The Certificate Holder will apply to the FAA for permission to install an Aircraft Detection Lighting System (ADLS). Up to five FAA-compliant ADLS radar sensor units and a supervisory control and data acquisition (SCADA) system and associated communications systems will be mounted on turbine nacelles with supporting systems mounted on meteorological towers.

18. *SCADA System and Communications System*. Safety and control mechanisms will be monitored using a SCADA system. Turbines, met towers, solar arrays, BESS, and substations will be connected to the SCADA system via fiber-optic cables for monitoring energy generation, storage, and electrical systems.

19. *Transmission Line*. The Project includes up to three single-circuit overhead transmission lines. Up to 0.5 miles of 230 kV to connect the eastern substation to the BPA Bofer Canyon Substation; up to 4.6 miles of 500 kV gen-tie from the Project's west substation to the BPA Webber Canyon Substation; up to 0.35 miles of 500 kV gen-tie from the Project's west solar substation and switchyard at County Well Road to the BPA Webber Canyon substation; and up to 5.4 miles of 34.5 kV solar intertie connecting the Sellards Road solar array to the Project's west solar substation and switchyard at County Well Road. There is also an optional east-west inter-tie 230 kV single-circuit overhead transmission crossing Interstate 82.

20. *Temporary Laydown Yard*. Up to two temporary laydown yards in order to construct the Project are included. Two proposed laydown yards will be established within the Project Lease Boundary to facilitate the delivery and assembly of materials and equipment.

The location of Project facilities including, but not limited to, the wind turbines, solar panels, BESS, electrical collection and distribution system, electrical transformers, electrical generation tie lines, roadways, and other related infrastructure, is generally described in the final ASC, as modified by this Agreement. The final location of the wind turbines, solar panels and other project facilities within the Project Footprint may vary from the locations shown on the conceptual drawings provided in the ASC but shall be consistent with the conditions of this Agreement and in accordance with the final construction plans approved by EFSEC pursuant to Article IV.CC.

ARTICLE II: DEFINITIONS

Where used in this Site Certification Agreement, the following terms shall have the meaning set forth below:

1. "Application" or "ASC" means the Horse Heaven Wind Farm Final Application for Site Certification received on September 25, 2023 and revised layout changes received September 27, 2023.

2. "Approval" (by EFSEC) means an affirmative written decision by EFSEC or its authorized agents including those actions and consultations delegated to Council staff regarding documents, plans, designs, programs, or other similar requirements submitted pursuant to this Agreement.

3. "Begin Commercial Operation" or "Beginning of Commercial Operation" means the time when the Project begins generating and delivering electricity to the electric power grid, other than electricity that may be delivered as a part of testing and startup of the Project.

4. "BMPs" means Best Management Practices.

5. "BPA" means Bonneville Power Administration.

6. "Certificate Holder" means Horse Heaven Wind Farm, LLC, any and all parent company(s), or an assignee or successor in interest authorized by the Council.

7. "CFE" means the Counsel for the Environment serving by appointment pursuant to RCW 80.50.080.

8. “Completion of Construction” means the time when all Project facilities have been substantially constructed and are in operation.

9. “Construction” means any of the following activities: Project Site clearing, grading, earth moving, cutting or filling, excavation, preparation of roads and/or laydown areas, foundation construction including hole excavation, form work, rebar, excavation and pouring of concrete for the inverter pads and switchyard, or erection of any permanent, above-ground structures including any solar tracking assemblies, the transformer, transmission line poles, substation poles, or meteorological towers.

10. “County” means Benton County, Washington.

11. “DAHP” means the Washington State Department of Archaeology and Historic Preservation.

12. “DS” means the Determination of Significance issued on May 11, 2021 by EFSEC.

13. “DNR” means the Washington State Department of Natural Resources.

14. “Ecology” means the Washington State Department of Ecology.

15. “Effective date,” for purposes of calculating deadlines under and expiration of this Agreement, means the date on which the Governor signs this Agreement, although the Agreement must also be signed by Horse Heaven Wind Farm, LLC to become binding.

16. “EFSEC” or “Council” means the State of Washington Energy Facility Site Evaluation Council, or such other agency or agencies of the State of Washington as may hereafter succeed to the powers of EFSEC for the purposes of this Agreement.

17. “EFSEC Costs” means any and all reasonable costs, both direct and indirect, actually incurred by EFSEC with respect to inspection and determination of compliance by the certificate holder with the terms of this Agreement.

18. “EIS” or “Final EIS” means the Horse Heaven Wind Farm Final Environmental Impact Statement issued by EFSEC on October 31, 2023.

19. “FAA” means the Federal Aviation Administration.

20. “Ferruginous Hawk Core Habitat” means the area within a 2-mile radius surrounding a ferruginous hawk nest.

21. “Horse Heaven Wind Farm Project” or “Project” means those Horse Heaven Wind Farm Project facilities described Article I.C, including wind turbines, solar panels and their construction areas; electrical collection/interconnection and communication systems; electrical step-up and interconnection transformers; Battery Energy Storage System; access roadways; temporary construction-related facilities; substations: and other related Project facilities. The specific components of the Project are identified in Article I.C.

22. “Lease Boundary” means the total area leased by the Certificate Holder for the Horse Heaven Wind Farm Project.

23. “Micrositing” or “micro-siting” means the final technical and engineering process by which the Certificate Holder shall recommend to the Council the final location of project facilities on the Project Footprint.

24. “NPDES Permit” means National Pollutant Discharge Elimination System permit.

25. “Project”, see definition for “Horse Heaven Wind Farm Project”.

26. “Project Footprint” means the actual footprint of the Project as determined in accordance with Article I.C.

27. “PTAG” means Pre-operational Technical Advisory Group as described in Article IV.G.

28. “RCW” means the Revised Code of Washington.

29. “Site,” or “Project Site,” means the land on which the Horse Heaven Wind Farm Project is authorized to be constructed and operated, as determined under Article I.C.

30. “Site Certification Agreement,” “SCA” or “Agreement” means this formal written agreement between the Certificate Holder and the State of Washington, including all attachments hereto and exhibits, modifications, amendments, and documents incorporated herein.

31. “State” or “state” means the State of Washington.

32. “Substantial Completion” means the Project is generating and delivering energy to the electric power grid.

33. “TAC” means Technical Advisory Committee as described in Article IV.G and Article V.B.

34. “WAC” means the Washington Administrative Code.

35. “WDFW” means the Washington Department of Fish and Wildlife.

36. “WSDOT” means the Washington State Department of Transportation.

37. “WTG” means wind turbine generator.

ARTICLE III: GENERAL CONDITIONS

A. Legal Relationship

This Agreement shall bind the Certificate Holder, and its successors in interest, and the State and any of its departments, agencies, divisions, bureaus, commissions, boards, and its political subdivisions, subject to all the terms and conditions set forth herein, as to the approval of, and all activities undertaken with respect to the Project or the Site. The Certificate Holder shall ensure that any activities undertaken with respect to the Project or the Project Footprint by its agents (including affiliates), contractors, and subcontractors comply with this Agreement and applicable provisions of Title 463 WAC. The term “affiliates” includes any other person or entity controlling, controlled by, or under common control of or with the Certificate Holder.

This Agreement, which includes those commitments made by the Certificate Holder in the ASC, mitigation requirements included in the Final Environmental Impact Statement issued October 31, 2023, and conditions identified by the EFSEC Council within the recommendation report to the governor issued on April 29, 2024, constitutes the whole and complete agreement

between the State of Washington and the Certificate Holder, and supersedes any other negotiations, representations, or agreements, either written or oral.

B. Enforcement

1. This Agreement may be enforced by resort to all remedies available at law or in equity.

2. This Agreement may be suspended or revoked by EFSEC pursuant to RCW 34.05 and RCW 80.50, for failure by the Certificate Holder to comply with the terms and conditions of this Agreement, for violations of RCW 80.50 and the rules promulgated thereunder, or for violation of any applicable resolutions or orders of EFSEC.

3. When any enforcement action of the Council is required by or authorized in this Site Certification Agreement, the Council may, but shall not be legally obligated to, conduct a hearing pursuant to RCW 34.05.

C. Notices and Filings

Filing of any documents or notices required by this Agreement with EFSEC shall be deemed to have been duly made when delivery is made to EFSEC's offices at Energy Facility Site Evaluation Council, 621 Woodland Square Loop SE, Olympia, WA 985043, or to PO Box 43172, Olympia, WA 98504-3172.

Notices to be served by EFSEC on the Certificate Holder shall be deemed to have been duly made when deposited in first class mail, postage prepaid, addressed to the Certificate Holder at Horse Heaven Wind Farm, LLC, 1805 29th Street, Suite 2050, Boulder, CO 80301 c/o General Counsel, legal@scoutcleanenergy.com and dave@scoutcleanenergy.com.

D. Rights of Inspection

Throughout the duration of this Agreement, the Certificate Holder shall provide access to the Site, the Project structures, buildings and facilities, underground and overhead electrical lines, and all records relating to the construction and operation of the Project to EFSEC and its designated representatives and to EFSEC contractors in the performance of their official duties. Such duties include, but are not limited to, environmental monitoring as provided in this Agreement and monitoring and inspections to verify the Certificate Holder's compliance with this Agreement. EFSEC personnel or any designated representatives of EFSEC shall follow all worker safety requirements observed and enforced on the Project Site by the Certificate Holder and its contractors.

E. Retention of Records

The Certificate Holder shall retain such records as are necessary to demonstrate the Certificate Holder's compliance with this Agreement.

F. Consolidation of Plans and Submittals to EFSEC

Any plans required by this Agreement may be consolidated with other such plans if such consolidation is approved in advance by EFSEC. This Site Certification Agreement includes time periods for the Certificate Holder to provide certain plans and other information to EFSEC or its designees. The intent of these time periods is to provide sufficient time for EFSEC or its

designees to review submittals without delay to the Project construction schedule, provided submittals made to EFSEC and/or its designees are complete.

G. Site Certification Agreement Compliance Monitoring and Costs

The Certificate Holder shall pay to the Council all EFSEC costs incurred during the construction and operation of the Project to assure compliance with the conditions of this Agreement, as required by RCW 80.50.071(2). The amount and manner of payment shall be prescribed by EFSEC pursuant to applicable procedures.

The Certificate Holder shall deposit with EFSEC a sum to guarantee payment of all EFSEC Costs as defined in Article II.16, consistent with RCW 80.50.071(2)(a), for the period commensurate with the activities of this Agreement.

H. Site Restoration

The Certificate Holder is responsible for site restoration pursuant to the Council's rules, WAC 463-72, in effect at the time of submittal of the Application.

The Certificate Holder shall develop an Initial Site Restoration Plan in accordance with the requirements set out in Article IV.R of this Agreement and submit it to EFSEC for approval. The Certificate Holder may not begin Site Preparation or Construction until the Council has approved the Initial Site Restoration Plan, and the required site restoration financial assurance.

The Certificate Holder shall submit a Detailed Site Restoration Plan to EFSEC for approval prior to decommissioning in accordance with the requirements of Article VIII.B of this Agreement.

I. EFSEC Liaison

No later than thirty (30) days from the effective date of this Agreement, the Certificate Holder shall designate a person to act as a liaison between EFSEC and the Certificate Holder.

J. Changes in Project Management Personnel

The Certificate Holder shall notify EFSEC of any change in the primary management personnel, or scope of responsibilities of such personnel, for the Project.

K. Amendment of Site Certification Agreement

1. This Agreement may be amended pursuant to EFSEC rules and procedures applicable at the time of the request for amendment. Any requests by the Certificate Holder for amendments to this Agreement shall be made in writing.

2. No change in ownership or control of the Project shall be effective without prior Council approval pursuant to EFSEC rules and procedures.

3. Repair, maintenance, and replacement of Project facilities:

a. The Certificate Holder is permitted, without any further amendment to this agreement, to repair and maintain Project Facilities described in Article I.C, consistent with the terms of this Agreement.

b. The Certificate Holder shall notify EFSEC of the replacement of any significant portion of the Project Facilities at least thirty (30) days prior to the replacement occurring.

4. In circumstances where the Project causes a significant adverse impact on the environment not previously analyzed or anticipated by this Agreement, or where such impacts are imminent, EFSEC shall take all steps it deems reasonably necessary, including imposition of specific conditions or requirements on the Certificate Holder as a consequence of such a situation in addition to the terms and conditions of this Agreement. Such additional conditions or requirements initially shall be effective for not more than ninety (90) days and may be extended once for an additional ninety (90) day period if deemed necessary by EFSEC to pursue ongoing, or continuing temporary, arrangements under other authority, including but not limited to RCW 34.05, RCW 80.50 RCW, or Title 463 WAC.

L. Order of Precedence

In the event of an inconsistency or apparent ambiguity in this Agreement, the inconsistency or ambiguity shall be resolved by giving precedence in the following order:

1. Applicable Federal statutes and regulations;

2. Applicable State of Washington statutes and regulations;

3. The body of this Site Certification Agreement, including any other provision, term, or material incorporated herein by reference or otherwise attached to, or incorporated in, this Agreement;

4. The application of common sense to achieve a result consistent with law and the principles effected in this document.

M. Review and Approval Process; Exceptions

1. Except for the Initial and Final Site Restoration Plans, prior to any site work, the Council may delegate to the EFSEC Director authority to approve or deny the construction and operational plans required by this Agreement. The EFSEC Director shall ensure that the construction and operational plans have been sufficiently reviewed prior to approval.

2. The EFSEC Director may allow temporary exceptions from plan requirements or provisions of the SCA when such exceptions are not contrary to the purposes of the SCA, provided that a record is kept, and Council members are immediately notified. Any Council member may within seven (7) days of the notice put the item on a Council meeting agenda for review.

ARTICLE IV: PLANS, APPROVALS AND ACTIONS REQUIRED PRIOR TO CONSTRUCTION

A. Plan Submission Requirements

All identified plans and submissions must adhere to the requirements and obligations set forth in relevant regulations, this Agreement and the ASC.

Unless otherwise noted, all plans and submissions required prior to beginning site construction activities are required to be filed with EFSEC ninety (90) days prior the start of Construction. The Certificate Holder shall not begin Construction activities until all applicable elements of the required pre-construction plans or commitments outlined in this Agreement and the ASC are in place, and Council approval of required plans and authorization to begin construction has been obtained.

B. Notice of Federal, State, and Local Permit Approvals

The Certificate Holder shall notify the Council of all Federal, State, and Local permits, not preempted by RCW 80.50.110 and 120, that are required for construction and operation of the Project, if any, and the anticipated date of permit issuance to the Certificate Holder. The Certificate Holder shall notify the Council when all required permits have been obtained, no later than ten (10) business days after the permit has been issued. Construction shall only be initiated upon EFSEC determination that all applicable permits have been issued.

C. Mitigation Measures

During construction, operation, decommissioning, and site restoration of this Project, the Certificate Holder shall implement the conditions set forth in this Agreement, including, but not limited to, commitments presented in the ASC, mitigation measures identified in the final EIS, and conditions identified in the recommendation to the governor (see Appendix 2 for a full list).

No later than sixty (60) days prior to the beginning of Site Preparation, the Certificate Holder shall file with EFSEC a comprehensive list of these conditions, or at such time defined within the condition. For each of these mitigation measures, the Certificate Holder shall in the same filing further identify the construction plan and/or operation plan addressing the methodology for its achievement.

The specific plans and submittals listed in the remainder of this Article IV, and Articles V, VI, VII, and VIII, shall incorporate these mitigation measures as applicable. The mitigation measures included in the final EIS are presented in their entirety in Appendix 2 of this Agreement.

D. Construction Stormwater Pollution Prevention Plan

1. Notice of Intent. No later than 60 days prior to the beginning of Site Preparation the Certificate Holder shall file with EFSEC a Notice of Intent to be covered by a General National Pollutant Discharge Elimination System (NPDES) Permit for Stormwater Discharges Associated with Construction Activities.

2. Construction Stormwater Pollution Prevention Plan. No later than 60 days prior to the beginning of Site Preparation, the Certificate Holder shall submit to EFSEC a Construction Stormwater Pollution Prevention Plan (Construction SWPPP). The Construction SWPPP shall meet the requirements of the Ecology stormwater pollution prevention program (WAC 173-230), and the objectives and requirements in Special Condition S.9 of the *National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Stormwater Discharges Associated with Construction Activities* issued by the Department of Ecology on January 1, 2021 or as revised. The Certificate Holder shall include measures for temporary erosion and sedimentation control in the Construction SWPPP as included in the Stormwater Management Manual for Eastern Washington.

The Construction SWPPP shall identify a regular inspection and maintenance schedule for all erosion control structures. The schedule shall include inspections after significant rainfall events. Any damaged structures shall be addressed immediately. Inspections, and subsequent erosion control structure corrections, shall be documented in writing and available for EFSEC's review on request (see Appendix 2; W-6 Wetland SWPPP).

E. Temporary Erosion and Sediment Control Plan.

The Certificate Holder shall develop a Temporary Erosion and Sediment Control (TESC) Plan. No later than sixty (60) days prior to the beginning of Site Preparation, the Certificate Holder shall submit the TESC Plan to the Council for approval and provide a copy to Ecology for comment. The Certificate Holder shall not begin Site Preparation prior to obtaining Council approval of the TESC Plan. As an alternative to submitting a separate TESC Plan, the Certificate Holder may include measures for temporary erosion and sedimentation control in the Construction SWPPP required in Article IV.D.2, above.

F. Spill Prevention, Control and Countermeasures Plan

The Certificate Holder shall develop a Spill Prevention, Control, and Countermeasures Plan (SPCCP) in the event that quantities of materials maintained on site are of sufficient quantity to qualify, consistent with the requirements of 40 CFR Part 112 and shall adhere to requirements identified in this agreement and the ASC including an employee training plan to include the use of spill response equipment, orientations identifying the location of hazardous materials, proper storage of hazardous materials, and location of spill response equipment to ensure that workers are competent in spill response (see Appendix 2; W-5 Employee Training).

The Construction SPCC Plan shall include the Project Footprint, and all access roads. The Certificate Holder shall require all contractors working on the facility to have a spill prevention and countermeasure program consistent with the above requirements. The Certificate Holder shall not begin Site Preparation prior to obtaining approval of the Construction SPCC Plan. All applicable elements of the Construction SPCC Plan shall be implemented prior to the beginning of Site Preparation.

Spill response equipment shall be stored in every project vehicle regularly accessing the site during construction, operation, and decommissioning (see Appendix 2; W-8 Spill Response Equipment). In addition, an oil pan shall be placed below heavy equipment when stored or not in use on site.

G. Pre-operational Technical Advisory Group

The Certificate Holder, in consultation with EFSEC, shall establish a Pre-operational Technical Advisory Group (PTAG) as defined by mitigation measure Hab-4 in Appendix 2. The PTAG shall be established at least one year prior to construction and is responsible for reviewing and providing technical advice on documents produced by the Certificate Holder related to wildlife and wildlife habitat. The PTAG shall also provide advice on adaptive management. The PTAG shall be responsible for, at a minimum:

1. Reviewing and providing technical advice on Project wildlife and habitat management plans (e.g. ferruginous hawk management plans).

2. Reviewing and providing advice to EFSEC on pre-design and pre-construction data collection requirements to address Project mitigation measures and conditions or management plans.

3. Reviewing and providing advice to EFSEC on the final Project design.

4. Advising on thresholds to be applied to the Project that would trigger the requirement for additional mitigation measures.

The PTAG shall cease to exist once the Certificate Holder has completed all planned construction and shall be replaced by the Technical Advisory Committee (TAC). The PTAG may include representation by WDFW, DNR, interested tribes, Benton County, and the USFWS. The PTAG may also include local interest groups, not-for-profit groups, and landowners. The exact composition of the PTAG will be determined through discussions between the Certificate Holder and EFSEC and will depend on the relevance and/or availability of proposed members.

The Certificate Holder shall contact the agencies and organizations identified through discussions with EFSEC requesting that they designate a representative to the PTAG, and that the agencies or organizations notify EFSEC in writing of their PTAG representative and of their member's term of representation.

The Certificate Holder shall submit to EFSEC for approval proposed Rules of Procedure describing how the PTAG shall operate, including but not limited to a schedule for meetings, a meeting procedure, a process for recording meeting discussions, a process for making and presenting timely PTAG recommendations to the Council, and other procedures that will assist the PTAG to function properly and efficiently. The Certificate Holder will provide a copy of the proposed Rules of Procedure at the first PTAG meeting for review and comment. Any modifications to the Rules of Procedure suggested by the PTAG must be approved by EFSEC prior to adoption.

The PTAG will provide advice on adaptive management and the development of the final Project layout and design as defined in the final EIS mitigation measures in Appendix 2 of this SCA. The mitigation measures may not be limited to those listed in Appendix 2 and the ultimate authority to require implementation of additional mitigation measures, including any recommended by the PTAG, shall reside with EFSEC.

H. Indirect Habitat Loss Management Plan

The Certificate Holder shall in coordination with the PTAG develop an Indirect Habitat Loss Management Plan (IHLMP) that addresses potential indirect habitat loss resulting from the Project (see Appendix 2; Hab-5 Indirect Habitat Loss Management Plan). Compensatory habitat mitigation must fully offset the loss of habitat function and value. The IHLMP must be provided to the PTAG for review 90 days prior to construction. Approval of the IHLMP shall reside with EFSEC.

The objectives of the IHLMP would be to identify a Project-specific Zone of Influence (ZOI) and required mitigation based on the Project-specific ZOI. The Project-specific ZOI would be developed based on Project conditions and may differ from the ZOI presented in the EIS. The IHLMP would include:

1. A description of the study's purpose and objectives.

2. A description of methods to define Project-specific ZOIs (e.g., gradient analysis, nest density).

3. A description of data requirements to establish Project-specific ZOIs and field programs that would be implemented (pre-construction and post-operation).

4. A description of the duration of studies required to establish Project-specific ZOIs.

5. A description of criteria to be used to compensate for loss of habitat function and value.

6. An environmental effectiveness monitoring strategy of compensatory habitat to ensure that the habitat meets success criteria.

The IHLMP would also include a series of compensatory site-selection criteria, developed in consultation with the PTAG. The selection criteria would be used to evaluate candidate habitat compensation habitats through one or more actions of land acquisition, on-site easements and restoration (excluding areas impacted by the Project such as temporary laydown areas), and/or fee-based mitigation (see Appendix 2; Hab-8 Indirect Habitat Loss Compensation). The development of conservation easements shall be prioritized. Habitats that achieve more of the criteria would be identified as the preferential sites. Selection criteria would include, at a minimum:

1. Proximity to the Lease Boundary (e.g., hierarchy of preferences with respect to location— within the Lease Boundary being the highest priority, adjacent to the Lease Boundary being the second highest priority, and off site being the third priority).

2. Protection of existing native shrub-steppe or grassland habitats.

3. Encompassing sensitive or important wildlife habitat (e.g., mapped movement corridors, ferruginous hawk core habitat, HCAs, areas of high prey abundance).

4. Proximity to Project infrastructure.

Fee-based mitigation to compensate for the remaining permanent and altered (indirect) impacts to purchase other lands suitable as in-kind and/or enhancement mitigation shall be provided to WDFW, or a third party identified by WDFW, and agreed to by EFSEC to purchase other lands suitable as in-kind and/or enhancement mitigation. The fee-based mitigation rationale, including a description of how much compensatory habitat would be addressed through conservation easements (see Option 1 of the ASC Draft Wildlife and Habitat Mitigation Plan mitigation strategy) and the rationale for why fee-based mitigation is required shall be submitted to EFSEC for review and approval (see Option 2 and 3 of the ASC Draft Wildlife and Habitat Mitigation Plan). Fee-based mitigation shall be determined by market rates and land sales within the general vicinity of the Lease Boundary for lands containing comparable habitat types and quality present within the Lease Boundary.

I. Total Financial Obligation

Fee-based mitigation will be determined and agreed to by EFSEC as a Total Financial Obligation (TFO) (see Appendix 2; Hab-8 Indirect Habitat Loss Compensation). The TFO will be determined by multiplying the cost per acre by the total Compensatory Mitigation Acres (CMA) remaining after the application of conservation easements as detailed in Option 1 of the ASC Draft Wildlife and Habitat Mitigation Plan mitigation strategy. A one-time 15% premium to cover administration and management costs for the purchased lands shall also be applied to the TFO. The TFO would be calculated based on the following: *Average Comparable Land Sale Cost (per acre)*(CMA-Option 1 Acres)*1.15 = TFO*

If construction has not begun within 12 months of the approval of the TFO, the TFO identified will expire and must be recalculated prior to beginning construction.

J. Wildlife and Habitat Mitigation Plan

The Certificate Holder shall develop a Wildlife and Habitat Mitigation Plan, in consultation with EFSEC and WDFW (see Appendix 2; Hab-8 Indirect Habitat Loss Compensation).

1. The Plan shall specify the Certificate Holder's plan for meeting Compensatory Mitigation Obligations. The Certificate Holder's Compensatory Mitigation Obligations will be met through the mechanisms identified in the final EIS and associated staff memos.

2. Pre-construction Project layout drawings will show expected permanent and temporary land disturbances.

3. The Plan shall include a process to determine the actual impacts to habitat following the completion of construction. In the event that actual impacts to habitat exceed the expected impacts determined prior to construction, the Wildlife and Habitat Mitigation Plan will include a mechanism for the Certificate Holder to provide supplemental compensatory mitigation (Supplemental Mitigation). In the event of such determination, WDFW shall provide evidence of such exceedance of impacts. Supplemental Mitigation, if any, would be proportional to impacts and may take the form of additional on-site habitat enhancement or the payment of an additional fee equivalent to the value of permanently disturbed project acres to WDFW in lieu of mitigation. Any supplemental

mitigation would be established in coordination with WDFW and reviewed and approved by the Council prior to implementation.

K. Raptor Nest Monitoring and Management Plan

Wind turbine buffer zones shall be established around all known raptor nests and be a minimum of 0.25 miles. The Certificate Holder shall prepare a Raptor Nest Monitoring and Management Plan for review by EFSEC and the Pre-operational Technical Advisory Group (PTAG) if buffer zones cannot be maintained (see Appendix 2**;** Wild-8 Turbine Buffer Zones).

L. Species Specific Mitigation Plans

Striped Whipsnake & Sagebrush Lizard: The Certificate Holder must conduct pre-construction surveys for the striped whipsnake and sagebrush lizard prior to alteration or destruction of suitable habitat (see Appendix 2; Spec-1 Striped Whipsnake & Sagebrush Lizard). WDFW shall be contacted prior to undertaking these surveys. If these species are identified through pre-construction surveys, the Certificate Holder shall prepare a Reptile Management Plan to reduce potential impacts on habitat, mortality, and barriers to movement for review by the PTAG and approved by EFSEC prior to implementation.

Burrowing Owl: The Certificate Holder shall conduct burrowing owl surveys within areas of direct loss (permanent, temporary, and modified) and associated Zones of Influence (ZOI). The results of these surveys would be provided to the PTAG and EFSEC and used to inform the final Project layout. If active burrows are identified within the Lease Boundary, the Certificate Holder shall develop a Burrowing Owl Management Plan for review by the PTAG and approved by EFSEC prior to implementation per Appendix 2; Spec-4 Burrowing Owl.

Ferruginous Hawk: In the event that a wind turbine, solar array, or BESS is proposed for siting within the 0.6 -mile (1km) radius surrounding a documented ferruginous hawk nest, the Certificate Holder shall, in consultation with the PTAG, develop a Project-specific Ferruginous Hawk Mitigation and Management plan for approval by EFSEC (see Appendix 2; Spec-5 Ferruginous Hawk).

M. Revegetation and Noxious Weed Management Plan

The Certificate Holder shall develop a Revegetation and Noxious Weed Management Plan, in consultation with EFSEC staff, WDFW, and Ecology.

1. The Plan must address vegetation management activities related to Project construction and operation.

2. The Certificate Holder shall develop the Plan to require all temporarily disturbed areas to be reseeded with an appropriate native seed mix selected in coordination with WDFW.

3. In consultation with WDFW, the Plan shall include a restoration schedule that identifies timing windows during which restoration should take place, and an overall timeline for when all restoration activities will be completed.

4. The Plan shall also include benchmarks and a timeline for revegetation success, and a plan for monitoring revegetation to ensure success.

5. This plan must address the requirements set forth in BCC 15.08.220 and WAC 463-60-332(3).

6. The Plan must specify methods that will be implemented for effective noxious weed control and revegetation.

7. The plan must identify mowing schedule for vegetation maintenance and must be restricted March 15 to May 15 and limited to the extent practicable from February 1 to March 15 and May 15 to September 30.

N. Corridor Mitigation Plan

The Certificate Holder shall develop a Corridor Mitigation Plan for any siting Project components within medium to very high linkage movement corridors, as defined in Hab-1, in consultation with the PTAG and reviewed and approved by EFSEC. The plan shall describe the extent of direct and indirect habitat impact within the movement corridor, proposed measures to be implemented to reduce potential impacts on movement corridors, proposed features to accommodate wildlife movement for linear Project components, proposed restoration in movement corridors following Project decommissioning, performance standards to assess the effectiveness of mitigation measures and restoration, and the methods to monitor and measure performance standards as detailed in Appendix 2; Hab-1 Wildlife Movement Corridors. Results of corridor monitoring shall be reviewed annually with the TAC to evaluate the effectiveness and apply additional measures if necessary.

O. Livestock Management Plan

The Certificate Holder shall prepare a Livestock Management Plan with property owners and livestock owners to control the movement of animals within the Lease Boundary during construction, operation and decommissioning (see Appendix 2**;** LSU-1 Livestock Management Plan).

P. Dryland Farming Management Plan

The Certificate Holder shall prepare a Dryland Farming Management Plan for construction, operation, and decommissioning that outline communication requirements between the Certificate Holder and the landowners. The plan would establish work windows that would allow farmers uninterrupted access to their fields for dryland wheat planting and harvesting (see Appendix 2; LSU-2 Dryland Farming Management Plan)**.**

Q. Adaptive Safety Management Plan

To mitigate the loss of safe recreation, use for recreation enthusiasts, the Certificate Holder shall coordinate with local and regional (when appropriate) recreation groups (e.g., the Northwest Paragliding Club, the Tri-City Bicycle Club) to develop and maintain an Adaptive Safety Management Plan to continue access to recreation activities in the Project area while keeping recreation enthusiasts safe (see Appendix 2**;** R-3 Recreation Safety Management Plan).

R. Initial Site Restoration Plan

The Certificate Holder is responsible for Project decommissioning and site restoration pursuant to Council rules. The Certificate Holder shall develop an Initial Site Restoration Plan at least 90 days prior to the beginning of site preparation in consultation with EFSEC staff pursuant to the requirements of WAC 463-72-040 in effect on the date of Application. The objective of the Plan shall be to restore the Project Site to approximate pre-Project condition or better (see Appendix 2; LSU-5 Site Restoration Plan. Refer also to Veg-7 Detailed Site Restoration Plan, Hab-1 Wildlife Movement Corridors, Hab-8 Indirect Habitat Loss Compensation, Spec-5 Ferruginous Hawk, Spec-9 Ring-necked Pheasant, and Spec-12 Townsend's Ground Squirrel for additional habitat and species-specific restoration requirements).

The Initial Site Restoration Plan shall be prepared in detail commensurate with the time until site restoration is to begin. The scope of proposed monitoring shall be addressed in the Initial Site Restoration Plan pursuant to the requirements of WAC 463-72-020.

The Plan shall include the following elements:

1. A detailed engineering estimate of the costs of the Certificate Holder or Transferee hiring a third party to carry out Site Restoration. A third party is a party who is neither a parent nor a subsidiary of the Certificate Holder. The estimate may not be reduced for "net present value" and may not include any salvage value that may be realized from the sale of facility structures or equipment, property interests, or other assets associated with the facility at the time of decommissioning and Site Restoration.

2. Decommissioning Timing and Scope, as required by Article VIII.D of this Agreement.

3. Decommissioning Funding and Surety, as required by Article VIII.Q of this Agreement.

4. Mitigation measures described in the final EIS, the Revised Final Application, and this Agreement.

5. A plan that addresses both the possibility that site restoration will occur prior to, or at the end of, the useful life of the Project and also the possibility of the Project being suspended or terminated during construction.

6. A description of the assumptions underlying the plan. For example, the plan should explain the anticipated useful life of the Project, the anticipated time frame of site restoration, and the anticipated future use of the Project Site.

7. An initial plan for demolishing facilities, salvaging equipment, and disposing of waste materials.

8. Performing an on-site audit and preparing an initial plan for disposing of hazardous materials (if any) present on the site and remediation of hazardous contamination (if any) at the site. In particular, if the Certificate Holder constructs the Project with solar panels incorporating hazardous materials, such as Cadmium Telluride, then the Certificate Holder shall use appropriate precautions during decommissioning and removal of the

solar panels to safely dispose of and to avoid, and, if necessary, remediate any soil contamination resulting from the panels' hazardous materials.

9. An initial plan for restoring the Project Site, including the removal of structures and foundations to four feet below grade and the restoration of disturbed soils.

10. Provisions for preservation or removal of Project facilities if the Project is suspended or terminated during construction.

S. Construction Traffic Control Plan

The Certificate Holder shall develop a Construction Traffic Control Plan, in consultation with EFSEC, the Benton County Public Works Department, and WSDOT.

1. The Traffic Control Plan must address traffic management during improvement of highway access.

2. The plan must contain measures to facilitate safe movement of vehicles in the vicinity of the construction zone and be in accordance with 23 CFR Part 655, Subpart F.

T. Cultural and Archaeological Resources Unanticipated Discovery Plan

With the assistance of an experienced archaeologist, and in consultation with EFSEC, Department of Archaeology and Historic Preservation (DAHP), and any concerned Tribes, the Certificate Holder shall develop a Cultural and Archaeological Resources Unanticipated Discovery Plan for monitoring construction activities and responding to the discovery of archaeological resources or buried human remains.

1. Prior to construction, the Certificate Holder shall obtain any necessary DAHP permits and perform any additional necessary archaeological work in order to comply with RCW 27.53.

2. The recommended mitigation measures included in Appendix 2; Table CR-2 Summary of Recommendations for Archaeological and Architectural Resource Mitigation shall be used in development of mitigation strategies.

3. The Certificate Holder shall obtain all necessary DAHP permits and perform all necessary archaeological work in order to comply with RCW 27.53 prior to disturbing the site.

4. The Certificate Holder shall provide copies of the draft Cultural and Archaeological Resources Unanticipated Discovery Plan for comment from the Yakama Nation and other potentially affected tribes prior to EFSEC approval.

5. The Cultural and Archaeological Resources Unanticipated Discovery Plan shall include, but not be limited to, the following:

a. A copy of the final construction and micro-siting plans for the Project and shall provide for the avoidance of archaeological sites where practical.

b. For sites to be avoided, the boundaries of identified cultural resources and buffer zones located within project boundaries shall be staked in the field and flagged as no-disturbance areas to avoid inadvertent disturbance during construction. These site markings will be removed following construction.

c. The Plan shall address alternative mitigation measures developed in coordination with DAHP and affected tribes to be implemented if it is not practical to avoid archaeological sites or isolates.

d. The Plan shall address the possibility of the unanticipated discovery of archaeological artifacts during construction.

e. If any archaeological artifacts, including but not limited to human remains, are observed during construction, then disturbance and/or excavation in that area will cease, and the Certificate Holder shall notify DAHP, EFSEC, and any affected Tribes and, in the case of human remains, the County Coroner or Medical Examiner.

i. At that time, appropriate treatment and mitigation measures shall be developed in coordination with the agencies and tribes cited above and implemented following approval by EFSEC.

ii. The Certificate Holder Shall develop a Cultural and Archaeological Resources Monitoring and Mitigation Plan in coordination with the Yakama Nation, other effected Tribes, and DAHP and submit the plan for EFSEC for final approval.

iii. If Project facilities cannot be moved or re-routed to avoid the resources, the Certificate Holder shall contact EFSEC and DAHP for further guidance, which may require the implementation of a treatment plan. If a treatment plan is required, it shall be developed in consultation with DAHP and any affected Tribes.

Mitigation measures are intended to minimize impacts on historic and cultural resources with elevated sensitivity (precontact archaeological resources, National Register of Historic Places (NRHP)-eligible historic-period archaeological resources, TCPs, and unidentified historic and cultural resources), primarily through avoidance. If avoidance is not possible, the mitigation clarifies which resources would require a DAHP permit prior to disturbance. Mitigation measures also identify instances where engagement with DAHP, Tribes, and/or landowners would be required.

U. Construction Emergency Response Plan

The Certificate Holder shall prepare and submit a Construction Emergency Response Plan.

1. The Certificate Holder shall coordinate development and implementation of the Plan with applicable local and state emergency services providers.

2. The Certificate Holder shall retain qualified contractors familiar with the general construction techniques and practices to be used for the Project and its related support facilities.

3. The construction specifications shall require contractors to implement a safety program that includes an Emergency Plan.

4. The Construction Emergency Response Plan shall include consideration of the items identified in Appendix P of the ASC.

V. Construction Fire Control Plan

The Certificate Holder shall develop and implement a Construction Fire Control Plan in coordination with state and local agencies to minimize the risk of accidental fire during construction and to ensure effective response to any fire that does occur on the Project Footprint at any time. The Certificate Holder shall submit the Construction Fire Control Plan to EFSEC for review and approval at least ninety (90) days prior to Construction and provide a copy to Benton County Fire Districts #1 and #5. The Certificate Holder shall not begin Construction prior to obtaining EFSEC approval of the Construction Fire Control Plan.

W. Construction Health and Safety Plan

The Certificate Holder shall develop and implement a Construction Health and Safety Plan in consultation with local and state organizations providing emergency response services to ensure timely response in the event of an emergency.

X. Construction Site Security Plan

The Certificate Holder shall develop and implement a Construction Site Security Plan in consultation with local and state organizations providing emergency response services.

Y. Utilities

1. The Certificate Holder Shall identify the source of potable water for use during project operations and provide to EFSEC confirmation of availability of water via a drinking well permit or some other agreed upon mechanism for supply of potable water.

2. The Certificate Holder Shall provide certification of water availability for process waters used for site construction to include all Project actions, including vegetation management and solar panel washing.

Z. Soil Destabilization Notification and Fugitive Dust Control

The Certificate Holder must notify EFSEC of its intent to being construction at least 90 days prior to commencing construction. This notification is referred to as a Proof of Contact: Soil Destabilization Notification (see Appendix 2; A-2 Speed Limit). The Certificate Holder shall implement appropriate mitigation measures to control fugitive dust from roads and construction activities. The Certificate Holder shall use water or a water-based, environmentally safe dust palliative such as lignin, for dust control on unpaved roads during Project construction. The Certificate Holder shall not use calcium chloride for dust suppression.

AA. Construction Management Plan

The Certificate Holder shall, with the assistance of Council staff, develop a detailed Construction Management Plan in consultation with affected state and local agencies.

1. The Plan shall address the Construction phases for the Project and shall be generally based on the mitigation measures contained in this Agreement and the ASC.

2. The plan shall identify the construction management protocols used to address the mitigation measures contained in this Agreement and the ASC.

BB. Construction Schedule

No later than thirty (30) days prior to the beginning of Construction, the Certificate Holder shall submit to EFSEC an overall construction schedule. Thereafter, the Certificate Holder shall notify EFSEC of any significant changes in the construction schedule.

CC. Construction Plans and Specifications

The Certificate Holder shall submit to EFSEC those construction plans, specifications, drawings, and design documents that demonstrate the Project design will be in compliance with the conditions of this Agreement.

1. The Certificate Holder shall also provide copies to WDFW, Ecology, DAHP, and other agencies as EFSEC may direct, for comment.

2. The plans shall include the overall Project site plans, equipment, and material specifications.

3. The construction plans and specifications shall be in compliance with Benton County construction and building codes.

4. The plans shall identify any items relevant to the mitigation measures contained in this Agreement, the final EIS, and the ASC.

5. The Certificate Holder shall consult with emergency services suppliers prior to preparing final road construction plans, to ensure that interior all-weather access roads are sufficient to provide reliable access by emergency vehicles.

6. In its final design for construction, the Certificate Holder shall maximize the use of existing roads and pathways and minimize the construction of new roads as much as reasonable and practical to minimize disturbance of existing habitat. The final design shall be subject to approval by EFSEC as part of the overall construction plans and specifications.

DD. Federal Aviation Administration Review

1. No later than thirty (30) days prior to the beginning of Construction, the Certificate Holder shall provide to EFSEC copies of the Determination of Non-Hazard certificates issued by the Federal Aviation Administration (FAA).

2. In accordance with RCW 70A.550.020, Laws of 2023, ch. 334, § 2, the Certificate Holder shall apply to the FAA for approval to install an aircraft detection lighting system (ADLS). There is the potential for additional impacts or permitting considerations associated with this installation. If approved by the FAA, EFSEC shall review the proposed ADLS system prior to installation to determine whether any additional permits and conditions are required. Any identified additional permits and conditions would be subject to review and approval by the Council.

ARTICLE V: PROJECT CONSTRUCTION

A. Environmental Monitoring During Construction

1. Environmental Monitor (EM). EFSEC shall provide on-site environmental monitoring for the construction phase of the Project, at the Certificate Holder's cost. The EM shall be an independent, qualified engineering firm (or a person) selected by EFSEC and shall report directly to EFSEC.

2. Environmental Compliance Program for Construction Activities. The Certificate Holder shall identify and develop an Environmental Compliance Program in consultation with the EM and other EFSEC designees.

a. The Environmental Compliance Program shall cover avoidance of sensitive areas during construction, waste handling and storage, stormwater management, spill prevention and control, habitat restoration efforts begun during the construction phase of the Project, and other mitigation measures required by this Agreement, the final EIS, and the ASC.

b. The Environmental Compliance program shall develop inspection criteria used to ensure relevant mitigation commitments, approved plans, and program avoidance activities are adhered to. Inspection criteria shall include inspection checklist items, "stop work" criteria, and procedures for responding to stop work notices and program deficiencies. The Certificate Holder shall implement the program to ensure that construction activities meet the conditions, limits, and specifications set out in the Site Certification Agreement, all Attachments thereto, and all other applicable state and federal environmental regulations.

3. Copies of Plans and Permits Kept on Site. A copy of the Site Certification Agreement, Plans approved by the Council or its designees, and all applicable construction permits shall be kept at the Project Site. The lead Project construction personnel and construction project managers will be required to read, follow, and be responsible for all required compliance activities.

4. Environmental Violations and Stop-Work Orders. Upon identification of an environmental noncompliance issue, the EM will work with the responsible subcontractor or direct-hire workers to correct the violation. If non-compliance is not corrected in a reasonable period of time, the EM shall request that EFSEC issue a "stop-work" order for that portion of the work not in compliance with Project environmental requirements.

EFSEC will promptly notify the EM of any "stop work" orders that have been issued. Failure to correct a violation at the request of the EM may be considered by EFSEC in exercising its authority under RCW 80.50.155 to issue penalties to persons who violate the SCA or an EFSEC-issued permit.

B. Technical Advisory Committee

The Certificate Holder, in consultation with EFSEC, shall establish a Technical Advisory Committee (TAC) as defined in Appendix 2**;** Hab-4 Establish PTAG and TAC. The TAC shall be established prior to Project operation and will replace the PTAG. The TAC shall exist for the life of the Project and will be responsible for, at a minimum:

1. Advising on the monitoring of mitigation effectiveness and reviewing monitoring reports.

2. Advising on additional or new mitigation measures that would be implemented by the Certificate Holder to address exceedances of thresholds.

3. Reviewing the results of annual data generated from surveys and incidental observations and providing recommendations for alternative mitigation and adaptive management strategies, as well as advising on aspects of existing mitigation that are no longer needed.

4. The TAC may include representation by WDFW, DNR, interested tribes, Benton County, and the USFWS. The exact composition of the TAC will be determined through discussions between the Certificate Holder and EFSEC and will depend on the relevance and/or availability of proposed members.

No later than ninety (90) days prior to the beginning of Commercial Operation, the Certificate Holder shall contact the agencies and organizations listed above requesting that they designate a representative to the TAC, and that the agencies or organizations notify EFSEC in writing of their TAC representative and of their member's term of representation. No later than sixty (60) days prior to the beginning of Commercial Operation, the Certificate Holder shall convene the first meeting of the TAC.

No later than sixty (60) days after the beginning of Commercial Operation, the Certificate Holder shall submit to EFSEC proposed Rules of Procedure describing how the TAC shall operate, including but not limited to a schedule for meetings, a meeting procedure, a process for recording meeting discussions, a process for making and presenting timely TAC recommendations to the Council, and other procedures that will assist the TAC to function properly and efficiently. The Certificate Holder will provide a copy of the proposed Rules of Procedure at the first TAC meeting for review and comment. The TAC may suggest plan modifications; any such modifications must be approved by EFSEC.

The TAC will be convened for the life of the Project, except that EFSEC may terminate the TAC if:

1. The TAC has ceased to meet due to member attrition; or,

2. The TAC determines that all of the pre-permitting, operational and post-operational monitoring has been completed and further monitoring is not necessary; or

3. The TAC members recommend that it be terminated. If the TAC is terminated or dissolved, EFSEC may reconvene and reconstitute the TAC at its discretion.

The TAC will provide advice on adaptive management and the development of any additional mitigation measures beyond those listed in Appendix 2 of this SCA. The ultimate authority to require implementation of additional mitigation measures, including any recommended by the TAC shall reside with EFSEC.

C. Quarterly Construction Reports

The Certificate Holder shall submit quarterly construction progress reports to EFSEC no later than thirty (30) days after the end of each calendar quarter following the start of construction. Such reports shall describe the status of construction and identify any changes in the construction schedule.

D. Construction Inspection

EFSEC shall provide plan review and inspection of construction for all Project structures, underground and overhead electrical lines, and other Project facilities to ensure compliance with this Agreement. Construction shall be in accordance with the approved design and construction plans, and other relevant regulations. EFSEC may contract with Benton County, another appropriate agency, or an independent firm to provide these services.

E. As-Built Drawings

The Certificate Holder must provide an as-built report documenting the amount of temporary and permanent disturbance associated with the Project within 60 days of completion of construction. The Certificate Holder shall maintain a complete set of as-built drawings on file for the life of the Project and shall allow the Council or its designated representative access to the drawings on request following reasonable notice.

F. Habitat, Vegetation, Fish and Wildlife

The Certificate Holder shall use construction techniques and BMPs to minimize potential impacts to habitat and wildlife. In particular, construction of the Project shall be performed in accordance with mitigation items identified in the final EIS and Section 3.4 of the ASC.

Construction shall avoid removing or disturbing trees within the Project Lease Boundary, including any disturbance within the drip-line of the tree (including topping of the tree). Tree avoidance areas should be delineated using snow fencing or similar measures. Tree disturbance and removal of trees must have EFSEC prior approval including approval of a tree mitigation plan (see Appendix 2; Veg-1 Tree Avoidance).

Surveys for special status plant species shall be conducted if avoidance of Priority Habitat and/or areas that have high potential for occurrence of special status plant species is not possible (see Appendix 2; Veg-2 Pre-Disturbance Surveys for Special Status Plant Species). Surveys shall be conducted prior to both construction and decommissioning activities. The Certificate Holder shall modify the Project design to avoid the species or, where modification is not possible, additional mitigation measures must be submitted to EFSEC for consideration. Special status plant species findings shall be documented and provided to EFSEC in an annual report.

Mitigation associated with the finding of special status plant species shall be tracked by an environmental monitor.

G. As-Built Report, Offset Calculation, and Monitoring Revegetation

Within 60 days of completing construction, the Certificate Holder shall provide an as-built report that documents the amount of temporary and permanent disturbance associated with the Project as described in Appendix 2**;** Veg-4 As Built Report, Offset Calculation, and Monitoring of Revegetation. EFSEC will use this report to determine the number of years that vegetation monitoring of temporary disturbance and modified habitat shall be conducted a**s** well as the success criteria for revegetation. Submittal of annual revegetation reports to document revegetation success are required until such time EFSEC determines that areas of modified habitat and revegetated temporary disturbance have met the success criteria.

H. Construction Noise

The Certificate Holder shall use construction techniques and BMPs to minimize potential impacts of construction related noise. In particular, construction of the Project shall be performed in accordance with mitigation items identified in the final EIS and ASC.

I. Construction Safety and Security

1. Federal and State Safety Regulations. The Certificate Holder shall comply with applicable federal and state safety regulations (including regulations promulgated under the Federal Occupational Safety and Health Act and the Washington Industrial Safety and Health Act), as well as local and state industrial codes and standards (such as the Uniform Fire Code). The Certificate Holder, its general contractor, and all subcontractors shall make every reasonable effort to maximize safety for individuals working at the Project.

2. Visitors Safety. Visitors shall be provided with safety equipment where and when appropriate.

J. Contaminated Soils

In the event that contaminated soil is encountered during construction, the Certificate Holder shall notify EFSEC and Ecology as soon as possible. The Certificate Holder shall manage, handle, and dispose of contaminated soils in accordance with applicable local, state, and federal requirements.

K. Light, Glare, and Aesthetics

The Certificate Holder shall use construction techniques and mitigation measures identified in the final EIS and ASC related to light, glare, and aesthetics.

Lighting

1. The Certificate Holder shall implement mitigation measures to minimize light and glare impacts as described in the ASC and the final EIS (see Appendix 2; LIG-1 LEED-certified & Security Lighting).

2. The Certificate Holder shall minimize outdoor lighting to safety and security requirements. The Certificate Holder shall avoid the use of steady-burning, high intensity lights and utilize downward-directed lighting (see Appendix 2; LIG-1 LEED-certified & Security Lighting).

Glare

1. Solar panels with an anti-reflective coating shall be utilized.

Aesthetics

1. The Certificate Holder must institute the measures identified in the ASC and final EIS (see Appendix 2; VIS-1 Foreground Turbine Locations, VIS-2 Retain Natural-appearing Agricultural Landscape, VIS-3 Turbine Cleaning, VIS-4 Solar Array Vegetation, VIS-5 Opaque Fencing, VIS-6 Retain Natural-appearing Characteristics, VIS-7 Maximize Span Length, and VIS-8 Visual Clutter).

L. Construction Wastes and Clean-Up

The Certificate Holder's waste disposal plans and schedule shall be included in the site construction plans and specifications for review and approval by EFSEC.

1. The Certificate Holder shall dispose of sanitary and other wastes generated during construction at facilities authorized to accept such wastes.

2. The Certificate Holder shall properly dispose of all temporary structures not intended for future use upon completion of construction.

3. The Certificate Holder also shall dispose of used timber, brush, refuse, or flammable materials resulting from the clearing of lands or from construction of the Project.

ARTICLE VI: SUBMITTALS REQUIRED PRIOR TO THE BEGINNING OF COMMERCIAL OPERATION

A. Plan Submission Requirements

All identified plans and submissions must adhere to the requirements and obligations set forth in relevant regulation, this Agreement, the final EIS, and the ASC.

Unless otherwise noted all plans and submissions required prior to beginning site operation are required to be filed with EFSEC ninety (90) days prior to the Beginning of Commercial Operation. The Certificate Holder shall not begin operation prior to all applicable elements of the required plans or commitments outlined in this Agreement, the final EIS, and the ASC are in place and Council approval of required plans and authorization to begin operation has been obtained.

B. Operations Stormwater Pollution Prevention Plan

The Certificate Holder shall prepare an Operations Stormwater Pollution Prevention Plan (Operations SWPPP) in consultation with Ecology.

1. The Operations SWPPP shall include an operations manual for permanent BMPs.

2. The Operations SWPPP shall be prepared in accordance with the guidance provided in the Ecology *Stormwater Management Manual for Eastern Washington, September 2019* or as revised.

3. The Certificate Holder shall annually review the Operations SWPPP against the guidance provided in the applicable *Ecology Stormwater Management Manual* and make modifications as necessary to the Operations SWPPP to comply with current requirements for BMPs.

4. The Operations SWPPP shall specify that water used for washing of the solar panels is to not contain any solvents or other additives.

C. Operations Spill Prevention, Control and Countermeasure Plan

The Certificate Holder shall update the SPCCP for Operations in consultation with Ecology, in the event that quantities of materials maintained on site are of sufficient quantity to qualify. Spill response equipment shall be stored in every vehicle accessing the site during construction, operation, and decommissioning. In addition, an oil pan shall be placed below heavy equipment when stored or not in use on site.

1. The Operations SPCCP shall be prepared pursuant to the requirements of 40 CFR Part 112, Sections 311 and 402 of the Clean Water Act, Section 402 (a)(l) of the Federal Water Pollution Control Act (FWPCA), and RCW 90.48.080.

2. The Operations SPCCP shall include the Project Footprint and all access roads as appropriate.

3. The Operations SPCCP shall be implemented within three (3) months of the beginning of Commercial Operation.

4. The Operations SPCCP must be updated and submitted to the Council every two (2) years.

D. Noxious Weed Management Plan

The Certificate Holder shall develop an updated Noxious Weed Management Plan, in consultation with EFSEC staff, WDFW, and Ecology. The updated plan must address any relevant changes to the vegetation or weed management requirements and protocols identified prior to beginning site operation.

E. Fugitive Dust

The Certificate Holder shall implement appropriate mitigation measures to control fugitive dust from roads and construction activities. The Certificate Holder shall develop a Dust Control Plan for operation and decommissioning (see Appendix 2; Veg-5 Operation and Decommissioning Dust Control Plan).

F. Post Construction Bird and Bat Fatality Monitoring Plan

Prior to initiation of operation, a Post Construction Bird and Bat Fatality Monitoring Plan shall be developed in coordination with the TAC and EFSEC (see Appendix 2; Wild-1 Post-Construction Bird and Bat Fatality Monitoring Program). Monitoring shall be conducted for a minimum of three years. The three years of monitoring need not be consecutive; however, all post construction monitoring shall be conducted within the initial five years of operation to document variation in annual fatality rates. The monitoring program must include survey methods, timing, and effort as described in the EIS and in the ASC Appendix M Bird and Bat Conservation Strategy. Surveys shall include carcass surveys and be conducted year-round in areas with turbines, solar arrays, and transmission lines at a minimum. The Adaptive management mitigation strategies should incorporate information gathered from the pre-construction baseline bat population surveys (see Appendix 2; Wild-10 Pre-construction Bat Monitoring) and be periodically reviewed (minimum of every five years) with the TAC during operation to consider inclusion of new science and technologies that may more efficiently reduce bird and bat fatalities.

G. Shadow Flicker

The Certificate Holder shall develop a mitigation and complaint resolution procedure to respond to any residential complaints regarding shadow flicker (see Appendix 2**;** SF-2 Complaint Resolution). The mitigation plan will include avoidance, minimization, and mitigation of shadow flicker through turbine pausing, planting trees, shading windows, or other mitigation measures. The complaint monitoring plan will be reviewed and approved by EFSEC prior to operation.

H. Operations Emergency Plan

The Certificate Holder shall submit for the Council's approval an Operations Emergency Plan for the Project to provide for employee and public safety in the event of emergencies.

1. The Certificate Holder shall coordinate development of the plan with local and state agencies that provide emergency response services in the Project Footprint.

2. Periodically, the Certificate Holder shall provide the Council with updated lists of emergency personnel, communication channels, and procedures.

3. The Operations Emergency Plan shall be in compliance with WAC 463-60-352.

4. The Operations Emergency Plan shall address in detail the procedures to be followed in the event of emergencies as outlined in Appendix P of the ASC.

I. Operations Fire Control Plan

The Certificate Holder shall develop an Operations Fire Control Plan in coordination with state and local agencies, including Benton County Fire Districts #1 and #5, to minimize the risk of accidental fire during operation and ensure effective response to any fire that does occur. The Operations Fire Control Plan must consider and address potential wildfire risk minimization and response as well as provide alternatives to aerial firefighting, which will be unavailable within the Lease Boundary due to the hazards that turbines pose to aircraft.

J. Operations Health and Safety Plan.

The Certificate Holder shall develop and, after EFSEC approval, implement an Operations Health and Safety Plan. The Certificate Holder shall consult with local and state organizations providing emergency response services during the development of the plan to ensure timely response in the event of an emergency.

K. Operations Site Security Plan.

The Certificate Holder shall develop and implement an Operations Phase Site Security Plan.

1. The Plan shall include, but shall not be limited to, the following elements:

    a. Controlling access to the site by any visitors, contractors, vendors, or suppliers;

    b. Installing security lighting and fencing; and securing access to solar panels, pad transformers, pad-mounted switch panels and other outdoor facilities.

2. A copy of the final Security Plan shall be provided to EFSEC and other agencies involved in emergency response.

ARTICLE VII: PROJECT OPERATION

A. Plan Implementation and Adherence

The Certificate Holder shall adhere to and implement the provisions of the required plans, submittals, permits, the final EIS, the ASC, and any relevant regulation during project operation.

B. Water Use and Discharge

The Certificate Holder shall ensure that all stormwater control measures and discharges are consistent with the Operations SWPPP, required by Article VI.B and the Ecology *Stormwater Management Manual for Eastern Washington, September 2019* or as revised.

C. Spills Response Plan & Equipment

The Certificate Holder shall update and maintain the SPCCP as necessary. Spill response equipment shall be stored in every project vehicle regularly accessing the site during operation. In addition, an oil pan shall be placed below heavy equipment when stored or not in use on site.

D. Noise and Vibration Emissions

The Certificate Holder shall operate the Project in compliance with applicable Washington State environmental noise regulations WAC 173-60, WAC 463-62-030, WAC 173-58, and RCW 70A.20.

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 (see Appendix 2; N-4 Noise Complaint Resolution Procedure, N-5 Operation Noise Complaint Resolution).

E. Fugitive Dust Emissions

The Certificate Holder shall continue to implement dust abatement measures in accordance with the Dust Control Plan.

F. Annual Monitoring Reports

The Certificate Holder shall submit annual vegetation monitoring reports to document the success of revegetation (see Appendix 2; Veg-2 Pre-Disturbance Surveys for Special Status Plant Species, Veg-3 Special Status Plant Species Education, Veg-4 As-Built Report, Offset Calculation, and Monitoring of Revegetation). EFSEC will determine the success criteria and at which time the annual vegetation monitoring reports are no longer required based on the reported results.

G. Habitat, Vegetation, and Wildlife BMPs

During Project operations, the Certificate Holder shall implement appropriate operational BMPs to minimize impacts to plants and animals. In addition to those BMPs, the Certificate Holder shall also take the following steps to minimize impacts:

1. Implementation of the Operations Fire Control Plan developed pursuant to Article VI.I, in coordination with local fire districts, to avoid accidental wildfires and respond effectively to any fire that might occur.

2. Operational BMPs to minimize storm water runoff and soil erosion.

3. Implementation of compensatory mitigation measures identified in the final EIS must be finalized within 6 months of Beginning of Commercial Operation.

4. Implementation of a plan to monitor revegetation and noxious weed control success and erosion caused by wind events. If deficiencies are confirmed, mitigation measures shall be instituted which shall be developed in coordination with WDFW and approved by EFSEC.

H. Safety and Security

1. Personnel Safety. The safety of operating personnel is governed by regulations promulgated under the Federal Occupational Safety and Health Act and the Washington Industrial Safety and Health Act. The Certificate Holder shall comply with applicable federal and state safety laws and regulations (including regulations under the Federal Occupational Safety and Health Act and the Washington Industrial Safety and Health Act) as well as local and industrial codes and standards (such as the Uniform Fire Code).

2. Visitors Safety. The Certificate Holder shall require visitors to observe the safety plans and shall provide them with safety equipment where and when appropriate.

I. Dangerous or Hazardous Materials and General Waste Management

The Certificate Holder shall handle, treat, store, and dispose of all dangerous or hazardous materials including but not limited to those related to any battery backup power sources or the optional battery energy storage system in accordance with Washington state standards for hazardous and dangerous wastes, WAC 463-74 and WAC 173-303.

Following any abnormal seismic activity, volcanic eruption, severe weather activity, flooding, vandalism, or terrorist attacks the Certificate Holder shall inspect areas where hazardous materials are stored to verify that containment systems are operating as designed.

The certificate holder shall include in its waste management plan for general waste, a commitment to recycle project components when recycling opportunities are reasonably available for wastes generated during operations and maintenance.

J. Utilities

The Certificate Holder shall provide certification of water availability for process waters used for site operation and maintenance to include potable water for site operations staff, vegetation management, and solar panel washing on an annual basis.

K. Neighboring Land Uses

Benton County is a "Right to Farm" County, codified in Benton County Code Title 14, Chapter 14.01 and 14.02. This project is located within an agricultural area, and will be subject to impacts from nearby pre-existing agricultural practices including, but not limited to: marketed produce at roadside stands or farm markets, noise, odors, dust, fumes, operation of machinery and irrigation pumps, ground and aerial seeding and spraying, the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides and associated drift of such materials; and the employment and use of labor. Impacts resulting from these activities shall not be found to be a public or private nuisance if the farm operation was in existence before the date of this agreement.

L. Decommissioning of Individual Wind Turbine Generators

During the lifetime of the project, the Certificate Holder may choose, or be otherwise required to, decommission individual WTGs without the entire project being terminated pursuant to Article VIII of this agreement.

In accordance with Article III. K, of this agreement, individual WTGs found to cause unanticipated significant adverse impact(s) on the environment may have further operating conditions imposed by EFSEC, including permanent shutdown, decommissioning, and removal from the Project Area. In addition, EFSEC retains the authority to order removal of any individual WTG that remains inoperable or is not used for more than six months.

The Certificate Holder will disassemble and remove from the Project Area the WTG being decommissioned within one year of the last date the WTG produced power for sale.

Any foundations associated with a decommissioned WTG will either be removed immediately or during full Project decommissioning, consistent with Articles VIII(B) and VIII(D)(2).

The Certificate Holder shall notify EFSEC of its intent to decommission the turbine and shall provide a schedule for decommissioning activities.

M. Shadow Flicker Mitigation Measures

The Certificate Holder shall attempt to avoid, minimize, and mitigate shadow flicker at non-participating residents (see Appendix 2; SF-1 Shadow Flicker). Shadow flicker can usually be addressed by planting trees, shading windows or other mitigation measures. As a last resort the control system of the wind turbine could be programmed to pause the blades during the brief periods when conditions result in perceptible shadow flicker.

ARTICLE VIII: PROJECT TERMINATION, DECOMMISSIONING AND SITE RESTORATION

A. Legislated Requirements

Mitigation measures applied during decommissioning shall follow the applicable legislated requirements at the time of decommissioning (see Appendix 2; Veg-6 Decommissioning Legislated Requirements).

B. Detailed Site Restoration Plan

The Certificate Holder shall submit a Detailed Site Restoration Plan to EFSEC for approval within ninety (90) days from the time the Council is notified of the termination of the Project. The Detailed Site Restoration Plan shall provide for restoration of the Project Site within the timeframe specified in Article VIII.D, taking into account the Initial Site Restoration Plan and the anticipated future use of the Project Site (see Appendix 2; Veg-7 Detailed Site Restoration Plan, LSU-5 Site Restoration Plan). The Detailed Site Restoration Plan shall address the elements required to be addressed by WAC 463-72-020, and the requirements of the Council approved Initial Site Restoration Plan pursuant to Article IV.R of this Agreement. The Certificate Holder shall not begin Site Restoration activities without prior approval from the Council. The Certificate Holder shall consult with WDFW and Ecology in preparation of the Detailed Site Restoration Plan.

C. Project Termination

1. Termination of this Site Certification Agreement, except pursuant to its own terms, is an amendment of this Agreement.

2. The Certificate Holder shall notify EFSEC of its intent to terminate the Project, including by concluding the plant's operations, or by suspending construction and abandoning the Project.

3. The Council may terminate the SCA through the process described in WAC 463-66-090, and the Council may initiate that process where it has objective evidence that a certificate may be abandoned or when it deems such action to be necessary, including at the conclusion of the plant's operating life, or in the event the Project is suspended or abandoned during construction or before it has completed its useful operating life.

D. Site Restoration Timing and Scope

Site Restoration shall be conducted in accordance with the commitments made in the Detailed Site Restoration Plan required by Article VIII.B and in accordance with the following measures:

1. Timing. The Certificate Holder shall commence Site Restoration of the Project within twelve (12) months following the termination described in Article VIII.B above.

   The period to perform the Site Restoration may be extended if there is a delay caused by conditions beyond the control of the Certificate Holder including, but not limited to, inclement weather conditions, equipment failure, wildlife considerations, or the availability of cranes or other equipment to support decommissioning.

2. Scope. Site Restoration shall involve removal of all Project components, foundations, and facilities to a depth of four (4) feet below grade; restoration of any disturbed soil to pre-construction condition; and removal of Project access roads and overhead poles and transmission lines (except for any roads and/or overhead infrastructure that Project Footprint landowner wishes to retain) (all of which shall comprise "Site Restoration"). Site Restoration shall also include the use of appropriate precautions during decommissioning and removal of any hazardous material to safely dispose of and to avoid, and, if necessary, remediate any soil contamination resulting from the hazardous materials.

3. Monthly Reports. If requested by EFSEC, the Certificate Holder shall provide monthly status reports until this Site Restoration work is completed.

4. Restoration Oversight. At the time of Site Restoration, the Project Site will be evaluated by a qualified biologist to determine the extent of and type of vegetation existing on the site. Success criteria for Site Restoration will be established prior to commencement of decommissioning activities, based on the documented pre-construction conditions, experience gained with re-vegetation during operation and the condition of the Project Site at the time of Site Restoration. The restoration success criteria will be established in the Detailed Site Restoration Plan approved by EFSEC in consultation with the designated biologist. Once restoration of the Project Site is determined to be complete, a final report of restoration activities and results will be submitted to EFSEC in consultation with the designated biologist, for review and approval.

E. Decommissioning Noxious Weed Management Plan

The Certificate Holder shall develop and submit a Noxious Weed Management Plan (or extension of the current plan) to include prevention and control during decommissioning of the Project for EFSEC review and approval (see Appendix 2; Veg-8 Decommissioning Noxious Weed Management Plan). The plan shall include monitoring for three years following decommissioning of the Project.

F. Decommissioning-Stage Traffic Analysis and Routing Survey

A third-party engineer shall provide a traffic analysis prior to decommissioning (see Appendix 2; TR-3 Decommissioning Traffic Analysis). In addition, a decommissioning traffic routing survey shall be prepared by a third-party engineer with input from the Washington Utilities and Transportation Commission to determine if current traffic control systems at railroad crossings are appropriate or if additional mitigation is needed prior to decommissioning. (see Appendix 2; TR-4 Railroad Crossing Traffic Analysis).

G. Decommissioning-Stage Traffic and Safety Management Plan

The Certificate Holder shall consult with WSDOT and Benton County on the development of a decommissioning-stage Traffic and Safety Management Plan prior to decommissioning (see Appendix 2; TR-5 Traffic Analysis – Existing Laws at Decommissioning). The Traffic and Safety Management Plan must include a safety analysis of the WSDOT-controlled intersections (in conformance with the WSDOT Safety Analysis Guide) and recommend mitigation or countermeasures where appropriate. The analysis shall review impacts from decommissioning traffic and be submitted to WSDOT for review and comment prior to decommissioning.

H. Decommissioning Dust Control Plan

The Operational Dust Control Plan shall be updated for decommissioning (see Appendix 2; Veg-5 Operation and Decommissioning Dust Control Plan.

I. Decommissioning Fire Control Plan

The Certificate Holder shall develop a Decommissioning Fire Control Plan in coordination with state and local agencies, including Benton County Fire Districts #1 and #5, to minimize the risk of accidental fire during decommissioning and ensure effective response to any fire that does occur. The Decommissioning Fire Control Plan must consider and address potential wildfire risk minimization and response.

J. Housing Analysis

Prior to decommissioning, the Certificate Holder shall provide an up-to-date analysis on the availability of temporary housing for workers (see Appendix 2; Socio-ec-1 Decommissioning Housing Survey). If sufficient temporary housing for workers is not available, the Certificate Holder shall present EFSEC with options for housing workers from outside the community.

K. Site Restoration Financial Assurance

1. Except as provided in Article VIII.Q.3 below, the Certificate Holder or any Transferee, as the case may be, shall provide financial assurance sufficient, based on detailed engineering estimates, for required Site Restoration costs in the form of a surety bond, irrevocable letter of credit, or guaranty. The Certificate Holder must also provide pollution liability insurance coverage in an amount justified for the project. The Certificate Holder shall include a detailed engineering estimate of the cost of Site Restoration in its Initial Site Restoration Plan submitted to EFSEC. The estimate must be based on the costs of EFSEC hiring a third party to carry out Site Restoration. The estimate may not be reduced for "net present value" or other adjustments. During the active life of the facility, the Certificate Holder or Transferee must adjust the Site Restoration cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument used to provide financial assurance and must increase the financial assurance amount accordingly to ensure sufficient funds for Site Restoration.

2. The duty to provide such financial assurance shall commence sixty (60) days prior to the beginning of Construction of the Project and shall be continuously maintained through to the completion of Site Restoration. Construction of the Project shall not commence until adequate financial assurance is provided. On or before the date on which financial assurance must be established, the Certificate Holder shall provide EFSEC with

one of the following financial assurance mechanisms that is reasonably acceptable to EFSEC:

a. *Surety Bond*. The Certificate Holder or any Transferee, as the case may be, shall provide financial security for the performance of its Site Restoration obligations through a Surety Bond issued by a surety listed as acceptable in Circular 570 of the U.S. Department of the Treasury. The Performance Bond shall be in an amount equal to the Site Restoration costs. A standby trust fund for Site Restoration shall also be established by the Certificate Holder or Transferee to receive any funds that may be paid by the surety to be used to complete Site Restoration. The surety shall become liable for the bond obligation if the Certificate Holder or Transferee fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least one hundred twenty days after the Certificate Holder or Transferee and EFSEC have received notice of cancellation. If the Certificate Holder or Transferee has not provided alternate financial assurance acceptable under this SCA within ninety days of the cancellation notice, the surety shall pay the amount of the bond into the standby Site Restoration trust; or

b. *Irrevocable Letter of Credit*. The Certificate Holder or any Transferee, as the case may be, shall provide financial security for the performance of its Site Restoration obligations through an irrevocable letter of credit payable to or at the direction of EFSEC, that is issued by an institution that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or State agency. The letter of credit shall be in an amount equal to the Site Restoration costs. A standby trust fund for Site Restoration shall also be established by Certificate Holder or Transferee to receive any funds deposited by the issuing institution resulting from a draw on the letter of credit. The letter of credit shall be irrevocable and issued for a period of at least one year, and renewed annually, unless the issuing institution notifies the Certificate Holder or Transferee and EFSEC at least one hundred twenty days before the current expiration date. If the Certificate Holder or Transferee fails to perform Site Restoration, or if the Certificate Holder or Transferee fails to provide alternate financial assurance acceptable to EFSEC within ninety days after notification that the letter of credit will not be extended, EFSEC may require that the financial institution provide the funds from the letter of credit to be used to complete Site Restoration; or

c. *Guaranty*. Certificate Holder or any Transferee, as the case may be, shall provide financial assurance for the performance of its Site Restoration obligations by delivering a guaranty to fund the Certificate Holder or Transferee's Site Restoration obligations hereunder from an entity that meets the following financial criteria:

    i. A current rating of AAA, AA, A, or BBB as issued by Standard and Poor's or AAA, AA, A, or BBB as issued by Moody's;

ii. Tangible net worth at least six times the sum of the current Site Restoration cost estimates;

iii. Tangible net worth of at least ten million dollars; and

iv. Assets in the United States amounting to at least ninety percent of its total assets or at least six times the sum of the current Site Restoration cost estimates.

d. The guarantor entity's chief financial officer shall provide a corporate guaranty that the corporation passes the financial test at the time the Initial Site Restoration Plan is filed. This corporate guaranty shall be reconfirmed annually ninety days after the end of the corporation's fiscal year by submitting to EFSEC a letter signed by the guaranteeing entity's chief financial officer that:

i. Provides the information necessary to document that the entity passes the financial test;

ii. Guarantees that the funds to finance required Site Restoration activities are available;

iii. Guarantees that required Site Restoration activities will be completed;

iv. Guarantees that within thirty days if written notification is received from EFSEC that the entity no longer meets the above financial criteria, the entity shall provide an alternative form of financial assurance consistent with the requirements of this section;

v. Guarantees that the entity's chief financial officer will notify in writing the Certificate Holder or Transferee and EFSEC within fifteen days any time that the entity no longer meets the above financial criteria or is named as debtor in a voluntary or involuntary proceeding under Title 11 U.S.C., Bankruptcy;

vi. Acknowledges that the corporate guaranty is a binding obligation on the corporation and that the chief financial officer has the authority to bind the corporation to the guaranty;

vii. Attaches a copy of the independent certified public accountant's report on examination of the entity's financial statements for the latest completed fiscal year; and

viii. Attaches a special report from the entity's independent certified public accountant (CPA) stating that the CPA has reviewed the information in the letter from the entity's chief financial officer and has determined that the information is true and accurate.

e. If the Certificate Holder or any Transferee fails to perform Site Restoration covered by the guaranty in accordance with the approved Initial or Final Site Restoration plan, the guarantor will be required to complete the appropriate activities. The guaranty will remain in force unless the guarantor sends notice of cancellation by certified mail to the Certificate Holder or Transferee and EFSEC. Cancellation may not occur, however, during the one hundred twenty days beginning on the date of receipt of the notice of cancellation by the Certificate Holder or Transferee and EFSEC. If the Certificate Holder or Transferee fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from EFSEC within ninety days after receipt of a notice of cancellation of the guaranty from the guarantor, the guarantor will provide such alternative financial assurance in the name of the Certificate Holder or Transferee.

3. If the SCA is transferred after its effective date pursuant to applicable EFSEC laws and regulations, EFSEC has the right to require, consider, and approve other financial security that would provide for the Certificate Holder's performance of its Site Restoration obligations pursuant to Article VIII.Q of this Site Certification Agreement.

ARTICLE IX: SITE CERTIFICATION AGREEMENT - SIGNATURES

Dated and effective this_____day of _____, 2024.

FOR THE STATE OF WASHINGTON

_____

Jay Inslee,
Governor

FOR HORSE HEAVEN WIND FARM, LLC

_____

Michael Rucker,
CEO of Horse Heaven Wind Farm, LLC

APPENDIX 1

1. April 29, 2024 Report to the Governor Recommending Approval of Site Certification.
2. May 23, 2024 Governor Inslee's Response Letter.
3. September 17, 2024 Horse Heaven Wind Farm Project – Summary of Proposed SCA Changes and Council Reconsideration Letter

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of: Docket No. EF-220011 Scout Clean Energy, LLC, Horse Heaven Wind Farm, LLC, Applicant	Application Docket No. EF-220011

REPORT TO THE GOVERNOR ON APPLICATION DOCKET NO. EF-220011

Table of Contents

I. Executive Summary

A. Application:

On February 8, 2021, Scout Clean Energy, LLC (Scout or Applicant) filed an Application for Site Certification (ASC or Application) to construct and operate the Horse Heaven Wind Farm (Project or Facility), a renewable energy generation facility including wind and solar energy generation with battery energy storage systems (BESS) and supporting facilities. Scout is a renewable energy company headquartered in Boulder, Colorado.

The Project: The Project's Lease Boundary as proposed would encompass approximately 72,428 privately owned acres principally used for dryland wheat farming. The Facility would be in the Horse Heaven Hills area of unincorporated Benton County, Washington, approximately 4 miles south/southwest of Kennewick and the larger Tri-Cities urban area along the Columbia River (the Site). The Application[1] seeks authority to generate up to a Project total of 1,150 megawatts (MW) of energy through a combination of no more than 231 wind turbines and solar arrays that would generate no more than 800 MW, along with supporting BESS facilities. The wind turbines and supporting facilities would encompass an 11,850-acre Micrositing Corridor within the Project Lease Boundary; the Micrositing Corridor is approximately 25 miles in length and extends eastward from Benton City to Finley.[2] The Solar Siting and BESS areas would encompass 10,755 acres of which 5,447 acres are proposed to be occupied by up to three solar arrays.

B. Recommendation:

The Energy Facility Site Evaluation (EFSEC) Council recommends the Governor approve in part the Horse Heaven Wind Facility in Benton County. The Council also recommends that certain conditions be imposed insofar as the application is approved as discussed below.

The Council carefully considered: 1) the statutory policies on need for abundant clean energy sources to meet the state's greenhouse gas reduction obligations and to mitigate the effects of climate change while ensuring through reasonable methods that all energy facilities will produce minimal adverse impacts on the environment (Revised Code of Washington (RCW) 80.50.010); 2) public comments; 3) the record, findings and conclusions of the Adjudicative Order; 3) the Final Environmental Impact Statement (EIS); 4) the issues raised in government-to-government consultations with affected federally recognized tribes; and 5) commitments made by the Applicant in its Application, at hearings, and in other relevant documents.

The Council concludes that the conditions identified in this report, and that are set forth in the accompanying draft Site Certification Agreement (SCA), are reasonable methods to minimize the

[1] The original Application (ASC) (filed February 8, 2021) sought authority to operate up to 244 wind turbines and up to three solar arrays. *See Original Application, Section 2.3 and Tables 2.1-1 and 2.3-1.* Scout filed subsequent updates to the ASC. The Final ASC was received on September 25, 2023, which outlines the final requested scope of the proposal.

[2] For an overview of the Project boundary and its overall layout options, *see Application Figure 2.3-1 (Turbine Layout Option 1* – 244 turbines with maximum height of 499 feet) and Figure 2.3-2 (Turbine Layout Option 2 – 150 turbines with maximum height of 657 feet). The subsequent figures in the ASC illustrate the Micrositing Corridors.

adverse impacts of the Project proposal on the environment and on the broad interests of the public, including affected tribes, while still recognizing the need for abundant clean energy. The Council recommends requiring a reduced Project footprint to reduce impacts to wildlife, visual resources, and tribal cultural resources including sacred places. The identified mitigation measures result in a Project that is significantly reduced in scope and less prominently visible. With the recommended mitigation measures, the proposed Project meets the requirements of applicable law and comports with the policy and intent of Chapter 80.50 RCW.

II. Detailed Summary of the Application and the Council's Review Process

A. Scout Clean Energy and the Horse Heaven Wind Farm

The Application: On February 8, 2021, Scout Clean Energy, LLC filed an Application for Site Certification to construct and operate the Horse Heaven Wind Farm, a renewable energy generation facility including wind and solar energy generation with battery energy storage systems and supporting facilities. Scout is a renewable energy company headquartered in Boulder, Colorado.

The Project: The Project's Lease Boundary as proposed would encompass approximately 72,428 privately owned acres principally used for dryland wheat farming. The Facility would be in the Horse Heaven Hills area of unincorporated Benton County, Washington, approximately 4 miles south/southwest of Kennewick and the larger Tri-Cities urban area, along the Columbia River (the Site). The Application seeks authority to generate up to a Project total of 1,150 MW of energy through a combination of no more than 231 wind turbines and solar arrays that would generate no more than 800 MW, along with supporting BESS facilities.[3] The wind turbines and supporting facilities would encompass an 11,850-acre Micrositing Corridor within the Project Lease Boundary; the Micrositing Corridor is approximately 25 miles in length and extends eastward from Benton City to Finley.[4] The Solar Siting and BESS areas would encompass 10,755 acres of which 5,447 acres are proposed to be occupied by up to three solar arrays.

B. The Council and the Application Review Process

The Council is a Washington state agency established under RCW 80.50.010 to advise the Governor in deciding which proposed locations are appropriate for siting specified energy facilities, including alternative energy resource facilities that choose to apply for certification under RCW 80.50.060(1)(b). The Council's mandate is to balance need for abundant energy at a reasonable cost with the broad interests of the public. RCW 80.50.010; see also Washington Administrative Code (WAC) 463-47-110.

[3] The original Application (ASC) (filed February 8, 2021) sought authority to operate up to 244 wind turbines and up to three solar arrays. *See Original Application, Section 2.3 and Tables 2.1-1 and 2.3-1.* Scout filed subsequent updates to the ASC. The Final ASC was received on September 25, 2023, which outlines the final requested scope of the proposal.

[4] For an overview of the Project boundary and its overall layout options, *see Application Figure 2.3-1 (Turbine Layout Option 1* – 244 turbines with maximum height of 499 feet) and Figure 2.3-2 (Turbine Layout Option 2 – 150 turbines with maximum height of 657 feet). The subsequent figures in the ASC illustrate the Micrositing Corridors.

Council representatives participating in this proceeding are Kathleen Drew, Council Chair; Elizabeth Osborne, Department of Commerce (Commerce); Eli Levitt, Department of Ecology (Ecology); Mike Livingston, Department of Fish and Wildlife (WDFW); Lenny Young, Department of Natural Resources (DNR); Stacey Brewster, Washington Utilities and Transportation Commission (UTC); and Ed Brost, Benton County. Adam Torem, Administrative Law Judge, was retained by the Council to facilitate the adjudicative process.

The Council's review of the Project application for site certification consists of multiple separate and distinct procedural steps. A detailed summary of the activities associated with each step are listed below.

C. Informational Public Hearing

EFSEC must conduct a informational public hearing in the County of the proposed project not later than sixty days following the receipt of an application. RCW 80.50.090(1), WAC 463-26-025. This hearing shall consist of a presentation of the proposed project by the applicant, and the general public shall be afforded an opportunity to provide written or oral comments. WAC 463-26-025.

Consistent with this requirement, the Council conducted a informational public hearing on March 30, 2021. Due to restrictions around public gatherings associated with the COVID-19 pandemic, this meeting was not held locally, but virtually through a Microsoft Teams platform. Pursuant to RCW 80.50.090(1) and WAC 436-26-025, EFSEC staff and the Applicant gave presentations about the Project proposal and EFSEC application review process. The Counsel for the Environment was introduced and provided a description of the duties of this position. EFSEC provided public notice and invited the public to comment at this hearing.

The Council received a total of 33 oral comments during the informational public hearing and an additional 135 written comment letters. The comments included both support and opposition to the Project as well as concern that the Project proposal did not qualify for the expedited review[5] process. Comments expressed concern for potential impacts to wildlife, tourism, viewshed, recreation, economy, native grassland and shrub-steppe habitat, property values and taxes, agriculture, aesthetics, and solid waste. In addition, comments on the EFSEC process, energy production and cost, perceived need for renewable energy sources, and dispatchable seasonal energy were received.

D. Land Use Consistency Hearing

Subsequent to the informational public hearing, EFSEC must conduct a land use consistency hearing pursuant to RCW 80.50.090(2) and WAC 463-26-050. The Council must then decide whether the proposed site is consistent and in compliance with local land use plans and zoning ordinances. RCW 80.50.090(2); see also WAC 463-26-110.

[5] The Applicant requested expedited process in writing, pursuant to RCW 80.50.075(1), in the cover letter submitted with the initial application. Subsequently, the Applicant withdrew the request for expedited process in a letter dated March 29, 2021.

The Council held a Land Use Consistency hearing virtually on March 30, 2021 to determine whether the Project's use of the proposed site is consistent with local or regional land use plans and zoning ordinances in effect at the time the Application was submitted. RCW 80.50.090, WAC 463-14-030. Information was provided by both the Applicant and the County at this hearing. The Council allowed for but did not receive any testimony from members of the public. The Council determined the Project to be consistent with Benton County land use plans and zoning ordinances in effect as of February 8, 2021, the filing date of the application.[6]

E. Compliance with Chapter 80.50 RCW and State Environmental Policy Act

EFSEC must comply with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, which requires consideration of probable adverse environmental impacts of governmental action and possible mitigation. EFSEC SEPA rules are set out in Chapter 463-47 WAC. The Council's SEPA responsible official is the EFSEC Executive Director. WAC 463-47-051. Following initial review of the application materials, the responsible official issued a Determination of Significance and Scoping Notice on May 11, 2021. Subsequently, a Draft EIS was issued for a 45-day public comment period on December 19, 2022, and a public hearing was held on February 1, 2023. EFSEC received 2,496 public comment submissions on the Draft EIS, which were reviewed and considered for EFSEC's preparation of the Final EIS document. The responsible official issued the Final EIS containing responses to comments on October 31, 2023.

The Final EIS provided a Project description and a discussion of the affected environment for each SEPA resource. This discussion is in Chapter 3 of the Final EIS. Project impacts for each SEPA resource are discussed in Chapter 4, and Cumulative impacts are discussed in Chapter 5 of the Final EIS.

All mitigation measures identified in the Final EIS for this draft SCA and the basis for implementation can be found at the end of each resource section in Chapter 4 of the Final EIS.

EFSEC's environmental review in the Final EIS identified "significant unavoidable impacts" to multiple resources as described below. Mitigation measures were identified in the Final EIS to reduce impacts; however, certain impacts would remain significant even after the identified mitigation is imposed:

- Cultural Resources – Traditional Cultural Properties (TCPs): The presence of TCPs within and near to the Project Lease Boundary has been confirmed through coordination with affected tribes. As these TCPs have been identified throughout the Project Lease Boundary, they will be unavoidably impacted by the Project through physical encroachment, denial of tribal access to public lands, visual clutter, dust, noise, and other effects. The mitigation identified in the Final EIS to reduce these impacts is Cultural Resources-1, requiring that the Applicant and EFSEC continue engagement with affected tribes throughout the life of the Project to identify any measures that could effectively reduce impacts to TCPs.[7]

[6] *See* Council Order No. 883.
[7] Final EIS Section 4.9, pages 4-323 – 4-325, 4-341, and 4-344 and Tables 4.9-10a, 4.9-10b, and 4.9-10c

- Visual Aspects – Wind Turbines: The wind turbines proposed in Turbine Option 1 and Turbine Option 2, as defined in the Final EIS, would dominate views from many Key Observation Points and the landscape would appear strongly altered for residents, commuters, and recreationalists. The Visual-1, Visual-2, and Visual-3 mitigation measures identified in the Final EIS require the Applicant to locate all turbines at least 0.5 miles from any non-participating residences, prohibit any advertising, antennas, or other piggybacking on turbines, and require that the turbines be cleaned whenever they accumulate staining or dirt.[8]
- Recreation – Paragliding and Hang-Gliding Safety: There are approximately 20 known launch sites for paragliders and hang gliders within and near the Project Lease Boundary. Recreational gliders launching from these sites during Project operation would bear the risk of potential collision with turbines or supporting infrastructure and the reduction in safe landing space in the event of an in-flight emergency. The wake zones created by turbines' operation would also require additional caution from pilots when flying within areas approximately 3,000 feet downwind of the turbines. The Recreation-3 mitigation identified in the Final EIS requires the Applicant to coordinate with local and regional recreation groups in the development and maintenance of an adaptive safety management plan for recreational gliders.[9]

F. Tribal Engagement and Government-to-Government Consultation

RCW 80.50.060(8) requires EFSEC to provide early and meaningful participation and to gather input from federally recognized tribal governments that possess resources, rights, or interests reserved or protected by federal treaty, statute, or executive order in the area where an energy facility is proposed, including early and meaningful participation and input during the siting review process and in ongoing compliance monitoring of proposed energy facilities.

The chair and designated staff must offer to conduct government-to-government consultation to address issues of concern raised by such a tribe. The goal of the consultation process is to identify tribal resources or rights potentially affected by the proposed energy facility and to seek ways to avoid, minimize, or mitigate any adverse effects on tribal resources or rights. The Council is directed to propose resolutions to issues raised during consultation. This section provides details on the tribal engagement for the Project, pursuant to RCW 80.50.060(8).

EFSEC seeks to avoid, minimize, or mitigate adverse effects on tribal resources and rights and aims to implement methods for increased protection of tribal cultural resources, archaeological sites, and sacred sites during the energy facility siting process. EFSEC recognizes that the Project is located within the area that was historically occupied by the

- Confederated Tribes and Bands of the Yakama Nation (Yakama Nation),
- Confederated Tribes of the Umatilla Indian Reservation [Cayuse-Umatilla-Walla Walla] (CTUIR),
- Nez Perce Tribe (Nez Perce), and
- Wanapum Tribe.

[8] Final EIS Section 4.11, pages 4-378 – 4-406 and Table 4.10-14b
[9] Final EIS Section 4.12, pages 4-479 – 4-481 and Table 4.12-5b

Following receipt of the ASC and the Applicant's request for expedited processing per RCW 80.50.075(1) on February 8, 2021, EFSEC notified tribal nations throughout Washington state regarding receipt and processing of the ASC on February 17, 2021. Notices announcing the March 30, 2021 Informational Public Hearing and Land Use Hearing were issued to tribal nations on March 2 and 9, 2021. On April 29, 2021, EFSEC issued letters to tribal governments and nations across Washington State announcing an EIS would be prepared and that the Cultural Resource coordination with the Department of Archaeology & Historic Preservation (DAHP) had been initiated. The letter requested coordination with the tribal governments regarding cultural resources. The direct mailing of notices were sent to:

- Confederated Tribes and Bands of the Yakama Nation,
- Confederated Tribes of the Chehalis,
- Confederated Tribes of the Colville Reservation,
- Confederated Tribes of the Umatilla Indian Reservation,
- Cowlitz Indian Tribe,
- Hoh Indian Tribe,
- Jamestown S'Klallam Tribe,
- Kalispel Tribe,
- Lower Elwha Klallam Tribe,
- Lummi Nation,
- Makah Tribe,
- Marietta Band of the Nooksack Tribe,
- Muckleshoot Indian Tribe,
- Nez Perce Tribe,
- Nisqually Indian Tribe,
- Port Gamble S'Klallam Tribe,
- Puyallup Tribe,
- Quileute Nation,
- Quinault Indian Nation,
- Samish Indian Nation,
- Sauk-Suiattle Tribe,
- Shoalwater Bay Indian Tribe,
- Skokomish Indian Tribe,
- Snoqualmie Indian Tribe,
- Spokane Tribe,
- Squaxin Island Tribe,
- Stillaguamish Tribe of Indians,
- Suquamish Tribe,
- Swinomish Indian Tribal Community,
- Tulalip Tribes,
- Upper Skagit Tribe,
- Wanapum Tribe.

Following the May 11, 2021 SEPA Determination of Significance, scoping notices were issued May 27, 2021 to the same tribal nations that received notices for the informational public hearing and land use hearing. EFSEC received SEPA scoping comments from the Yakama Nation in a letter dated May 19, 2021[10]. EFSEC received scoping comments from the CTUIR in a letter dated June 10, 2021[11]. EFSEC recognizes that government-to-government consultation, as envisioned in RCW 43.376, the 1989 Centennial Accord, and the 1999 Millennium Agreement, are distinct from the required regulatory public comment periods and staff-level engagement. During EFSEC's review of the application, the CTUIR and Yakama Nation requested formal consultation with EFSEC.

[10] In their May 19, 2021 letter, the Yakama Nation requested EFSEC consider energy production needs and impacts to Traditional Cultural Properties.

[11] In CTUIR's June 10, 201 Scoping Comment letter, CTUIR indicated concerns for impacts to several resources, including but not limited to, visual, cultural and historic, wildlife, and vegetation.

The CTUIR requested formal consultation with EFSEC in a letter dated April 9, 2021[12]. The CTUIR Cultural Resources Protection Program (CRRP) conducted research on the traditional uses associated with the Project area. The CTUIR provided an Executive Summary of the Traditional Use Study of the Project to EFSEC in June 2022. Impacts to native place names associated with ancient use and knowledge of the land and beliefs about the culture and nature of the world, historic properties of religious and cultural significance, potential for disturbance of sacred ancestral burials, loss of access to First Foods, adverse effects to wildlife, and the loss of storytelling sites were identified in the summary. The CTUIR notified EFSEC in a letter dated October 10, 2023 that the CTUIR "have come to a mutual agreement to mitigate the adverse effects the Project will have on cultural resources and historic property of religious and cultural significance to the CTUIR" with Horse Heaven Wind Farm, LLC (the Applicant). The CTUIR stated that their "concerns have been addressed for the proposed Project with respect to cultural resources and historic properties of religious and cultural significance to the CTUIR." As the CTUIR indicated that their concerns had been independently addressed, no subsequent formal consultation occurred between EFSEC and the CTUIR.

During EFSEC's preparation of the Project Draft EIS, Yakama Nation cultural resource program staff provided valued technical review and comment on the Affected Environment and Analysis of Potential Impact for the Historic and Cultural, Wildlife and Habitat, and Vegetation resources. This coordination and document review continued through the publication of the Final EIS on October 31, 2023. During technical coordination between EFSEC and Yakama Nation staff, the Yakama Nation requested formal consultation with EFSEC expressing concerns regarding the impacts and characterization of archaeological resources, impacts to historic properties of religious and cultural significance to Indian Tribes (commonly referred to as traditional cultural properties or places, or TCPs), and wildlife. EFSEC provided a formal letter from the EFSEC Chair to initiate formal consultation on January 5, 2023[13]. Consequently, EFSEC received an invitation from the Yakama Nation Council for the EFSEC Chair to attend the March 2023 Yakama Nation Council meeting. Attendance by the EFSEC Chair and staff at the Yakama Nation Council meeting constituted formal consultation and initiated a series of focused Project meetings between EFSEC staff, Yakama Nation staff, Yakama Nation legal counsel, and DAHP beginning in April 2023 and continuing into 2024.

The meetings focused on potential impacts to cultural resources and wildlife. Consultation and continued dialogue with the Yakama Nation provided an effective way to share information and better understand concerns and impacts related to TCPs. This coordinated effort informed the SEPA process and mitigation measures included in the Final EIS and draft SCA. Mitigation identified as Cultural Resources-1, or CR-1, as Traditional Cultural Properties Mitigation (see draft SCA Appendix 2). Cultural Resources-1 requires that the Applicant and EFSEC continue engagement with affected tribes throughout the life of the Project to identify any measures that could effectively reduce impacts to TCPs. The Yakama Nation staff also provided a confidential map of Project impacts to TCPs that were included under separate cover to the Council with the Final EIS, which was then considered by the Council during deliberations.

[12] April 9, 2021 CTUIR Consultation Request Letter
[13] January 5, 2023 Yakama Nation Consultation Letter

The Yakama Nation petitioned for, and was granted, intervention status during the adjudicative proceedings. Information provided during that process was considered by the Council in development of the Adjudicative Order No. 892 and ultimately, in this recommendation.

Informed in part by this government-to-government consultation and tribal engagement, the Draft and Final EIS identified significant impacts to tribal cultural resources. In a letter dated January 25, 2023[14], DAHP stated:

> DAHP concurs that the proposed project will have significant direct and cumulative impacts on cultural resources, including Traditional Cultural Properties, archaeological sites, and the larger cultural and natural landscapes that hold these significant cultural, historic, sacred, and tribal places.

G. Adjudicative Proceeding

The Council's adjudicative process, as outlined in RCW 463-30, its participants and the Council's findings and conclusions regarding the contested issues are set out in detail in the Adjudicative Order, Order No. 892, Attachment 1 to this Recommendation. This Recommendation Order will generally cite, rather than restate, Adjudicative Order content. The Adjudicative Order, pursuant to RCW 34.05.461(4), confined its scope to the matters of record and did not consider the SEPA process.

As a result of confidential evidence presented by Yakama Nation elders and the Tribe's archaeologist in the adjudicative hearing, the Council learned that constructing the Horse Heaven Wind Farm would result in unavoidable negative impacts to Yakama Nation TCPs. The Council found in the adjudicative order that Scout's Project design does not sufficiently avoid or minimize impacts to Yakama Nation TCPs. Those impacts can be reduced by altering Project design in order to meet the directive in RCW 80.50.060(8) to seek ways to avoid, minimize, or mitigate any adverse effects on tribal resources.

In the Adjudicative Order, on the topic of wildlife impacts, the Council found that numerous environmental stressors, including loss of shrub-steppe habitat, are negatively influencing the ability of ferruginous hawks to persist in Washington State and that the Project, as proposed, would pose a new and significant threat to the ferruginous hawk. The Council also found that the Applicant had not offered sufficient assurance or identified sufficient mitigation measures to demonstrate the Project would produce only minimal adverse effects on the ferruginous hawk. The Council concluded that additional mitigation measures must be imposed on the Project to protect existing ferruginous hawk nests and habitat and also to minimize impacts on the ability of ferruginous hawks to return to certain areas of historic usage. The Council also found that pronghorn antelope travel through and forage within the Project boundary and that the Project's solar arrays will diminish and fragment pronghorn grazing habitat. However, there is insufficient research or data available to fully understand the potential impact of wind turbines on pronghorn antelope and their ability to make use of habitat in and around wind farms.

[14] January 25, 2023 DAHP Review Letter

Based on public comments and testimony presented in the adjudication, the Council found that the Project, as proposed, would visually transform the region and, due to the location of wind turbines along ridgelines, be especially impactful on the communities of Benton City and the City of Kennewick due to an undesirable "skylining" effect. Tourists who come to Benton County to enjoy Eastern Washington's wide-open spaces and unobstructed views would no longer be able to do so within sight of wind turbines or solar arrays. The Council finds the Project, as proposed, would negatively impact recreational opportunities currently enjoyed by local hang gliders and paragliders. The Council further found the Project would alter views previously enjoyed by hikers, bikers, and tourists visiting the region.

Although the Applicant complied with EFSEC's established standard to prevent wind turbines from looming over residential structures neighboring the Project, the elimination of turbines from certain areas within the proposed micrositing corridor is needed to minimize the visual impact of the Project on the Tri-Cities region and on Yakama Nation TCPs.

Finally, the Council heard concerns from witnesses that it is not possible to use aerial firefighting to suppress wildland fires among and adjacent to wind turbines. Adjudication witnesses spoke particularly to the use of aerial fire suppression on the slope and ridgeline immediately to the north of and paralleling the Project area.

III. RCW 80.50.010 Standard for Recommendation

State law establishes policies that inform how the Council is to exercise its authority to develop a recommendation to the Governor on an application for site certification.

With regard to the need for clean energy facilities and the interests of the public, RCW 80.50.010 provides as follows:

> It is the policy of the state of Washington to reduce dependence on fossil fuels by recognizing the need for clean energy in order to strengthen the state's economy, meet the state's greenhouse gas reduction obligations, and mitigate the significant near-term and long-term impacts from climate change while conducting a public process that is transparent and inclusive to all with particular attention to overburdened communities.
> . . .
> It is the policy of the state of Washington to recognize the pressing need for increased energy facilities, and to ensure through available and reasonable methods that the location and operation of all energy facilities . . . will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.
>
> It is the intent to seek courses of action that will balance the increasing demands for energy facility location and operation in conjunction with the broad interests of the public.

State policy mandates the development of power that satisfies renewable energy requirements. Washington's emissions reduction requirements include a statewide 45 percent reduction by 2030, 70 percent reduction by 2040, and 95 percent reduction by 2050. RCW 70A.45.020(1)(a)(ii)–(iv). The Climate Commitment Act contemplates that meeting Washington's climate goals will require coordinated, comprehensive, and multisectoral implementation of policies, programs, and laws. RCW 70A.65.005(2). Among the State's economic and climate policies is the Clean Energy Transformation Act (CETA), which requires all electric utilities serving retail customers in Washington to be greenhouse gas neutral by 2030. By 2045, utilities cannot use offsets anymore and must supply Washington customers with electricity that is 100 percent renewable or non-emitting. Amid this broader policy context, the Washington legislature recognizes in RCW 80.50.010 the need for clean energy and has directed the Council to encourage the development of clean energy sources and the provision of abundant clean energy at reasonable cost.

Another aspect of the need for clean energy facilities, regarding the economic viability of an applicant's Project and aspects of market demand, was resolved in *Residents Opposed to Kittitas Turbines v. EFSEC,* 165 Wn.2d 275, 197 P.3d 1153 (2008). Need in this regard is an applicant's business decision and is outside the scope of Council review.

In summary, in its recommendation to the Governor, the Council must carefully consider the evidence in the record and seek a balance between the need for clean energy at a reasonable cost and the need to ensure that the location of energy facilities will produce minimal adverse effects on the environment.

IV. Applying the Statutory Standard to the Information Presented

The Council has considered the application for site certification, the adjudicative record, the Final EIS, the public comments, government-to-government consultations with the Yakama Nation, and the agreement between the applicant and the Confederated Tribes of the Umatilla Indian Reservation. As a result of this review, the Council finds that the Project should be approved but with conditions, including the elimination of Project elements from the portions of the proposed Project area where the adverse impacts are highest. The Council is persuaded that the Project, as proposed, presents compounding impacts to a number of resources of concern, including, but not limited to: the ferruginous hawk, wildlife movement corridors, shrub-steppe habitat, noise, visual aesthetics, shadow flicker, archaeological and architectural resources, traditional cultural properties, and recreational opportunities.

As a starting point, the mitigation measures identified in the Final EIS should be required as conditions of approval for the reasons described in that document. The Final EIS anticipated and identified mitigation for impacts raised by public commenters, the adjudication witnesses, and the Yakama Nation.

In addition to the mitigation identified in the Final EIS, in order to minimize multiple, compounding impacts, the Council recommends that turbines be excluded from the sections of the wind micrositing corridor identified as "Class 3 Impact" in Figures 2-5 and 2-6 of the Final EIS.

The Council recommends excluding all such turbines and their associated sections of the wind micrositing corridor from development. All Class 3 turbines are within 2 miles of a historically identified ferruginous hawk nest. The Council heard testimony and received evidence that 2-mile buffers around both active and historic nest sites are critical for ferruginous hawks, a state endangered species. The Council believes that prohibiting the siting of wind turbines in these areas would not only minimize habitat disruption and risk of turbine strikes for ferruginous hawks if they use or return to these nesting areas, but would also result in substantial decreases in Project impacts to Yakama Nation cultural resources, the Horse Heaven Hills viewshed, paragliding and hang gliding, and areas of greatest concern regarding possible obstruction to aerial firefighting. This recommended restriction on the placement of wind turbines is set forth in Spec-5 in the draft SCA. It replaces the Spec-5 mitigation measure from the Final EIS. In addition, and for the same reasons, the Council recommends prohibiting the siting of other primary Project components (specifically solar arrays and BESS) within 0.5 miles of a historically identified ferruginous hawk nest. The Spec-5 mitigation measure has been included within Appendix 2 of the draft SCA.

Impacts to vegetation and habitat were identified in the Final EIS. The Final EIS found proposed solar arrays to be the most impactful Project component affecting habitats of concern. Installation of solar arrays are anticipated to result in approximately 94 percent of the permanent impacts to these habitat types (see Table 4.6-4 of the Final EIS). The Final EIS identified mitigation includes compensatory mitigation and revegetation monitoring where impacts are not avoided as outlined in Veg-4 from Appendix 2 of the SCA. But in consideration of the additional information from the adjudication and government-to-government consultation, the Council concludes that a more protective approach to mitigation for these impacts is warranted. The Council recommends that a more protective condition be imposed, which is identified as Veg-10 in Appendix 2 of the SCA. This measure would prohibit the siting of any solar arrays on rabbitbrush shrubland or WDFW-designated Priority Habitats. Given the overall impacts of the Project on wildlife species of concern, the Council recommends avoidance as the most appropriate mitigation for Priority Habitat in the Project footprint.

Impacts to wildlife movement were also identified in the Final EIS. Project infrastructure, including solar array fencing, turbines, and linear features such as power lines were identified as creating barriers to movement for larger animals. Mitigation identified in the Final EIS, Hab-1, would require the creation of a Corridor Mitigation Plan for any Project components sited within movement corridors modeled as medium to very high linkage. However, again after a review of the entire record, including the adjudicative record, the Council has determined that additional restrictions are appropriate to further reduce impacts to wildlife movement through the Project. The Council therefore recommends modifying Hab-1 to prohibit the siting of any primary Project components (specifically wind turbines, solar arrays, and BESSs) in corridors modeled as medium to very high linkage and to prohibit the siting of any secondary Project components (i.e., roads, transmission lines, substations, MET[15] and ADLS towers[16], and laydown yards) in corridors modeled as high to very high linkage unless co-located with existing infrastructure, such as roads or transmission corridors. A Corridor Mitigation Plan would still be required for any secondary components sited in medium to very high linkage corridors. These changes will reduce Project

[15] Meteorological Towers (MET)
[16] Aircraft Detection Lighting System (ADLS towers)

impacts on modeled wildlife movement corridors and have been made following coordination with WDFW staff.

With the mitigation measures proposed in the Final EIS, conditions identified in the adjudicative order, and the foregoing additional conditions based on the Council's consideration of the public comments, adjudicative record, and government-to-government consultation, the Council finds that the Project conforms to the legislative intent expressed in RCW 80.50.010. Weighing the imperative to develop new sources of clean energy against the evidence of adverse project impacts, the Council finds it cannot recommend denial of the Project, but the majority of the Council concludes the most significant adverse effects of the Project, including the impacts to Yakama Nation TCPs, will be minimized through all reasonable and available methods.

V. Conclusion and Recommendation

On the basis of the entire Project record and with the conditions and modifications described in this report, the Council recommends that the Governor approve the Application and execute the draft Site Certification Agreement.

The record before the Council supports the decision to recommend approval of the Project, subject to the restrictions on Project infrastructure and the other mitigations and protective measures identified in this Recommendation. Including these elements in an SCA will, in the Council's judgment, minimize the adverse local impacts of the Project as much as is reasonable consistent with the balancing of policies described in RCW 80.50.010. They will not fully mitigate all adverse impacts, particularly impacts to landscape and other natural features in and around the Project site that the Yakama Nation has identified as having special cultural significance. However, the Council is persuaded that projects aimed at meaningfully mitigating climate change cannot be hidden from public view. Like all energy facilities, they will necessarily have impacts. The question is not whether all impacts must be avoided. They cannot be. Instead, the question is whether all reasonable measures have been required to mitigate and minimize them with the full understanding of the tradeoffs and benefits of the project. Most important is encouraging the development of abundant clean energy at a reasonable cost to meet the state's greenhouse gas reduction obligations and to mitigate the significant near-term and long-term impacts from climate change.

Signatures

WASHINGTON ENERGY FACILITY
SITE EVALUATION COUNCIL

Kathleen Drew, Chair

Elizabeth Osborne
Department of Commerce

Eli Levitt
Department of Ecology

Mike Livingston
Department of Fish and Wildlife

Stacy Brewster
Utilities and Transportation Commission

Statement from Department of Natural Resources Council Member Lenny Young: I cannot recommend or support approval of this Project because I believe the terms and conditions set forth in this Report and the draft SCA do not sufficiently reduce impacts to Yakama Nation Traditional Cultural Properties (TCPs). These impacts are characterized as "High" (magnitude), both "Short Term" and "Constant" (duration), "Unavoidable" (likelihood of impact), and "Regional" (spatial extent or setting of impact) in the Final Environmental Impact Statement

(FEIS) for the Project. The FEIS summarizes significant unavoidable adverse impacts to Yakama Nation TCPs as "significant for partial or complete loss of traditional cultural properties."

Lenny Young
Department of Natural Resources

Statement of Benton County Council Member Ed Brost: This vote to approve the project is premature with several important issues yet to be clarified/defined.
Those issues include:

1) The number & type of wind turbines to be sited has not yet been determined or agreed to by the project developer and the Cities and County(ies) to be most impacted by the project. The much taller wind towers/ turbines should not be permitted due to the location of the project to nearby residences/communities and fire suppression responsibilities that have yet to be clarified and agreed to.
2) A power purchase/sales contract has not been finalized (e.g. in-state versus out of state purchase/use should be critical/determinative to a project permit/decision.
3) A decommissioning plan, including timeline and funding requirement has not been proposed or finalized.
4) The Governor's recent decision/agreement to remove the Snake River dams/hydro projects and their much firmer/dependable renewable power supply is totally inconsistent with building unreliable and intermittent wind power. and
5) The potential negative impacts to Tri-Cities area tourism, recreation, hiking, wineries, etc. should also be evaluated and avoided.

Ed Brost
Benton County

Notice to Parties About Procedures for Administrative Relief: Administrative relief may be available through a petition for reconsideration, filed within 20 days of the service of the Orders within the Recommendation Package to the Governor. If any such petition for reconsideration is filed, the deadline for answers is 14 days after the date of service of each such petition. Since all Orders contained within the Recommendation Package to the Governor are integral components of the recommendation and served as a package to the parties, the Council requires any request(s) for reconsideration to be filed on the full Recommendation Package, and not on individual elements of the package. The formatting of the petitions shall be governed by WAC 463-30-120 and shall be limited to 50 pages.

Attachment 1: Final Adjudicative Order 892

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the Application of: Scout Clean Energy, LLC, for Horse Heaven Wind Farm, LLC, Applicant	DOCKET NO. EF-210011 COUNCIL ORDER NO. 892 ADJUDICATIVE ORDER RESOLVING CONTESTED ISSUES

OVERVIEW

In this Order, the Energy Facility Site Evaluation Council (EFSEC or Council) resolves contested issues raised during the adjudication of Scout Clean Energy, LLC's (Scout or Applicant) Application for Site Certification (ASC) for the proposed Horse Heaven Wind Farm Project (Project). This Order informs EFSEC's recommendation to the Governor of the State of Washington (Recommendation).

EFSEC will forward the adjudicative record and this Order to the Governor. This Order is based on the record developed during proceedings conducted under the Administrative Procedure Act, Revised Code of Washington (RCW) 34.05, as required by RCW 80.50.090(3). The Council will also be sending a Recommendation to the Governor per RCW 80.50.100 that considers the adjudicative record and findings of this Order, the Final Environmental Impact Statement, the public comments, and input received through government-to-government consultation with federally recognized tribes required by RCW 80.50.060(8).

Conclusions. After considering all evidence and arguments of record, this Order makes the following principal conclusions: (1) The Project would support the state's clean energy goals as set forth in RCW 80.50.010. (2) The Horse Heaven Hills are a significant feature of the Tri-Cities area visual landscape. (3) The Project can be approved as a conditional use in Benton County's Growth Management Act Agricultural District based on the zoning ordinances that were in effect when the Application was filed on February 8, 2021. (4) The scope and scale of the Project as proposed would transform the Horse Heaven Hills. (5) The Horse Heaven Hills are culturally and spiritually significant to the Yakama Nation. Additional mitigation measures should be imposed to reduce impacts on Yakama Nation traditional cultural properties (TCPs). (6) The Project would have a significant visual impact on the region that is impossible to fully mitigate. Wind turbines should be excluded at least from ridgeline portions of the site where they would be prominently visible. (7) The Project requires additional mitigation measures based on the best available wildlife science to reduce potential wildlife impacts. (8) The Project would benefit the local economy by creating new jobs and generating new tax revenues. (9) The Project requires additional mitigation to address concerns associated with impacts to aerial firefighting.

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I. INTRODUCTION

A. PROCEDURAL SETTING

The Energy Facility Site Evaluation Council (EFSEC or Council) is an executive branch agency created by Chapter 80.50 Revised Code of Washington (RCW) to recommend to the Governor whether applications to construct proposed energy facilities on sites located within the state of Washington should be granted. If EFSEC recommends approval, the Council also recommends conditions for the siting, construction and operation of the proposed project. The Council conducted this adjudicative proceeding as part of its application review process pursuant to the Administrative Procedure Act, Chapter 34.05 RCW, as required by RCW 80.50.090(3) and Chapter 463-30 Washington Administrative Code (WAC).

B. THE APPLICANT AND THE PROJECT

The Applicant: Scout Clean Energy, LLC (Scout or Applicant) filed an application for a Site Certification Agreement (SCA) to construct and operate the Horse Heaven Wind Farm (Project or Facility), a renewable energy generation facility including wind and solar energy generation with battery energy storage systems (BESS) and supporting facilities. Scout is a renewable energy company headquartered in Boulder, Colorado.

The Project: The Project's Lease Boundary encompasses approximately 72,428 acres and is bisected by Interstate 82 (I-82) into a western project area and an eastern project area. The turbines and supporting facilities encompass an 11,850-acre Micrositing Corridor within the Project Lease Boundary[1]. The Solar Siting Areas supporting facilities encompass 10,755 acres, of which a maximum of 5,447 acres will be occupied by solar arrays totaling up to 800 MWac. The Maximum Extent of the Project is 72,428 acres[2]. The Project will be accessed from I-82, State Route 221, State Route 397, County Well Road, Sellards Road, Webber Canyon Road, Locust Grove Road, and Plymouth Road.

C. THE COUNCIL AND THE EFSEC REVIEW PROCESS

The Council is created in accordance with RCW 80.50.030. Its Chair is appointed by the Governor with the advice and consent of the Senate. The Departments of Commerce, Ecology, Fish and Wildlife, Natural Resources, and the Utilities and Transportation Commission appoint members to the Council, as does the county or city in which the proposed project is to be sited.[3]

[1] The original Application (filed February 8, 2021) sought authority to operate up to 244 wind turbines and up to two solar arrays. *See* Application, Section 2.3, and Tables 2.1-1 and 2.3-1. Scout filed subsequent updates to and a Final Application (received after the adjudicative hearing on September 25, 2023) that sets out this ultimate requested scope of its proposal.

[2] For an overview of the Project boundary and its overall layout options *see* Application Figure 2.3-1 (Turbine Layout Option 1 – 244 turbines with maximum height of 499 feet) and Figure 2.3-2 (Turbine Layout Option 2 – 150 turbines with maximum height of 657 feet). The subsequent figures in the ASC illustrate the Micrositing Corridors.

[3] RCW 80.50.030 allows the Departments of Agriculture, Health, Military, and Transportation the option to appoint a representative to the Council for any project of specific interest to those agencies. In this matter, the Department of Agriculture initially indicated its interest in the proposed project but withdrew its councilmember following completion of the adjudicative hearings. The Department of Agriculture representative did not participate in any of the Council's deliberations on or votes regarding this application.

The Council for the Horse Heaven Wind Farm adjudication consisted of Council Chair Kathleen Drew and Members Elizabeth Osborne, Department of Commerce; Eli Levitt, Department of Ecology; Lenny Young, Department of Natural Resources; Mike Livingston, Department of Fish and Wildlife; Stacey Brewster, Utilities and Transportation Commission; and Ed Brost, Benton County.

Chapter 80.50 RCW sets out the Council's required procedural steps for reviewing an ASC.[4] The Council is required to send its report and make its recommendation to the Governor as to approval or rejection of an ASC within twelve months of receipt of a complete application, or such later time as mutually agreed by the Council and the Applicant.[5]

Initial Phase of Review. Scout filed its ASC with EFSEC on February 8, 2021. The Council held a virtual public informational hearing on March 30, 2021, and a land use consistency hearing immediately thereafter on the same night (*see* Section II of this Order). EFSEC then initiated its State Environmental Policy Act (SEPA) review (this environmental phase of the review process is briefly outlined below and fully described in the Final Environmental Impact Statement (EIS)). The Applicant filed updated and supplemental reports on multiple dates in late 2021. Without altering the scope of the proposed Project, Scout filed a consolidated update to its ASC on June 15, 2022. Some Councilmembers, along with interested members of the public, assembled in Benton County on the afternoon of November 1, 2022, for a site visit that included an Applicant-led tour of the proposed site and several key observation points.

Adjudicative Phase of Review (*see* Section III of this Order). On December 15, 2022, the Council's administrative law judge (ALJ) issued an *Order Commencing Agency Adjudication*. That order set a deadline of February 3, 2023, for receipt of petitions for intervention and scheduled a telephonic pre-hearing conference for March 10, 2023. The Applicant and Benton County were considered parties of right to the adjudication per EFSEC rule.[6] Counsel for the Environment (CFE) was a party by statute.[7] The Confederated Tribes and Bands of the Yakama Nation (Yakama Nation) and Tri-Cities Community Action for Responsible Environmental Stewardship (Tri-Cities CARES or TCC) were granted party status as intervenors.[8] Over the course of the next five months, the ALJ presided over a series of telephonic pre-hearing conferences, the parties pre-filed their witness testimony and supporting exhibits, and the ALJ ruled on various motions.[9]

As required by WAC 463-60-116(2), Scout filed its revised Application on December 29, 2022. The Council, assisted by its Administrative Law Judge, presided over 8 days of virtual adjudicative hearings between August 14, 2023, and August 25, 2023.[10] These hearings allowed

[4] *See* RCW 80.50.071 through RCW 80.50.100; *see also* Chapters 463-26 and 463-30 WAC.
[5] RCW 80.50.100(1)(a).
[6] *See* WAC 463-30-060(1) and WAC 463-30-050.
[7] *See* RCW 80.50.080; *see also* WAC 463-30-060(3).
[8] *Preliminary Order on Intervention* (March 9, 2023); WAC 463-30-091 and -092; *see also* WAC 463-30-060(4).
[9] The *Second Prehearing Conference Order* (May 19, 2023) memorialized the approved list of disputed issues to be adjudicated and adopted a procedural schedule discussed at the second prehearing conference held on March 20, 2023.
[10] On occasion, one or more Councilmembers were absent from portions of the adjudicative hearing sessions. In those instances, the absent Councilmember reviewed the transcript and exhibits admitted to the record.

for each party's witnesses to formally adopt pre-filed testimony under oath and then submit to cross-examination. Council members also posed their own questions to various witnesses. During the adjudicative hearings, the Council held a virtual public comment meeting on the evening of Wednesday, August 23, 2023.

The Council received pre- and post-hearing briefs from the Applicant, Benton County, Yakama Nation, and Tri-Cities CARES. As required by WAC 463-60-116(3), Scout filed its Application amendments on September 25, 2023, to include all commitments and stipulations made by the applicant during the adjudicative hearing process. On October 19, 2023, the Council initiated its deliberations on the evidence admitted, arguments presented, and public comments submitted to the adjudicative record. The disputed issues presented during the adjudication are now ready for resolution.

D. COMPLIANCE WITH RCW 80.50 AND STATE ENVIRONMENTAL POLICY ACT;[11] RECOMMENDATION TO THE GOVERNOR

In addition to the adjudicative process required by RCW 80.50.090, the Council must also comply with SEPA, RCW 43.21C and WAC 463-47. This order does not consider the contents of the Final EIS or its supporting documents. The Final EIS and its recommended mitigation measures are considered in EFSEC's Recommendation to the Governor.

E. PUBLIC COMMENT

The Council considered written and verbal public comments at each and every stage of its application review process. As relevant to the adjudication, the Council held a public comment hearing on August 23, 2023. This session allowed any person who had previously submitted a written comment on the proposed project to be heard in support of or in opposition to the Application.[12] 19 members of the public addressed the Council that evening. We attempt to capture a sampling of their words, feelings and messages in this section of our order.

The Council heard a variety of views and concerns about the Project's proximity to the urban Tri-Cities area, potential interference of wind turbines with aerial firefighting, dust generation during construction, expected impacts on wildlife migration, and detrimental changes in views from many homes in the area. Karen Brutzman questioned whether a wind farm could be considered "clean energy" when its construction would require extensive amounts of cement and concrete to be transported and poured. Several other local residents indicated their preference for more nuclear energy instead of large wind farms. A number of comments questioned why the Tri-Cities should bear the brunt of living next door to a massive wind farm when the power it generated was not needed locally.

Kennewick resident Pam Minelli, a member of Tri-Cities CARES, spoke to the concerns held by many in the local area. She explained "Tri-Citians support clean energy as shown by Nine

[11] The SEPA process is conducted separately from the adjudication and is discussed in this order solely to identify the additional environmental review occurring as part of EFSEC's application review process.
[12] RCW 80.50.090(4); WAC 463-14-030.

Canyon wind project, regional hydropower, and the nuclear power plant managed by Energy Northwest, but there is a strong local opposition to the enormous Horse Heaven wind project. It is too close to our homes, too close to the ferruginous hawk nests, too close to our communities and farms. Homeowners who paid extra for view properties will surely experience a loss when turbines industrialize their views. Less than 50 farmers will experience financial gain from their leases for this project, but their gain will result in the financial loss for thousands of homeowners."[13] Samuel Dechter echoed Ms. Minelli's message that the wind turbine towers are too close, too big and too high.

Benton County resident Rylan Grimes spoke in favor of the Project on behalf of the International Brotherhood of Electrical Workers (IBEW) Local Union 112, explaining the importance of the many good family-wage jobs the Project would bring to the community, both during and after construction. Michael Bosse and Jessica Wadsworth reiterated the beneficial impact of the Project on the local economy.

In addition to the members of the public who took the time to appear before the Council on August 23, 2023, Tri-Cities CARES submitted pre-filed testimony from a number of local residents expressing their own opinions and concerns on the Project. Because 23 of TCC's proposed exhibits set out individual views and did not speak on behalf of the community-at-large,[14] the ALJ designated these submissions as public comment.[15] The Council reviewed and read these items to better understand the concerns of individual homeowners. Most feared a negative impact on their property values if the Project is approved and built. Chris Upchurch, owner and winemaker of Upchurch Vineyard, shared similar concerns and also questioned the impact on tourism and the region's wine industry.[16]

The Council appreciates the time taken by members of the public to ensure their heartfelt thoughts and personal views were taken into consideration in EFSEC's review of this Project.

II. LAND USE CONSISTENCY[17]

RCW 80.50.090(2) requires the Council to "conduct a public hearing to determine whether or not the proposed site is consistent and in compliance with city, county, or regional land use plans or zoning ordinances on the date of the application."[18] On March 30, 2021, the Council held a

[13] Transcript, Adjudicative Hearing Day 8 / Public Comment Hearing at 29:5-17. Ms. Minelli also submitted pre-filed testimony (Exhibit 5602) as a TCC witness, focusing there on her concerns regarding the ferruginous hawk.
[14] *See* limitations on evidence regarding "local concerns, attitudes and opinions" set out in *Second Pre-Hearing Conference Orde*r (May 19, 2023), at page 2, footnote 1.
[15] *See Order Designating Certain TCC Testimony as Public Comment* (August 14, 2023).
[16] *See* Exhibit 5630.
[17] This section of the Order considers only land use "consistency." Section III sets out Benton County's criteria for and the Council's discussion regarding whether the Facility qualifies for a conditional use permit.
[18] *See also* WAC 463-26-050.

virtual[19] public hearing as directed by this statute. The Applicant and Benton County filed legal briefs and presented arguments for the Council's consideration.[20]

The Applicant contended its proposed Site must be found consistent and in compliance with Benton County's land use plans and zoning ordinances because its Facility met the code's definitions of a "Solar Power Energy Facility, Major" and of a "Wind Turbine Farm", both of which the zoning code allowed as a conditional use in Benton County's Growth Management Act Agricultural District (GMAAD). The Applicant also provided analysis of how its Facility would meet the County's criteria for a conditional use permit (CUP).

Benton County argued that siting the proposed Facility in an agricultural zone was inconsistent with its Comprehensive Plan's goal to preserve and protect prime agricultural land. The County conceded that the Facility might be allowed as a conditional use in its GMAAD, but only after the permitting authority held a more in-depth hearing.[21] The County also questioned whether the security fencing around the proposed solar arrays could comply with existing setback rules.

On May 17, 2022, the Council deliberated on the question of land use consistency. EFSEC had previously restated its established test for land use consistency in 2018 while considering the Columbia Solar Project.[22] Under that test, if the Council finds the relevant local land use provisions do not "expressly or by operation clearly, convincingly and unequivocally" prohibit the site, the site will be found consistent and in compliance with local land use provisions, even if a CUP might be required.[23]

Relying on this test, the Council determined the Horse Heaven Wind Farm was not a prohibited use within Benton County's agricultural zone. The Council also found the Facility would require a CUP. Therefore, the Council voted unanimously to approve Order No. 883, *Order Finding Proposed Site Consistent With Land Use Regulations* (*Land Use Consistency Order*), determining the Project to be consistent and in compliance with Benton County's comprehensive plan and the County's zoning ordinances in place at the time of Application. The *Land Use Consistency Order* deferred until the adjudicative hearing the questions of whether the Project could meet the County's CUP criteria and whether the Project might require a variance from the zoning code's setback requirements.[24]

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[19] EFSEC conducted this proceeding virtually due to the health risks presented by the ongoing COVID-19 pandemic.
[20] The Applicant did not present the Council with a certificate from local authorities attesting to the proposal's consistency and compliance with local land use plans and zoning ordinances. Therefore, the land use hearing was conducted in accordance with WAC 463-26-100 (instead of WAC 463-26-090).
[21] *See* Transcript of Land Use Consistency Hearing (March 30, 2021) at 21:11 – 22:2.
[22] *See* In re Columbia Solar Project, Docket EF-170823, Council Order – Expedited Processing, paragraph 35 (April 17, 2018). *See also* In re Tesoro Savage -- Vancouver Energy Distribution Terminal, Council Order No. 872, *Order Determining Land Use Consistency* (August 1, 2014) at 12:22-25, *citing* In re Transmountain Pipeline, Council Order No. 616 (May 26, 1981) at 3.
[23] *See also Land Use Consistency Order*, paragraphs 21-23 and 31.
[24] *See Land Use Consistency Order*, paragraphs 23, 33 and 36.

III. ADJUDICATIVE PROCEEDING

A. PARTIES

The parties to this adjudication appeared and were represented as follows:

Applicant, Scout Clean Energy: Timothy L. McMahan, Willa Perlmutter, Emily K. Schimelpfenig, and Ariel Stavitsky of Stoel Rives, Portland, Oregon.

Benton County: Kenneth W. Harper and Aziza L. Foster of Menke Jackson Beyer, Yakima, Washington.

Counsel for the Environment: Sarah M. Reyneveld, Office of the Attorney General, Seattle, Washington.

The Confederated Tribes and Bands of the Yakama Nation, Shona Voelckers, Ethan Jones, and Jessica Houston of the Yakama Nation Office of Legal Counsel, Toppenish, Washington.

Tri-Cities Community Action for Responsible Environmental Stewardship: J. Richard Aramburu, Law Offices of J. Richard Aramburu, Seattle, Washington.

B. NEED FOR THE PROJECT AND CONFORMITY WITH LAW

State law establishes EFSEC's priorities and policies for Council review of applications for site certification. RCW 80.50.010 states:

> The legislature finds that the present and predicted growth in energy demands in the state of Washington requires a procedure for the selection and use of sites for energy facilities and the identification of a state position with respect to each proposed site. The legislature recognizes that the selection of sites will have a significant impact upon the welfare of the population, the location and growth of industry and the use of the natural resources of the state.
>
> It is the policy of the state of Washington to reduce dependence on fossil fuels by recognizing the need for clean energy in order to strengthen the state's economy, meet the state's greenhouse gas reduction obligations, and mitigate the significant near-term and long-term impacts from climate change while conducting a public process that is transparent and inclusive to all with particular attention to overburdened communities.
>
> The legislature finds that the in-state manufacture of industrial products that enable a clean energy economy is critical to advancing the state's objectives in providing affordable electricity, promoting renewable energy, strengthening the state's economy, and reducing greenhouse gas emissions. Therefore, the legislature intends to provide the council with additional authority regarding the siting of clean energy product manufacturing facilities.

> It is the policy of the state of Washington to recognize the pressing need for increased energy facilities, and to ensure through available and reasonable methods that the location and operation of all energy facilities and certain clean energy product manufacturing facilities will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.
>
> It is the intent to seek courses of action that will balance the increasing demands for energy facility location and operation in conjunction with the broad interests of the public. In addition, it is the intent of the legislature to streamline application review for energy facilities to meet the state's energy goals and to authorize applications for review of certain clean energy product manufacturing facilities to be considered under the provisions of this chapter.
>
> Such action will be based on these premises:
>
> (1) To assure Washington state citizens that, where applicable, operational safeguards are at least as stringent as the criteria established by the federal government and are technically sufficient for their welfare and protection.
>
> (2) To preserve and protect the quality of the environment; to enhance the public's opportunity to enjoy the esthetic and recreational benefits of the air, water and land resources; to promote air cleanliness; to pursue beneficial changes in the environment; and to promote environmental justice for overburdened communities.
>
> (3) To encourage the development and integration of clean energy sources.
>
> (4) To provide abundant clean energy at reasonable cost.
>
> (5) To avoid costs of complete site restoration and demolition of improvements and infrastructure at unfinished nuclear energy sites, and to use unfinished nuclear energy facilities for public uses, including economic development, under the regulatory and management control of local governments and port districts.
>
> (6) To avoid costly duplication in the siting process and ensure that decisions are made timely and without unnecessary delay while also encouraging meaningful public comment and participation in energy facility decisions.

The statute does not address the economic viability of an applicant's proposal, nor does it address market demand for power. Those aspects of an application, including individual applicants' business decisions, are beyond EFSEC's scope of review.[25]

Consistent with Washington State law and policy to support development of renewable resources and the integration of clean energy, the Council must balance the legislative directive to

[25] *Residents Opposed to Kittitas Turbines (ROKT) v. EFSEC*, 165 Wn.2d 275, 197 P.3d 1153 (2008).

provide for abundant clean energy at reasonable cost with the impact to the environment and the broad interests of the public.[26] This is no easy task. This Project's overall scope and scale presented a wide range of disputed issues. The Council's concern for minimizing impacts to Tribal Cultural Properties (TCP) and tribal heritage cannot be overstated. The Council also understands local concerns about visual impacts on aesthetics and recreational opportunities. The need to preserve the endangered ferruginous hawk and minimize impacts to other species found on the Site further complicated the Council's deliberations on the adjudicative record. The findings and conclusions set out in this order resolve the contested issues raised by the adjudicative parties' testimony and evidence and inform our ultimate recommendation.

C. LAND USE DETERMINATIONS – CONDITIONAL USE PERMIT PROVISIONS

The Council's *Land Use Consistency Order* concluded that Benton County's Growth Management Act Agricultural District (GMAAD), while primarily dedicated to agricultural uses, permitted wind turbine farms and major solar power generation facilities as a conditional use.[27] The Council found the proposed Project consistent and in compliance with Benton County's Comprehensive Plan and applicable zoning ordinances in effect as of February 8, 2021.[28]

The disputed land use issues presented during adjudication largely focused on Benton County Code (BCC) §11.50.040(d). That zoning code provision sets out Benton County's five criteria for granting a conditional use permit (CUP). In its entirety, that code states:

> Conditional Use-Permit Granted or Denied. A conditional use permit shall be granted only if the Hearings Examiner can make findings of fact based on the evidence presented sufficient to allow the Hearings Examiner to conclude that, as conditioned, the proposed use:
> (1) Is compatible with other uses in the surrounding area or is no more incompatible than are any other outright permitted uses in the applicable zoning district;
> (2) Will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the applicable zoning district;
> (3) Would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the applicable zoning district;
> (4) Will be supported by adequate service facilities and would not adversely affect public services to the surrounding area; and
> (5) Would not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district as a result of the location, size or height of the buildings, structures, walls, or required fences or screening vegetation to a greater extent than other permitted uses in the applicable zoning district.

[26] *See Friends of the Columbia Gorge, Inc. v. State Energy Facility Site Evaluation Council*, 178 Wn.2d 320, 340, 310 P.3d 780 (2013).
[27] EFSEC Order 883, Finding of Fact 3 and Conclusion of Law 4, at page 8, paragraphs 26 and 30.
[28] EFSEC Order 883, Conclusions of Law 5 and 6, at pages 8-9, paragraphs 31 and 32.

> It is the applicant's burden to present sufficient evidence to allow the above conclusions to be made. If such evidence is not presented or all necessary reasonable conditions are not identified by the applicant so as to allow the Hearings Examiner to make the conclusions required above, the conditional use application shall be denied.

The parties presented general arguments about the Project's ability to meet these CUP criteria as well as specific arguments focused on each of the five individual criteria. We summarize their positions and then apply each of the County's CUP criteria to the Project.

General Concerns Regarding Benton County's CUP Criteria

Scout Clean Energy believes all potential land use-related conflicts and local concerns could, and should, be mitigated by conditions imposed in an SCA. Scout believes the Council should impose conditions akin to those Benton County would impose in its own local conditional use permitting process and also those conditions typically imposed by the Council and other permitting authorities on existing wind farm projects in the Pacific Northwest. Scout points to the nearby Nine Canyon Wind Project (Nine Canyon) to support its position. Nine Canyon is also located in Benton County's GMAAD and received three CUPs issued by Benton County.[29] Scout recognizes Nine Canyon is smaller in geographical area and includes fewer wind turbines (63), but Scout contended its proposed Horse Heaven Project can meet all CUP criteria and conditions Benton County imposed on Nine Canyon.

The County argued Horse Heaven Wind's size alone precludes its ability to qualify for a CUP. The County asserts a facility of this scope and scale would be wholly incompatible with outright permitted uses in the GMAAD and in conflict with all CUP criteria. The County also characterizes the Project as an "industrial" use and therefore improper in the GMAAD.[30] Further, the County contended the Project improperly converts Agricultural Lands of Long Term Commercial Significance (ALLTCS) by putting those lands to non-agricultural uses. According to Benton County, this conversion violates the mandates of the Growth Management Act (GMA), Chapter 36.70A RCW, the purpose of the GMAAD, and therefore also runs counter to the County's zoning and CUP requirements.

Tri-Cities CARES argued that Benton County's 2020 amendments to its Comprehensive Plan recognized the unique landscape of the Horse Heaven Hills and its ridgelines by adopting goals and policies intended to preserve and protect them. The Plan's section on Parks, Recreation, Open Space and Historic Preservation includes PL Goal 3 and Policy 5:

- PL Goal 3: Conserve visually prominent naturally vegetated steep slopes and elevated ridges that define the Columbia Basin landscape and are uniquely a product of the ice age floods.

[29] *See* Exhibits 1025 through 1030.
[30] *See* Benton County's Post-Hearing Brief at 11:5-6, 13:23 through 14:2 and 20:3-13; *see also* Transcript, Adjudicative Hearing Day 1 (Greg Wendt) at 203:24 and 211:8 through 213:22.

- Policy 5: Consider the preservation of the ridges and hillside areas through various development regulations.

TCC contended that Benton County followed its Plan by enacting various development regulations to zone the area for agriculture and prohibit residential subdivisions.

The Council is concerned with the size and scale of the project and its overall impact on the landscape of the Horse Heaven Hills. However, siting major solar power generation facilities and wind turbine farms on ALLTCS, even a project of the size Scout proposes, does not necessarily violate the GMA. Further, as recognized in our *Land Use Consistency Order*, the county plan and code in effect when the application was filed with EFSEC provide no outright basis to deny the application. Characterizing the Project as "industrial" and fundamentally incompatible with the GMAAD zone seeks to incorrectly apply Benton County's *current* zoning provisions which no longer list "solar power generation facility, major" and "wind turbine farm" as permitted uses subject to the CUP process. Again, this Council is evaluating the Project under the code in effect *at the time Scout filed its application*.

With regard to the County's contention that the Project violates the GMA, we reference the Department of Commerce's applicable rule. WAC 365-196-480(h), states, in part:

> Counties and cities are encouraged to adopt policies and regulations regarding the appropriate location for siting energy facilities on or adjacent to natural resource lands. Policies and regulations may emphasize dual-use strategies that preserve or improve natural resource lands, provide clarity to developers, and support renewable energy goals.

Benton County's zoning code in effect when Scout's application was filed, and as applied for the siting of the adjacent Nine Canyon Wind Farm, essentially reflected "dual-use strategies" for siting renewable energy facilities on natural resource lands "in ways that preserve those natural resource lands." Commerce's current GMA rules expressly authorize such an approach. Benton County's zoning code in effect in February 2021 effectively supported the state's renewable energy goals and was not inconsistent with the GMA's directive to preserve such lands.

TCC's reliance on the above-quoted 2020 amendments to the County's Comprehensive Plan is misplaced, particularly with regard to the CUP question before us. We note that Benton County did not raise such an argument regarding its own ordinance. We do not interpret the county's goal of conserving visually prominent naturally vegetated steep slopes or its policy of preserving the Horse Heaven Hills' ridges and hillside areas to alter the purpose of Benton County's GMAAD zoning designation. The Plan's GMAAD chapter includes a twenty-acre minimum lot size, with certain exceptions, to protect agricultural land use.[31] However, no provision of that chapter regulates the placement of homes, accessory buildings, or agricultural infrastructure from a visual impact standpoint.

[31] BCC 11.17.090, 100.

Finally, as a matter of law, an SCA executed by the Governor pursuant to RCW 80.50 cannot violate the Growth Management Act.[32] The Energy Facility Site Location Act (EFSLA) provides that "[t]he state hereby preempts the regulation and certification of the location, construction, and operational conditions of certification of the energy facilities included under RCW 80.50.060 as now or hereafter amended."[33] EFSLA further provides that, if the Council recommends approval of an application for certification, it shall include conditions in the draft certification agreement "designed to recognize the purpose of" ordinances "that are preempted or superseded pursuant to RCW 80.50.110."[34] Thus, the Council is not bound to interpret or apply a county's conditional use criteria as the county would do, but if the Council recommends approval, it must include conditions designed to recognize the purpose of the local ordinances that the site certification agreement supplants.

Benton County CUP Criterion 1 – Compatibility

The County argued the key issue in the CUP analysis is compatibility, the first criterion set out in Benton County's applicable zoning code.[35] That first criterion provides that a CUP shall be granted only if the applicant can provide sufficient evidence to allow a finding that, as conditioned, the proposed use is "compatible with other uses in the surrounding area or is no more incompatible than are any other outright permitted uses in the applicable zoning district."[36] Benton County's code defines "compatibility" as "the congruent arrangement of land uses and/or project elements to avoid, mitigate, or minimize (to the greatest extent reasonable) conflicts."[37]

The Applicant contended the Project is compatible with surrounding uses because it will allow for continued agricultural operations and discourage conversion of farmland to residential use. Leslie McClain, Scout's land use expert, cited to neighboring Nine Canyon wind facility as an example to demonstrate how dryland wheat farming and wind turbines can and do co-exist.[38] She explained that Scout proposed mitigation measures in its ASC to avoid or minimize potential conflicts with surrounding land uses in order to ensure compatibility.[39] Chris Wiley, a local landowner participating in the Project, confirmed his intention to continue and actually improve his family's multigenerational tradition of dryland wheat farming after construction of the Horse Heaven wind turbines.[40] Mr. Wiley testified to the compatibility of the Project on his agricultural property because it would not only allow continued farming on 99 percent of his acreage but also

[32] *See Residents Opposed to Kittitas Turbines,* 165 Wn.2d at 310 (holding that the Energy Facility Site Locations Act "can be properly read as a specific exception to the general goals and procedures of the GMA."); *see also* WAC 365-196-560(1) **("**Comprehensive plans and development regulations adopted under the [Growth Management Act] should accommodate situations where the state has explicitly preempted all local land use regulations, as for example, in the siting of major energy facilities under RCW 80.50.110.")
[33] RCW 80.50.110(2).
[34] RCW 80.50.100(2).
[35] *See* Benton County Pre-Hearing brief at 4:11-13 &7:11-15 and Benton County Post-Hearing Brief at 6:10-14.
[36] BCC 11.50.040(d)(1).
[37] BCC 11.03.010(53).
[38] Transcript, Adjudicative Hearing Day 1 (Leslie McClain), at 62:7-20.
[39] Exhibit 1023 at 14:10 through 20:4.
[40] Exhibit 1035 at 5:1-18; *see also* Transcript, Adjudicative Hearing Day 6 (Chris Wiley) at 1107:20 – 1110:17.

provide needed income every year making it easier to keep the farm in the family, regardless of the various uncertainties involved in crop production.[41]

The County contended that comparing the size, scale, and scope of the proposed Project with the outright permitted uses in the underlying zoning district demonstrates its incompatibility and incongruity with outright permitted uses. TCC presents a similar argument. As proposed, the Project would occupy over 100 square miles of the Horse Heaven Hills and permanently remove 10 square miles of protected farmlands from agricultural production. According to the County, no other permitted use in the zoning district is remotely comparable. In addition to agriculture, permitted uses in the GMAAD are mainly low-intensity in nature and limited to one or only a few parcels: agricultural stands, bakeries, commercial animal raising, community grange halls, commercial and private kennels, schools and churches.[42] The County argued the Project is significantly more intense than any of these uses because it covers a much larger land area, involves more ground disturbance, and is not "ancillary" to existing agricultural uses.[43] Further, the County says the Project cannot be considered complementary to any permitted uses based upon its scale and conflicts caused by its construction and operation.

Benton County acknowledges "wind turbine farms" of "two or more wind turbines on one parcel" were authorized in the GMAAD as a conditional use when Scout filed its application with EFSEC.[44] Even so, the County claims Nine Canyon's 63 turbines standing 265 feet tall can't be compared to Horse Heaven Wind's (originally) proposed 244 turbines standing 499 feet tall or the Project's alternative buildout of 150 turbines standing 657 feet tall. As proposed, Scout's Project would permanently impact 6,689 acres, equivalent to 1% of the County's GMAAD. Michelle Cooke, Benton County Planning Manager, explained that this footprint would result in the improper conversion of ALLTCS to non-agricultural uses and cause significant impacts to the economy of scale required for agricultural production in the County.[45] Ms. Cooke believes the Project's effect of fragmenting farming operations within and beyond its overall area will result in pressure to allow non-agriculture uses to replace what now exists as an intact regional agricultural area, likely creating a patchwork of semi-industrial sites.[46]

The County presented a number of additional arguments regarding the Project's conflict with the Growth Management Act, including the GMA's mandate that ALLTCS be preserved. As noted above (in the *General Concerns* discussion), as a matter of law, an SCA issued by EFSEC cannot violate the GMA. We acknowledge that even after decommissioning, the Project will result

[41] Transcript, Adjudicative Hearing Day 6 (Chris Wiley) at 1095:20-25 and 1098:1-13; Exhibit 1035 at 12:19-25.
[42] *See* Exhibit 2005 (BCC Chapter 11.17 -- examples taken from BCC 11.17.040 -- Allowable Uses); *see also* Benton County's Post-Hearing Brief at 10:10-11:21.
[43] *See* Benton County's Post-Hearing Brief at 13:7-13; *see also* BCC 11.03.010(1) for its definition of "ancillary" uses.
[44] *See* BCC 11.03.010(191)'s definition of "wind turbine farm;" *see also* BCC 11.17.070(t) and (cc) (as cited in our *Land Use Consistency Order* at paragraph 19; to prevent any confusion, we note that Benton County's Exhibit 2005 contains an updated version of BCC Chapter 11.17, one in which solar facilities and wind farms have been deleted from the listed conditional uses for the GMAAD).
[45] *See* Exhibit 2003 at 3:9-21.
[46] *See* Exhibit 2003 at 4:17 through 5:4, 8:16-27, and 9:26 through 10:13.

in a certain amount of ALLTCS being permanently lost but we do not find that fact alone to dictate a determination of inconsistency with the County's CUP criteria.

We believe the evidence offered by Scout demonstrates the compatibility of wind turbines with existing agricultural and other permitted uses in the GMAAD. The Council finds that agriculture can coexist with wind farms and, as Ms. McClain points out, likely bring benefits to farms and ranches in the area. We recognize and agree with the County's position that the overall size, scale and scope of the Project must be considered. However, BCC 11.50.040(d)(1) requires us to evaluate whether the Project is "compatible *with other uses in the surrounding area* or is no more incompatible than are any other outright permitted uses in the applicable zoning district" (*emphasis added*).

The County's position about the "intensity" of this Project is not supported by the language of its code or its argument that Nine Canyon's smaller size makes it somehow more compatible or a less intense use than Scout's proposed Horse Heaven Wind Farm.[47] Scout's Project would admittedly be the largest conditionally permitted use in the GMAAD, but when we consider the density of wind turbine infrastructure within the 11,805-acre micrositing corridor, the Project's "intensity" is markedly reduced. Viewed on a parcel-by-parcel basis, we find the Horse Heaven Wind Farm to be compatible with other uses in the surrounding GMAAD area because each individual turbine site would be ancillary to the agricultural uses surrounding it.

Benton County's "intensity" arguments are more persuasive with regard to the Project's solar arrays and associated BESS facilities. Those portions of the Project remove the most acreage from agricultural uses and their respective footprints will span more than one parcel. However, the zoning code, prior to more recent amendments, did not require "wind turbine farms" or "major solar generating facilities" to be limited to one parcel in the GMAAD, as it did in the rural residential zone. That was the case with Nine Canyon. We read that same code provision to allow wind or solar facilities covering more than one parcel.

After considering all evidence presented by Scout regarding compatibility and that presented by parties arguing in the alternative, we find the Project meets the first criterion of BCC 11.50.040(d).

Benton County CUP Criteria 2 & 4 – Impacts on Health, Safety, and Welfare & Public Services

We next address the second and fourth CUP criteria together because they both present overlapping questions regarding fire protection. Criterion 2 requires sufficient evidence to support a finding that, as conditioned, the proposed use will "not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the applicable zoning district." Criterion 4 requires enough evidence to support

[47] No party presented evidence comparing Nine Canyon to the proposed Project to demonstrate that one or the other converted more agricultural land to tower footings or access roads on a per acre basis.

a finding that the proposed use, as conditioned, will "be supported by adequate service facilities and would not adversely affect public services to the surrounding area."

Scout believes that conditions to be imposed in an SCA ensure the Project meets the second CUP criterion. Scout's ASC evaluates the risk of fire and explosion during construction and operation of the Project in Section 4.1.2, noting the site has "little vegetation cover and few trees, presenting little to no inherent risk of fire or explosion" in the case of personnel error or equipment malfunction. Ms. McClain testified that a fire caused by a wind turbine is an "extremely rare event" and she was "only aware of one occurring in the Northwest," despite hundreds of turbines operating in the region.[48] Scout acknowledges that combustible materials, the temporary use of diesel generators, and the BESS facility present some risk, but precautionary measures and appropriate conditions mitigate those risks. As to the BESS facility, Scout's resident project manager Dave Kobus testified that the National Fire Protection Association (NFPA) recently updated its safety standards because it found using water suppression during a BESS facility fire can actually make things worse. Mr. Kobus explained that the NFPA's current standard recognizes that modular BESS facilities, like those proposed for this Project, are designed to contain fires and allow them to burn out on their own, without the need for high volumes of water or dangerous personnel involvement.[49] Ms. McClain explained that emergency response plans and associated fire management plans, including one to address a BESS fire, are routinely required as pre-construction conditions and would also be expected conditions for this Project. Mr. Kobus indicated Scout would continue to update EFSEC on the evolution of NFPA standards for fighting and containing BESS facility fires and update its plans accordingly.

Scout also believes that conditions to be imposed in an SCA demonstrate that its Project meets the fourth CUP criterion. The parties' pre-filed testimony mainly focused on the potential impact to Benton County Fire District 1 and the question of whether it had sufficient training and equipment to take on the new risk and responsibility created by a large renewable energy project. Scout's ASC sought to mitigate any such burden on public agencies like Fire District 1 as detailed in its Draft Emergency Response Plan, Appendix P to the ASC. Scout pledged to coordinate with local agencies to finalize that plan before submitting it to EFSEC for approval and then work with local emergency services personnel to ensure they receive all necessary training. Scout was confident that significant new property tax revenue generated by the Project will greatly increase available financial support for essential services in Benton County, avoiding any negative impact and potentially increasing public service provider capacity in the area.

Benton County, again characterizing the Project as a large-scale industrial project, contended that the Horse Heaven Wind Farm will materially endanger the health, safety, and welfare of the area to a greater extent than permitted uses, precluding it from meeting the second CUP criterion. Benton County Director of Community Development Greg Wendt asserts that the area surrounding the site lacks fire and emergency response resources typically found in cities or urban areas. Instead, the Project is served only by Fire District 1, a rural fire district chiefly staffed by volunteers.[50] Mr. Wendt points to the Draft EIS as evidence that wind turbines create a new fire

[48] *See* Transcript, Adjudicative Hearing Day 1 (Leslie McClain) at 107:10-20; *see also* Exhibit 1040 at 2:20-25.
[49] *See* Transcript, Adjudicative Hearing Day 8 (Dave Kobus) at 1713:7 through 1715:8, 1718:5 through 1719:2, and 1720:23 through 1732:10 (this last portion encompasses questions posed to Mr. Kobus by Councilmembers); *see also* Transcript, Adjudicative Hearing Day 1 (Leslie McClain) at 97:7 through 103:17.
[50] Exhibit 2001 at 12:23 through 13:9.

risk, citing its example of a 2019 250-acre fire in Klickitat County. caused by a wind turbine's generator catching fire, melting, and falling to the ground to start a larger conflagration.[51] According to Mr. Wendt, adding the risk associated with this Project would overburden Fire District 1's limited resources and in turn reduce services to all others in the area. The County argued this zero-sum equation means the Project creates a greater impact on public health, safety and welfare than other outright permitted uses in the GMAAD.

Benton County relies on similar testimony from Mr. Wendt that the Project cannot meet the fourth CUP criterion because it will not be supported by adequate service facilities, and it will adversely affect fire and water services in the surrounding area.[52] Lonnie Click, Fire Chief of Benton County Fire District 1, pre-filed his testimony on behalf of TCC to express his concerns about the Project and, specifically, the potential impact wind turbines would have on aerial firefighting.[53] Although Fire District 1 has no aerial firefighting resources of its own, Chief Click questioned whether firefighting aircraft would be able to safely and effectively drop fire retardant if they could not operate and fly low along the Horse Heaven ridgetops due to the presence of the wind farm.

The Council finds the evidence offered by Scout sufficient to demonstrate that the Project will not materially endanger the health, safety and welfare of the surrounding area more than any other permitted use in the GMAAD. Mr. Wendt's assertions that the Project, solely due to its size, creates a greater fire risk than other uses allowed in the zone are overstated. Aside from the singular turbine-caused fire mentioned above, Mr. Wendt provided no further examples of renewable energy facilities causing fires.[54] The Applicant's Draft Emergency Response Plan, (with any modifications required by the SEPA process), will sufficiently mitigate the fire risks presented by the Project's wind, solar and BESS facilities. In order to protect the health and welfare of residents living or working in proximity to the BESS facilities, we will require Scout to comply with the most current NFPA guidance on combating and containing BESS fires and, to the extent feasible, any potentially hazardous emissions.

We also find the Applicant's evidence sufficient to find the Project will be supported by adequate service facilities and would not adversely affect public services in the GMAAD. Scout's plan to coordinate with local agencies to ensure response personnel receive adequate training regarding any new hazards presented by wind solar and BESS facilities is credible and will be a required condition in any SCA forwarded to the governor. Tax revenues generated by the Project will assist local government agencies to upgrade service facilities as needed.

After considering all evidence presented by Scout regarding health, safety and welfare and public services in the area as well as the concerns raised by Fire District 1, Benton County and TCC, we find the Project meets the second and the fourth CUP criteria set out in BCC 11.50.040(d).

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[51] *Id*. at 13:19 through 14:2.
[52] *See* Exhibit 2001 at 14:5-15 and 16:27 through 17:8.
[53] Exhibit 5631. Due to Mr. Click's firefighting obligations during the course of the adjudicative hearing, the fire chief was not able to personally appear before the Council.
[54] *See* Transcript, Adjudicative Hearing Day 1 (Greg Wendt) at 210:25 through 215:22; *see also* 227:13 through 228:6.

Benton County CUP Criterion 3 – Traffic Impacts

Turning to the third conditional use criterion, the Applicant must present sufficient evidence for us to be able to make findings of fact based on the evidence presented sufficient to conclude that its Project, as conditioned, would "not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the applicable zoning district." These concerns bring our focus to construction-related traffic and the new service roads required to operate and maintain the wind turbines, solar arrays, and BESS.

Scout presented a Transportation Management Plan (TMP) in its SCA that included measures to avoid and reduce Project-related delays on local roadways and also ensure public safety. The County acknowledges that Project operations are unlikely to have much impact on local traffic. Understandably, their concern is mainly with regard to traffic impacts during buildout and construction. The number and size of wind turbine components associated with a Project the size of the Horse Heaven Wind Farm will require many slow-moving long flatbed trucks carrying oversize loads. These are likely to cause congestion on interstate highways and local roads. Scout's TMP addresses these impacts and seeks to allow safe and efficient traffic flow to the extent feasible during construction activities.

Scout's construction activities will also extend to creating new roadways within the Project's footprint. These will mainly be gravel roadways to allow access to Project facilities, but evidence in the record shows they may also benefit local participating landowners as well as emergency responders. There is also a possibility the additional roadways may serve as firebreaks in the case of a range fire spreading across dryland wheat farmland.

The Council will require Scout to update the TMP set out in its SCA with input from the Washington State Department of Transportation (WSDOT) and Benton County and submit the plan for Council review and approval before any construction begins. The plan must contain measures to protect public safety and reduce construction-related delays on local roadways in and around Benton County and the affected portions of the Horse Heaven Hills. After considering all evidence presented by Scout regarding vehicle and pedestrian traffic, the concerns raised by Benton County, and the measures to be required in the TMP, we find the Project meets the third criterion of BCC 11.50.040(d).

Benton County CUP Criterion 5 – Hindering of Permitted Use on Neighboring Property

Scout asserts the Project will not hinder permitted uses on surrounding lands. According to both Ms. McClain and Mr. Wiley, the Project would not discourage development of permitted uses on neighboring properties. Ms. McClain testified that renewable energy facilities "actually bring benefits to these ranches and wheat farmers by improving their access roads, reducing erosion and dust issues off their roads, and [providing] lease payments [to help] the farmers … reinvest in their

farms and upgrade their equipment."[55] Mr. Wiley opined that his neighbors who aren't participating in the Project would be minimally impacted, mainly by being able to see the wind turbines on his and other participating landowners' properties and perhaps by some increased traffic on local roads.[56]

The Applicant concedes that the solar arrays and optional BESS may preclude over 6,000 acres from agricultural practices, depending on final design. However, those facilities would not change land uses or preclude access to farm operations on surrounding properties, nor would they necessitate relocating existing farm access routes or farm infrastructure or result in changes to the practices for planting, irrigating, fertilizing, or harvesting on surrounding properties. Finally, Scout's evidence indicated shadow flicker and glare are not expected to be significant for surrounding properties, observation points and vehicle routes.

Aside from Ms. Cooke's speculative evidence regarding potential fragmentation of farmland in the GMAAD in the future, the Project's ability to meet this final CUP criterion was not seriously disputed during the adjudication. Therefore, based on the evidence in the record, the Council finds that the Project meets the fifth and final criterion for a CUP under the Benton County Code.

Council Conclusion regarding Eligibility for Conditional Use Permit

In accordance with the entirety of the above discussion, the Council concludes based on the adjudicative record that the Horse Heaven Wind Farm Project meets Benton County's conditional use permit criteria for siting in Benton County's Growth Management Act Agricultural District, subject to the conditions noted above and any additional mitigation measures to be set out in the Site Certification Agreement.

D. CULTURAL AND ARCHAEOLOGICAL RESOURCE IMPACTS

In accordance with WAC 463-60-362(5), Scout's ASC detailed environmental impacts of its Project and efforts to minimize those impacts on "all historical and archaeological sites within the area affected by construction and operation of the facility."[57] Scout provided this information to the Washington State Department of Archaeology and Historic Preservation (DAHP) and to interested tribes.[58] Scout believes that through avoidance strategies and other measures, it has minimized and mitigated the Project's impacts on historical, cultural and archaeological resources as much as possible.[59]

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[55] Transcript, Adjudicative Hearing Day 1 (Leslie McClain) at 62:12-17; *see also* 79:9-13 and 82:8-16.
[56] Transcript, Adjudicative Hearing Day 6 (Chris Wiley) at 1104:17 through 1105:25.
[57] *See* Application for Site Certification, Section 4.2.5 and Appendix R.
[58] Prior to filing its ASC with EFSEC, Scout communicated and consulted with the following Indian Tribes: the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Umatilla Indian Reservation, the Nez Perce Tribe, and the Wanapum Tribe. *See* ASC Section 1.12.2.
[59] *See* Scout's Pre-Hearing Brief at 14:5-18 and Scout's Post-Hearing Brief at 20:11 through 29:20; *see also* Transcript, Adjudicative Hearing Day 4 (Emily Ragsdale), at 613:21 through 617:2.

The Yakama Nation intervened in this adjudication to protect interests in maintaining its People's way of life, customs and traditions, and economic well-being. The Yakama Nation also intervened to preserve its People's sacred cultural resources found in the Horse Heaven Hills, including archaeological resources and a complex and irreplaceable landscape of legendary and monumental traditional cultural properties (TCPs).[60] The Yakama Nation argued that without substantial modifications to the Project design, the impacts on tribal TCPs will be disastrous.[61]

The Council reviewed evidence regarding cultural resource studies and the varying methods each party relied upon to reach their positions. The parties presented the Council differing approaches to define what EFSEC can and cannot consider as a TCP. The Council also heard testimony regarding the deep cultural significance that numerous TCPs and various species of wildlife located and living within the Project's boundaries hold for the Yakama Nation. Finally, the Council heard each party's opinions on the Project's impacts to these cultural resources and engaged in questioning party witnesses regarding the ability to mitigate these impacts. We summarize and, in turn, discuss each of these points below.

The Applicant relied on the testimony of Emily Ragsdale, principal archaeologist with Historical Research Associates, Inc. (HRA). The Yakama Nation presented the testimony of several Yakama Nation Members in tribal government and leadership positions regarding their People's cultural heritage: Jerry Meninick, George Selam, Terry Heemsah, Sr., and Caseymac Wallahee.[62] The Yakama Nation also presented testimony from Jessica Lally, lead archaeologist for its Cultural Resources Program. Much of the evidence regarding cultural resources and TCPs consisted of sensitive information and, in accordance with a Protective Order issued by the Council's ALJ, is kept confidential.[63] This Order discusses the issues presented without disclosing evidence contained in the adjudicative record that includes confidential information.

Cultural Resource Study and Survey Methodologies – Defining TCPs

The Applicant hired HRA to consult and coordinate with DAHP, DNR, the Confederated Tribes of the Umatilla Indian Reservation (Umatilla Tribe or CTUIR), and the Yakama Nation regarding the proposed Project's potential impacts on cultural resources. Over the course of more than 5 years, HRA conducted research, engaged in outreach, and performed archaeological surveys and inventories along the Project's micrositing corridor. HRA documented multiple archaeological resources within the lease boundary, including several newly identified by its work. Scout worked with DAHP to receive required determinations and with CTUIR to mitigate any impacts to their identified cultural resources. HRA's Cultural Resource Reports were included in Scout's ASC as

[60] *See* Petition for Intervention by the Confederated Tribes and Bands of the Yakama Nation (February 3, 2022). The Yakama Nation's Petition also alleged its interests regarding the Project's potential effects on wildlife, wildlife and plant habitat, visual impacts, recreation, and transportation.
[61] *See* Yakama Nation Post Hearing Brief at 4:19-22.
[62] Mr. Wallahee submitted pre-filed testimony but was unable to attend the hearings.
[63] *See* Protective Order with Provisions Governing Confidential Information and Information Exempt from Public Disclosure Under RCW 42.56 (May 24, 2022).

Appendix R. Scout plans to entirely avoid all identified archaeological resources during construction, with no ground disturbance, and monitor construction for any unanticipated finds.

The Yakama Nation argued that Scout's cultural resource studies did not include crucial information about Project impacts on Yakama Nation TCPs. During the adjudication, Jessica Lally presented the Yakama Nation's own internal studies based on both western academic archaeological training and inherent tribal knowledge. Ms. Lally characterized different types of TCPs based on their cultural significance to the tribe and explained the concept of a Project's "zone of influence."[64] Ms. Lally explained that due to interconnectivity among cultural resources, individual TCPs might fall into more than one of those categories, and the zone of influence concept was developed by the Yakama Nation Cultural Resources Program as a means to capture the traditional tribal way of viewing the interrelated nature of these resources.[65] Through use of a demonstrative exhibit during a confidential closed session of the adjudicative hearing, Ms. Lally described the general locations of Yakama Nation TCPs within the Project's zone of influence, and identified the cultural significance of the TCPs according to the tribal classification system.[66] This information had not been presented to the Applicant prior to the adjudication.[67]

Scout contended the Yakama Nation's methodology was not based on federal or state guidelines and instead identified TCPs based on "idiosyncratic definitions" inconsistent with EFSEC's legal framework and DAHP administrative guidance.[68]

Scout argued that Yakama Nation's TCP claims must be considered in context and under applicable regulatory criteria.[69] Scout asserts there is no legal basis to support Ms. Lally's description of the Project having a "zone of influence" that extends well beyond the Project's lease boundary, when much of that land area is privately owned and already significantly developed with agricultural, industrial or residential uses.[70] Scout argued it cannot be required to mitigate impacts that have already occurred.[71] Scout also contended that the high-level generalized descriptions of TCPs provided by Yakama Nation with no specific geographic locations and vague references to transitory or intangible resources do not fall within EFSEC's rule (WAC 463-60-362(5)) requiring consideration of historical and archaeological sites.[72] In essence, Scout's position

[64] Transcript, Adjudicative Hearing Day 4 (Jessica Lally) at 638:18-639:13 and 643:17-25 (confidential).
[65] *Id*.
[66] *See* Exhibit 4003 (confidential) and Transcript, Adjudicative Hearing Day 4 (Jessica Lally) at 644:1-649:13 (confidential).
[67] Due to the sensitivity of the geographical information contained in Ms. Lally's demonstrative exhibit, the Yakama Nation did not submit a copy of this map to the adjudicative record. *See also* Applicant's Post-Hearing Brief at 25:10-11 and 15-16 regarding Yakama Nation's decision not to share TCP information with Scout.
[68] *See* Applicant's Post-Hearing Brief at 26:6 through 29:9.
[69] *Id*, at 27:1.
[70] Scout acknowledged Yakama Nation's treaty rights to "open and unclaimed land" under the Yakama Treaty of Camp Stevens (June 9, 1855) but relied on Washington court decisions holding that such rights do not extend to private property. *See* id, at 27:17-21 and 29:1-5.
[71] *Id*.
[72] *Id*., at 28:2-11.

boils down to questioning how, under EFSEC rules, it can be held responsible for avoiding impacts to TCPs that can't be described in terms of a specific location or tangible property.

At the hearing, Scout's consulting archeologist Emily Ragsdale explained the difference between archaeological resources and TCPs.[73] Archeological resources are essentially physical remnants of people being on the landscape. That can be artifacts, features, midden deposits, faunal remains, or other historic remnants. TCPs, on the other hand, are a place or property that's associated with cultural practices and ideas, rooted in the history of a group of people, integral to their cultural identity today. An individual TCP can include a wide array of features and aspects, which may or may not include archaeological resources.[74]

Ms. Ragsdale explained that HRA's report focused on specific resources within the Project site as required by statute and regulation, meaning that TCPs necessarily fell outside the scope of HRA's studies.[75] She agreed that Jessica Lally's experience and access to the Yakama Nation "makes her the most qualified archaeologist to provide a professional opinion regarding the Project's impacts on Yakama Nation's TCPs."[76] Ms. Ragsdale readily acknowledged that "only Yakama Nation can say what is important and eligible to Yakama Nation. That's not something that I can do."[77]

The Council's charge includes considering the broad interests of the public and promoting environmental justice for overburdened communities.[78] The Council also is specifically directed to engage in government-to-government consultation with federally recognized tribes that possess resources, rights, or interests reserved or protected by federal treaty, statute, or executive order in the area where an energy facility is proposed to be located. The purpose of this consultation is to identify tribal resources or rights potentially affected by the proposed energy facility and to seek ways to avoid, minimize, or mitigate any adverse effects on tribal resources or rights. As part of the EFSEC siting process, DAHP is directed to coordinate with the affected federally recognized tribes and the applicant in order to assess potential effects to tribal cultural resources, archaeological sites, and sacred sites. All of the foregoing makes it critical for us to consider the Project's impacts on tribal TCPs.[79] For some purposes, DAHP defines a TCP as "a property or place that is inventoried, or determined eligible for inclusion on the National Register of Historic Places (NRHP) or the Washington Heritage Register because of its association with cultural

[73] Transcript, Adjudicative Hearing Day 4 (Emily Ragsdale) at 604:16-606:6.
[74] *Id*.
[75] Transcript, Adjudicative Hearing Day 4 (Emily Ragsdale) at 591:19-23.
[76] Transcript, Adjudicative Hearing Day 4 (Emily Ragsdale) at 581:6-12.
[77] *Id*. at 592:12-15.
[78] *See* RCW 80.50.010, premise (2). This Council is very mindful of the legislative directive to pay particular attention to the interests of overburdened communities in our application review and siting process.
[79] Effective June 2022, EFSEC is required to consult with all federally recognized tribes whose interests are protected by federal treaty in the location of a proposed energy facility with the goal of (1) identifying tribal resources that would potentially be affected by the proposed facility and (2) seeking ways to avoid, minimize, or mitigate any adverse effects on tribal resources or rights. RCW 80.50.060(8). DAHP is required to coordinate with the affected tribes and the applicant in order to assess potential effects to tribal cultural resources, archeological sites, and sacred sites. RCW 80.50.060(9).

practices and beliefs that are (1) rooted in the community's history and (2) important to maintaining the continuing cultural identity of the community's traditional beliefs and practices.[80] However, DAHP has also more broadly defined a TCP as "a distinctive natural site, such as a mountaintop, or a historic environment, such as an ethnic neighborhood, or it may simply be a place with significant historic value to a specific ethnic or cultural group ... based on historic cultural beliefs, customs, or practices which may or may not continue to be present."

The Council recognizes that the cultural resources section of Scout's ASC met all EFSEC informational requirements set out in WAC 463-60. But the information that is required to be included in an application does not limit what the Council may determine to be relevant to fulfilling its statutory charge to consider and attempt to address impacts to the interests of affected tribes. We find it is not up to the Applicant to define what qualifies as a TCP for the Yakama Nation. The Council finds it wholly appropriate to defer to the Yakama Nation's traditional knowledge and classification system in determining what is or is not of culturally significant value to its People.

Cultural Significance of the Horse Heaven Hills to the Yakama Nation

The People of the Yakama Nation hold the Horse Heaven Hills and surrounding geographic features, together with their wildlife and other environmental elements, as immensely precious and culturally significant. The Yakama Nation emphasized that its TCPs cannot be reduced to artifacts of past cultural practices. Although tribal practices prohibit sharing certain information outside their own people, several Yakama Nation Members personally appeared before EFSEC to demonstrate the gravity of the threat they see the Project poses to their TCPs.

George Selam, Yakama Nation Tribal Employment Rights Ordinance Compliance Officer, former General Council Officer, and former Tribal Council Member, explained in a closed hearing session how Yakama Nation culture, traditions, and history have been linked to the sacred land of the Horse Heaven Hills since time immemorial and are still today passed down through generations to keep the culture alive for future generations yet unborn.

The Horse Heaven Hills are tied to Yakama Nation legends and stories that relay the order and rules of the natural and cultural world, including the natural resources necessary to sustain human life on Earth that are of continuing critical importance to Yakama Nation Members' way of life and connection with the Creator.[81]. Jerry Meninick, former Chairman and elected leader of the Yakama Nation, current Yakama Elder serving as Deputy Director of Culture, testified to the critical cultural importance of passing down stories from elders to new generations. He explained how those stories and legends depend upon the preservation of sacred landscapes and viewsheds. Mr. Meninick testified that because specific events in Yakama Nation history occurred on this site, this is where ceremonies honoring these events must be held. This location is also an integral aspect of tribal beliefs. Terry Heemsah, Sr., current Member of the Yakama Nation Tribal Council, serving

[80] DAHP Policy Number 12.1.2017, Traditional Cultural Properties at 1 (December 1, 2017); *see also* Transcript, Adjudicative Hearing Day 4 (Emily Ragsdale) at 604:16 through 606:06.
[81] Yakama Nation Post-Hearing Brief, 30-31.

as Law and Order Secretary, Fish and Wildlife Secretary, and Member of the Cultural Committee, testified as to the Project's impact on areas of deep spiritual meaning, and potential disruption to the ability of Tribal Members to show reverence and respect at these sacred sites.

The Yakama Nation argued that without significant changes to scope and scale, construction of this Project will do irreparable harm to TCPs of critical importance to its People's way of life and spiritual beliefs. The Yakama Nation questions whether conditions or mitigation measures can sufficiently protect their interests.[82] The Yakama Nation views these TCPs as spiritual resources, part of a living culture that will be forever modified by mile after mile of wind turbines disrupting critical viewsheds.

In addition to the Project impacts on tribal TCPs, the Yakama Nation also provided testimony regarding the cultural and religious significance of local wildlife species. Jerry Meninick explained tribal beliefs on how everything in the natural world has an interconnected purpose and how each contributes to the health and welfare of the land. The key species most relevant to tribal concerns at this site are the Ferruginous Hawk and the Pronghorn Antelope (both are discussed in much more detail elsewhere in this order). In the Yakama Nation's culture, these animals are intrinsically tied to the land. The Yakama Nation has been reintroducing the pronghorn to the Columbia Plateau and the wider region, and working with WDFW to protect, manage, and monitor the species.

The Council found the testimony of the Yakama Nation elders compelling. The Council takes seriously EFSEC's need to respect the tribe's spiritual and religious beliefs and to acknowledge the significance the Yakama People place on all aspects of the natural world, particularly the Horse Heaven Hills and its key species. Therefore, the Council finds the Project cannot be approved without seeking ways to avoid, minimize, or mitigate impacts to Yakama Nation TCPs. Further, approval and construction of the Project must not infringe on any existing access rights currently enjoyed by the Yakama Nation.

Mitigation of Cultural Resource Impacts

Scout modified its Project design as it developed its ASC to accommodate concerns raised by the Umatilla Tribe. Further, Scout explains in its Post-Hearing Brief that DAHP reviewed HRA's findings and concurred with Scout's plans to avoid disturbing all archaeological sites within the Project boundary, to retain an archaeologist to further develop its Survey and Avoidance Plan, and to train workers on cultural resource protection and what to do in case of new and unexpected discoveries during construction. Updates to the ASC reduced the Project's footprint, including less fenced area, removal of infrastructure from priority habitats, and elimination of several turbines.[83]

[82] Id, at 31:15-20.

[83] The Applicant removed several wind turbines from the Project in its Final ASC submitted September 25, 2023 (Turbines 5, 6, 7, 8, 116, 121, 122, 123, 124, 125, 162, and 243). The reduction in turbines was originally captured in Scout's September 9, 2023, response to Data Request No. 9 (as explained in footnote 92, this document was occasionally referred to as the "Moon Memo" when discussed during the adjudicative hearing).

Scout believes that further modifications and conditions can successfully mitigate the Yakama Nation's concerns regarding viewsheds, disruption to wildlife, noise levels, and access restrictions.

The Yakama Nation viewed the original Project proposal as disastrous for its current and future interests. The tribe views the modifications made by Scout during EFSEC's application review process as inadequate. Only complete and total avoidance can prevent direct harm to many of the Yakama Nation's TCPs. Nevertheless, the Yakama Nation concedes that certain impacts could be minimized through a more thorough redesign of the Project.

After considering all of the evidence presented regarding archaeological and cultural resources, the Council more fully understands how and why the Yakama Nation considers the Horse Heaven Hills to be a homeland. Their people cared for and, in turn, relied on these lands to care for them. The Yakama Nation seeks to limit the Project and allow its people to carry on traditions its ancestors practiced freely for thousands of years. The elders of the Yakama Nation know where their people came from. The elders want to pass down traditions to future generations who will be able to experience and know where they came from, too, to know who they were, who they are, and who they always will be.

The Council finds that constructing the Horse Heaven Wind Farm would result in some unavoidable negative impacts to Yakama Nation TCPs. The Council further finds that Scout's Project design does not sufficiently avoid or minimize impacts to Yakama Nation TCPs that could be mitigated by altering Project design. Therefore, we find it necessary to further reduce impacts to Yakama Nation's TCPs beyond what has been proposed by the Applicant.

E. VISUAL IMPACT

The scope and scale of the visual impact of the Horse Heaven Wind Farm raised a high level of attention from the local public, from Tri-Cities CARES and, as noted above, the Yakama Nation. No party disputes that the proposed project will have unavoidable significant visual impacts. The Council received evidence from expert witnesses who offered varying approaches to analyzing visual impacts and recommended strikingly different mitigation measures.

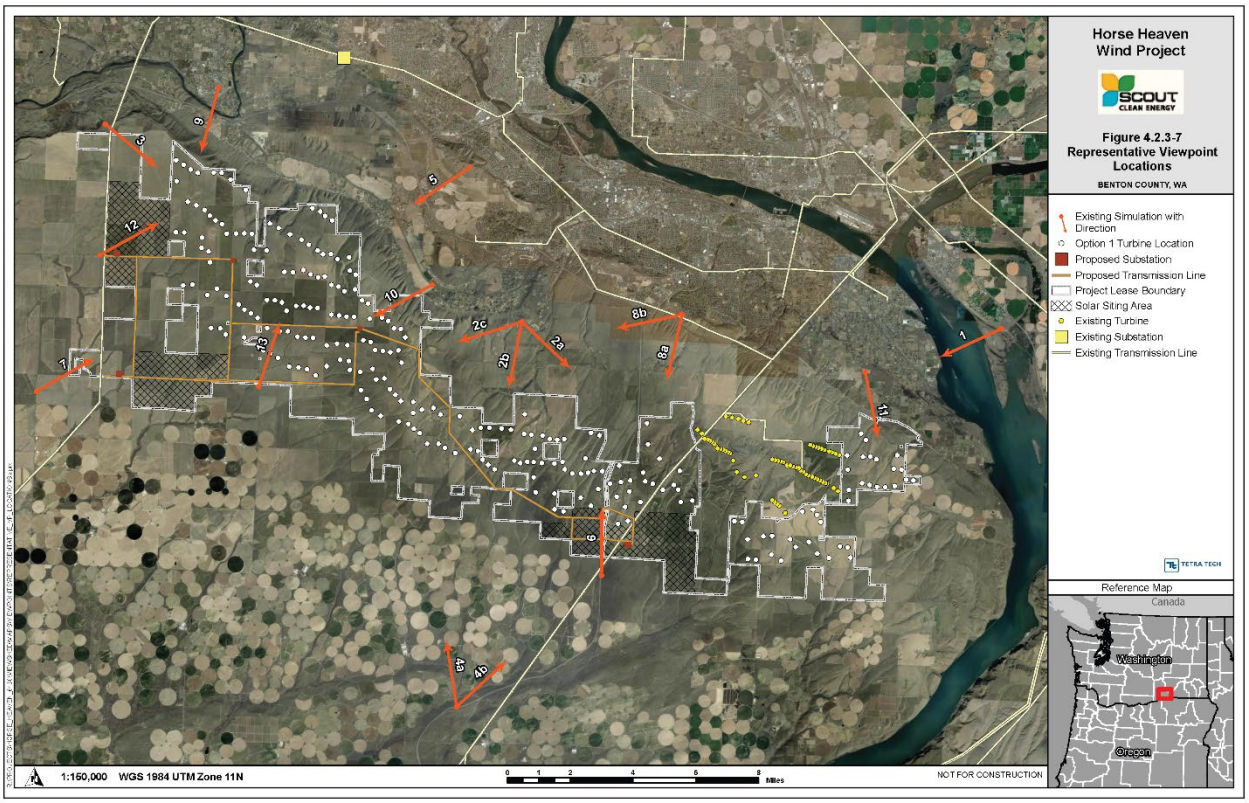
In accordance with WAC 463-60-362(2) and (3), Scout's ASC described the Project's aesthetic impact and any alteration of the surrounding terrain.[84] The Applicant presented Brynn Guthrie, a visual resources specialist, to answer questions about Scout's visual impact analyses. Scout relied on the Bureau of Land Management's Visual Resource Manual Methodology System and other industry standard approaches to evaluate the Project's aesthetic impacts, including a "worst case scenario" accounting for varying meteorological conditions (*e.g.*, haze).

Scout, after consulting with the Benton County Planning Department, Benton City and the Yakama Nation, selected 13 representative viewpoints (RVs (also referred to by the parties as Key Observation Points or KOPs)) around the Project to evaluate and illustrate views from different directions, elevations and distances. Scout chose observation points with views from residential

[84] *See* ASC Section 4.2.3 and Appendix Q.

areas, recreational sites, vehicle travel routes, a commercial zone, and from a local school.[85] This map from the Revised Application (Figure 4.2.3-7) orients the reader to the Project's (Option 1) layout, the chosen viewpoints, and identifies the existing Nine Canyon wind turbines on the northeastern reaches of the Proposed Project:

4.2.3-7 – Representative Viewpoint Locations



Brynn Guthrie explained Scout's viewshed analysis and confirmed that for the Option 1 layout, using only topography (i.e., not accounting for existing structures), approximately 86 percent of the turbines would possibly be visible from land within 5 miles of the Project and, expanding that radius to 10 miles results in approximately 81 percent of the turbines possibly visible.[86] The ASC's visual impact assessments acknowledge that the Project will have moderate to high impacts from some viewpoints but will have only low to moderate impacts from other areas.[87] In accordance with BLM guidance, Scout's visual analyses indicate the degree of change from existing conditions. They do not attempt to assess whether any impact is positive or negative or the subjective reaction or opinion of any individual viewer.

Tri-Cities CARES contended that the Horse Heaven Wind Farm will impact over 300,000 residents in the region. TCC repeatedly emphasized the size of the Project: multiple overlapping rows of wind turbines strung out over 25 miles along Interstate 82. TCC questions how EFSEC's

[85] *See* Revised Application, Table 4.2.3-1, Selected Representative Viewpoints.
[86] Transcript, Adjudicative Hearing Day 7 (Brynn Guthrie) at 1356:24 through 1358:17, discussing portions of Section 4.2.3.2 of the Application.
[87] *See* Application, Table 4.2.3-2, Summary of Existing Scenic Quality and Proposed Project Visual Impacts. Appendix Q provides Scout's supporting visual simulations compared with existing views.

legislative direction in RCW 80.50.010(2) to "enhance the public's opportunity to enjoy the esthetic and recreational benefits of the air, water and land resources" can possibly be followed if the Council recommends approval of this Project. Dean Apostol, TCC's expert, has more than four decades of experience assessing visual impacts, including those caused by renewable energy projects. He questioned Scout's methodology and results.[88] TCC not only questions whether Scout's outreach to local stakeholders was sufficient but also critiques the Applicant's failure to take into account how and why the degree of change acknowledged in their visual analyses might impact local residents.[89] Public comment indicates the importance of these existing views to local residents, even from suburban communities located several miles away. TCC presented more than sufficient evidence to make the Council aware that many people not only oppose but also do not like this Project.

Mr. Apostol worked with Tri-Cities CARES member Paul Krupin to develop a "turbine proximity map" illustrating TCC's own visual impact analysis.[90] Mr. Apostol told the Council that "[g]enerally speaking, the closer the turbines are, the higher the impact."[91] In his opinion, the Applicant's pre-hearing removal of another 13 turbines did little to mitigate the Project's impact.[92] Mr. Apostol used the turbine proximity map to divide the rows of wind turbines into layers based on distance away from representative viewpoints (RVs). He explained that eliminating turbines within 2 miles of those RVs (zone 1) resulted in taking out 57 of the proposed 231 turbines, reducing visual impacts by almost 25 percent. Eliminating remaining turbines up to 3 miles from the RVs (zone 2) took out another 56 turbines, reducing visual impact by another 24 percent. Even then the visual impact did not achieve Mr. Apostol's goal of only a moderate impact because visual impacts remained high from two of the viewpoints.[93]

TCC also presented testimony from Paul Krupin regarding visual impacts. Mr. Krupin provided census-based information confirming the number of people in the region able to see the Horse Heaven Wind Farm.[94] Mr. Krupin also provided evidence of community opinion regarding

[88] Exhibit 5102 at 4:20 through 5:7 and 6:13 through 21:19. Despite the criticisms contained in Mr. Apostol's pre-filed testimony, at hearing he described the Applicant's consultant's visual analysis as "reasonably robust" in assessing impacts. *See* Transcript, Adjudicative Hearing Day 7 (Dean Apostol) at 1425:24 through 1426:7.
[89] *See* Exhibit 5102 11:8 through 12:14. The subjective visual impacts of the Project cross over into our discussion of socioeconomic impacts are discussed more fully below in a subsequent section of this order.
[90] Exhibit 5906. *See* Transcript, Adjudicative Hearing Day 7 at 1400:11 through 1402:21 for Mr. Apostol's full description of how and why TCC's turbine proximity map was created.
[91] Transcript, Adjudicative Hearing Day 7 (Dean Apostol) at 1403:10-11. Mr. Apostol focused TCC's visual impact analysis only on the Project's wind turbines because he found the solar panels had little if any such impact (Transcript at 1423:3-15).
[92] *Id*. at 1407 8:16 and 1409:12 through 1410:6. The parties referred to the "Moon memo" to show Scout proposed removing 13 more turbines than indicated in its updated application. The referenced document is the Applicant's response to EFSEC's Data Request No. 9, part of the SEPA process that was ongoing through release of the Final EIS on October 31, 2023. TCC's attorney attached the moniker "Moon memo" to the document because it was addressed to Amy Moon, an EFSEC staff member managing development of EFSEC's EIS.
[93] *See* Transcript, Adjudicative Hearing Day 7 (Dean Apostol) at 1412:3 through 1415:21.
[94] *See* Exhibit 5305, pp. 2-8. The remainder of this exhibit was stricken and not admitted to the record.

the potential visual impact of Scout's proposed development and photographs showing the existing scenic qualities of the area.[95]

The majority of the Yakama Nation's concerns regarding the Project's visual impact on the TCP landscape are summarized and discussed above. We consider that evidence again here because in many instances the tribe's concerns over visual impacts overlap with TCC's issues.

The Council's authority and obligation to consider aesthetic impacts is well established and was thoroughly explained in the Whistling Ridge Energy Project adjudication.[96] Although the Horse Heaven Hills are not designated as a National Scenic Area like the Columbia Gorge, the Council recognizes the way in which they provide a characteristic visual backdrop for the Tri-Cities area. The established science for evaluating visual impacts presents us with multiple confounders of objective measurements versus subjective reactions to change. That said, we find it easy to conclude that this proposed Project would be visually transformative for the region, particularly for the communities of Benton City and Kennewick. We find the siting of wind turbines on or along ridgelines only magnifies their visual impact, creating an undesirable "skylining" effect. This can be objectively observed in several of Scout's visual simulations, including from RV 3 at Chandler Butte and RV 5 at Badger Mountain.[97] We acknowledge the subjective impact of these altered views will vary amongst observers and is a deeply personal concern.

The Council recognizes and finds the Applicant followed industry standards for quantitative analysis of visual impacts. Scout also followed EFSEC's established standard to prevent a "looming" effect by ensuring its turbines are set back at least four times the tip height of the turbine blade from residential structures on non-participating properties.[98] However, the Council finds the Applicant's visual impact analysis was not adequately robust given the scale of the Project, particularly with regard to outreach efforts to local communities regarding selection of key observation points and the representative viewpoints illustrated in the ASC. Scout also failed to consistently and effectively engage with underrepresented communities.

The Applicant's voluntary removal of several of the most visually impactful turbines was well received but is only a start toward addressing our concerns regarding the size and scale of this Project. We conclude that further mitigation measures are necessary in order to prevent miles-long strings of turbines from becoming the most prominent features in view from multiple points of observation in the area. A larger buffer between the turbines and the ridgeline could minimize encroachment of large project fixtures and features on views from local communities.

[95] *See* Exhibit 5302 at 33:18 through 37:20 and Exhibit 5303 (census data).
[96] *See* Council Order No. 868 (Whistling Ridge Energy Project), *Adjudicative Order Resolving Contested Issues*, at 17-19.
[97] *See* Appendix Q (Figures 5 and 8) to ASC and updated ASC (Figures 5-1a/b and 8-1a/b).
[98] Kittitas Valley Wind Power Project, Council Order No. 826 (March 2007) at pp. 30-32. *See also* Applicant's Post-Hearing Brief at 34:6-11.

F. WILDLIFE

In accordance with WAC 463-60-332, Scout's ASC described existing wildlife that might be affected by construction, operation, decommissioning, or abandonment of its Project.[99] Scout then developed mitigation measures to minimize the environmental impacts on wildlife and its habitat. Although the majority of the Project's footprint is on agricultural lands, many species live, migrate through, or otherwise depend on habitat within the lease boundary. The adjudicative hearing focused on three key species: the ferruginous hawk, pronghorn antelope, and bats. We discuss them in turn and also considered the Townsend's ground squirrel. Finally, we evaluate Project impacts on migratory corridors and habitat connectivity.

The Applicant presented testimony from Troy Rahmig and Erik Jansen. The Yakama Nation relied on Mark Nuetzmann and Leon Ganuelas. Counsel for the Environment presented Don McIvor. The Council also considered information provided via deposition transcripts from three WDFW biologists: Michael Ritter (contracted to EFSEC to support the agency's SEPA environmental review process) and James Watson, and Jason Fidorra (collaborated with Michael Ritter on his consultations with EFSEC). As was the situation with cultural resources, a good portion of the evidence regarding wildlife consisted of sensitive information and, in accordance with the Protective Order governing the adjudication, is kept confidential. We discuss the issues presented without disclosing evidence contained in the adjudicative record that includes confidential information as identified by law or by the parties offering that evidence.

Ferruginous Hawk

The ferruginous hawk (*Buteo regalis*) is a protected species with a declining population in Washington. As of August 27, 2021, it is listed as a state endangered species.[100] The Project's lease boundary encompasses a portion of this raptor's northwesternmost breeding area in the United States. A migratory species in the region, it arrives in the area each year in February or March, and departs for wintering areas in late summer/fall.[101]

The Applicant acknowledges that wind and solar farms in eastern Washington could have adverse impacts on ferruginous hawks. However, Scout contended that other man-made threats, unrelated to its Project, present far greater risks to the species' ability to persist in the region. These range from electrocution on power lines and poisoning to loss of shrub-steppe and native grassland habitat affecting both the hawk and its prey.[102] The Applicant also questions whether land within or nearby to the Project boundary is still used by nesting ferruginous hawks. The Applicant's surveys' most recent confirmation of a ferruginous hawk using a nest within 2 miles of the Project was in 2019.[103] Scout's biologists believe that historic nests, many unused for decades, are not

[99] *See* Application for Site Certification, Section 3.4 and Appendices K, L, and M.
[100] Exhibit 3001 at 7:14-23; *see also* Exhibit 3016 at 2:24-26.
[101] Exhibit 3012.
[102] *See* Applicant's Post-Hearing Brief at 37.9 through 38:13.
[103] Transcript, Adjudicative Hearing Day 5 (Erik Jansen) at 955:14-21. Counsel for the Environment's expert witness confirmed that there are no documented active ferruginous hawk nests within the Project area. Transcript, Adjudicative Hearing Day 8 (Don McIvor) at 1600:24-25.

likely to be reoccupied. Further, Scout is siting its Project on disturbed habitat that is now agricultural land, a habitat of minimal importance to ferruginous hawks.[104] The Applicant contended that scientific data show the ferruginous hawk is not routinely using the Project site for nesting and that current land uses and future disturbance from other uses preclude any realistic possibility of restoring ferruginous hawk habitat or species recovery in the area.[105]

The Applicant proposes a series of mitigation measures based on WDFW ferruginous hawk management recommendations published in 2004, WDFW guidance for wind projects published in 2009, as well as the best available science, including Scout's own studies of the site undertaken since 2017.[106] Scout pledges to protect up to 802 acres of habitat north of the Project, build artificial nest platforms, and plant native grasses under the solar arrays. Scout also committed to perform post-construction mortality studies, to continue surveying the Project area for nesting raptors, and to create "no activity" buffers around ferruginous hawk nest sites. The size of these buffer zones is disputed, as is the timing (during nesting season or year-round). The Applicant, relying on the scientific opinions of Mr. Jansen and Mr. Rahmig as well as published WDFW recommendations and guidance, argued that half-mile buffers are appropriate during nesting season.

Yakama Nation wildlife biologist Mark Nuetzmann expects the Project will deprive ferruginous hawks of important foraging habitat and likely permanently exclude these birds from land under and immediately surrounding solar arrays.[107] The Yakama Nation believes the best available science on potential impacts comes from WDFW biologists currently studying the ferruginous hawk and updating the 2004 WDFW recommendations. Although EFSEC contractual provisions prohibited formally calling Mr. Ritter, Mr. Watson or Mr. Fidorra as witnesses in the adjudicative hearing, the parties stipulated to the Yakama Nation's motion to admit transcripts from their discovery depositions.[108] Mr. Watson recommended a cautious approach to siting wind power projects in territory occupied and used by ferruginous hawks due to the species' sensitivity to disturbance by human activity.[109] In his opinion, to best allow species recovery and revitalization and preserve habitat, the ideal buffer could be as large as 10-kilometer (6.2 mile) core areas around active and historic nest sites. Mr. Watson's compromise recommendation was a 2-mile buffer around active and historic nest sites.[110]

Counsel for the Environment's expert Don McIvor, a consulting wildlife ecologist, believes Scout's application "accurately quantified the potential impacts on the ferruginous hawk."[111] Mr.

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[104] Exhibit 1022 at 5:6 through 4:17 (*distinguishing the low value habitat of dryland wheat farming terrain used by the Project from higher value foraging habitat found in irrigated agriculture lands elsewhere in the region*).
[105] *See* Applicant's Post-Hearing Brief at 39:1-4.
[106] The Applicant's proposed mitigation measures are fully explained in its Post-Hearing Brief at 40:1 through 45:20.
[107] Exhibit 4011 at 3 and 7.
[108] The Yakama Nation presented its Motion to Supplement the Record on July 31, 2023. At a pre-hearing conference held on August 4, 2023, the parties stipulated to admission of the discovery deposition transcripts. *See Order Granting Motions to Supplement the Record with Discovery Depositions of Ritter, Watson, Fidorra and Kobus* (August 15, 2023).
[109] Exhibit 4019 at 20:4 through 22:15.
[110] Confidential Exhibit 4018 at 88:20-94:2.
[111] Exhibit 3001 at 7:11-13.

McIvor agreed in principle with Mr. Nuetzmann's concerns but not his position on the importance of agricultural land as a preferred foraging territory for this hawk.[112] Mr. McIvor recommended the additional mitigation measure of "curtailment," the practice of stopping or pausing operation of individual turbines shown to have increased impact in particular seasons or other specific times. He also initially testified that 2-mile buffer zones appeared arbitrary when "more nuanced and biologically informed" buffers could be individually tailored by relying on specific knowledge of ferruginous hawk activity on the site.[113] However, after reviewing Mr. Watson's testimony and accompanying exhibits, Mr. McIvor came to agree with recommending a larger buffer around active and historic nest site core areas, rather than the quarter-mile buffer indicated by older WDFW guidelines and relied upon by the Applicant.[114]

The Council finds that endangered ferruginous hawks currently use and have historically made use of the Project site for nesting and foraging. The Applicant is obliged to minimize adverse effects on the land and its wildlife. Scout presented field studies supporting its efforts to do so, but we are persuaded that more can be done to avoid and mitigate Project impacts on the ferruginous hawk. If approved as proposed, we find that Project would threaten the persistence of the ferruginous hawk not only in the Project area but also in Washington State.

The Council acknowledges it is not the Applicant's responsibility to recover the ferruginous hawk from its perilous existence in Washington. We also recognize that even if the Project is not approved, the ferruginous hawk may succumb to the pressures of habitat loss and fragmentation as well as competition and predation from other species. Neither EFSEC nor the Applicant have any control over these types of natural and anthropogenic threats to the species. However, we find the evidence in the record supports more avoidance and mitigation measures than those proposed by the Applicant.

The Council has considered and weighed all of the expert testimony on how to avoid and minimize adverse impacts to the ferruginous hawk. The Council concludes that WDFW guidance from 2004 and 2009 should not be the final word on what is or is not the best available science today. Scout's own studies provide more current information regarding ferruginous hawk use of the Project site, as do the studies available to the Council through the discovery depositions of Mr. Ritter and his colleagues. We conclude that additional mitigation measures to minimize impacts on the ferruginous hawk are needed. We will craft them, including an appropriate buffer zone, based on the adjudicative record and our final EIS. We understand Scout's apprehension about requiring 2-mile buffers around all nest sites as recommended by Mr. Watson and largely endorsed by Mr. McIvor, but if the final EIS validates that size buffer as the best approach to minimizing adverse impacts on an endangered species, the Council will accordingly incorporate that advice in our recommendation to the governor.

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[112] *Id*. at 8:18 through 9:13.
[113] *Id*. at 11:1-12; *see also* Transcript, Adjudicative Hearing Day 8 (Don McIvor) at 1587:9 through 1590:4.
[114] Exhibit 3016 at 3:9-18 as modified and corrected at hearing; *see* Transcript, Adjudicative Hearing Day 8 (Don McIvor) at 1562:14-25 (clarifying USFWS Region 6 recommended buffer zone is 1 mile, not 2 miles) and 1590:5 through 1593:3 (remainder of answer stricken as non-responsive).

Pronghorn Antelope

The Yakama Nation traditionally relied on the pronghorn antelope as a game species and holds the animal as culturally significant. In the early twentieth century, pronghorn populations declined in Washington to a point where reintroduction attempts became necessary. All of these ultimately failed. In recent years, Yakama Nation tried again. Leon Ganuelas, Yakama Nation's Wildlife Resources Program Manager, described the tribe's efforts.[115] In 2011, 99 pronghorn were translocated from central Nevada to the Yakama's reservation. 25 of the females were fitted with radio tracking collars, allowing biologists to study their movements on the land. In 2017 and 2019, the Yakama Nation brought in two additional groups of 50 more pronghorn each, fitting more individuals with tracking collars. Those animals have helped establish a tentatively stable population of approximately 250 animals.

Telemetry data, most of which is confidential, confirms that pronghorn antelope now roam the Yakama's reservation and beyond. Pronghorn antelope surveys have documented animals using and traversing the Project site, including portions of areas proposed for solar arrays.[116] WDFW jointly manages pronghorn outside the reservation with the Yakama Nation. Together, they are working to monitor, protect, and recover the species to achieve a self-sustaining population. WDFW classifies pronghorn antelope as a game species. However, hunting is not currently permitted in Washington due to the species' low abundance.[117]

The Applicant contended the Project's potential effects on the off-reservation pronghorn population are likely to be minimal. Scout emphasized the limited existing research on pronghorn movement, use of habitat, and interactions with wind facilities. Scout acknowledges that fenced solar arrays will exclude pronghorn, but Scout's data indicated the animals only rarely use those areas of the Project, most of which is on agricultural land of low habitat value to the species.[118] Scout did not have access to telemetry data from the Yakama Nation at the time it evaluated potential pronghorn impacts. But according to the Applicant, measures set out in the ASC, along with those from the Applicant's response to Data Request 9[119], will more than sufficiently mitigate impacts to pronghorn that might come to or through the Project site.

The Yakama Nation disagrees. In its view, the Project will not only exclude the pronghorn from over 6,000 acres to be fenced for solar arrays but also exacerbate ongoing habitat destruction and fragmentation.[120] Don McIvor, testifying for CFE, agreed that Scout's conclusions should be reevaluated with Yakama Nation telemetry data.[121] The Yakama Nation believes further study is

[115] *See* Exhibit 4008 at 2-3 and Exhibit 4009 (PowerPoint presentation).
[116] Exhibit 4008 at 3-4; Confidential Exhibit 4009 at slides 15-17; Confidential Exhibit 4010 at 8, 23; *see also* Transcript, Adjudicative Hearing Day 2 (Leon Ganuelas) at 384:1-386:6, 390:8-16, 391:10-17.
[117] Exhibit 4020 (Fidorra Deposition) at 124:16 through 125:14; *see also* Transcript, Adjudicative Hearing Day 6 (Troy Rahmig) at 1232:19-20.
[118] *See* Applicant's Post-Hearing Brief at 46:5-18 and Exhibit 1033 at 6:1 through 7:17.
[119] Data Request No. 9 was issued as part of the SEPA process, in which Scout responded to EFSEC Site Specialist Amy Moon with a memorandum. This was referred to as the "Moon Memo" during the adjudicative hearing.
[120] Yakama Nation's Post-Hearing Brief at 41:1 through 44:14.
[121] Exhibit 3001 at 14:2-24.

needed for a fuller understanding of impacts on the pronghorn. In Mr. Ganuelas' opinion, Scout's Habitat Mitigation Plan doesn't do enough to address these impacts. He recommends redesigned fences, increased habitat mitigation ratios, and restoration of disturbed shrub-steppe habitat.[122] Mr. McIvor also recommended evaluating fencing designs and additional measures aimed at maintaining the integrity of existing native habitat and minimizing habitat fragmentation.[123]

The Council finds that pronghorn antelope are culturally significant to the Yakama Nation. We find that the Yakama Nation's pronghorn reintroduction program has established a stable population on reservation land and beyond. We further find that telemetry data confirm pronghorn antelope now traverse and forage within the Project boundary, including proposed solar array sites. As noted above, the Applicant is obliged to minimize adverse effects on the land and its wildlife. If approved as proposed, we find the Project will diminish pronghorn grazing habitat. We also find that Project-induced habitat fragmentation could jeopardize the pronghorn's ability to use an important north-south migration corridor.

The Council has reviewed all applicable data admitted to the adjudicative record regarding pronghorn use of the Project area. We find this data insufficient to support Scout's characterization of how pronghorn use the site or how important these lands might be to the species. Further, research to date on the influence of wind turbines on pronghorn use of habitat is limited and has produced mixed results. We do recognize that solar arrays and the surrounding fencing will present obstacles to movement and exclude habitat from use by the pronghorn. Therefore, we conclude that, if the Project is approved, the Applicant must coordinate with WDFW and Yakama Nation to modify its final designs for siting and fencing its solar arrays to minimize impacts to pronghorn. We will also require the Applicant to conduct post-construction monitoring to study whether the addition of wind turbines affects pronghorn use of land in and around the Project.

Bats

Several species of bats use the Project area and no party disputes that operation of wind turbines results in some level of mortality for bats. Scout and Don McIvor agree that it is difficult to quantify impacts on bats, particularly without specific regional studies and data available.[124] The Applicant concedes it cannot predict with any certainty how many bats might be killed until the Project begins generating energy. In order to craft the best post-construction data-driven mitigation measures, Scout recommends relying on a Technical Advisory Committee (TAC) that can regularly review mortality numbers and sort out an appropriate seasonal curtailment schedule.[125] Mr. McIvor recommended additional pre-construction studies to analyze whether regional bat populations could sustain projected mortality figures.[126]

The Council is concerned about the lack of data about migrating bat species use of the site. Bat mortality resulting from wind energy projects is reasonably well known and has been observed

[122] Exhibit 4008 at 10-11; *see also* Yakama Nation's Post-Hearing Brief at 41:1 through 44:14.
[123] Exhibit 3001 at 14:25 through 15:19.
[124] Exhibit 3001 at 3:15 through 4:19. Mr. McIvor noted that Scout "exceeded the usual effort" to quantify these impacts (at 3:19-20) but recommended more study and analysis at a regional population level.
[125] Applicant's Post-Hearing Brief at 47:2 through 48:6.
[126] Exhibit 3001.

at the nearby Nine Canyon Wind project. Nevertheless, due to widely varying bat population estimates, the adjudicative record is not clear on whether regional bat populations can sustain the possible levels of mortality caused by this Project.

The Council finds the Applicant should be required to conduct additional studies of bat activity at the site to better inform pre-construction micrositing decisions as well as operational concerns regarding migration activity. We also find that post-construction mortality monitoring should be required and utilized by a TAC to recommend adaptive management strategies, including seasonal curtailment, to minimize adverse impacts to bats.

Townsend's ground squirrels

The revised ASC identified a Townsend's ground squirrel colony that lies partially within the footprint of a temporary disturbance area. Mr. McIvor recommended the proposed construction site should be carefully evaluated before construction and, if possible, relocated if the squirrels are present. The Council concurs. The SCA would require the Applicant to conduct additional surveys and take measures to avoid disturbing the colony.

Habitat Mitigation Plan

Appendix L of Scout's ASC sets out a draft Habitat Mitigation Plan (HMP) to address permanently and temporarily disturbed habitat within the Project boundaries. In addition to the species-specific measures already discussed in this section of the order, Scout's HMP includes compensatory mitigation to account for unavoidable impacts to habitat. Scout calculated the number of compensatory acres necessary to offset those impacts relying on WDFW policies and proposed several implementation options, to include a conservation easement on habitat within or adjacent to the Project boundary or various payments (a fee to WDFW or a contribution to a local land trust or conservation organization).[127] The Yakama Nation questioned the way Scout classified land to be disturbed by solar arrays as modified habitat as opposed to treating it as habitat permanently unavailable to the ferruginous hawk. Mr. Nuetzmann contended this would be a more realistic way to evaluate how the Project actually impacts available habitat. He also recommended the HMP emphasize restoration of disturbed shrub-steppe habitat over preservation of existing native habitat.[128] Erik Jansen countered Mr. Nuetzmann's criticism by reiterating the Applicant's consultations with WDFW to ensure the proposed in-kind habitat mitigation measures for land disturbed by the solar arrays were appropriate.[129]

The Council concurs with the Applicant's approach and adherence to WDFW policy. We find that restoration of shrub-steppe habitat has merit, but requiring permanent land conservation of existing functioning shrub-steppe habitat is preferred over attempting to convert agricultural land and restore it to functioning shrub-steppe habitat. Protecting what currently exists reduces the uncertainty of attempting to create new habitat, a practice that has resulted in mixed success.

[127] Application for Site Certification, Appendix L, Section 7.3 (pp. 13-16).
[128] Exhibit 4011 at 6 to 8.
[129] Exhibit 1022 at 15:17 through 16:13.

Cumulative Impacts on Wildlife – Scope and Scale of Project

The parties disagree on how the Council should weigh the cumulative and overall wildlife impacts in light of the project's scope and scale. The Applicant argued that the scale of its Project supports State policy to rapidly replace carbon-emitting generating resource with clean energy resources in Washington.[130] Erik Jansen explained that issuing a series of permits for smaller wind farms co-adjacent results in piecemeal and less effective analysis of their overall impacts.[131] The Yakama Nation labels a Project of this size "devastating" to the natural environment.[132] Similarly, TCC strongly objects to the "vast size" of the Project for many reasons, including concerns for wildlife.[133]

The Council understands the Applicant's logic in designing a project of this size, but we agree with TCC and Yakama Nation that the scale and scope of the Horse Heaven Wind Farm should and does amplify our concerns regarding wildlife impacts. As proposed, the scope and scale of the Project will reduce the function and value of important landscape-level habitat features needed by wildlife. The sheer number of turbines proposed would contribute to bird and bat mortalities of an unknown but likely substantial magnitude. The length and width of the Project area would impede important wildlife habitat connectivity for shrub-steppe species. The proposed number and placement of turbines would pose significant threats to breeding and wintering raptors in the area.

G. SOCIOECONOMICS

In accordance with WAC 463-60-535, Scout's ASC detailed the socioeconomic impacts of its Project, to include its expected effect on population, work force, property values, housing, health facilities and services, education facilities, governmental services (*i.e.*, fire, police, utilities, etc.), and the overall local economy.[134] Scout believes the Project will have beneficial impacts on the region by creating additional jobs, increased economic activity, and increased tax revenue.[135]

The Applicant describes its project as outside any urban growth area and no closer to a city (Kennewick) than 4 miles away at its closest point. TCC, focusing its opposition on the size and scope of the "massive" proposed development, called into question the proximity of the Project to suburban areas because its size is "hard to grasp," "overwhelming," and substantially "overbuilt." TCC argued there are no structures in the Tri-Cities area that approach the height of any of the wind turbines expected to be deployed in the nearby hills. At the adjudicative hearing, the parties focused on socioeconomic impacts to real estate values, local agricultural values, roads, firefighting services, recreational resources, and economic impacts. We briefly explore each subtopic in turn.

Real Estate Values

[130] Applicant's Post-Hearing Brief at 6:8 through 7:19.
[131] Exhibit 1022 at 5:8 through 8:25.
[132] Yakama Nation Post-Hearing Brief at 4.
[133] TCC Post-Hearing Brief at 22.
[134] *See* Application for Site Certification, Section 4.4 and Appendix S.
[135] ASC Section 1.10.1 and 4.4.2; *see also* Scout's Post-Hearing Brief (generally) at 11:11 through 20:10.

The Applicant contended property values are proven to be unaffected by nearby development of wind or solar projects. Scout's experts included economist Morgan Shook and real estate appraiser Andrew Lines. Mr. Shook specializes in real estate analyses and presented industry standard hedonic pricing model studies, including those of Ben Hoen.[136] These studies demonstrate there is no statistical evidence that homes sell for less when they are in close proximity to wind turbines or solar arrays.[137] Mr. Lines confirmed that the closest residential homes to the Project are more than 2 miles away. His site-specific research into impacts on valuation of properties adjacent to wind farms,[138] including interviews with numerous county assessors, found no measurable negative impact on home prices following construction of renewable energy projects.[139] Scout argued that EFSEC should rely on its objective evidence rather than the personal feelings and unsupported fears expressed by local homeowners.

TCC characterized Scout's evidence as unreliable due to its failures to appraise local homes that would be in view of the Project. Kurt Kielisch, a forensic property appraiser, criticized the Hoen studies and provided a study he conducted in Colorado predicting negative property impacts from a proposed wind farm.[140] Richard Hagar, another property appraiser, also questioned the Applicant's methodology and conclusions.[141] TCC also presented a number of local residents to voice negative opinions about the Project and concerns over how changed views from their homes would diminish the value of their property[142] as well as letters from the local Chamber of Commerce, Visitors' Bureau, and Board of Realtors in opposition to the Project.[143]

The Council recognizes the vocal community concern regarding the Project's possible impact on real estate values. The real estate studies presented by both the Applicant and TCC were very high-level and general in nature and failed to specifically address wind energy development in close proximity to urban or developed areas. While we do not doubt the Hoen studies are correct in the abstract, Mr. Shook's assurances are of little comfort to homeowners whose views might change.[144] We find that the record contains no persuasive individualized data demonstrating a discernible impact on property values in Benton City and the region's suburban areas. Any conclusion regarding local real estate markets would be speculative. The Council finds that the

[136] *See* Exhibits 1010, 1011, 1012, 1013, 1017 and 1020.
[137] Exhibit 1008 at 6:15 through 7:19.
[138] *See* Exhibits 1038 and 1039.
[139] Exhibit 1037 at 3:9 through 4:2. Mr. Lines made minor corrections to his testimony and supporting exhibits, but neither the parties nor the Council posed any cross-examination questions to him. *See* Transcript, Adjudicative Hearing Day 5 (Andrew Lines) at 793:22 through 800:5.
[140] Exhibits 5810, 5811, and 5812. Neither the parties nor the Council posed any questions in cross-examination to Mr. Kielisch. *See* Transcript, Adjudicative Hearing Day 5 (Kurt Kielisch) at 800:9 through 802:16.
[141] Exhibits 5900, 5901 and 5902. *See also* Transcript, Adjudicative Hearing Day 5 (Richard Hagar) at 821:5 through 824:19.
[142] A sampling of these statements can be found above in Section I-E, Public Comment.
[143] *See* Exhibit 5303, pages 17, 19, and 22; *see also* Exhibit 5633. None of these letters specifically address any basis for TCC's stated concerns with potential reduction to property values.
[144] The Council recognizes that objective measures on property values may not be available until and unless the Project is approved and built. In other words, until an actual market listing finds a willing buyer, we won't know the answer to this question.

evidence provided by the parties did not reliably demonstrate impacts on individual real estate values in the Tri-Cities area.

Local Agricultural Practices

The Applicant contended established farming practices in the region will continue unaffected. Chris Wiley, a participating property owner, testified that his family's dryland wheat farming operations will be able to stay the same on 99% of their land and will benefit financially and from any new road infrastructure. Benton County is concerned that allowing a renewable energy project to be placed on important agricultural lands will lead to loss of more farmland in the region.

Our review of the record convinces us that the Project would promote and benefit farming within the Project boundaries for participating landowners. Although solar arrays will exclude other agricultural activities within their fenced areas, wind turbines do not preclude ongoing dryland wheat farming practices. Participating landowners benefit financially, likely allowing existing agricultural practices to persist on Project lands into the foreseeable future. As noted above, we acknowledge that even after decommissioning, the Project will result in a certain amount of ALLTCS being permanently lost, but we are not convinced this will disrupt the future of agricultural practices in Benton County.

Roadways / Firefighting

Wildland fires are a regular occurrence in the Horse Heaven Hills. As previously discussed in the land use context regarding criteria for granting a conditional use permit, the Applicant takes the position that its project will not meaningfully increase fire risk for the Horse Heaven Hills region. We have already agreed with this position and found no evidence in the adjudicative record that public services will be negatively impacted. Based on the record, we find the Project's roadways would improve access within the Project boundaries for firefighting activities. The Project's roadways could also be utilized as anchor points for firefighters to conduct backburns and other tactics in creating firebreaks. Given these potential impacts, the Applicant must coordinate with local fire districts to ensure they can access newly built roadways within the Project boundary for firefighting purposes. This may be addressed in the required emergency response and fire protection plans to be required as part of an SCA.

Although the Project will not increase fire risk in the Horse Heaven Hills, it will likely impact how fires are fought in the area. Members of the public and TCC raised concerns regarding the ability of planes to effectively drop retardants if wind turbines prevent them from flying low or in areas of limited visibility due to smoke. These concerns were not adequately addressed by evidence presented during the adjudication. Therefore, the Council also finds that aerial firefighting concerns, particularly on the northern facing slopes of the Horse Heaven Hills, must also be addressed in the required emergency response and fire protection plans to be required as part of an SCA.

The Project's battery energy storage system (BESS) may present new challenges to first responders. Fire suppression standards for BESS technology are evolving. The Applicant identified the best currently available approaches for handling and extinguishing a fire at its BESS facilities. If the Project is approved, the Applicant must implement those best practices in its fire control plan and regularly update the Council on advances or any changes in approach to fire suppression at its BESS sites. The Applicant must also develop a disposal plan for any hazardous or toxic material resulting from a fire at a BESS site.

Recreation

TCC believes the visual and aesthetic impacts of this large-scale wind farm will discourage local tourism, and recreational opportunities (hiking, paragliding, birding, and general sightseeing). We do agree that the Project as proposed would negatively impact local hang gliders and paragliders. We find the Project will not directly impact access to established trails, all of which are outside the Project boundary on BLM land, but turbines placed as proposed on and along ridgelines would substantially alter views currently enjoyed by hikers and bikers. Residents and tourists who come to this part of Eastern Washington would see wind turbines in areas that today have unobstructed views.

Economic Development

The Applicant presented testimony from Jessica Wadsworth, a local union representative, about the Project creating additional employment opportunities for local citizens.[145] We agree that the Project will likely generate economic benefits for the region. We find the Project will result in increased employment in Benton County during its construction and, to a lesser extent, during its operation. There is no conclusive evidence in the record of negative impact on the region's wine tourism industry. The project will provide substantial tax benefits to local taxing districts that can be used to improve services to the community.

H. ENVIRONMENTAL JUSTICE / OUTREACH TO TRIBES & OVERBURDENED COMMUNITIES

EFSEC requires applicants to communicate and coordinate with tribes regarding potential archaeological and cultural resource impacts. EFSEC is also required to promote environmental justice for overburdened communities and, if recommending approval of a project, must include conditions to protect overburdened communities in its report to the Governor.[146].

Scout initiated tribal outreach many years before submitting its application to EFSEC. As noted above in the Cultural Resources section, Scout met their statutory and regulatory burden as to archaeological resources as evidenced by DAHP's endorsement of their site inventory and proposed avoidance plan but did not adequately consider or mitigate impacts to TCPs. In this

[145] Exhibit 1034. Ms. Wadsworth serves on the city council for Benton City but provided her testimony only as a private citizen, not as a government official or spokesperson.
[146] RCW 80.50.010(2) and RCW 80.50.100(2). *See also* RCW 70A.02.010(11) for the definition of "overburdened community" which includes "highly impacted communities" as defined in RCW 19.405.020(23) (includes communities located fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151).

section of our order, we focus our attention on Scout's overall outreach efforts to traditionally underrepresented and overburdened communities.

Scout emphasized its successful cooperation with the Umatilla tribe on Project design modifications intended to mitigate impacts. Representatives of the Umatilla actively engaged with Scout since early 2020, participating in HRA's field surveys and sharing concerns identified in the tribe's own studies. Scout affirmed that Umatilla tribal members would continue to enjoy the same existing access to the site and made additional promises to respect the traditions, legends, and stories of the Umatilla tribe. These two parties executed a mutual agreement to facilitate resolution of any potential issues regarding cultural resources discovered if the Project was built.

Scout contrasted its coordination with the Umatilla tribe with a perceived lack of engagement from the Yakama Nation. Scout stated it attempted outreach to the Yakama Nation for over 5 years, including coordination with DAHP but received only "limited responses and information." Scout stated the Yakama Nation declined Scout's invitations to conduct a traditional cultural properties study. Scout stated Yakama Nation provided some limited comments to HRA, but withheld information about most Yakama Nation TCPs in the Project area and did not provide specific geographic description or boundaries. At hearing, the Yakama Nation presented a TCP study that Scout and HRA saw for the first time.

Scout contended its project does not disproportionately affect overburdened communities and in fact promotes environmental justice. Scout highlights its outreach to Hispanic communities in the area. Scout asserts it pursued media strategies to ensure information about the Project was available to local minority communities, including people with Spanish as their primary language and people of color and that this included using bilingual radio networks and newspapers. Scout concluded the Project does not appear to pose a risk of disproportionate impact to overburdened communities based on Scout's research using the Washington Environmental Health Disparities Map and the U.S. Environmental Protection Agency's online EJScreen tool, looking at factors like high unemployment, poverty and unaffordable housing rates in the area. Scout argued the Project will bring a net benefit to the local communities by providing well-paying jobs. Additionally, the Project will combat climate change, the effects of which often fall disproportionately on overburdened communities, and therefore represents an important component of the state's environmental justice goals.

The Yakama Nation stated they attempted to engage with Scout both prior to and after submission of the application to EFSEC, but their concern about impacts to TCPs were not taken into account. The Yakama Nation believed Scout was working to redesign the Project layout after Yakama Nation provided feedback on the TCPs, but Yakama Nation's archeologist Jessica Lally was then informed in 2022 that Scout was not considering further redesign of the Project, disregarding Yakama Nation's concerns. Jessica Lally testified at hearing that Yakama Nation did not accept Scout's offer to fund their TCP study because of issues regarding confidentiality and disclosure of sensitive information. The TCP study Yakama Nation did then conduct was not funded by Scout, and therefore Scout did not previously see the TCP Study before the adjudication.

Yakama Nation also argued that under Washington law EFSEC is required to promote environmental justice for overburdened communities, and tribal communities are by statute considered an "overburdened community."[147] Yakama Nation claims Scout has disregarded their concerns about cultural impacts and remained focused on its goal of building the Project as large as possible to satisfy market need and promote their own commercial success.[148] Yakama Nation argued the Project will create new environmental injustices on top of those already endured by the tribe by permanently damaging lands that are sacred to the tribe.

The Council finds Scout did not consistently and effectively engage with underrepresented communities in the Tri-Cities region. The Council considers the Yakama Nation to be an overburdened community as defined by state law. We understand the Yakima Nation is not obligated to talk or exchange information with private entities such as Scout. Although Scout corresponded with local tribes and attempted to communicate with the Yakama Nation, we are not convinced Scout made sufficient efforts in terms of tribal outreach and engagement. We also find it apparent Scout did not engage with the Hispanic or other minority communities in the local area and failed to offer them meaningful opportunities to provide input on the proposed project.

Project Benefits

The environmental benefits of the Project include generation of a substantial amount of clean and renewable energy from sources that do not produce carbon dioxide emissions.[149] Economic benefits also result, as the Project would provide construction jobs and employment during its operation. The Project would generate additional tax revenues to support local government taxing districts, including fire districts, school districts, and ports. The Project would also provide lease payments to local landowners.

IV. FINDINGS OF FACT and CONCLUSIONS OF LAW

Note: The Council intersperses conclusions of law with its findings of fact to enhance the readability of this Order. Any finding in the nature of a conclusion of law should be interpreted as such, and any conclusion in the nature of a finding should be interpreted as intended.

The Council has evaluated the evidence and arguments contained in the adjudicative record. The Council has also considered concerns expressed through the public comment portion of the adjudicative hearing. Our below findings and conclusions are based only on the adjudicative record. Our Recommendation to the Governor will also take into account not only these findings and conclusions but also the Final EIS, public comment received outside of the adjudication, and government-to-government consultation with the Confederated Tribes and Bands of the Yakama Nation in compliance with RCW 80.50.060(8).

[147] RCW 70A.02.010(11) and RCW 19.405.020(23).
[148] Yakama Nation Post-Hearing Brief, at 32-33.
[149] *See* RCW 19.285.

Nature of the Proceeding

1. This proceeding involves an application before the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) for certification to construct and operate the Horse Heaven Wind Farm (Project). The Project is a renewable energy generation facility including wind and solar energy generation with battery energy storage systems (BESS) and supporting facilities. The Project includes up to 231 wind turbines and two solar arrays that would generate up to 1,150 megawatts (MW). The Project is situated in the Horse Heaven Hills area of unincorporated Benton County, Washington.

The Applicant and the Application

2. The Applicant is Horse Heaven Wind Farm, LLC, and its indirect owner Scout Clean Energy, LLC (Scout). Scout is a renewable energy development company headquartered in Boulder, Colorado. Scout Clean Energy would be defined as a Site Certificate Holder as defined in the Site Certificate Agreement.

3. On February 8, 2021, Scout submitted to EFSEC an Application for a Site Certification Agreement seeking authority to construct and operate the Project. Scout submitted a Revised Application on December 29, 2022.

Compliance with the State Environmental Policy Act (SEPA)

4. EFSEC is the lead agency for environmental review of project proposals within its jurisdiction under terms of the State Environmental Policy Act, RCW 43.21C. The Council Director is the SEPA Responsible Official. WAC 463-47-051.

5. EFSEC published and circulated a draft environmental impact statement (EIS) for public review on December 19, 2022. The Council received and reviewed numerous comments, all of which were made publicly available on February 13, 2023. The Responsible Official issued the Final EIS on October 31, 2023. This order does not consider the results of the Final EIS. The SEPA results are considered in conjunction with this order to inform the Council's Recommendation to the Governor and any proposed Site Certification Agreement.

Compliance with Procedural Requirements

6. The Council published and, where required by law or rule, served notices of events in the application process, including receipt of the Application, public meetings, commencement of the Adjudicative Proceeding and opportunity to file petitions for intervention, land use consistency hearing, prehearing conferences, and the adjudicative hearing sessions.

7. EFSEC's SEPA process need not be complete before the Council commences its adjudication. WAC 463-47-060. The Council's adjudication of disputed issues does not limit the Council's options in making its ultimate Recommendation to the Governor. The

Council will incorporate information from the Final EIS in determining whether to recommend approval of the application and if so, what appropriate conditions or mitigation measures should be included in its proposed Site Certification Agreement.

8. The Council afforded the parties to the adjudication the opportunity to present written and oral evidence, object to evidence, and fully brief disputed issues. The Council resolved procedural issues prior to hearing through orders based on prehearing conferences and motion practice wherein all parties had the opportunity to participate and present objections.

9. *The Council concludes* that it complied with all applicable procedural law and regulation, including RCW 80.50, RCW 34.05, WAC 463-26, and WAC 463-30, in conducting the Adjudication.

Land Use Consistency

10. In Order No. 883, the Council previously determined the Project to be consistent and in compliance with Benton County's land use plans and zoning ordinances in effect at the time the Application was filed with EFSEC. RCW 80.50.090.

11. Scout Clean Energy presented sufficient evidence to demonstrate the Project, with conditions that can be included in a proposed Site Certification Agreement if the Council recommends approval of the application, meets all five conditional use criteria contained in Benton County Code Section 11.50.040(d).

    a. *The Council concludes* the Project is compatible with other uses in the surrounding area and is no more incompatible than are any other outright permitted uses in Benton County's Growth Management Act Agricultural District (GMAAD).

    b. *The Council concludes* that with a condition requiring an Emergency Response Plan and a Fire Management Plan, the Project will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in Benton County's GMAAD.

    c. *The Council concludes* that with a condition requiring a Transportation Management Plan coordinated with WSDOT and local authorities, the Project will not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the area to an extent greater than that associated with any other permitted uses in Benton County's GMAAD.

    d. *The Council concludes* that with a condition requiring the Applicant to ensure local fire and first responders receive appropriate training, the Project will be supported

by adequate service facilities and will not adversely affect public services, including fire protection services, to the surrounding area.

e. *The Council concludes* that the Project will not hinder or discourage the development of permitted uses on neighboring properties in the Growth Management Act Agricultural District as a result of the location, size or height of the buildings, structures, walls, or required fences or screening vegetation to a greater extent than other permitted uses in Benton County's GMAAD.

The Adjudicative Proceeding – Process

12. The Council duly noticed and conducted prehearing conferences and the administrative law judge, or Council as appropriate, entered Prehearing Orders. Statutory parties appeared and participated. The Council received petitions for intervention which were granted as indicated in the body of this order.

13. The Council served and published notice of the hearing on the merits. Hearings were held virtually on August 14-16 and August 21-25, 2023. The Council conducted a virtual public comment hearing on August 23, 2023.

14. The Applicant and a majority of other parties submitted post-hearing briefs.

15. *The Council concludes* that its adjudication of disputed issues in this matter complied with applicable provisions of law, including RCW 80.50 and RCW 34.05.

Archaeological and Cultural Resource Impacts

16. The Council finds the Applicant's cultural resources studies complied with the requirements set forth in WAC 463-60-362(5), including coordination with and concurrence from the Department of Archaeological and Historical Preservation.

17. *The Council concludes* that a Survey and Avoidance Plan should be required as part of a Site Certification Agreement.

18. The Council finds that the Applicant should be required to maintain access to all areas where tribal members currently enjoy and exercise their traditional practices.

19. The Council finds that constructing the Horse Heaven Wind Farm would result in some unavoidable negative impacts to Yakama Nation Traditional Cultural Properties (TCPs).

20. The Council finds Scout's Project design does not sufficiently avoid or minimize impacts to Yakama Nation TCPs that could be mitigated by altering Project design.

21. *The Council concludes* that it is necessary to further reduce impacts to Yakama Nation's TCPs beyond what has been proposed by the Applicant.

Visual Impacts

22. The Council finds that the Project, as proposed, would visually transform the region and, due to the location of wind turbines along ridgelines, be especially impactful on the communities of Benton City and the City of Kennewick due to an undesirable "skylining" effect.

23. The Council finds the Applicant followed industry standards for quantitatively analyzing the Project's visual impacts. The Council further finds that the Applicant complied with EFSEC's established standard to prevent wind turbines from looming over residential structures neighboring the Project. However, the Council also finds the Applicant failed to conduct sufficient outreach to local communities in selecting key observation points for visual analysis and determining the more qualitative impacts on local residents.

24. *The Council concludes* that further mitigation measures, to include elimination and removal of multiple turbines, must be required in order to minimize the visual impact of the Project on the Tri-Cities region and on Yakama Nation TCPs.

Wildlife Impacts

25. The Council finds that ferruginous hawks, a state endangered species, have historically used the Project site and continue to do so.

26. The Council recognizes that numerous environmental stressors, including loss of shrub-steppe habitat, are negatively influencing the ability of ferruginous hawks to persist in Washington State. The Council finds that the Project, as proposed and presented on this adjudicative record, would pose a new and significant threat to the ferruginous hawk.

27. The Council finds the Applicant has not offered sufficient assurance or identified sufficient mitigation measures to demonstrate the Project would produce only minimal adverse effects on the ferruginous hawk.

28. *The Council concludes* that additional avoidance and mitigation measures must be imposed on the Project to protect existing ferruginous hawk nests and habitat and also to minimize impacts on the ability of ferruginous hawks to return to certain areas of historic usage.

29. The Council finds that pronghorn antelope travel through and forage within the Project boundary and that the Project's solar arrays will diminish and fragment pronghorn grazing habitat.

30. The Council finds there is insufficient research or data available to fully understand the potential impact of wind turbines on pronghorn antelope and their ability to make use of habitat in and around wind farms.

31. *The Council concludes* the Applicant must consult and coordinate with WDFW and Yakama Nation to modify its final designs for siting and fencing its solar arrays to minimize impacts to pronghorn. T*he Council further concludes* the Applicant must conduct post-construction monitoring to study whether the addition of wind turbines affects pronghorn use of land in and around the Project.

32. The Council finds the adjudicative record is not clear whether regional bat populations can sustain the possible levels of mortality caused by this Project. Therefore, t*he Council concludes* additional pre-construction surveys and post-construction mortality monitoring should be required in order to best inform micrositing considerations and adaptive management strategies for bats.

33. *The Council concludes* that pre-construction surveys to develop an estimate of seasonal and regional bat populations should be required as a condition of certification.

Socioeconomic Impacts

34. The Council finds that constructing the Horse Heaven Wind Farm as proposed would transform the Tri-Cities region by altering the landscape from Benton City all the way to Finley. The Council further finds that twenty-five miles of turbines, particularly those skylined atop the ridgelines, would irreversibly alter the visual landscape of the region.

35. *The Council concludes* that tourists who come to Benton County to enjoy Eastern Washington's wide-open spaces and unobstructed views would no longer be able to do so within sight of wind turbines or solar arrays.

36. The Council finds the Project has no measurable impacts on individual real estate values in the Tri-Cities area. *The Council concludes* that personal reactions to and opinions about the Project are highly subjective.

37. The Council finds the Project's wind turbines would promote and benefit farming within the Project boundaries for participating landowners. The Council further finds the Project will generate additional taxes to support all local government taxing districts, including fire districts, school districts, and ports.

38. The Council finds the Project's roadways would improve access within the Project boundaries for ground firefighting activities. The Council also finds that wind turbines located along the northern Project boundary would present challenges to aerial firefighting techniques historically used in the area.

39. The Council finds that fire suppression standards for BESS technology is evolving. Therefore, *the Council concludes* that it is the Applicant's responsibility to ensure industry standard fire safety controls are implemented at all of the Project's BESS installations.

40. The Council finds the Project, as proposed, would negatively impact recreational opportunities currently enjoyed by local hang gliders and paragliders. The Council further finds the Project would alter views previously enjoyed by hikers, bikers, and tourists visiting the region.

41. *The Council concludes* the Project would generate economic benefits for the region, including increased employment during construction and operation, as well as additional tax revenues that will support local government taxing districts.

Environmental Justice

42. The Council finds the Yakama Nation to be an overburdened community as defined by state law. RCW 70A.02.010(11) and RCW 19.405.020(23).

43. The Council finds the Applicant failed to demonstrate effective outreach and engagement to all underrepresented communities in the Tri-Cities region.

Project Benefits

44. The Council finds the Project's environmental benefits include generation of clean energy from renewable sources with no new emissions of carbon dioxide or other greenhouse gases.

45. The Council finds the Project would provide economic benefits to Benton County and Washington State in the form of jobs during both its construction and operation, tax revenues, and the clean energy produced and stored.

V. ORDER

The Council hereby resolves the contested assertions raised by the parties in support of and opposition to the Project. The Council's findings of fact and conclusions of law on the adjudicative record will be considered by the Council, along with the Final Environmental Impact Statement, public comments, and government-to-government consultations, in developing a recommendation to the governor.

DATED and effective at Olympia, Washington, on the 17th day of April 2024

WASHINGTON ENERGY FACILITY
SITE EVALUATION COUNCIL

Kathleen Drew
Chair

Elizabeth Osborne
Department of Commerce

Eli Levitt
Department of Ecology

Mike Livingston
Department of Fish and Wildlife

Lenny Young
Department of Natural Resources

Stacey Brewster
Utilities and Transportation Commission

Ed Brost
Benton County

NOTICE TO PARTIES: In accordance with WAC 463-30-335, administrative relief may be available through a petition for reconsideration of the Recommendation Package to the Governor. The Council requires requests for reconsideration to address all of the filing party's concerns raised by the Recommendation Package in a single petition. Petitions for reconsideration must be filed within 20 days of the service of this Order and the Recommendation Package to the Governor. If any such petition for reconsideration is timely filed, the deadline for answers is fourteen days after the date of service of each such petition. The formatting of petitions for reconsideration shall be governed by WAC 463-30-120 and shall be limited to 50 pages.

Attachment 2: Index of Supporting Documentation

Index of Documents for the Recommendation to the Governor
Horse Heaven Wind Project
April 29, 2024

Process	Category	Description	Document link	Confidential?
Report to the Governor	Letter	Cover Letter	EFSEC Website	
Report to the Governor	Report	Report to the Governor	EFSEC Website	
Report to the Governor	Attachment	File Name Abbreviations and Acronyms	EFSEC Website	
SCA	SCA	Draft Site Certification Agreement for the Horse Heaven Wind Farm	EFSEC Website	
Adjudication	Order	Order No. 892 Final Adjudicative Order	EFSEC Website	
Adjudication	Order	Order 883 Land Use Consistency Order	EFSEC Website	
Adjudication	Order	Order - Order Commencing Agency Adjudication; Setting Deadline for Petitions to Intervene; Notice of Telephonic Pre-Hearing Conference	EFSEC Website	
Adjudication	Order	Order - Pre-Hearing Conference Order No. 1 (3/17/2023)	EFSEC Website	
Adjudication	Order	Order - Pre-Hearing Conference Order No. 1 Attachment (3/17/2023)	EFSEC Website	
Adjudication	Order	Order - Pre-Hearing Conference Order No. 2 (5/19/2023)	EFSEC Website	
Adjudication	Order	Objection - Tr Tri-Cities C.A.R.E.S. Objection to Pre-Hearing Conference Order No. 2 (5/30/2023)	EFSEC Website	
Adjudication	Order	Preliminary Order on Intervention (3/9/2023)	EFSEC Website	
Adjudication	Order	Order - Protective Order (5/24/2023)	EFSEC Website	
Adjudication	Order	Order - Pre-Hearing Order Regarding Naming Conventions for All Evidentiary Filings (5/26/2023)	EFSEC Website	
Adjudication	Order	Order - Pre-Hearing Order Regarding Naming Conventions for All Evidentiary Filings Appendix 1 (5/26/2023)	EFSEC Website	
Adjudication	Order	Order - Pre-Hearing Order Regarding Naming Conventions for All Evidentiary Filings Appendix 2 (5/26/2023)	EFSEC Website	
Adjudication	Order	Order Denying (Without Oral Argument) Parties' Motions to Continue or Stay Adjudicative Proceedings Pending Issuance of Final Environmental Impact Statement (FEIS) (6/5/2023)	EFSEC Website	
Adjudication	Order	Order – Order Overruling Parties Objections to Second Prehearing Conference Order (6/12/2023)	EFSEC Website	
Adjudication	Order	Order Denying TCC ALJ DQ/Recusal (6/23/2023)	EFSEC Website	
Adjudication	Order	Order - Order Denying Joint Motion to Strike Testimony (6/26/2023)	EFSEC Website	
Adjudication	Order	Order - Order Granting Tri-Cities C.A.R.E.S. Motion to Compel Attendance of Senior Project Manager David Kobus at a Deposition; Granting (In Part) Tri-Cities C.A.R.E.S. Motion For Sanctions; Denying Applicant's Motion For Protective Order (7/21/2023)	EFSEC Website	
Adjudication	Order	Order - Prehearing Conference Order No. 3 (7/31/2023)	EFSEC Website	

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Process	Category	Description	Document link	Confidential?
Adjudication	Order	Order - Corrected Prehearing Conference Order No. 3 (7/31/2023)	EFSEC Website	
Adjudication	Order	Order - Prehearing Conference Order No. 4 (8/7/2023)	EFSEC Website	
Adjudication	Order	Order - Order Denying Tri-Cities C.A.R.E.S. Motion to Dismiss Application Due to Water Supply Issue (8/7/2023)	EFSEC Website	
Adjudication	Order	Order - Order Designating Certain Pre-Filed Testimony as Public Comment (8/14/2023)	EFSEC Website	
Adjudication	Order	Order - Order Granting Motions to Supplement the Record (8/15/2023)	EFSEC Website	
Adjudication	Order	Order - Order Granting Counsel for the Environment's Motion to Supplement Record (8/16/2023)	EFSEC Website	
Adjudication	Order	Order - ALJ Oral Ruling on Tri-Cities C.A.R.E.S. Motion to Compel (8/16/2023)	EFSEC Website	
Adjudication	Order	Order - Order Granting Scout Clean Energy Motion to Submit Kobus Supplemental Testimony (8/16/2023)	EFSEC Website	
Adjudication	Order	Order Granting in Part Tri-Cities C.A.R.E.S. Motion for Reconsideration (8/21/2023)	EFSEC Website	
Adjudication	Order	Order - Oral Ruling on Applicant's Motion to Strike Tri-Cities C.A.R.E.S. Response and Rebuttal Testimony (8/22/2023)	EFSEC Website	
Adjudication	Order	Council Order No. 887 - Order Denying Request for Public Comment Hearing (9/8/2023)	EFSEC Website	
Adjudication	Order	Council Order No. 888 - Order Denying Request To Call WDFW Employees for Cross Examination (9/15/2023)	EFSEC Website	
Adjudication	Order	Order - Order on Post-Hearing Supplemental Testimony (9/22/2023)	EFSEC Website	
Adjudication	Order	Order – Order in Response to the Confederated Tribes and Bands of the Yakama Nation's "Petition for Reconsideration" of Council Order No. 888 (10/27/2023)	EFSEC Website	
Adjudication	Order	Council Order No. 890 - Order Denying "Petition For Reconsideration" of Order on Post-Hearing Motions to Supplement Record; Denying Further Adjudicative Hearings for Cross-Examination of Supplemental and Rebuttal Witness Testimony (11/07/2023)	EFSEC Website	
Adjudication	Briefs	Prehearing - Benton County (8/9/2023)	EFSEC Website	
Adjudication	Briefs	Prehearing - Scout Clean Energy (8/9/2023)	EFSEC Website	
Adjudication	Briefs	Amended Prehearing - Scout Clean Energy (8/10/2023)	EFSEC Website	
Adjudication	Briefs	Prehearing - Tri-Cities C.A.R.E.S. (8/9/2023)	EFSEC Website	
Adjudication	Briefs	Prehearing - Confederated Tribes and Bands of the Yakama Nation (8/9/2023)	EFSEC Website	
Adjudication	Briefs	Post Hearing - Benton County (10/13/2023)	EFSEC Website	
Adjudication	Briefs	Post Hearing - Scout Clean Energy (10/13/2023)		Confidential

Index of Documents for the Recommendation to the Governor
Horse Heaven Wind Project
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Process	Category	Description	Document link	Confidential?
Adjudication	Briefs	Post Hearing - Tri-Cities C.A.R.E.S. (10/13/2023)		Confidential
Adjudication	Briefs	Post Hearing - Confederated Tribes and Bands of the Yakama Nation (10/13/2023)		Confidential
Adjudication	Motions	Motion to Compel Dave Kobus - Tri-Cities C.A.R.E.S (6/25/2023)	EFSEC Website	
Adjudication	Motions	Motion to Compel Dave Kobus – Exhibit A - Tri-Cities C.A.R.E.S (6/25/2023)	EFSEC Website	
Adjudication	Motions	Motion to Compel Dave Kobus – Exhibit B - Tri-Cities C.A.R.E.S (6/25/2023)	EFSEC Website	
Adjudication	Motions	Motion to Compel Dave Kobus – Exhibit C - Tri-Cities C.A.R.E.S (6/25/2023)	EFSEC Website	
Adjudication	Motions	Motion to Compel Dave Kobus – Exhibit D - Tri-Cities C.A.R.E.S (6/25/2023)	EFSEC Website	
Adjudication	Motions	Motion to Compel Dave Kobus – Exhibit E - Tri-Cities C.A.R.E.S (6/25/2023)	EFSEC Website	
Adjudication	Motions	Motion to Compel Dave Kobus – Exhibit F - Tri-Cities C.A.R.E.S (6/25/2023)	EFSEC Website	
Adjudication	Motions	Motion to Compel Dave Kobus – Exhibit G - Tri-Cities C.A.R.E.S (6/25/2023)	EFSEC Website	
Adjudication	Motions	Motion to Compel Dave Kobus - Declaration of Aramburu - Tri-Cities C.A.R.E.S (6/25/2023)	EFSEC Website	
Adjudication	Motions	Opposition to Motion to Compel - Scout Clean Energy (6/28/2023)	EFSEC Website	
Adjudication	Motions	Opposition to Motion to Compel – Declaration of Willa Perlmutter- Scout Clean Energy (6/28/2023)	EFSEC Website	
Adjudication	Motions	Reply to Opposition to Motion to Compel - Tri-Cities C.A.R.E.S (7/3/2023)	EFSEC Website	
Adjudication	Motions	Motion to Compel Production - Tri-Cities C.A.R.E.S (7/28/2023)	EFSEC Website	
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Adjudication	Exhibits	EXH-1011 - Shook, Morgan - Ben Hoen et al., *Wind Energy Facilities and Residential Properties: The Effect of Proximity and View on Sales Prices*, 33 Journal of Real Estate Research 3, 279-316 (2011)	EFSEC Website	
Adjudication	Exhibits	EXH-1012 – Shook, Morgan - Ben Hoen et al., *The Impact of Wind Power Projects on Residential Property Values in the United States: A Multi-Site Hedonic Analysis*, Lawrence Berkeley National Laboratory (2009)	EFSEC Website	
Adjudication	Exhibits	EXH-1013 - Shook, Morgan - Steven Laposa & Andrew Mueller, *Wind Farm Announcements and Rural Home Prices: Maxwell Ranch and Rural Northern Colorado*, 2 Journal of Sustainable Real Estate 1, 383-402 (2010)	EFSEC Website	
Adjudication	Exhibits	EXH-1014 - Shook, Morgan - Vasundhara Gaur & Corey Lang, *Property Value Impacts of Commercial-Scale Solar Energy in Massachusetts and Rhode Island*, University of Rhode Island (2020)	EFSEC Website	
Adjudication	Exhibits	EXH-1015 - Shook, Morgan - Leila Al-Hamoodah et al., *An Exploration of Property-Value Impacts Near Utility-Scale Solar Installations*, University of Texas at Austin (2018)	EFSEC Website	
Adjudication	Exhibits	EXH – 1016 - Shook, Morgan - Corey Lang et al., *The Windy City: Property Value Impacts of Wind Turbines in an Urban Setting*, 44 Energy Economics, 413-421 (2014)	EFSEC Website	
Adjudication	Exhibits	EXH – 1017 - Shook, Morgan - Ben Hoen & Carol Atkinson-Palombo, *Wind Turbines, Amenities and Disamenitites: A study of Home Value Impacts in Densely Populated Massachusetts*, 38 Journal Of Real Estate Research 4, 473-504 (2016)	EFSEC Website	
Adjudication	Exhibits	EXH – 1018 - Shook, Morgan - Patrick Devine-Wright, *Beyond Nimbyism: Towards an Integrated Framework for Understanding Public Perceptions of Wind Energy,* 8 Wind Energy 2, 125-139 (2005)	EFSEC Website	
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Adjudication	Exhibits	EXH – 1020 - Shook, Morgan - Salma Elmallah, Ben Hoen, K. Sydny Fujita, Dana Robson, Eric Brunner, *Shedding light on large-scale solar impacts: An analysis of property values and proximity to photovoltaics across six U.S. states,* 175 Journal of Energy Policy (April 2023)	EFSEC Website	
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Adjudication	Exhibits	EXH-3004_R - McIvor, Donald - BCI (Bat Conservation International). 2023. Hoary Bat	EFSEC Website	
Adjudication	Exhibits	EXH-3005_R - McIvor, Donald - Frick, W. F., E. F. Baerwald, J. F. Pollock, R. M. R. Barclay, J. A. Szymanski, T. J. Weller, A. L. Russell, S.C. Loeb, R.A. Medellin, and L. P. McGuire. 2017. Fatalities at wind turbines may threaten population viability of a migratory bat. Biological Conservation 209:172–177	EFSEC Website	
Adjudication	Exhibits	EXH-3006_R - McIvor, Donald - HHWF (Horse Heaven Wind Farm, LLC). 2020. Horse Heaven Wind Farm, Washington Energy Facility Site Evaluation Council, Application for Site Certification. Appendix M: Bird and Bat Conservation Strategy. December. (Updated).	EFSEC Website	
Adjudication	Exhibits	EXH-3007_R - McIvor, Donald - Rydell, J., L. Bach, M. Dubourg-Savage, M. Green, L. Rodrigues, and A. Hedenström. 2010. Bat mortality at wind turbines in northwestern Europe. Acta Chiropterologica 12(2): 261–274	EFSEC Website	
Adjudication	Exhibits	EXH-3008_R - McIvor, Donald - AWWI (American Wind Wildlife Institute). 2018. Bats and Wind Energy: Impacts, Mitigation, and Tradeoffs. American Wind Wildlife Institute White Paper. www.awwi.org/resources/bat-white-paper/	EFSEC Website	
Adjudication	Exhibits	EXH-3009_R - McIvor, Donald - AWWI (American Wind Wildlife Institute). 2019. Wind Turbine Interactions with Wildlife and Their Habitats: A Summary of Research Results and Priority Questions. Washington, DC. www.awwi.org	EFSEC Website	
Adjudication	Exhibits	EXH-3010_R - McIvor, Donald - Hayes M. A., Hooton L. A., Gilland K. L., Grandgent C., Smith R. L., Lindsay S. R., Collins J. D., Schumacher S. M., Rabie P. A., Gruver J. C., and J. Goodrich-Mahoney. 2019. A smart curtailment approach for reducing bat fatalities and curtailment time at wind energy facilities. Ecological Applications 29(4):e01881	EFSEC Website	
Adjudication	Exhibits	EXH-3011_R - McIvor, Donald - Hayes, G. E. and J. W. Watson. 2021. Periodic Status Review for the Ferruginous Hawk. Washington Department of Fish and Wildlife, Olympia, Washington	EFSEC Website	
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Adjudication	Exhibits	EXH-3015_R - McIvor, Donald - Harmata, A. R., M. Restani, G. J. Montopoli, J. R. Zelenak, J. T. Ensign, and P. J. Harmata. 2001. Movements and mortality of Ferruginous Hawks banded in Montana. Journal of Field Ornithology 72:389-398. [Cited in Hayes and Watson (2021)]	EFSEC Website	
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Adjudication	Transcript	Transcript of Hearing Day No. 3	EFSEC Website Or Video	
Adjudication	Transcript	Transcript of Hearing Day No. 4		Confidential
Adjudication	Transcript	Transcript of Hearing Day No. 5		Confidential
Adjudication	Transcript	Transcript of Hearing Day No. 6		Confidential
Adjudication	Transcript	Transcript of Hearing Day No. 7	EFSEC Website Or Video	
Adjudication	Transcript	Transcript of Hearing Day No. 8		Confidential
Adjudication	Transcript	Transcript of Discovery Conference	EFSEC Website Or Video	
Adjudication	Transcript	Transcript of Public Comment Hearing	EFSEC Website Or Video	
Adjudication	Comment	Public Comments	EFSEC Website	

Index of Documents for the Recommendation to the Governor
Horse Heaven Wind Project
April 29, 2024

Process	Category	Description	Document link	Confidential?
Original ASC	ASC	Cover letter	EFSEC Website	
Original ASC	ASC	Original Application	EFSEC Website	
Original ASC	ASC	Appendix A Decommissioning Plan	EFSEC Website	
Original ASC	ASC	Appendix B Preliminary Geotechnical Investigation Report	EFSEC Website	
Original ASC	ASC	Appendix C SEPA Checklist	EFSEC Website	
Original ASC	ASC	Appendix D County Zoning Determination	EFSEC Website	
Original ASC	ASC	Appendix E Turbine and Access Road Displacement Area	EFSEC Website	
Original ASC	ASC	Appendix F Landowner Legal Description	EFSEC Website	
Original ASC	ASC	Appendix G Shadow Flicker Analysis Memo	EFSEC Website	
Original ASC	ASC	Appendix H Glare Analysis Report	EFSEC Website	
Original ASC	ASC	Appendix I Wetland Delineation Report	EFSEC Website	
Original ASC	ASC	Appendix J Water Source Documentation	EFSEC Website	
Original ASC	ASC	Appendix K Biological Reports		Confidential
Original ASC	ASC	Appendix L Habitat Mitigation Plan		Confidential
Original ASC	ASC	Appendix M Bird and Bat Conservation Strategy		Confidential
Original ASC	ASC	Appendix N Revegetation & Noxious Weed Control Plan	EFSEC Website	
Original ASC	ASC	Appendix O Acoustic Modeling Results	EFSEC Website	
Original ASC	ASC	Appendix P Emergency Response Plan	EFSEC Website	
Original ASC	ASC	Appendix Q Visual Simulation	EFSEC Website	
Original ASC	ASC	Appendix R Cultural Resources Report		Confidential
Original ASC	ASC	Appendix S Economic Impact Study	EFSEC Website	
Original ASC	ASC	Appendix T Notice of Intent for NPDES Permit	EFSEC Website	
Original ASC	ASC	Appendix U Consultation Materials	EFSEC Website	
Original ASC	ASC	Appendix V TLG Transportation Study	EFSEC Website	
Final ASC	ASC	Cover Letter	EFSEC Website	
Final ASC	ASC	Final Application	EFSEC Website	
Final ASC	ASC	Final Application (Redline)	EFSEC Website	
Final ASC	ASC	Change log	EFSEC Website	
Final ASC	ASC	Appendix A Decommissioning Plan	EFSEC Website	
Final ASC	ASC	Appendix B Preliminary Geotechnical Investigation Report	EFSEC Website	
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Final ASC	ASC	Appendix J Water Source Documentation	EFSEC Website	
Final ASC	ASC	Appendix K Biological Reports		Confidential
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Final ASC	ASC	Appendix M Bird and Bat Conservation Strategy		Confidential
Final ASC	ASC	Appendix N Revegetation & Noxious Weed Control Plan	EFSEC Website	
Final ASC	ASC	Appendix O Acoustic Modeling Results	EFSEC Website	
Final ASC	ASC	Appendix P Emergency Response Plan (Revised)	EFSEC Website	
Final ASC	ASC	Appendix P Emergency Response Plan (Revised) (Redline)	EFSEC Website	
Final ASC	ASC	Appendix Q Visual Simulation	EFSEC Website	
Final ASC	ASC	Appendix Q Visual Simulation (Redline)	EFSEC Website	
Final ASC	ASC	Appendix R Cultural Resources Report		Confidential
Final ASC	ASC	Appendix S Economic Impact Study	EFSEC Website	
Final ASC	ASC	Appendix T Notice of Intent for NPDES Permit	EFSEC Website	
Final ASC	ASC	Appendix U Consultation Materials	EFSEC Website	
Final ASC	ASC	Appendix V TLG Transportation Study	EFSEC Website	
Final ASC	ASC	Appendix W Air Quality Dispersion Modeling Evaluation	EFSEC Website	
Final ASC	ASC	Appendix W Air Quality Dispersion Modeling Evaluation (Redline)	EFSEC Website	
Final ASC	ASC	Appendix X Traffic Impact Analysis	EFSEC Website	
Final ASC	ASC	Appendix X Traffic Impact Analysis (Redline)	EFSEC Website	
Final EIS	SEPA	Cover letter	EFSEC Website	
Final EIS	SEPA	Executive Summary	EFSEC Website	
Final EIS	SEPA	Fact Sheet	EFSEC Website	
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Final EIS	SEPA	Chapter 1 – Project Background and Purpose	EFSEC Website	

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Process	Category	Description	Document link	Confidential?
Final EIS	SEPA	Chapter 2 – Proposed Action and Alternatives	EFSEC Website	
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Final EIS	SEPA	Chapter 4 – Analysis of Potential Impacts	EFSEC Website	
Final EIS	SEPA	Chapter 5 – Cumulative Impacts	EFSEC Website	
Final EIS	SEPA	Chapter 6 – References	EFSEC Website	
Final EIS	SEPA	Chapter 7 – List of Preparers	EFSEC Website	
Final EIS	SEPA	Chapter 8 – Glossary	EFSEC Website	
Final EIS	SEPA	Chapter 9 – Distribution	EFSEC Website	
Final EIS	SEPA	Chapter 10 – Comments & Responses on Draft EIS	EFSEC Website	
Final EIS	SEPA	Appendix 3.5- Habitat Photos	EFSEC Website	
Final EIS	SEPA	Appendix 3.8-1 LSU Consistency Analysis	EFSEC Website	
Final EIS	SEPA	Appendix 3.10-1 Sky Glow Comparisons	EFSEC Website	
Final EIS	SEPA	Appendix 3.10-2 Updated SWCA Visual Study	EFSEC Website	
Final EIS	SEPA	Appendix 3.16-1 Proximity to Environmental Stressors	EFSEC Website	
Final EIS	SEPA	Appendix 4.3-1 Air Quality Emissions Calculations	EFSEC Website	
Final EIS	SEPA	Appendix 4.3-2 Tetra Tech 2023 Air Quality Dispersion Modeling Evaluation	EFSEC Website	
Final EIS	SEPA	Appendix 4.6-1 Wildlife Collision Study	EFSEC Website	
Final EIS	SEPA	Appendix 4.10-1 Glare Analysis Report	EFSEC Website	
Final EIS	SEPA	Appendix 4.11-1 Noise Modeling Assessment	EFSEC Website	
Final EIS	SEPA	Appendix 4.16-1 Economic Impact Analysis Methodology	EFSEC Website	
Final EIS	SEPA	Appendix 10-1 Comments and Responses on Draft EIS	EFSEC Website	
Final EIS	Transcript	November 29, 2023 Horse Heaven FEIS Special Meeting	EFSEC Website or Video	
Draft EIS	Transcript	February 1, 2023 Horse Heaven Draft EIS Public Comment Meeting	EFSEC Website or Video part 1 Video part 2 Video part 3	
Informational Meeting	Transcript	March 30, 2021 Horse Heaven Informational Meeting Transcript	EFSEC Website or Video	
Land Use Hearing	Transcript	March 30, 2021 Horse Heaven Land Use Hearing	EFSEC Website or Video	
Comments	Action Items	December 20, 2023 Mitigation Measures	EFSEC Website	
Comments	Action Items	January 31, 2024 Mitigation Measures	EFSEC Website	
Comments	Action items	January 31, 2024 Extension Request	EFSEC Website	
Comments	Draft SCA	April 1-10, 2021 Draft SCA comment period	EFSEC Website	

Attachment 3: File Name Abbreviations and Acronyms

Recommendation to the Governor - Horse Heaven Wind Farm

File Name Abbreviations and Acronyms

APP	Appendix
ASC	Application for Site Certification
ATTACH	Attachment
BEN	Benton County
CFE	Counsel for the Environment
_ CONFIDENTIAL	Unredacted (non-public) version that contains confidential information or other information exempt from public disclosure under RCW 42.56
DecServ	Declaration of Service
DEP	Deposition
EIS	Environmental Impact Statement
EXH	Exhibit
FEIS	Final Environmental Impact Statement
HH	Horse Heaven
HHWF	Horse Heaven Wind Farm
MOT	Motion
OBJ	Objection
OCAA	Order Commencing Agency Adjudication
PHC	Pre-hearing Conference
PHO	Pre-hearing Order
_R	Rebuttal
_REDACTED	These versions were redacted by the applicant. Unless the file name or first page are marked “Redacted by EFSEC,” they have not been redacted in accordance with the Washington State Public Records Act.
REV	Revised Version
_S	Supplemental Exhibit/Testimony
SCA	Site Certification Agreement
SCE	Scout Clean Energy (Applicant)
_T	Testimony
TCC	Tri-Cities C.A.R.E.S.
TYN	Confederated Tribes and Bands of the Yakama Nation
_X	Cross-exhibit

Attachment 4: Certificate of Service

CERTIFICATE OF SERVICE

I, Joan Owens, am a Executive Assistant employed by the Energy Facility Site Evaluation Council, hereby certify on Monday, April 29, 2024, I served the following documents on each of the parties listed below.

- Cover letter
- Report to the Governor
- Final Adjudicative Order 892
- Draft Site Certification Agreement for the Horse Heaven Wind Farm
- Index of supporting Documentation
- File Name Abbreviations and Acronyms

Party	Method of Service
Assistant Attorney General Sarah Reyneveld Attorney General's Office 800 Fifth Avenue, Suite 2000 (TB/14) Seattle, WA 98104-3188 sarah.reyneveld@atg.wa.gov julie.dolloff@atg.wa.gov CEPSeaEF@atg.wa.gov *Attorneys for Counsel for the Environment*	email
Party	Method of Service
Kenneth W. Harper Aziza L. Foster Menke Jackson Beyer, LLP 807 North 39th Avenue Yakima, WA 98902 kharper@mjbe.com zfoster@mjbe.com Julie@mjbe.com *Attorneys for Benton County*	email
Party	Method of Service
J. Richard Aramburu Law Offices of J. Richard Aramburu, PLLC 705 2nd Ave, Suite 1300 Seattle, WA 98104-1797 rick@aramburulaw.com aramburulaw@gmail.com *Attorneys for Tri-Cities C.A.R.E.S.*	email

Party	Method of Service
Ethan Jones Shona Voelckers Jessica Houston Yakama Nation Office of Legal Counsel P.O. Box 151 Toppenish, WA 98948 ethan@yakamanation-olc.org shona@yakamanation-olc.org jessica@yakamanation-olc.org *Attorneys for Confederated Tribes and Bands of the Yakama Nation*	email
Party	Method of Service
Timothy L. McMahan Ariel Stavitsky Emily Schimelpfenig Willa B. Perlmutter Stoel Rives 760 SW Ninth Ave, Suite 3000 Portland, OR 97205 willa.perlmutter@stoel.com tim.mcmahan@stoel.com ariel.stavitsky@stoel.com emily.schimelpfenig@stoel.com *Attorneys for Scout Clean Energy, LLC (Applicant)*	email
Party	Method of Service
Dave Kobus Horse Heaven Wind Farm, LLC 5775 Flatiron Parkway, Suite 120 Boulder, CO 80301 dave@scoutcleanenergy.com *Scout clean Energy, LLC (Applicant)*	email

I certify under penalty of perjury under the law of the State of Washington that the foregoing is true and correct.

DATED this 29th day of April 2024, at Lacey, Washington.

Joan Owens, Executive Assistant

STATE OF WASHINGTON
OFFICE OF GOVERNOR JAY INSLEE

May 23, 2024

Kathleen Drew, Chair
Energy Facility Site Evaluation Council
1300 S. Evergreen Park SW
PO Box 43172
Olympia, WA 98504

RE: Horse Heaven Wind Farm Project
EFSEC Recommendation dated April 29, 2024

Dear Chair Drew:

As an initial matter, I want to express my gratitude for the significant body of work that led to the Energy Facility Site Evaluation Council's (Council or EFSEC) recommendation to approve the Horse Heaven Wind Farm Project (Project). However, pursuant to RCW 80.50.100, I am directing the Council to reconsider certain aspects of the draft site certification agreement (SCA) submitted to my Office on April 29, 2024, as outlined below, based on the existing record before the Council.

Before identifying specific matters for reconsideration, I want to reiterate the following statutory policy statement that, among other factors, must guide the Council's work:

> It is the policy of the state of Washington to reduce dependence on fossil fuels by recognizing the need for clean energy in order to strengthen the state's economy, meet the state's greenhouse gas reduction obligations, and mitigate the significant near-term and long-term impacts from climate change while conducting a public process that is transparent and inclusive to all with particular attention to overburdened communities.

RCW 80.50.010.

Washington state faces the stark reality that without a rapid buildout of new clean energy generation and transmission, the dependability of our electricity grid is at risk. We must come to grips with the fact that we will need to adapt and accept relatively moderate changes to our physical landscape, in order to ensure continued, reliable electricity service.

Our State Energy Strategy shows electricity demand in Washington could grow by 13-20% over 2020 levels by 2030. By 2050, electricity load growth is expected to increase to 92% above the 2020 levels. At the same time, the Clean Energy Transformation Act prohibits use of electricity from coal-fired generation facilities to serve electric loads after 2025, requires carbon neutral electricity supplies starting in 2030, and requires 100% renewable or non-emitting electricity supplies by 2045. For these reasons, the siting and permitting of clean electricity projects is vital to addressing Washington state's power supply and clean energy requirements.

As it was originally proposed, this Project would provide 1,150 megawatts of electricity, approximately 5% of the new electricity generation needed in the next decade. For context, the region will need to build roughly twenty additional clean energy projects of this magnitude to meet Washington's projected electricity load growth by 2035.

Indeed, for these reasons the Council's statute makes clear that the siting and permitting of clean energy facilities is a critical priority for Washington:

> It is the policy of the state of Washington to **recognize the pressing need for increased energy facilities, and to ensure** through available and reasonable methods that the location and operation of all energy facilities and certain clean energy product manufacturing facilities will produce **minimal adverse effects** on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.
>
> It is the intent to seek courses of action that will **balance the increasing demands for energy facility location and operation in conjunction with the broad interests of the public**. In addition, it is the intent of the legislature to **streamline application review** for energy facilities **to meet the state's energy goals** and to authorize applications for review of certain clean energy product manufacturing facilities to be considered under the provisions of this chapter.

RCW 80.50.010 (emphasis added).

In short, the statute directs the Council to balance the environmental impacts with bold action to meet our state's pressing energy needs. To this end, the Council's action should be based on the following key policies enunciated in its statute, which also emphasize the need for clean energy:

> (1) To assure Washington state citizens that, where applicable, operational safeguards are at least as stringent as the criteria established by the federal government and are technically sufficient for their welfare and protection.
> (2) To preserve and protect the quality of the environment; to enhance the public's opportunity to enjoy the esthetic and recreational benefits of the air, water and land resources; to promote air cleanliness; to pursue beneficial changes in the environment; and to promote environmental justice for overburdened communities.

(3) To encourage the development and integration of clean energy sources.
(4) To provide abundant clean energy at reasonable cost.
(5) To avoid costs of complete site restoration and demolition of improvements and infrastructure at unfinished nuclear energy sites, and to use unfinished nuclear energy facilities for public uses, including economic development, under the regulatory and management control of local governments and port districts.
(6) To avoid costly duplication in the siting process and ensure that decisions are made timely and without unnecessary delay while also encouraging meaningful public comment and participation in energy facility decisions.

RCW 80.50.010.

As I have outlined here, the Council's statutory framework emphasizes the importance of permitting and siting clean energy facilities. While it is incumbent upon the Council to minimize environmental and other impacts of these projects where feasible, the critical need for rapid and large-scale growth in our state's clean energy generation capacity should guide the Council's consideration of conditions or limitations that would limit the scale of proposed clean energy projects.

With these general considerations as a background, I turn now to my evaluation of EFSEC's recommendation.

In order to review the Council's recommendation and the extensive record in this matter, I convened a team of seven advisors including policy area experts, my general counsel, and two Assistant Attorneys General. We met a number of times, in some cases on a near daily basis as we delved into the record materials. In addition, we consulted with the Council's technical staff for assistance in quickly locating information in the extensive record.

In General

I find that the extensive record compiled by the Council provides robust detail as to the nature and complexity of the potential impacts of the proposed Project and identifies a range of measures to mitigate to various degrees these potential impacts. The record is robust and satisfactory from my perspective for the purposes of siting and permitting the proposed Project, and I concur in the Council's determination that the Project is consistent with the County land use plan and zoning ordinances per Orders 883 and 892.

However, I am directing 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.

For example, the Council recommended excluding turbines from the micrositing corridor identified as "Class 3 Impact" in Figures 2-5 and 2-6 of the Final EIS in order to minimize multiple "compounding" impacts.[1] However, I find that that this approach of eliminating a large swath of the proposed turbine locations to achieve a generalized reduction in impacts across a number of categories takes an overly broad approach to addressing the very different types of impacts at issue. This results in a dramatic reduction in the overall scope of the proposed Project. The outright prohibition of turbine locations should be replaced with mitigation in the form of operational conditions that allow for build-out of the vast majority of the proposed Project.

On reconsideration, the Council should review the existing, robust record and design mitigation requirements consistent with the structure and approach that I have outlined here. The goal of the mitigation is to reduce the impacts wherever reasonably feasible. However, significant impacts may be accepted as part of this vital Project where they cannot be reasonably mitigated. Based on my review of the record and the potential impacts, mitigation measures that substantially reduce the generation capacity of the proposed Project should not be required.

Further, I specifically direct the Council to reconsider the mitigation requirements in light of my observations and direction in a number of key specific areas, including mitigation for impacts to wildlife, habitat, visual, and cultural resources.

Wildlife and Habitat

Based on my review of the record it is clear that with narrowly tailored mitigation, impacts to wildlife and habitat can be adequately mitigated including but not limited to ferruginous hawks, pronghorn antelope, several species of bats, and ground squirrels. The Council should reconsider, however, certain mitigation measures that are overbroad and would unnecessarily result in limiting the generation capacity of the Project such as mitigation for the ferruginous hawk, as well as the habitat mitigation measures included in the draft SCA.

The record shows that substantial disturbance from agricultural and residential land use has caused a significant decline in the ferruginous hawk population at the Project site and calls into question whether the ferruginous hawks will return given the considerable, permanent changes to their habitat. The sad reality is that the ferruginous hawk population has declined to minimal levels at the site over many years, due to various factors including agricultural and residential land use decisions that pre-date this Project. In fact, the record reflects that not a single ferruginous hawk has been seen nesting in the Project area in the last 5 years. As a life-long birder, this is not a fact that is pleasant to acknowledge.

The location and number of turbines the Council recommended to be removed from places where generation capacity is highest is based on the Council's assessment of minimizing

[1] Report to the Governor on Application Docket No. EF-220011, dated April 29, 2024, at p12.

impacts to ferruginous hawk habitat in the Spec-5 mitigation provision. Given the currently existing habitat conditions for hawks, and the corresponding impact that any reduction of the Project is likely to have on generation capacity, it is important to focus hawk protection requirements to those times and places where hawks are present. Again, the impact mitigation approach must be narrowly tailored, based on the best available science and ongoing site surveys.

Rather than excluding large areas of the wind turbine micrositing corridor based on radii of historic hawk nest sites, I direct the Council to consider, at a minimum, the following alternative mitigation approaches: First, regarding habitat mitigation, exclusion of all sage shrub-steppe and rabbitbrush acreage from the micrositing corridor for turbines, as well as seeking ways to require or enlarge sage shrub-steppe habitat mitigation through conservation easements and other habitat protection requirements both on and off the Project site; second, consider siting restrictions that can be eliminated and replaced with operational curtailment for individual turbines, and also suspension of construction activity, whenever currently existing ferruginous hawk activity is detected within 2 miles of that turbine during the late March through late July nesting and fledgling periods each year; third, I direct the Council to consider requiring the applicant to monitor ferruginous hawk activity as well as turbine strike mortality during the life of the Project and make adjustments to operation and construction activities as needed.

Additionally, rather than prohibiting solar arrays and battery storage within 0.5 miles of historic hawk nests, the Council should consider use of alternative installation and siting approaches, where physically and financially feasible, and/or exclude sage shrub-steppe and rabbitbrush acreage from the micrositing corridor for solar arrays. Elimination of this type of habitat from clean energy installation is not the policy of Washington state but is acceptable in this Project as it represents a de minimis reduction in generation capacity and provides advantages in this unique circumstance.

Cultural Resources

I appreciate the care taken to fulfill the Council's duty to consult with affected Tribes and the state Department of Archeology and Historic Preservation. These efforts identified tribal resources or rights potentially affected by the proposed energy facility along with ways to avoid, minimize, or mitigate any adverse effects on tribal resources or rights in accordance with RCW 80.50.060. I also acknowledge and thank the applicant for working with the Confederated Tribes of the Umatilla Nation and the Yakama Nation to identify physical traditional cultural resource sites and avoiding siting turbines and solar arrays at those sites in its Final Application for Site Certification (ASC).

I direct the Council to focus mitigation on specific and narrowly tailored approaches that do not reduce the generation capacity of the Project. The Council should explore requiring the applicant to attempt to seek access agreements for the Yakama Nation to access highest

priority, physical traditional cultural resources within the leased property boundary, including previously inaccessible sites due to it being private property. I direct the Council to develop mitigation based on the record to address this issue that will be substantially consistent with the full scope of the Project.

Visual Impacts

Wind turbines are a fairly common occurrence across the state. While I respect the views of those who do not appreciate seeing turbines on the landscape, I also believe all sides would agree that continued and reliable electricity service is imperative. Given the state's clean energy needs and requirements, adopting a zero-tolerance policy to visual impacts is inconsistent with state statutes. I have carefully reviewed photographs and perspectives in the record that depict the visual impacts on residential neighborhoods, and it is clear that turbines will be visible only from a distance and none of the turbines will loom over anyone's home. The record shows that there will be visual changes as a result of the Project from various vantage points, but that these changes are both limited and subjective in nature.

Recreation Impacts

I agree with the Council's decision to require the applicant to develop an adaptive safety management plan to allow continued recreational activities without significantly impacting the generation capacity of the Project as proposed in the Final ASC. No reconsideration of this matter is required.

Fire and Firefighting Impacts

The Council found, and I concur, that the Project does not increase risk of fire but could impact the way certain fires are fought. The Council appropriately required the applicant to address these issues through emergency planning and mitigating conditions, including operational curtailment when necessary. I find that the Council adequately considered the risks of fire and included appropriate hazard mitigation. No reconsideration of this matter is required.

Conclusion

I hereby direct the Council to reconsider its recommendation in light of the foregoing and based on the existing record. I further direct the Council as follows: Throughout the evaluation of specific mitigation measures and wherever possible, time-limited operational and flexible requirements should be favored rather than overbroad turbine or solar placement exclusions. This will more directly provide needed mitigation where it is feasible and largely consistent with the proposed Project's purpose and need. For your convenience, attached as Appendix A is a non-exclusive list of potential mitigation measures for the Council's consideration.

The Council has deliberated on this Project for three years and developed an extensive record sufficient to make an informed decision on more appropriately, narrowly tailored mitigation measures. It is imperative that the Council conduct its reconsideration expeditiously, as required by RCW 80.50.100. It is therefore my expectation that the Council will resubmit the draft certification agreement, with appropriate amendments, for my consideration within 90 calendar days of the date of this letter.

It is my firm belief that with a narrowly tailored impact mitigation approach the Council can—and should—approve this Project in a manner that allows for maximum generation capacity largely consistent with the scale of the Project as proposed in the Final Application for Site Certification. I strongly encourage the Council to return to me their approval of this Project application that appropriately prioritizes the state's pressing clean energy needs.

Sincerely,

Jay Inslee
Governor

Appendix A

Horse Heaven Wind Farm Project

Non-exclusive List of Potential Mitigation Measures

In General

1. Reconsider conditions and mitigation approaches that are more narrowly tailored to the specific impacts, along with measures that are reasonably and feasibly consistent with the full generating capacity of the Project.
2. Reconsider exclusion of turbines from the micrositing corridor identified as "Class 3 Impact" consistent with Item 1 above.
3. Favor time-limited operational and flexible requirements rather than overbroad turbine placement exclusions.

Ferruginous Hawks

4. Exclude turbine siting from critical forage areas, such as sage shrub steppe and rabbitbrush acres, in project area.
5. Require that the applicant attempt to seek a conservation easement of 779 acres of undeveloped land within the northeast corner of the lease boundary, as proposed by the applicant.
6. Require that the applicant attempt to seek to purchase or lease and protect a similar amount of like-kind natural habitat outside of the project lease boundary to protect additional sage shrub steppe habitat within recognized ferruginous hawk nest territory and that contributes to landscape-scale habitat connectivity.
7. Require hiring a qualified investigator to conduct a comprehensive monitoring program on the protected lands in items 5 and 6 above.
8. Curtail turbine use whenever ferruginous hawk activity is detected within 2 miles of said turbine, particularly during breeding and nesting periods (late March – late July).
9. Curtail construction within 2-mile radius of detected ferruginous hawk activity, particularly during breeding and nesting periods (late March – late July).
10. Curtail operation of any turbine within 2 miles of new active nests in breeding/nesting period.
11. Consider use of alternative installation and siting approaches, where physically and financially feasible, and/or exclude sage shrub-steppe and rabbitbrush acreage from the micrositing corridor for solar arrays.
12. Require monitoring of direct strike mortality throughout the life of the project.
13. Consider use of "IdentiFlight" or similar technology, if economically feasible, and integrate use with curtailment.
14. Require monitoring of ferruginous hawk activity throughout the life of the project.

Cultural Resources

15. Require that the applicant attempt to seek to acquire access agreements that permit the Yakama Nation to intermittently access its highest priority, physical traditional cultural resources within the leased boundary area, including at sites that were previously inaccessible as private property throughout the life of the Project. Such agreements should also seek to permit access for Pronghorn antelope hunting purposes.
16. Require that the applicant attempt to explore long-term access for the Yakama Nation to its highest priority, physical traditional cultural resources within the leased boundary area *beyond* the life of the Project, including purchasing land and transferring ownership to the Yakama Nation.
17. Exclude turbine siting from critical forage areas (non-agricultural, unbroken ground), such as sage shrub steppe and rabbitbrush acres, in project area.
18. Require public-facing signage, designed in consultation with interested tribes, acknowledging the tribal cultural resources within the leased boundary area.
19. Require that the applicant attempt to seek a conservation easement of 779 acres of undeveloped land within the northeast corner of the lease boundary, as proposed by the applicant.

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, 2024[1], 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.

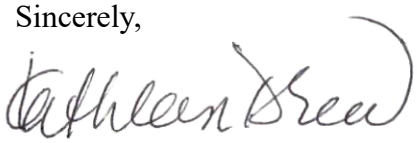
4) **Public Health and Safety (Aerial Firefighting):** Testimony by Department of Natural Resources staff advised that firefighting aircraft would adhere to a minimum 0.25-mile standoff buffer from all wind turbines. In narrowing the ferruginous hawk mitigation and therefore expanding the potential footprint 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

APPENDIX 2
MITIGATION MEASURES

The conditions presented in Appendix 2 are primarily from the Horse Heaven Wind Farm Final Environmental Impact Statement (Final EIS) Mitigation Measures published October 31, 2023. Additional conditions contained in this Appendix were identified through the Council's review of the adjudication, government-to-government consultation, or public comment and are discussed in Appendix 1; Report to the Governor on Application No. EF-210011.

On May 23, 2024, Governor Jay Inslee issued a letter to Council Chair Kathleen Drew directing the Council to reconsider certain aspects of the draft Agreement. After reconsidering such aspects of the Agreement by reviewing the existing record of the application, on September 17, 2024 the Council resubmitted the draft Agreement to the Governor incorporating amendments the Council deemed appropriate upon reconsideration (Docket No. EF-210011).

Horse Heaven Wind Farm
Site Certification Agreement
Appendix 2. Mitigation Measures

1. **Earth Resources (Geo) Mitigation**

Geo-1 Soil Management: Minimize soil disturbance activities with the potential for soil compaction when soils are saturated, such as following a major precipitation event (e.g., five-day antecedent rainfall of greater than 1.1 inches during mid-October to mid-April or greater than 2.1 inches during mid-April to mid-October). Direct construction away from areas with saturated soils and where drainage may concentrate until soils are no longer saturated. Limit vehicular traffic to established access roads. Where possible, leave existing vegetation root structure intact to enhance soil stability and infiltration capacity. Utilize best management practice (BMPs) such as low-ground-pressure and/or long-reach equipment, temporary matting and work pads, and localized engineered drainage improvements (e.g., interceptor drains, detention basins). Where soil compaction is observed to have occurred, decompact subsoils to a minimum depth of 18 inches or as identified in site reclamation plans and lease agreements.
Rationale: This mitigation measure limits erosion and disturbance of natural soil profiles.

2. **Air Quality (A) Mitigation**

A-1 Speed Limit: Traffic speeds on unpaved areas shall be posted at no more than 15 mph, rather than the Certificate Holder-proposed 25-mph limit. The Applicant shall provide training to all employees working on-site before they are allowed to drive into the construction area. Periodic speed checks shall be performed by the construction contractor's health and safety officer and reviewed by EFSEC monthly. If speeds are found to be routinely more than 15 mph, the Applicant shall submit a corrective action plan to EFSEC within 30 days of the finding.
Rationale: Road-related fugitive dust emissions increase with increasing vehicle speed. Consequently, one of the BMPs for mitigation of road-related fugitive dust emissions is to limit vehicle speed. The Certificate Holder has proposed to limit vehicle speed to 25 mph. Access-road-related fugitive dust from construction vehicle traffic is the single largest source of PM_{10} and $PM_{2.5}$ emissions from Project construction and a lower vehicle speed limit of 15 mph will further reduce fugitive PM_{10} and $PM_{2.5}$ emissions.

A-2 Proof of Contact: Soil Destabilization Notification: Certificate Holder shall submit a Proof of Contact: Soil Destabilization Notification to EFSEC at least 90 days prior to commencement of construction.
Rationale: Fugitive dust emissions are a potential concern. This notification will facilitate EFSEC awareness of commencement construction so that compliance with implementation of all Certificate Holder-proposed BMPs can be field validated.

3. **Water Resources (W)**

W-1 Least Risk Fish Windows: Project construction and decommissioning within ephemeral and intermittent streams that have active water flow shall observe the least risk windows for spawning and incubating salmonoids, which are, conservatively, August 1 to September 15 for the Yakima and Columbia Rivers and their tributaries in Benton County (WDFW 2018). Ephemeral and intermittent streams would not be subject to least risk window restrictions while those streams are dry.
Rationale: This mitigation measure addresses potential impacts on surface water and fish habitat and will minimize risk to aquatic species.

W-2 Minimize Work in Heavy Rain: Project construction and decommissioning shall be minimized during rainy periods and heavy rain—in particular, work near ephemeral or intermittent streams.
Rationale: This mitigation measure addresses potential impacts of surface water and runoff and will minimize the risk of sediment release to surface water and wetlands.

W-3 Check Dams: As indicated in Ecology (2019) BMP C207E, check dams cannot be placed or used in streams unless approved by WDFW. Check dams used for work within ephemeral or intermittent streams shall be approved by EFSEC in coordination with WDFW and Ecology prior to use. Stream crossing designs and associated mitigation plans shall be provided and approved by EFSEC in coordination with WDFW and Ecology.
Rationale: This mitigation measure addresses the use of check dams on site, which will require approval by WDFW and Ecology prior to use.

W-4 Culvert Installation BMPs: Based on the Final ASC, one culvert is proposed along one intermittent stream. Installation of the culvert shall follow WDFW Fish Passage BMPs:

- Be oriented and aligned with the natural stream channel.
- Be constructed at or near natural elevation of the streambed to avoid or minimize potential flooding upstream of the crossing and erosion below the outlet.
- Use suitable measures to avoid or minimize water from seeping around the culvert.
- Use suitable measures to avoid or minimize culvert plugging from transported debris or bedload.
- Be regularly inspected and cleaned as necessary for the life of the Project (USDA 2012).
- Cover culvert with sufficient fill to avoid or minimize damage by traffic.
- Install culverts long enough to extend beyond the toe of the fill slopes to minimize erosion.

Rationale: This mitigation measure addresses permanent impacts on ephemeral streams. It provides specifications on culvert installation to enable assessment of the potential impacts.

W-5 Employee Training: An employee training plan shall be included as part of the SPCC Plan. For the duration of the Project, employees and workers on site shall receive appropriate training according to the employee training plan to ensure that any spills are reported and responded to in an appropriate manner (Ecology 1999). This shall include training on the use of spill response equipment and orientations identifying the location of hazardous materials, proper storage of hazardous materials, and location of spill response equipment to ensure that workers are competent in spill response.
Rationale: This mitigation measure addresses potential impacts on water quality including sedimentation and accidental spill. Employee training reduces the risk of human error and increases confidence in the effectiveness of spill response in the event of accidents such as an accidental spill.

W-6 Wetland SWPPP: A Stormwater Pollution Prevention Plan (SWPPP) shall be designed specifically for work within the Micrositing Corridor adjacent to the wetland (EIS Figure 3.4-1, Section 3.4). The SWPPP shall include BMPs from the Stormwater Management Manual for Eastern Washington (Ecology 2019). The plan shall include, but not be limited to, structural measures such as installation of silt fences and sediment ponds, and non-structural measures, including routine inspection and maintenance and enforcement of BMPs, to minimize surface water runoff generated from the construction activities to the wetland.
Rationale: This mitigation measure addresses potential impacts on the wetland situated near the Micrositing Corridor. The wetland is located downgradient from the construction area, so additional mitigation measures are proposed to avoid impacts.

W-7 Clear-Span 100-Year Floodplain: Clear-span the transmission line to avoid temporary disturbance to the 100-year flood plain. Site transmission line poles outside the 100-year floodplain.
Rationale: This mitigation measure addresses physical disturbance of the 100-year floodplain, a Critical Aquifer Recharge Area.

W-8 Spill Response Equipment: Spill response equipment, such as absorbent pads or compounds, shall be stored in every Project vehicle regularly accessing the site during construction, operation, and

decommissioning, excluding employee personal vehicles. In addition, an oil pan shall be placed below heavy equipment when stored or not in use on site.
Rationale: This mitigation measure addresses spill response impacts by specifying locations for spill response equipment.

W-9 Minimize Water Use: During construction, operation, and decommissioning, water use shall be minimized where possible. During drought or water shortage, schedule adjustment shall be considered to minimize water needs on the site where possible, or additional alternate off-site water supplies shall be identified.
Rationale: This mitigation measure addresses impacts on public water supply and is proposed to minimize water use on site throughout the life of the Project.

W-10 Panel Washing: During drought or water shortage, panel washing shall be postponed or alternate off-site water sources could be identified to minimize impacts on public water supply. Panel wash water shall be recycled and re-used where possible during operation.
Rationale: This mitigation measure addresses impacts on public water supply and is proposed to minimize water use on site from panel washing, if required.

W-11 Concrete Batch Plant to Avoid Streams: Laydown areas or locations where temporary concrete batch plants will be sited shall be a minimum of 100 ft from mapped streams or waterbodies.
Rationale: Siting temporary concrete batch plants outside of stream and riparian areas reduces the potential impacts off accidents and malfunctions from release of concrete wash water on water quality.

4. **Vegetation (Veg) Mitigation**

Veg-1 Tree Avoidance: Construction shall avoid removing or disturbing trees within the Project Lease Boundary. Disturbance to trees includes any disturbance within the drip-line of the tree (i.e., the area from the edge of the outermost branches), including topping, which preserves an intact root system. Disturbance within the drip-line of the tree shall be avoided as this can lead to tree mortality. The avoidance area within the drip-line of trees in work areas shall be delineated using snow fencing or similar measure to improve the visibility of avoidance zones. Trees cannot be removed without pre-approval. Where tree disturbance cannot be avoided by the Project (e.g., near transmission lines), the number and location of the trees shall be provided to EFSEC, along with a statement justifying why avoidance cannot be achieved, and a mitigation plan. The mitigation plan shall include replanting trees within the Lease Boundary to maintain the diversity of habitat structures provided by trees and will require approval by EFSEC prior to proceeding.
Rationale: Trees are a rare feature on the landscape that provide habitat value to wildlife species and structural diversity. Replanting trees may be challenging in an arid environment, and there will be a time lag before trees reach the same size and age. Veg-1 seeks to avoid physical disturbance to existing trees.

Veg-2 Pre-Disturbance Surveys for Special Status Plant Species: Special status plant species are known to occur near the Lease Boundary. Areas with increased potential for special status plant species include areas of Priority Habitat and areas identified by the Certificate Holder as potential habitat for woven spore lichen. Where possible, disturbance to Priority Habitat and high potential areas will be avoided, but if avoidance is not possible, surveys for special status plant surveys will be conducted. Surveys shall be conducted by a qualified professional. Surveys shall be conducted prior to both construction and decommissioning activities. All findings shall be documented and provided to EFSEC in an annual report. Where special status plant species are encountered within proposed disturbance areas, the Certificate Holder will modify the Project design to avoid the species or, where modification is not possible, develop additional mitigation measures based on discussions with EFSEC and WDFW, such as relocation where a species is tolerant of relocation; minimization; or other form of mitigation. Mitigation plans for encountered special status plant species will be provided to EFSEC for consideration and to provide additional direction. Any modifications to the Project

design shall also be provided to EFSEC as part of the report. An environmental monitor shall be required to track any mitigation associated with the finding of special status plant species.
Rationale: This mitigation measure minimizes potential impacts on special status plant species by providing an opportunity to modify the design to avoid any identified plants, prior to actual disturbance activities during construction and decommissioning. It also provides the opportunity to apply additional mitigation should special status plant species be encountered within disturbance areas.

Veg-3 Special Status Plant Species Education: The environmental orientation provided to workers on site shall include information on special status plant species. This shall include diagnostic characteristics, suitable habitat descriptions, and photos of special status plant species with potential to occur within the Lease Boundary. A protocol shall be established for any chance find by workers, who shall notify the environmental monitor on site prior to proceeding with work. The environmental monitoring shall report any findings of special status plant species to EFSEC in a report, and EFSEC will consider these reports and provide additional direction on actions to address any impacts. Workers' completion of the environmental orientation shall be tracked by the Certificate Holder and provided in an annual report to EFSEC.
Rationale: This mitigation measure minimizes impacts on special status plant species by educating workers in identification and suitable habitat.

Veg-4 As-Built Report, Offset Calculation, and Monitoring of Revegetation: Within 60 days of completing construction, the Certificate Holder shall provide an as-built report that documents the amount of temporary and permanent disturbance associated with the Project. This shall include associated maps and georeferenced spatial files. The as-built report shall be factored into the final calculation of habitat offset based on the Certificate Holder-provided ratios. The acreages of modified habitat planted for the Project under the solar arrays shall also be included in this report. EFSEC will determine the number of years that vegetation monitoring of temporary disturbance and modified habitat will be conducted and the success criteria for revegetation. The success criteria will include measurable parameters that the Certificate Holder shall measure to determine whether successful revegetation has occurred. The Certificate Holder shall submit annual reports for each year of vegetation monitoring following construction to document the success of revegetation. At the end of the vegetation monitoring period, as determined by EFSEC, areas of modified habitat and revegetated temporary disturbance that have met the success criteria will be eligible for offset by the Certificate Holder at the respective ratios. Any areas of modified habitat or temporary disturbance that do not meet the success criteria after completion of revegetation monitoring will be considered permanent disturbance, and this will be added to the offset requirement.
Rationale: This mitigation measure addresses habitat offset by providing a final calculation of offset requirements based on actual disturbance. In addition, it addresses the uncertainty associated with the success of revegetation and, in particular, of restoring shrub-steppe ecosystems.

Veg-5 Operation and Decommissioning Dust Control Plan: A dust control plan shall be prepared for Project operation and decommissioning, similar to the dust control plan presented by the Certificate Holder. The plan will minimize impacts on vegetation from dust during the Operations and Decommissioning stages of the Project.
Rationale: This mitigation measure minimizes indirect impacts from dust during operation and decommissioning.

Veg-6 Decommissioning Legislated Requirements: If the applicable legislated requirements at the time of decommissioning are more restrictive than at the time of the execution of the SCA, the decommissioning measures will be updated to meet the new requirements.
Rationale: This mitigation measure enables adjustment of requirements based on changes in legislation once decommissioning occurs, based on the requirements at that time.

Veg-7 Detailed Site Restoration Plan: The Detailed Site Restoration Plan is a required, regulatory document. It shall be prepared and submitted for approval by EFSEC for final revegetation prior to Project decommissioning for the temporary and permanent disturbance areas. It will be adapted to include modified habitat.
Rationale: The Detailed Site Restoration Plan will be a living document. It shall include the methods, success criteria, monitoring, and reporting for revegetation at the end of the Project life. It shall also include provisions for adaptive management and shall be prepared based on any lessons learned from implementing the revegetation planned for the temporary disturbance from Project construction as described in Appendix N of the 2022 ASC (Appendix N, Horse Heave Wind Farm, LLC 2022).

Veg-8 Decommissioning Noxious Weed Management Plan: A Noxious Weed Management Plan (or extension of the current plan) to include prevention and control during decommissioning of the Project shall be prepared. This Plan shall include monitoring of the area for three years following decommissioning of the Project.
Rationale: This mitigation measure addresses noxious weeds during decommissioning. It is designed to minimize the introduction and spread of noxious weeds during decommissioning.

Veg-9 Maintenance of Solar Array Fence: During Project operation, the solar array fence shall be maintained, including removal of vegetation material that may become entwined in the fence. Monthly fence surveys shall be conducted during periods where the wildfire danger rating, as determined by DNR, is assessed as "low." When the wildfire danger rating is assessed as "moderate" or higher, weekly surveys shall be required.
Rationale: Vegetation material entwined within the solar array fence presents a fuel source for fire. Maintenance and removal will minimize this risk.

Veg-10 Shrubland and Priority Habitat and Species Avoidance: No solar arrays shall be sited on any rabbitbrush shrubland or WDFW-designated Priority Habitat types.
Rationale: Rabbitbrush shrubland and Priority Habitats serve a vital environmental need and face a number of threats from development. Preserving these habitat types from Project impacts serves to reduce impacts to the vegetation and wildlife that are dependent on them.

5. Wildlife and Habitat

A. Wildlife (Wild) Mitigation

Wild-1 Post-construction Bird and Bat Fatality Monitoring Program:
Prior to initiation of operation, the Certificate Holder shall develop, in coordination with the Pre-operational Technical Advisory Group (PTAG) and approval by EFSEC, a post-construction bird and bat fatality monitoring program. Monitoring shall be conducted for a minimum of three years. While the three years of monitoring need not be consecutive, all post-construction monitoring shall be conducted within the initial five years of operation to document variation in annual fatality rates. The program shall describe survey methods, timing, and effort as described in the Certificate Holder's Bird and Bat Conservation Strategy (Appendix M of the Final ASC). Surveys shall include carcass surveys to document the longevity of carcass persistence and detectability of carcasses. Surveys shall be conducted year-round to account for variation in bird and bat abundance and diversity. Additional surveys (e.g., survey frequency) shall be conducted during sensitive periods for birds and bats (e.g., migration periods). Surveyed area shall include turbines, solar arrays, and transmission lines at a minimum.

Bird and bat fatality adaptive management strategy development
Prior to initiation of operation, the Certificate Holder shall develop, in coordination with the PTAG and approval by EFSEC, an adaptive management strategy. The adaptive management strategy shall include

additional mitigation measures to be applied during sensitive periods (e.g. migration) or if mortality thresholds are exceeded.

Migratory bat species are at risk of population level impacts due to wind power facilities and these species are most at risk of collisions with turbines during spring and fall migration. As such, adaptive management strategies will be applied during these sensitive periods, which are generally April to June (spring migration) and August to October (fall migration) (Hayes and Wiles 2013). Acoustic surveys during operation may be used to define a project-specific migratory period. Acoustic detectors may be deployed across the Lease Boundary prior to spring and fall migration to detect increased bat activity suggesting the onset of bat migration. These data will be used to adjust the generalized bat sensitive periods listed above. Similarly, acoustic data will be used to document the end of bat migration and when adaptive management strategies may no longer be required. Bat data shall be downloaded and analyzed on a weekly basis to document the start and end of migration.

Adaptive management mitigation strategies that will be considered include altering the operation of the turbines by increasing the cut-in speed to above 18 feet (5.5 meters) per second (Alberta Government 2013) and curtailing turbines during known bird and bat migration period. As noted in in Section 4.6.2.2, projected impacts of wind power projects estimate that wind power could result in mortality levels of 3 to 46 percent of the hoary bat population by 2050. Friedenberg and Frick (2021) conclude that a 5 m/s curtailment could avoid hoary bat extinction in several of the modeled scenarios. Acoustic monitors and smart curtailment may also be included in adaptive management to refine data on bat presence near turbines and when curtailment mitigation should be implemented. Mitigation strategies may be limited to groups of turbines based on the results of post-construction monitoring.

Bird and bat fatality adaptive management review
The Certificate Holder, the TAC, EFSEC, and WDFW will review the results of the bird and bat post-construction fatality monitoring program after each monitoring period to determine whether the mitigation measures outlined in the adaptive management strategy should be revised or adjusted. The data will also be used to determine whether monitoring efforts are sufficient to verify predicted impacts on birds and bats. EFSEC may require the Certificate Holder to conduct more intensive surveys (e.g., additional spatial extent or frequency) or extend the duration of post-construction monitoring beyond the minimum three years. The Adaptive management mitigation strategies shall be periodically reviewed (minimum of every five years) with the TAC during operation to consider inclusion of new science and technologies that may more efficiently reduce bird and bat fatalities.
Rationale: This mitigation allows for continued monitoring and adaptive management of potential Project-related wildlife mortalities.

Wild-2 Trash Containers: All trash containers shall be wildlife resistant.
Rationale: This mitigation measure reduces potential human-wildlife conflicts thereby reducing potential Project-related wildlife mortalities.

Wild-3 USFWS Eagle Consultation: The Certificate Holder shall provide EFSEC a summary of the consultation undertaken with the USFWS regarding eagle mortality.
Rationale: This mitigation measure allows for continued monitoring and adaptive management of potential Project-related impacts on eagles.

Wild-4 Pesticide Management Plan: The Certificate Holder shall avoid the use of pesticides, including rodenticides, during Project construction and operation. If pesticides are required, the Certificate Holder shall, prior to application of the pesticides, develop a management plan for submission to and approval by

EFSEC that describes how the Certificate Holder will avoid and/or otherwise minimize potential impacts on wildlife, including all potentially impacted special status species.
Rationale: This mitigation measure reduces potential impacts on habitat and wildlife mortality while allowing for adaptive management of potential Project related impacts.

Wild-5 Construction Zone Management: The Certificate Holder shall limit construction disturbance by identifying sensitive areas on mapping and flagging in the field exclusion zones around any sensitive areas, including wildlife features, such as wildlife colonies, active nests, dens, and wetlands. Encroachment into exclusion zones required during construction shall be reviewed by the Certificate Holder's biologist to determine the impacts on the feature and recommend additional measures to manage impacts to the resource. The Certificate Holder shall provide information on where encroachment will be required, the rationale for encroachment, and additional mitigation measures for EFSEC to review prior to implementation. The Certificate Holder shall conduct ongoing environmental monitoring during construction to ensure that flagged exclusion zones are avoided.
Rationale: This mitigation measure reduces potential loss of habitat and wildlife mortality.

Wild-6 Wildlife Road Mortality Management: The Certificate Holder shall maintain a database of road mortalities throughout construction and operation as part of the operational procedures. The Certificate Holder shall review road-based mortalities annually and propose additional mitigation for areas under the control of the Certificate Holder where frequent mortalities or wildlife crossing observations occur. Additional mitigation measures may include speed control, signage, temporary road closures (e.g., during migration periods), or wildlife passageways and will be reviewed and approved by EFSEC prior to implementation.
Rationale: This mitigation measure allows for continued monitoring and adaptive management of potential Project-related wildlife mortalities.

Wild-7 Construction Hours: The Certificate Holder shall schedule construction activities to occur during daylight hours, when feasible, to reduce disturbance of nocturnal species and the need for nighttime lighting.
Rationale: This mitigation measure reduces disturbance to wildlife (i.e., indirect loss).

Wild-8 Turbine Buffer Zones: Wind turbine buffer zones shall be established around all known raptor nests and be a minimum of 0.25 miles. The Certificate Holder shall prepare a Raptor Nest Monitoring and Management Plan for review by EFSEC and the PTAG if buffer zones cannot be maintained.
Rationale: This mitigation measure reduces potential impacts on habitat and raptor mortality while allowing allow for adaptive management of potential Project-related impacts.

Wild-9 Breeding Bird Period Mitigation: Vegetation clearing and grubbing shall avoid local bird breeding periods, when feasible, to reduce potential destruction or disturbance of nesting birds. If avoidance of this period is not feasible, additional mitigation measures, such as pre-construction surveys for and buffering of active bird nests, shall be undertaken.
Rationale: This mitigation measure avoids or reduces potential bird mortality.

Wild-10 Pre-construction Bat Monitoring: The Certificate Holder shall conduct pre-construction surveys to develop an estimate of regional bat populations and identify to what degree seasonality affects the bat population in the area. The PTAG shall be contacted prior to undertaking these surveys and shall be involved in the development of the methodology and review of the results.
Rationale: This mitigation measure would provide baseline information necessary for adaptive management efforts to curtail bat mortality that is anticipated as a result of Project operation.

B. Habitat (Hab) Mitigation

Hab-1 Wildlife Movement Corridors: The Certificate Holder shall provide rationale to EFSEC for siting any Project components within movement corridors modeled in Washington Wildlife Habitat Connectivity Working Group (2013) as medium to very high linkage, and a Corridor Mitigation Plan shall be required that describes:

- Extent of direct and indirect habitat impact within the movement corridor
- Proposed measures to be implemented to reduce potential impacts on movement corridors (e.g., habitat enhancements to promote continued use of corridors)
- Proposed features (e.g., open-bottom culverts) to accommodate wildlife movement for linear Project components (e.g., roads, powerlines)
- Proposed restoration in movement corridors following Project decommissioning
- Performance standards to assess the effectiveness of mitigation measures and restoration
- Methods to monitor and measure performance standards

The Corridor Mitigation Plan shall be developed in consultation with the PTAG and reviewed and approved by EFSEC prior to implementation. Results of corridor monitoring shall be reviewed annually with the TAC to evaluate the effectiveness and apply additional measures if necessary. Data shall be provided to EFSEC with additional mitigation measures for review and approval prior to implementation.
Rationale: This mitigation measure reduces potential Project related barriers to wildlife movement while allowing for continued monitoring and adaptive management of potential Project related barriers.

Hab-2 Canyon Crossings: Transmission line crossings of canyons and draws shall be minimized. Where crossings are required, the Certificate Holder shall provide EFSEC with rationale for the crossings and propose additional mitigation measures to reduce potential barriers to movement (e.g., retaining vegetation under transmission lines) and wildlife collisions (e.g., installing flight diverters on overhead lines). EFSEC will approve the final transmission line layout, mitigation, and adaptive management strategy.
Rationale: This mitigation reduces potential Project related barriers to wildlife movement while allowing for continued monitoring and adaptive management of potential Project related barriers.

Hab-3 Temporary Laydown Areas: Temporary laydown areas shall be situated out of native shrub-steppe habitat. Where temporary disturbance of shrub-steppe habitat is required, the Certificate Holder shall provide EFSEC with rationale and propose additional mitigation measures to reduce habitat loss.
Rationale: This mitigation measure avoids and reduces impacts to habitat while allowing for adaptive management of potential Project related habitat loss.

Hab-4 Establish PTAG and TAC: The Certificate Holder, in consultation with EFSEC, shall establish a PTAG and TAC. The PTAG shall be established at least one year prior to construction and will be responsible for reviewing and providing technical advice on documents produced by the Certificate Holder related to wildlife and wildlife habitat. The PTAG will also provide advice on adaptive management. The PTAG will be responsible for, at a minimum:

- Reviewing and providing technical advice on Project wildlife and habitat management plans (e.g., ferruginous hawk management plan)
- Reviewing and providing advice to EFSEC on pre-design and pre-construction data collection requirements to address Project mitigation measures and conditions of management plans
- Reviewing and providing advice to EFSEC on the final Project design
- Advising on thresholds to be applied to the Project that will trigger the requirement for additional mitigation measures

The Certificate Holder, in consultation with EFSEC, shall establish a TAC prior to Project operation. The PTAG will cease to exist once the Certificate Holder has completed all planned construction and will be replaced by the TAC, which will exist for the life of the Project. The TAC will be responsible for, at a minimum:

- Advising on the monitoring of mitigation effectiveness and reviewing monitoring reports
- Advising on additional or new mitigation measures that will be implemented by the Certificate Holder to address exceedances of thresholds
- Reviewing the results of annual data generated from surveys and incidental observations and providing recommendations for alternative mitigation and adaptive management strategies, as well as advising on aspects of existing mitigation that are no longer needed.

The PTAG and TAC may include representation by WDFW, the Washington Department of Natural Resources, interested tribes, Benton County, and the USFWS. The PTAG and TAC may also include local interest groups, not-for-profit groups, and landowners. The exact composition of the PTAG and TAC will be determined through discussions between the Certificate Holder and EFSEC and will depend on the relevance and/or availability of proposed members.
Rationale: This mitigation measure avoids and reduces impacts on wildlife and habitat, including habitat loss, wildlife disturbance, barriers to movement, and wildlife mortality. Further the mitigation measure will allow for continued monitoring and adaptive management of potential Project-related impacts.

Hab-5 Indirect Habitat Loss Management Plan: As noted by the Certificate Holder, the Project is expected to result in indirect habitat loss through loss of habitat function and changes in wildlife behavior in response to the Project. Further, as noted by the Certificate Holder, WDFW guidelines require that compensatory habitat mitigation must fully offset the loss of habitat function and value. To address indirect habitat loss associated with the Project, the Certificate Holder shall develop an Indirect Habitat Loss Management Plan that addresses potential indirect habitat loss resulting from the Project. The Certificate Holder shall work with the PTAG during the development of the Indirect Habitat Loss Management Plan (IHLMP) for review and approval by EFSEC. EFSEC and the PTAG will review the IHLMP prior to its implementation. The IHLMP shall be provided to the PTAG for review 90 days prior to construction.
The objectives of the IHLMP will be to identify a Project-specific ZOI and required mitigation based on the Project-specific ZOI. The Project-specific ZOI will be developed based on Project conditions and may differ from the ZOI presented in the EIS. The IHLMP shall include:

- A description of the study's purpose and objectives
- A description of methods to define Project-specific ZOIs (e.g., gradient analysis, nest density)
- A description of data requirements to establish Project-specific ZOIs and field programs that will be implemented (pre-construction and post-operation)
- A description of the duration of studies required to establish Project-specific ZOIs
- A description of criteria to be used to compensate for loss of habitat function and value
- An environmental effectiveness monitoring strategy of compensatory habitat to ensure that the habitat meets success criteria

The IHLMP shall also include a series of compensatory site-selection criteria, developed in consultation with the PTAG. The selection criteria will be used to evaluate candidate habitat compensation habitats. Habitats that achieve more of the criteria will be identified as the preferential sites. Selection criteria shall include, at a minimum:

- Proximity to the Lease Boundary (e.g., hierarchy of preferences with respect to location— within the Lease Boundary being the highest priority, adjacent to the Lease Boundary being the second highest priority, and off site being the third priority)
- Protection of existing native shrub-steppe or grassland habitats
- Encompassing sensitive or important wildlife habitat (e.g., mapped movement corridors, ferruginous hawk core habitat, HCAs, areas of high prey abundance)

- Proximity to Project infrastructure

Rationale: This mitigation measure avoids and reduces disturbance to wildlife (indirect habitat loss) while allowing for ongoing monitoring, adaptive management, and offsetting of potential Project related impacts.

Hab-6 Project Layout & Design: The Certificate Holder shall work with EFSEC, with advice from the PTAG, on the development of the final Project layout and design, including the application of Certificate Holder commitments and recommended mitigation measures.
Rationale: This mitigation measure avoids and reduces potential habitat loss and disturbance to wildlife (indirect habitat loss).

Hab-7 Decommissioning Roadway Requirements: All roadways constructed for the Project during the construction and operation phases shall be removed and restored during decommissioning. The Certificate Holder shall provide EFSEC with rationale and propose additional mitigation measures if roadways are not decommissioned post-operation.
Rationale: This mitigation measure restores habitat post-operation and reduces habitat loss.

Hab-8 Indirect Habitat Loss Compensation: The Certificate Holder shall be required to provide compensation habitat loss and alteration (indirect habitat loss) (See Hab-5, Veg-4) through one or more actions of land acquisition, onsite easement and restoration (excluding areas impacted by the project such as temporary laydowns), and/or fee-based mitigation.

The Certificate Holder shall prioritize development of conservation easements (Option 1[1] in the Certificate Holder's Draft Wildlife and Habitat Mitigation Plan) and shall compensate for the remaining permanent and altered (indirect) impacts by providing money to WDFW, or a third party identified by WDFW, and agreed to by EFSEC, to purchase other lands suitable as in-kind and/or enhancement mitigation. The Certificate Holder shall provide EFSEC, for review and approval, with rationale for fee-based mitigation (Options 2 and 3 in the Certificate Holder's Draft Wildlife and Habitat Mitigation Plan) including a description of how much compensatory habitat will be addressed through Option 1 (conservation easement) and rationale for why fee-based mitigation is required.

The fee-based mitigation includes a per acre fee that shall be determined by market rates and land sales within the general vicinity of the Lease Boundary for lands containing comparable habitat types and quality present within the Lease Boundary. The per acre fee shall be developed by the Certificate Holder in consultation with WDFW and approved by EFSEC. The Total Financial Obligation (TFO) shall be determined by multiplying the cost per acre by the total Compensatory Mitigation Acres (CMA) remaining after the application of Option 1 mitigation strategy and shall include a one-time 15% premium to cover administration and management costs for the purchased lands. The TFO for compensatory mitigation shall be determined and agreed to by EFSEC 90 days before construction. If construction has not begun within 12 months of the approval of the TFO, the TFO identified shall expire and be recalculated prior to beginning construction. The TFO shall be calculated based on the following: *Average Comparable Land Sale Cost (per acre)*(CMA-Option 1 Acres)*1.15 = TFO* In addition to the wildlife and habitat mitigation measures, the following measures developed for the Vegetation chapter are applicable to wildlife and habitat.
Rationale: This mitigation measure clarifies the process to be followed in selection of offsetting habitat.

[1] Certificate Holder's Draft Wildlife and Habitat Mitigation Plan identifies three compensation options: Option 1 – Conservation easement within or adjacent to the Lease Boundary; Option 2 – Annual fee or lump sum payment provided to WDFW; Option 3 – payment to local land trusts, conservation organizations, or local tribes to support conservation projects.

C. Special Status Species (Spec) Mitigation

Spec-1 Striped Whipsnake & Sagebrush Lizard: The Certificate Holder shall conduct pre-construction surveys for sensitive reptile species prior to alteration or destruction of suitable habitat such as areas within the Lease Boundary identified as core habitat in GAP mapping, as well as shrubland (e.g., shrub-steppe, rabbitbrush). WDFW shall be contacted prior to undertaking these surveys.

If these species are identified through pre-construction surveys, the Certificate Holder shall prepare a Reptile Management Plan to reduce potential impacts on habitat, mortality, and barriers to movement. The Reptile Management Plan shall describe:

- How the Certificate Holder will avoid suitable habitat, including where the species were observed
- How the Certificate Holder will implement management recommendations in Larsen (1997)
- How the Certificate Holder will maintain rodent burrows in suitable reptile habitat (e.g., shrub-steppe)
- Additional mitigation measures to reduce potential mortality of these species during the construction and operation stages of the Project

The Reptile Management Plan shall be reviewed by the PTAG and approved by EFSEC prior to initiation of construction. Survey results and proposed adaptive management shall be reviewed by the PTAG and approved by EFSEC prior to implementation (see Hab-4).

Rationale: This mitigation measure avoids and reduces potential striped whipsnake and sagebrush lizard habitat loss and mortality while allowing for adaptive management throughout Project construction and operation.

Spec-2 American White Pelican: The Certificate Holder shall maintain a database of American white pelican observations within the Project Lease Boundary. Observational data shall be reviewed with the TAC annually, and additional survey strategies shall be applied as needed to inform adaptive management.

Rationale: This mitigation measure allows for adaptive management of potential American white pelican mortality through Project operation.

Spec-3 Eagles: The Certificate Holder shall obtain any required federal approvals. The Certificate Holder shall continue ongoing coordination with the USFWS (Eagle Coordinator, Columbia Pacific Northwest Region) regarding an eagle take permit for incidental take of bald and golden eagles and shall continue to evaluate eagle risk to determine if an eagle take permit is appropriate considering the use of the Project by bald and golden eagles.

The Certificate Holder shall apply WDFW-recommended buffers for bald eagle and golden eagle nests (Larsen et al. 2004):

- Bald eagle – protected zone (400 feet) and conditioned zone (up to 800 feet beyond the protected zone)
- Golden eagle – 1.9 miles

Rationale: This mitigation measure avoids and reduces potential disturbance of eagle nests and eagle mortality.

Spec-4 Burrowing Owl: The Certificate Holder shall conduct burrowing owl surveys within areas of direct loss (permanent, temporary, and modified) and associated ZOIs. The results of these surveys shall be provided to the PTAG and EFSEC and used to inform the final Project layout.

Active burrows shall be retained and satellite burrows with characteristics used by burrowing owls shall be avoided where feasible to maintain habitat capacity.

WDFW-recommended seasonal buffers (0.5 miles) shall be applied around burrowing owl nests to avoid disturbing nesting burrowing owls, if present (Larsen et al. 2004). Seasonal buffers (February 15 to

September 25) shall be applied during construction and for temporary disturbances, such as periodic maintenance, during operation.
If active burrowing owls are identified within the Lease Boundary, the Certificate Holder shall develop a species-specific management plan that describes:

- The location of active burrows
- How active burrows will be avoided through re-alignment or reconfiguration of Project features.
- Additional mitigation measures that will be applied where disturbance to active burrows is expected (e.g., construction of artificial burrows)
- Additional mitigation measures that will be applied during operation if burrowing owl mortalities are recorded.
- How ongoing monitoring of active burrows will be undertaken.

The Burrowing Owl Management Plan shall be reviewed by the PTAG and approved by EFSEC prior to initiation of construction. Survey results and proposed adaptive management shall be reviewed by the PTAG and approved by EFSEC prior to implementation (see Hab-4).

The Certificate Holder shall monitor access roads for burrowing owl use and mortalities. Mortalities shall be reported to the PTAG or TAC (depending on the Project phase) and EFSEC within 5 days of the observation. Incidental observations of burrowing owl use shall be provided to the PTAG (construction) or TAC (operation) on an annual basis.
Rationale: This mitigation measure avoids and reduces potential loss of burrowing owl habitat, disturbance to burrowing owls, and burrowing owl mortality, while allowing for adaptive management throughout Project construction and operation.

Spec-5 Ferruginous Hawk: The Certificate Holder shall not site any wind turbines, solar arrays, or BESS within a 0.6-mile (1km) radius surrounding ferruginous hawk nests:

- Documented in PHS data on the effective date of the SCA,
- Identified in the Certificate Holder's nest surveys, and/or
- That may be newly established by the species between the SCA effective date and the time of construction.

The Certificate Holder shall avoid siting wind turbines, solar arrays, and BESS within a 0.6-2-mile radius surrounding documented ferruginous hawk nests, unless the Certificate Holder is able to demonstrate that:

- Compensation habitat, as described below, will provide a net gain in ferruginous hawk habitat and either:
    - The nesting site is no longer available, or
    - The foraging habitat within the 2-mile radius is no longer viable for the species.

Habitat considered no longer available for ferruginous hawk would include habitat that has been altered by landscape-scale development (conversion to cropland, residential development, industrial development) rendering the territory non-viable. This could include habitats that have been altered such that insufficient native or foraging habitat remains. Project turbines, solar arrays, or BESS shall not be sited within 2 miles of a ferruginous hawk nest without prior approval by EFSEC based on the process described below.

The extent of component encroachment into core habitat in ferruginous hawk territories, defined as the area within a 2-mile radius surrounding documented nests, may vary depending on the type of infrastructure proposed (i.e., turbine, solar array, BESS). If siting of these components within 2 miles of a

nest is considered by the Certificate Holder, the Certificate Holder shall develop, in consultation with the PTAG for approval by EFSEC:

1. A set of habitat parameters to document whether habitat in a core range is considered non-viable. The results of habitat surveys and their relation to these habitat parameters shall be reviewed by the PTAG and approved by EFSEC.
2. A description of the current viable nesting habitat, available nesting sites, and a description of documented use of the core habitat by ferruginous hawk available through historic background information or field-based surveys.
3. A description of the type and location of infrastructure proposed within the core habitat.
4. The proximity of infrastructure to any known nest site or suitable foraging habitat.

In the event that a Project component is proposed for siting within the 2-mile buffer, the Certificate Holder shall, in consultation with the PTAG, develop a Project-specific ferruginous hawk mitigation and management plan for approval by EFSEC:

1. A description of efforts to site Project infrastructure to avoid core habitat, identified as the area within 2 miles of nests documented in PHS data and the Certificate Holder's nest surveys:
    a. If Project turbines, solar arrays, or BESS are sited within 2 miles of a ferruginous hawk nest, the infrastructure shall be reviewed by the PTAG and approved by EFSEC.
    b. Additional mitigation measures shall be developed to reduce potential ferruginous hawk strikes with turbines, including curtailing turbine operation within the 2-mile core habitat of any actively occupied nests diurnally during the breeding and rearing periods when ferruginous hawks are present in Benton County.
    c. The plan shall explain how and where the Certificate Holder will create new offset habitat to mitigate for direct and indirect habitat loss within the 2-mile core area of ferruginous hawk nests documented in PHS data and the Certificate Holder's nest surveys.
2. A description of when construction activities will be undertaken to avoid sensitive timing periods for ferruginous hawk.
3. A description of pre- and post-monitoring programs that will be conducted to establish:
    a. Habitat use within the Lease Boundary.
    b. Mapping of ground squirrel colonies and other prey.
    c. Identification of potential flyways between nest sites and foraging habitat and monitoring of potential flyways to inform final turbine siting and orientation.
    d. Ongoing monitoring of nest use and territory success.
4. A description of restoration activities that will be undertaken during Project decommissioning to enhance ferruginous hawk habitat in disturbed areas.

Results of ferruginous hawk monitoring programs and adaptive management will continue through Project operation and decommissioning with review by the TAC and approval by EFSEC.

Exemption from Spec-5 for East BESS: The Certificate Holder intends to locate the East BESS within the footprint of the East Substation, which is itself located within 2 miles of a documented ferruginous hawk nest. The East BESS is exempted from the 0.6-mile and 2-mile buffers described in this measure so long as it remains co-located with the East Substation and remains subject to the other requirements of this measure. While the substation is not subject to buffer requirements of this mitigation measure, absent this exemption, relocation of the BESS would be required. The rationale for this exemption is that the footprint of the East Substation represents an area of permanent disturbance. Relocating the East BESS elsewhere would necessarily result in an increase in permanent habitat disturbance without any accompanying mitigative effect. Applying this 0.6-mile and 2-mile nest buffers to the East BESS would be contrary to the mitigative intent of this measure.

Rationale: The mitigation measure avoids and reduces potential loss of ferruginous hawk habitat, disturbance to ferruginous hawk, and ferruginous hawk mortality, while allowing for adaptive management throughout Project construction and operation.

Spec-6 Great Blue Heron, Sandhill Crane, & Tundra Swan: The Certificate Holder shall maintain a database of incidental observation of great blue heron, sandhill crane, and tundra swan foraging within the Lease Boundary during operation. Observational data and proposed adaptive management strategies shall be reviewed with the TAC annually (see Hab-4).

The Certificate Holder shall reduce the use of overhead power lines, where possible.

The Certificate Holder shall apply buffers recommended in Larsen et al (2004) sandhill crane feeding areas (0.5 miles) and roosting areas (0.3 miles), if documented in the Lease Boundary.
Rationale: The mitigation measure avoids and reduces potential disturbance to and mortality of great blue heron, sandhill crane and tundra swan, while allowing for adaptive management throughout Project construction and operation.

Spec-7 Loggerhead Shrike, Sagebrush Sparrow, Sage Thrasher, & Vaux's Swift: The Certificate Holder shall maintain connectivity between natural habitat patches to reduce potential habitat loss and fragmentation.
The Certificate Holder shall restore areas with shrubs, where feasible, to reduce potential habitat loss.
The Certificate Holder shall avoid the use of insecticides and herbicides to reduce potential mortality and loss of prey items.

The Certificate Holder shall retain trees, shrubs, and hedgerows, as feasible, to reduce habitat loss.

The Certificate Holder shall consult with the PTAG and TAC and EFSEC if suitable habitat for loggerhead shrike, sagebrush sparrow, and sage thrasher cannot be avoided. If suitable habitat cannot be avoided, the Certificate Holder shall, in consultation with the PTAG for approval by EFSEC, develop nest set back buffers that are supported by literature to be applied during clearing and grubbing activities.

The Certificate Holder shall avoid clearing and grubbing during the active nesting period to reduce potential destruction of active nests and disturbance of nesting birds. If clearing and grubbing occurs during the nesting season, the Certificate Holder shall conduct pre-clearing surveys for active nests and maintain appropriate setback buffers around active nests.

Observational data and proposed adaptive management strategies will be reviewed with the TAC annually (see Hab-4).
Rationale: This mitigation measure avoids and reduces potential habitat loss, habitat fragmentation, and mortality to avoid and reduce impacts on loggerhead shrike, sagebrush sparrow, sage thrasher, and Vaux's swift. The measure allows for adaptive management throughout Project construction and operation.

Spec-8 Prairie Falcon: The Certificate Holder shall conduct pre-construction surveys for prairie falcon nests for construction work proposed during the prairie falcon nesting season and the winter season preceding the start of construction and maintain a seasonal buffer of 2,640 feet from active nest sites (Larsen et al. 2004) to reduce potential destruction or disturbance of active nests.

Observational data and proposed adaptive management strategies will be reviewed with the TAC annually (see Hab-4).
Rationale: This mitigation measure avoids and reduces potential disturbance to prairie falcon, and prairie falcon mortality, while allowing for adaptive management throughout Project construction and operation.

Spec-9 Ring-necked Pheasant: The Certificate Holder shall consider using native grasses and legumes that support ring-necked pheasant in seed mixes applied during post-construction restoration of temporary disturbances and decommissioning to reduce potential habitat loss (Larsen et al. 2004).

Observational data and proposed adaptive management strategies will be reviewed with the TAC annually (see Hab-4).
Rationale: This mitigation measure reduces potential loss of ring-necked pheasant habitat and allows for adaptive management throughout Project construction and operation.

Spec-10 Black-tailed Jackrabbit & White-tailed Jackrabbit: The Certificate Holder shall conduct surveys for jackrabbit in suitable habitat identified through GAP predictive mapping.
If jackrabbits are identified, the Certificate Holder shall develop and implement a management plan with additional mitigation measures to reduce potential loss of habitat supporting jackrabbits.

Observational data and proposed adaptive management strategies will be reviewed with the TAC annually (see Hab-4).
Rationale: This mitigation measure reduces potential loss of black-tailed and white-tailed jackrabbit habitat, indirect habitat loss, habitat fragmentation, and mortality, while allowing for adaptive management throughout Project construction and operation.

Spec-11 Townsend's Big-eared Bat: The Certificate Holder shall restrict bat access to open water if the water could be contaminated.

The Certificate Holder shall retain old buildings, outbuildings, and trees where feasible.

The Certificate Holder shall report mortalities of Townsend's big-eared bat to EFSEC and the TAC. Bat mortality data and adaptive management strategies will be reviewed with the TAC annually (see Hab-4).
Rationale: This mitigation measure reduces potential loss of Townsend's big-eared bat habitat and mortality and allows for adaptive management throughout Project construction and operation.

Spec-12 Townsend's Ground Squirrel: The Certificate Holder shall conduct surveys for Townsend's ground squirrel colonies within the Lease Boundary in areas of the Project disturbance footprint to inform final design.

The Certificate Holder shall avoid habitat loss within Townsend's ground squirrel habitat concentration areas, as well as known colonies, in final design. Additional Townsend's ground squirrel colonies identified through surveys shall be shown on Project mapping. If Project components are required in habitat concentration areas (rated as medium or greater) or near known colonies, the Certificate Holder shall prepare a species-specific management plan for areas where avoidance is not feasible. This plan shall provide rationale for why colonies cannot be avoided and shall detail additional mitigation measures to reduce impacts to Townsend's ground squirrel. Additional mitigation measures may include identification of setbacks, colony monitoring, habitat restoration, colony relocation, and reconstruction of habitat features. The plan shall also describe monitoring and adaptive management measures to be implemented during Project operation. The plans shall be provided and discussed with the PTAG, and approved by EFSEC, if avoidance of identified ground squirrel colonies is not feasible.

Observational data and adaptive management strategies will be reviewed with the TAC annually.

Rationale: This mitigation measure reduces potential loss of Townsend's ground squirrel habitat, disturbance of squirrel colonies, and Townsend's ground squirrel mortality, while allowing for adaptive management through Project construction and operation.

Spec-13 Pronghorn Antelope: The Certificate Holder shall limit fencing where feasible (e.g., around solar arrays). Final fencing layouts and design, including use of non-barbed-wire security fencing, shall be provided to the PTAG and EFSEC with rationale for fencing requirements.

The Certificate Holder shall design and implement a study of seasonal pronghorn antelope occurrence and use of the Lease Boundary before construction and during operation to document the change, if any, of pronghorn antelope presence, abundance, and habitat use within the Lease Boundary. The PTAG will review and provide input to the study design. The results of the study will be used to develop adaptive management measures to respond to changes in pronghorn antelope habitat use. Survey results and proposed adaptive management will be reviewed by the PTAG and TAC prior to implementation (see Hab-4).

The Certificate Holder shall maintain a potentially confidential database of pronghorn antelope observations, including details such as numbers, location, age, and sex, and shall make this database available to WDFW, EFSEC, and the Yakama Nation.
Rationale: This mitigation measure reduces potential disturbance to pronghorn antelope and barriers to pronghorn antelope movement, while allowing for adaptive management throughout Project construction and operation.

6. **Energy and Natural Resources (ENR)**

ENR-1 Water Source: The Certificate Holder shall provide an executed agreement to EFSEC that identifies the source and quantity of water intended to be supplied to the Project prior to its construction, operation, and decommissioning.
Rationale: Provides verification that water being used by the Project is originating from a sustainable source.

ENR-2 High-efficiency Electrical Requirements: The Certificate Holder shall install high-efficiency electrical fixtures and appliances in the O&M facility, BESS, and substations to reduce energy needs for the Project's operations stage.
Rationale: Reduces the Project's demands on energy and natural resources.

ENR-3 High-efficiency Security Lighting: The Certificate Holder shall install high-efficiency security lighting to reduce energy needs for the Project's operations stage.
Rationale: Reduces the Project's demands on energy resources.

ENR-4 Low-water Toilets: The Certificate Holder shall install low-water-use flush toilets in the O&M facilities to reduce the Project's water requirements during its operations stage.
Rationale: Reduces the Project's demands on water resources.

ENR-5 Recycle Wash Water: The Certificate Holder shall capture and recycle wash water to reduce the Project's water requirements during its operations stage.
Rationale: Reduces the Project's demands on water resources.

ENR-6 Component Recycling: To retrieve as much of the natural resources used in construction and operation of the Project as possible, the Certificate Holder shall demolish and recycle all components of the Project that have the potential to be used as raw materials in commercial or industrial applications. For any Project components that the Certificate Holder deems non-recyclable, the rationale for that determination shall be presented to EFSEC for approval prior to the disposal of the components. If the Certificate Holder

intends to leave any portion of the facility, including concrete foundations, they must submit a request to EFSEC in an update to their decommissioning plan.
Rationale: Reduces the Project's demands on natural resources.

7. **Land and Shoreline Use (LSU) Mitigation**
LSU-1 Livestock Management Plan: The Certificate Holder shall prepare a livestock management plan with property owners and livestock owners to control the movement of animals within the Lease Boundary during construction, operation, and decommissioning.
Rationale: To limit conflicts between the Project and farmers and ranchers.

LSU-2 Dryland Farming Management Plan: The Certificate Holder shall prepare a dryland farming management plan for construction, operation, and decommissioning that outlines communication requirements between the Certificate Holder and the land owners. The plan shall establish work windows that will allow farmers uninterrupted access to their fields for dryland wheat planting and harvesting.
Rationale: To limit conflicts between the Project and farmers and ranchers.

LSU-3 Livestock Management: The Certificate Holder shall be responsible for ensuring that arrangements for the removal of all livestock have been made during Project construction and decommissioning.
Rationale: To limit conflicts between the Project and farmers and ranchers.

LSU-4 Temporary Disturbance Restoration: After construction is completed, the Certificate Holder shall restore all temporary disturbance areas to their preconstruction status.
Rationale: This measure will allow the areas of temporary disturbance within the Lease Boundary to return to their preconstruction agricultural production levels as soon as possible.

LSU-5 Site Restoration Plan: Prior to decommissioning, the Certificate Holder shall submit a Detailed Site Restoration Plan, per WAC 463-72-050, for restoring the site to its preconstruction character. The Certificate Holder will be responsible for working with the landowner to return all agricultural land to its preconstruction status. If future site conditions or land ownership no longer allows for the land to be returned to agricultural production, the Certificate Holder shall submit a request to EFSEC for an alternative land use that shall be in alignment with the Lease Boundary's preconstruction rural character and resource value. If the Detailed Site Restoration Plan requests an alternative land use, EFSEC may require that the Certificate Holder provide additional mitigation to offset impacts from a permanent conversion of the land.
Rationale: This measure will assist in preventing conversion of a land use that is not in alignment with the Lease Boundary's current designation.

8. **Historic and Cultural Resources (CR)**
CR-1 Traditional Cultural Properties Mitigation: Ongoing engagement with affected Tribes could facilitate mitigation of any potential impacts on TCPs. Tribal review of site/engineering plans could provide input to guide design and avoidance, without confidential disclosure of locations. This engagement shall also include opportunities for identified stakeholders to evaluate the effectiveness of any implemented mitigation measures throughout the Project's lifecycle.

Appropriate mitigation measures may include (but are not limited to) the demarcation of "no-go," culturally sensitive areas to be avoided by contractors throughout the life of the Project, including redesign, refinement, and/or maintenance. The demarcation of culturally sensitive areas could also facilitate safe access to TCPs and/or other places of cultural significance for Tribes. If appropriate, the implementation of environmental enhancement measures (e.g., planting and/or screening) or the protection of certain aspects of the environmental setting may be considered in coordination with affected Tribes.

The CTUIR proposed several mitigation strategies (CTUIR 2021a, 2021b). Potential mitigation strategies include:

- Enable continued access for Tribes through an Access Agreement (e.g., continued access to First Foods).
- Create protections for natural resources that support First Foods procurement (e.g., preserve landforms, practice responsible stream management, avoid negative impacts on pollinator species).
- Perform off-site mitigation, including education and outreach work, to assist Tribes in the perpetuation of oral history and legends that would have been taught in-situ in the Area of Analysis; engage with Tribes on appropriate rehabilitation (closure) strategies for the safeguarding of viewshed and cultural landscapes.
- Include Tribal representatives during any ground-disturbing activities (Cultural Resource Monitor).
- Develop an agreement with the Tribes in anticipation of a time when the wind farm will be considered for disassembly to restore the landscape and viewshed.

Rationale: This measure will provide affected Tribes with an opportunity to continue discussions with the Certificate Holder and EFSEC throughout the life of the Project to identify and adapt mitigation practices to reduce impacts to TCPs.

CR-2 Archaeological and Architectural Resources Mitigation: Table 4.9-9 of Section 4.9 sets out proposed mitigation measures for historic and cultural resources potentially impacted by the Project. Any mitigation strategies shall be detailed in an agreement document between EFSEC, Washington State Department of Archaeology and Historic Preservation (DAHP), the Tribes, and the Project proponent.

Mitigation measures are intended to minimize impacts on historic and cultural resources with elevated sensitivity (precontact archaeological resources, National Register of Historic Places (NRHP)-eligible historic-period archaeological resources, TCPs, and unidentified historic and cultural resources), primarily through avoidance. If avoidance is not possible, the mitigation clarifies which resources will require a DAHP permit prior to disturbance. Mitigation measures also identify instances where engagement with DAHP, Tribes, and/or landowners shall be required.
Rationale: This measure will provide the Certificate Holder with instruction on how to avoid, minimize, or mitigate for any impacts to identified archaeological and architectural resources.

Table CR-2 Summary of Recommendations for Archaeological and Architectural Resources Potentially Impacted by the Project

Resource ID	Resource Type	Resource Sensitivity	Required Mitigation If Avoidance Not Possible
▪ 45BN2092 ▪ 45BN2146	Archaeological Resources Precontact Isolates	Avoidance requested and recommended	▪ DAHP permit not required for disturbance ▪ Further coordination with Tribes and DAHP
▪ 45BN261 ▪ 45BN2090 ▪ 45BN2153 (precontact component)	Archaeological Resources: Precontact or multicomponent sites	Avoidance requested and recommended DAHP-issued permit required prior to disturbance	▪ Further coordination with Tribes and DAHP

Table CR-2 Summary of Recommendations for Archaeological and Architectural Resources Potentially Impacted by the Project

Resource ID	Resource Type	Resource Sensitivity	Required Mitigation If Avoidance Not Possible
▪ 45BN2081 ▪ 45BN2082 ▪ 45BN2083 ▪ 45BN2084 ▪ 45BN2086 ▪ 45BN2088 ▪ 45BN2091 ▪ 45BN2093 ▪ 45BN2138 ▪ 45BN2139 ▪ 45BN2144 ▪ 45BN2150 ▪ 45BN2155 ▪ 45BN2156 ▪ 45BN2157 ▪ 45BN2158 ▪ 45BN2163	Archaeological Resources: Historic-Period Sites and Isolates	Determined not eligible for the NRHP	▪ None
▪ 45BN205 ▪ 45BN2085 ▪ 45BN2087 ▪ 45BN2089 ▪ 45BN2140 ▪ 45BN2141 ▪ 45BN2142 ▪ 45BN2143 ▪ 45BN2145 ▪ 45BN2147 ▪ 45BN2148 ▪ 45BN2149 ▪ 45BN2151 ▪ 45BN2152 ▪ 45BN2153 (historic component) ▪ 45BN2154 ▪ 45BN2159 ▪ 45BN2160 ▪ 45BN2161 ▪ 45BN2162	Archaeological Resources (Historic Sites)	Unevaluated for the NRHP	▪ DAHP permit required prior to any disturbance ▪ Evaluate site for NRHP eligibility

Table CR-2 Summary of Recommendations for Archaeological and Architectural Resources Potentially Impacted by the Project

Resource ID	Resource Type	Resource Sensitivity	Required Mitigation If Avoidance Not Possible
▪ 667765 (Nine Canyon Road) ▪ 721665 (McNary–Badger Canyon No. 1 Transmission Line) ▪ 722996 (147407 E. Beck Road Residence) ▪ 724939 (Farmhouse and Garage) ▪ 724940 (Shop) ▪ 724941 (Machine Shed) ▪ 724942 (Grain Elevator and Grain Storage Silos)	Architectural Resources	Determined not eligible for the NRHP	▪ Notify DAHP of any anticipated physical impacts
▪ 721666 (McNary–Franklin No. 2 Transmission Line) ▪ 722995 (Grain elevator) ▪ 724937 (Nicoson Road Farmstead Barn Storage Building) ▪ 724938 (Nicoson Road Farmstead Cribbed Grain Elevator)	Architectural Resources	Determined eligible for the NRHP	▪ Notify DAHP of any anticipated physical impacts
▪ N/A	Archaeological Resources and Architectural Resources	Unidentified historic and cultural resources	▪ DAHP permit required prior to any disturbance to archaeological sites ▪ Further coordination with Tribes and DAHP

Notes:
APP = Avoidance and Protection Plan; DAHP = Washington State Department of Archaeology and Historic Preservation; NRHP = National Register of Historic Places; RCW = Revised Code of Washington

CR-3 Webber Canyon: No wind turbines shall be sited within 1-mile of the topographic drop-off at the top of the Webber Canyon walls.
Rationale: Webber Canyon has been identified by the Yakama Nation as an area of particular TCP concern and prohibiting the siting of wind turbines in proximity to this area will reduce physical and visual encroachment on any TCPs associated with this geographic feature.

9. Visual Aspects, Light and Glare

A. Visual Aspects (VIS) Mitigation

Wind turbines:

VIS-1 Foreground Turbine Locations: Relocate turbines located within the foreground distance zone (0 to 0.5 miles) of non-participating residences to avoid completely dominating views from these highly sensitive viewing locations.
Rationale: This measure will reduce the level of visual contrast and prominence of turbines by requiring them to be sited further away from non-participating residences.

VIS-2 Retain Natural-appearing Agricultural Landscape: Do not place piggyback advertising, cell antennas, commercial messages, or symbols on proposed wind turbines.
Rationale: This measure will reduce the level of visual contrast of turbines by prohibiting advertising elements that would seem out of place when compared to the agricultural landscape.

VIS-3 Turbine Cleaning: Maintain clean nacelles and towers to avoid any spilled or leaking fluids accumulating dirt. When a sufficient number of nacelles and/or towers are noticeably not clean, the deployment of a cleaning crew shall be required.
Rationale: This measure will reduce the level of visual contrast of turbines by ensuring that they remain a clean, consistent white/gray color that is less visually distinct on the existing landscape.

Solar arrays:
VIS-4 Solar Array Vegetation: Avoid complete removal of vegetation beneath solar arrays during construction, where possible. If site grading requires the removal of vegetation, the area will be revegetated and maintained during Project operation (BLM 2013).
Rationale: This measure will reduce the level of visual contrast between areas of exposed soil and adjacent undisturbed areas during Project operation.

VIS-5 Opaque Fencing: Install opaque fencing to directly screen views of the solar arrays where sited within 0.5 miles of linear viewpoints (including the alignment of I-82) or residences.
Rationale: This measure will minimize color contrast between the proposed fencing and the existing landscape, allowing it to blend into the setting more effectively.

Battery Energy Storage System:
VIS-6 Retain Natural-appearing Characteristics: Design BESS to blend with the adjacent agricultural character, including selecting materials and paint colors to reduce contrast with the existing setting.
Rationale: This measure will reduce the level of visual contrast between BESS facilities and the area's agricultural setting as the facilities will mimic design characteristics of agricultural structures in the area.

Substation and transmission lines:
VIS-7 Maximize Span Length: Maximize the span length across highways and other linear viewing locations to decrease visual contrast at the highway crossings.
Rationale: By moving the structures as far from the road as possible, the effect of those structures being located directly adjacent to these linear viewing locations will be reduced.

VIS-8 Visual Clutter: Choose the type of proposed transmission structure (H-frame or monopole) to best match the adjacent transmission lines.
Rationale: This measure will minimize visual clutter from the introduction of different structure types into the landscape.

B. Shadow Flicker (SF) Mitigation
SF-1: Shadow Flicker: The Certificate Holder shall attempt to avoid, minimize, and mitigate shadow flicker at non-participating residences. Shadow flicker can usually be addressed by planting trees, shading windows, or other mitigation measures. As a last resort, the control system of the wind turbine

could be programmed to cease operation during brief periods when conditions result in a perceptible shadow flicker. Conditions that would result in perceptible shadow flicker at non-participating residences are expected to be infrequent, only occurring during limited periods with the correct angle of the sun, wind speeds, and unobstructed, clear sky conditions.
Rationale: This measure will reduce the impacts of shadow flicker to non-participating residences by taking preventative actions.

SF-2 Complaint Resolution: The Certificate Holder shall set up a complaint resolution procedure that shall include the following: 1) A 24-hour "hot line" or other form of communication that the public can use to report any undesirable shadow flicker associated with the operation of the wind turbines, with the ability to log the date and time of a complaint. This line of communication shall be maintained for at least one year, at which time it could be reassessed to continue or be terminated; 2) An attempt to contact the complainant within 24 hours; and 3) A requirement to report any complaints and their resolution to EFSEC during monthly reports to the Council.
Rationale: This measure will reduce the impacts of shadow flicker by allowing the Certificate Holder to better track the incidence of occurrence and requiring that they take prompt corrective action.

C. Light (LIG) Mitigation

LIG-1 LEED-certified & Security Lighting: The Project shall be constructed with LEED-certified building exterior(s) and security lighting to minimize vertical and horizontal illuminance.
Rationale: This measure will reduce the impacts of Project lighting at and beyond the Lease Boundary by more effectively focusing lighting on desires areas.

10. Noise and Vibration (N) Mitigation

N-1 Staging Noise: Avoid laydown and equipment storage/parking areas closer than 2,500 feet from the nearest NSR location.
Rationale: These laydown and storage areas will have more noise sources for longer periods of time than other areas; therefore, siting these locations further from NSR locations will limit the sound level and the duration that such equipment could impact an NSR.

N-2 Large Equipment Noise: Limit large, noise-generating equipment operations, such as earth-moving equipment, cranes, and trucks, as outlined in Table 4.11-8, to daytime hours (between 7 a.m. and 10 p.m.), and limit the loudest and most impulsive pieces of construction equipment and activities, such as pile-driver operations and blasting, to typical working hours only: 7 a.m. to 6 p.m., Monday through Saturday.
Rationale: This measure will ensure that a typical workday will not include pile-driver operations or blasting during evening hours (6 p.m. to 10 p.m.) but could include some on-site activities during nighttime hours such as early-morning setup and preparation for the workday. Nighttime operations will be atypical. The purpose is to limit noise impacts during sensitive hours while allowing contractors some flexibility.

N-3 Nighttime Noise: Monitor noise during nighttime construction operations (between 10 p.m. and 7 a.m.), when construction activities have the potential to impact NSRs or reduce activities to ensure that construction noise does not exceed state noise limits.
Rationale: This monitoring will take place throughout the entirety of the nighttime hours or until construction activities cease.

N-4 Noise Complaint Resolution Procedure: Update the Certificate Holder's noise complaint resolution procedure to better address and respond to noise complaints from the public. The updates include the following: a complaint hotline during construction and providing a phone number to be posted on

signage throughout the construction project and ensure that current site contact information is maintained with EFSEC. The Certificate Holder shall log all correspondence and promptly follow up with inquiries to provide appropriate resolution. The correspondence and resolutions shall be logged throughout the construction process, and the log shall be made available to EFSEC during routine reporting or upon request. During the operation stage, the site will be staffed and contact information shall be available.
Rationale: This measure will better address and respond to noise complaints from the public.

N-5 Operation Noise Complaint Resolution: Establish a noise complaint resolution procedure similar to that proposed for construction and decommissioning to better address and respond to noise complaints.
Rationale: This measure will better address and respond to noise complaints from the public.

11. Recreation (R) Mitigation

R-1: Recreational Activities: The Certificate Holder shall coordinate with DNR, Benton County, and other entities (i.e., BLM) when appropriate to identify new recreational activities and/or improve existing recreational activities within the Lease Boundary (e.g., multi-use trails). Coordination entities may be consulted for impacts to recreation identified specific to their administered lands. The Certification Holder shall identify measures for EFSEC's approval prior to the start of construction. EFSEC will be responsible for determining if the Certificate Holder has sufficiently coordinated with all relevant entities that promote recreational activities within the vicinity of the Lease Boundary.
Rationale: To mitigate the potential loss of recreational activities due to the Project.

R-2 Information for Recreationalists: The Certificate Holder shall provide a minimum of five informational boards approved by DNR and EFSEC at viewpoints associated with scenic areas of interest. The construction of the informational boards shall be completed within five years of the beginning of construction.
Rationale: To mitigate the loss of uninterrupted views of scenic viewpoints and provide information to the public regarding the Project, the Project's expected years of operation and the reclamation of the Project. Additionally, photographs of the viewshed prior to the construction of the Project shall be displayed, in color, on the informational boards.

R-3 Recreation Safety Management Plan: To mitigate the loss of safe recreation use for recreation enthusiasts, the Certificate Holder shall attempt to coordinate with local and regional (when appropriate) recreation groups (e.g., the Northwest Paragliding Club, the Tri-City Bicycle Club) to develop and maintain an adaptive safety management plan to continue access to recreation activities in the Lease Boundary while keeping recreation enthusiasts safe. This plan shall identify potential hazards within the Lease Boundary (e.g., construction on or near common bicycle paths, no fly zones, etc.) and provide opportunities to identify or improve other similar recreation use areas to offset any recreation removed from the Project area as a result of the Project. Specific to paragliding, the Certificate Holder shall perform outreach to other regional paragliding entities to share the safety management plan to ensure that recreationists are aware of the limitations the Project creates for safe landing and safe air space. EFSEC will be responsible for determining if the Certificate Holder has sufficiently coordinated with all entities that promote recreational activities within the Lease Boundary.
Rationale: To mitigate the loss of safe use for recreation enthusiasts.

12. Public Health and Safety (PHS) Mitigation

PHS-1: Fire Suppression Aircraft Access: Due to first responder safety concerns, fire suppression aircraft are not anticipated to operate within or in close proximity to the Project footprint. However, in the event of a major wildfire occurring in an area where fire suppression aircraft may need access near the Project,

whether related to the Project or resulting from another cause, the Certificate Holder shall shut down turbines temporarily.
Rationale: This mitigation measure will allow access for fire suppression aircraft carrying water and fire suppression chemicals, as needed.

PHS-2 Firefighting Aircraft Standoff Buffers: No wind turbines shall be sited within 0.25 miles of the maximum perimeter of one or more historic wildfires that have been recorded between January 1, 2000 and the start of construction.
Rationale: The Washington Department of Natural Resources (DNR) has stated that any firefighting aircraft in service with their agency would observe a minimum of a 0.25-mile standoff buffer from wind turbines during aircraft operation. This mitigation measure ensures that DNR firefighting aircraft can safely and effectively be deployed to areas of higher wildfire likelihood within and adjacent to the Project Lease Boundary to assist in firefighting when needed.

13. Transportation (TR) Mitigation

TR-1 Load Movement: The load movement team shall review the procedures to be followed if the load should become lodged at a crossing and shall review the emergency contact numbers for each crossing daily—that is, before starting travel for the day.
Rationale: Ensures safe practices during the transportation of materials for construction and decommissioning.

TR-2: Train Safety Training: The Certificate Holder shall work with WSDOT and Operation Lifesaver to provide train safety presentations to employees and contractors to increase knowledge regarding train safety, including train track crossings. Since this measure cannot be required by EFSEC, it cannot be considered fully effective mitigation for the purpose of this analysis.
Rationale: Lessens potential collisions at train crossings.

TR-3 Decommissioning Traffic Analysis: A third-party engineer shall provide a traffic analysis prior to decommissioning. The traffic analysis will evaluate all modes of transportation (e.g., waterways, rail, roads, etc.) used for the movement of people and materials during decommissioning via the haul route(s) in Washington State.
Rationale: Ensures that no changes have occurred since the traffic analysis was originally provided prior to construction.

TR-4 Railroad Crossing Traffic Analysis: All railroad crossing and grade changes shall be included in a route survey performed by a third-party engineer with the Washington Utilities and Transportation Commission participating to determine if current traffic control systems at crossings are appropriate or if additional mitigation is needed prior to decommissioning. The route survey shall include anticipated traffic counts. Since this measure will require the participation of other agencies before it could be implemented, it cannot be considered fully effective mitigation for the purpose of this analysis.
Rationale: Ensures that no changes have occurred since the route survey was originally provided prior to construction.

TR-5 Traffic Analysis – Existing Laws at Decommissioning: The analysis of impacts from decommissioning is based on existing laws and regulations at the time when the Final ASC was submitted to EFSEC. The Certificate Holder shall consult with WSDOT and Benton County on the development of a decommissioning-stage Traffic and Safety Management Plan prior to decommissioning. The Traffic and Safety Management Plan must include a safety analysis of the WSDOT-controlled intersections (in conformance with the WSDOT Safety Analysis Guide) and recommend

mitigation or countermeasures where appropriate. The analysis shall review impacts from decommissioning traffic and be submitted to WSDOT for review and comment prior to decommissioning. Since this measure will require the participation of other agencies before it could be implemented, it cannot be considered fully effective mitigation for the purpose of this analysis. EFSEC will work with the identified agencies to facilitate cooperation in implementing this mitigation measure.
Rationale: Ensures that no changes have occurred to the laws and regulations used in this analysis.

TR-6 Additional Route Analysis: The Certificate Holder provided a Traffic Impact Analysis (TIA) with the Final ASC (Horse Heaven Wind Farm, LLC 2023). Oversize truck routes to the Project Area were analyzed using I-82, north through State Route 397, Locust Grove Road, and Plymouth Road. Additionally, the delivery of turbine towers was only analyzed from I-82 to the Locust Grove/State Route 397 exit. The use of additional routes for oversize or overweight deliveries may require supplemental analysis and requires approval by EFSEC.
Rationale: Ensures consistency with state and county transportation plans and codes.

TR-7 Intersection Safety and Mitigation: Coordinate with WSDOT, Benton County, and EFSEC prior to construction and prior to demolition on potential mitigation for intersections with safety concerns.
Rationale: Ensures safe practices during the transportation of materials for construction and decommissioning.

14. Public Services and Utilities (PSU) Mitigation

PSU-1 Component Disposal Procedure: To address the potential for the inappropriate disposal of Project waste, the Certificate Holder shall dispose of all non-recyclable Project components in an appropriately licensed waste disposal facility.
Rationale: This mitigation measure prevents disposal of Project-related wastes in inappropriate landfills or unauthorized facilities.

15. Socioeconomics (Socio-ec) Mitigation

Socio-ec-1: Decommissioning Housing Survey: Prior to decommissioning, the Certificate Holder shall provide an up-to-date analysis on the availability of temporary housing for workers, consistent with the Washington Department of Labor & Industries guidelines. If sufficient temporary housing for workers is not available, the Certificate Holder shall present EFSEC with options for housing workers from outside the community.
Rationale: This mitigation measure will minimize adverse impacts on the availability of housing for residents of the surrounding communities.

Summary of Milestones and Timing Table

Timing	Mitigation Measure	Milestone	PTAG/TAC review
Construction			
One year prior to construction	**Hab-4**	Establishment of Pre-operational Technical Advisory Group (PTAG will be replaced by the Technical Advisory Committee upon the onset of operation).	NA
During appropriate season within 1 year prior to construction	**Spec-1, 4, 8, 10, 12**	Pre-construction surveys	PTAG
180 days prior to construction	**Hab-6**	Final design	PTAG
90 days prior to construction	**Hab-1**	Corridor Mitigation Plan, if necessary	PTAG/ TAC
90 days prior to construction	**Hab-2**	Rationale for and mitigation of canyon and draw crossings	NA
90 days prior to construction	**Wild-8**	Raptor Nest Monitoring and Management Plan	PTAG
90 days prior to construction	**Hab-5**	Indirect Habitat Loss Management Plan	PTAG
90 days prior to construction, if needed	**Spec-5**	Ferruginous hawk Mitigation and Management Plan	PTAG/TAC
60 days prior to initiation of surveys (pre-construction).	**Spec-13**	Pronghorn antelope seasonal study	PTAG/TAC
60 days prior to construction, if needed	**Spec 1, 4, 10, 12**	Species specific management plans	PTAG/ TAC
Prior to construction	**Wild-5**	Flagging sensitive features and habitat	NA
Prior to construction	**Wild-9**	Pre-construction bird nest surveys, if necessary	NA
Operation			
60 days post-construction	**Veg-4**	As-built report and offset calculation	NA
Two years after commencement of operation	**Wild-1**	Review of post-construction fatality monitoring results	PTAG/ TAC
Annually during operation	**Wild-6**	Review mortality database and provide mitigation	NA
Annually during operation	**Spec-2, 4, 6, 7, 8, 9, 12**	Incidental databases	TAC
Annually during operation	**Spec-11**	Townsend's big-eared bat mortality database	TAC
Decommissioning			
60 days prior to initiation of decommissioning	**Veg-7**	Detailed Site Restoration Plan	NA
60 days prior to initiation of decommissioning	**Hab-7**	Rationale for and mitigation of remaining roadways, if any	NA

Notes: NA = Not Applicable; PTAG = Pre-operational Technical Advisory Group; TAC = Technical Advisory Committee

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APPENDIX 3
PROJECT LEGAL DESCRIPTION

Horse Heaven Wind Farm
Site Certification Agreement
Appendix 3. Legal Descriptions

Source: Horse Heaven Final ASC Appendix F, Submitted September 2023

Parcel Number	Owner	Acres[1/]	Affected Lands
102782000000000	A G EDWARDS INC,	240	**TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 2: GOVERNMENT LOT 4 AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER. SECTION 11: NORTH ONE HALF AND THE WEST ONE HALF OF THE SOUTHWEST QUARTER. SECTION 11: EAST ONE HALF OF THE SOUTHWEST QUARTER AND THE WEST ONE HALF OF SOUTHEAST QUARTER. **TOWNSHIP 7 NORTH, RANGE 29 EAST OF THE WILLAMETTE MERIDIAN: FRACTIONAL** SECTION 7: ALL OF SECTION EXCEPT BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 7: THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SECTION 7 A DISTANCE OF 1,460 FEET TO A POINT: THENCE NORTHEASTERLY A DISTANCE OF 3,840 FEET, MORE OR LESS, TO A POINT ON THE EAST LINE OF SAID SECTION 7, SAID POINT BEING 3,550 FEET NORTHERLY OF SAID SOUTHEAST CORNER OF SAID SECTION 7: THENCE SOUTHERLY ALONG THE EAST LINE OF SAID SECTION 7 TO THE POINT OF BEGINNING.
111781000000000	A G EDWARDS INC,	411	
111783000000000	A G EDWARDS INC,	164	
107791000001000	A G EDWARDS INC,	560	
122781000001000	ABKEN SUSAN L	5	**TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 22: THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER THEREOF.
122781000002000	ABKEN SUSAN L	5	
122782000001000	ABKEN SUSAN L	5	
103792000001000	BATEMAN FAMILY PROPERTIES LLC (Deed 2019-039821 transfer to Ross Place, Anderson, Carl)	444	**TOWNSHIP 7 NORTH, RANGE 29 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 3: PORTION LYING WEST OF OWENS ROAD. SECTION 4: THE SOUTH HALF, LESS 1.23 ACRES FOR STATE HIGHWAY 12-12-67. SECTION 9: ALL OF SECTION. SECTION 10: PORTION LYING WEST OF OWENS ROAD.
104793000000000	BATEMAN FAMILY PROPERTIES LLC (Deed 2019-039821 transfer to Ross Place, Anderson, Carl)	316	
109790000000000	BATEMAN FAMILY PROPERTIES LLC (Deed 2019-039821 transfer to Ross Place, Anderson, Carl)	640	

Parcel Number	Owner	Acres[1/]	Affected Lands
110791000001000	BATEMAN FAMILY PROPERTIES LLC (Deed 2019-039821 transfer to Ross Place, Anderson, Carl)	577	
105780000000000	BEIGHTOL ROOT LLC	587	**TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 5: ALL OF SECTION, FRACTIONAL LESS 60 FEET TO COUNTY FOR ROAD: LESS THAT PORTION FOR ROAD RIGHT OF WAY, PER QCD AF#2005-011806, 4/15/2005. ALSO LESS THAT PORTION FOR ROAD RIGHT OF WAY, PER QCD AF#2005-011807, 4/15/2005. ALSO LESS THAT PORTION FOR ROAD RIGHT OF WAY, PER QCD AF#2005-011808, 4/15/2005. LESS THAT PORTION FOR ROAD RIGHT OF WAY DESCRIBED AS FOLLOWS; A STRIP OF LAND OF VARIABLE WIDTH SITUATE IN THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 7 NORTH, RANGE 28 EAST, W.M. BENTON COUNTY, WASHINGTON SAID STRIP BEING MRE PARTICULARLY DESCRIBED AS FOLLOWS; COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 5; THENCE NORTH 02 DEGREES 37' 21" WEST ALONG THE EASTERLY LINE OF SAID NORTHEAST QUARTER A DISTANCE OF 1,940.65 FEET; THENCE SOUTH 87 DEGREES 22' 39" WEST 30.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF CLODFELTER ROAD AND THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE CONTINUING SOUTH 87 DEGREES 22' 39" WEST 5.00 FEET; THENCE NORTH 02 DEGREES 37' 21" WEST 275.00 FEET; THENCE NORTH 24 DEGREES 27' 20" WEST 134.44 FEET; THENCE NORTH 11 DEGREES 46' 57" EAST 180.89 FEET; THENCE NORTH 02 DEGREES 37' 21" WEST 102.36 FEET MORE OR LESS TO A POINT ON THE NORTHERLY LINE OF SAID NORTHEAST QUARTER; THENCE NORTH 89 DEGREES 51' 27" EAST ALONG SAID NORTHERLY LINE A DISTANCE OF 10.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF CLODFELTER ROAD; THENCE SOUTH 02 DEGREES 37' 21" EAST ALONG SAID WESTERLY RIGHT OF WAY LINE A DISTANCE OF 676.92 FEET MORE OF LESS TO THE POINT OF BEGINNING AND THE EAST 30.00 OF THE NORTH 676.92 FEET OF SAID NORTHEAST QUARTER. (DESCRIPTION CHANGE PER QCD, AF#2008-004732, 2/22/2008). **TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 5: THE WEST HALF AND WEST HALF OF THE EAST HALF. SECTION 8: THE WEST HALF OF THE NORTHEAST QUARTER. **TOWNSHIP 8 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:**
105871000002000	BEIGHTOL ROOT LLC	409	
108871000002000	BEIGHTOL ROOT LLC	80	
132883000000000	BEIGHTOL ROOT LLC	319	

Parcel Number	Owner	Acres[1/]	Affected Lands
			1971 MARLETTE MARLETTE 24 X 59 THE SOUTH 1/2 OF SECTION 32: LESS THAT PORTION FOR ROAD RIGHT OF WAY DESCRIBED AS FOLLOWS; A STRIP OF LAND OF VARIABLE WIDTH SITUATED IN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 8 NORTH, RANGE 28 EAST, W.M. BENTON COUNTY, WASHINGTON, SAID STRIP BEING MORE PARTICULARLY DESCRIBED AS; COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 32; THENCE SOUTH 89 DEGREES 51' 27" WEST ALONG THE SOUTHERLY LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 30.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF CLODFELTER ROAD AND THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION, THENCE SOUTH 89 DEGREES 51' 27" WEST ALONG THE SOUTHERLY LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 10.00 FEET; THENCE NORTH 02 DEGREES 00' 15" WEST 75.00 FEET; THENCE NORTH 07 DEGREES 42' 53" WEST 100.50 FEET; THENCE NORTH 02 DEGREES 00' 15" WEST A DISTANCE OF 200.00 FEET; THENCE NORTH 00 DEGREES 05' 42" WEST 300.17 FEET; THENCE NORTH 02 DEGREES 00' 15" WEST A DISTANCE OF 700.00 FEET; THENCE NORTH 11 DEGREES 05' 40" WEST 506.35 FEET; THENCE NORTH 36 DEGREES 26' 35" WEST A DISTANCE OF 212.19 FEET; THENCE NORTH 02 DEGREES 00' 15" WEST 50.00 FEET; THENCE NORTH 43 DEGREES 48' 10" EAST A DISTANCE OF 251.05 FEET; THENCE NORTH 03 DEGREES 42' 23" EAST 201.00 FEET; THENCE NORTH 02 DEGREES 00' 15" WEST 194.32 FEET MORE OR LESS, TO A POINT ON THE NORTHERLY LINE OF SAID SOUTHEAST QUARTER; THENCE NORTH 89 DEGREES 36' 52" EAST ALONG SAID NORTHERLY LINE A DISTANCE OF 10.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF CLODFELTER ROAD, THENCE SOUTH 02 DEGREES 00' 15" EAST ALONG SAID WESTERLY RIGHT OF WAY LINE A DISTANCE OF 2,669.36 FEET MORE OR LESS TO THE POINT OF BEGINNING, AND THE EAST 30.00 FEET OF THE SOUTHEAST QUARTER. (DESCRIPTION CHANGE FOR ROAD ROW PER QCD, AF#2008-004732, 2/22/2008).
112784000000000	BERRY TRUSTEE VERA L	161	T**OWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 12: THE SOUTHEAST QUARTER. SECTION 13: THE NORTH ONE HALF: SOUTH ONE HALF LESS THE WEST HALF OF THE SOUTHWEST QUARTER AND THE NORTH NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 13 LESS THE SOUTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 13 RIGHT OF WAY EASEMENT.TOGETHER WITH THAT PORTION DEFINED AS FOLLOWS SOUTH ONE HALF: PORTION DEFINED AS FOLLOWS: THE WEST HALF OF THE SOUTHWEST QUARTER AND THE NORTH NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 13.
113781000000000	BERRY TRUSTEE VERA L	312	
113783000003001	BERRY VERA L WILKERSON	120	
114781000000000	BERRY TRUSTEE VERA L	322	

Parcel Number	Owner	Acres[1/]	Affected Lands
			SECTION 14: THE NORTH ONE HALF.
104703000000000	BLAIR JAN W & GAIL	315	**TOWNSHIP 7 NORTH, RANGE 30 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 4: THE SOUTH ONE/HALF. SECTION 9: THE NORTH ONE/HALF. LESS THAT PORTION OF SAID SECTION 9 LYING WITHIN THE FOLLOWING DESCRIBED PARCEL: (SURVEY #1521) THAT PORTION OF THE WEST HALF AND THE NORTHEAST QUARTER OF SECTION 3, THE NORTHWEST QUARTER OF SECTION 10 AND THE NORTHEAST QUARTER OF SECTION 9 ALL IN TOWNSHIP 7 NORTH RANGE 30 EAST DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 3: THENCE NORTH 89 DEGREES 33'57' EAST 2202.09 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE KENNEWICK IRRIGATION DISTRICT CANAL WHICH HAS A WIDTH OF 75 FEET FROM CENTERLINE: THENCE ALONG SAID RIGHT OF WAY LINE SOUTH 25 DEGREES 59'52' EAST 69.74 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, THE RADIUS POINT OF WHICH BEARS NORTH 64 DEGREES 00'08' EAST 189.60 FEET: THENCE SOUTHEASTERLY ALONG SAID CURVE 214.27 FEET: THENCE NORTH 89 DEGREES 15'08' EAST 73.92 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH BEARS SOUTH 00 DEGREES 44'52' EAST 116.00 FEET: THENCE SOUTHEASTERLY ALONG SAID CURVE 76.16 FEET: THENCE SOUTH 53 DEGREES 07'52' EAST 317.90 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH BEARS SOUTH 36 DEGREES 52'08' WEST 154.20 FEET: THENCE SOUTHEASTERLY ALONG SAID CURVE 89.76 FEET: THENCE SOUTH 19 DEGREES 46'52' EAST 162.40 FEET TO THE BEGINNNING OF A CURVE TO THE LEFT, THE RADIUS POINT OF WHICH BEARS NORTH 70 DEGREES 13'08' EAST 189.60 FEET: THENCE SOUTHEASTERLY ALONG SAID CURVE 166.62 FEET: THENCE SOUTH 70 DEGREES 07'52' EAST 18.66 FEET TO THE INTERSECTION OF SAID RIGHT OF WAY LINE WITH THE NORTHWESTERLY RIGHT OF WAY LINE OF A COUNTRY ROAD KNOWN AS FINLEY ROAD, WHICH HAS A RIGHT OF WAY WIDTH OF 100 FEET FROM CENTERLINE: THENCE ALONG SAID ROAD RIGHT OF WAY SOUTH 19 DEGREES 34'40' WEST 350.19 FEET TO A CHANGE IN RIGHT OF WAY WIDTH TO 70 FEET FROM CENTERLINE: THENCE SOUTH 70 DEGREES 25'20' EAST 30 FEET: THENCE SOUTH 19 DEGREES 34'40' WEST 455.41 FEET TO THE BEGINNNG OF A CURVE TO THE LEFT, THE RADIUS POINT OF WHICH BEARS SOUTH 70 DEGREES 25'20' EAST 1978.14 FEET: THENCE SOUTHWESTERLY ALONG SAID CURVE 357.59 FEET: THENCE NORTH 80 DEGREES 46'47' WEST ON A RADIAL LINE 26.02 FEET TO THE NORTH-SOUTH CENTERLINE OF SAID SECTION: THENCE SOUTH 00 DEGREES 01'14' WEST 3360.51 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 3: THENCE SOUTH 00 DEGREES 05' 19' EAST 2645.70 FEET
109701000002000	BLAIR JAN W & GAIL	122	
119701000000000	BLAIR JAN W & M GAIL	166	
130701000000000	BLAIR JAN W & M GAIL	485	
133700000000000	BLAIR JAN W & M GAIL	636	

Parcel Number	Owner	Acres[1/]	Affected Lands
			TO THE CORNER QUARTER OF SAID SECTION 10: THENCE SOUTH 89 DEGREES 03'45' WEST 2670.99 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 10: THENCE SOUTH 88 DEGREES 36'46' WEST 1548.00 FEET TO THE CENTERLINE OF NINE CANYON: THENCE ALONG SAID CENTERLINE NORTH 34 DEGREES 56'35' EAST 428.75 FEET: THENCE NORTH 33 DEGREES 08'59' EAST 128.09 FEET: THENCE NORTH 45 DEGREES 33'31' EAST 647.96 FEET: THENCE NORTH 35 DEGREES 09'22' EAST 1132.00 FEET: THENCE NORTH 26 DEGREES 15'04' EAST 268.78 FEET TO THE EAST LINE OF SAID SECTION 9: THENCE NORTH 00 DEGREES 02'20' EAST 596.35 FEET TO THE NORTHWEST CORNER OF SAID SECTION 10: THENCE NORTH 00 DEGREES 14'19' WEST 5232.84 FEET TO THE SAID POINT OF BEGINNING: LESS ROAD RIGHT-OF-WAY. (DESCRIPTION CHANGE PER AF#2014-006741, 03/25/2014). SECTION 19: PORTION OF THE NORTHEAST QUARTER LYIING SOUTH OF 9 MILE CANYON ROAD AND THE SOUTHEAST QUARTER EXCEPT THOSE PORTIONS LYING NORTH OF 9 MILE CANYON ROAD. SECTION 30: THE SOUTH HALF AND THE NORTHEAST QUARTER. SECTION 33: ALL OF SECTION.
115870000000000	BLAKNEY TRUSTEE THOMAS L ET AL	603	T**OWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 15: ALL OF SECTION. SECTION 21: THE SOUTHWEST QUARTER LESS PORTION DEEDED TO BENTON COUNTY FOR ROAD RIGHT OF WAY (TRAVIS RD) PER QCD, AF#2007-039623, 12/7/07. SECTION 22: THE NORTH HALF. **TOWNSHIP 9 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 31: THE EAST 339.16 ACRES SECTION 32: THE SOUTHWEST QUARTER.
121873000000000	BLAKNEY TRUSTEE THOMAS L ET AL	161	
122871000000000	BLAKNEY TRUSTEE THOMAS L ET AL	335	
131971000000000	BLAKNEY TRUSTEE THOMAS L ET AL	357	
132973000000000	BLAKNEY TRUSTEE THOMAS L ET AL	166	
103860000000000	CHRISTEN ACRES LLC	550	**TOWNSHIP 8 NORTH, RANGE 26 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 3: ALL OF SECTION. FRACTIONAL. SECTION 10: ALL OF SECTION EXCEPT THE EAST ONE/HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER. SECTION 10: THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER. SECTION 14: THE SOUTHEAST QUARTER: EXCEPT THAT PORTION FOR ROAD RIGHT OF WAY, DESCRIBED AS FOLLOWS: A STRIP OF LAND LYING
110861000000000	CHRISTEN ACRES LLC	621	
110864000000000	CHRISTEN ACRES LLC	19	
114864000000000	CHRISTEN ACRES LLC	160	
123860000000000	CHRISTEN ACRES LLC	648	
127961000000000	CHRISTEN ACRES LLC	496	
127963000000000	CHRISTEN ACRES LLC	165	
128961000001000	CHRISTEN ACRES LLC	165	
128961000002000	CHRISTEN ACRES LLC	165	

Parcel Number	Owner	Acres[1/]	Affected Lands
134961000000000	CHRISTEN ACRES LLC	327	WEST OF AND PARALLEL TO THE FOLLOWING DESCRIBED LINE, SAID LINE BEING THE CENTERLINE TO TYACKE ROAD, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 8 NORTH, RANGE 26 EAST, W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST COVER OF SAID SECTION 14, SAID POINT BEING THE TRUE POINT OF BEGINNING, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE; THENCE NORTH 00¦02'17" WEST, 1,826.24, AT THIS POINT THE STRIP OF LAND WIDENS TO 85.00 FEET; THENCE CONTINUING NORTH 00¦02'17" WEST, 10.00 FEET, AT THIS POINT THE STRIP OF LAND NARROWS TO 30.00 FEET, THENCE CONTINUING NORTH 00¦02'17" WEST, 400.00 FEET, AT THIS POINT THE STRIP OF LAND WIDENS TO 65.00 FEET; THENCE CONTINUING NORTH 00¦02'17" WEST 150.00 FEET, AT THIS POINT THE STRIP OF LAND NARROWS TO 30.00 FEET; THENCE CONTINUING NORTH 00¦02'17" WEST 158.49 FEET TO THE NORTHEAST CORNER OF SAID SECTION 14 AND THE TERMINUS OF SAID DESCRIBED LINE PER QCD AF#2004-043345, 12/13/2004. SECTION 23: ALL OF SECTION, 640 ACRES MORE OR LESS EXCEPT THAT PORTION FOR ROAD RIGHT OF WAY, DESCRIBED AS FOLLOWS: A STRIP OF LAND LYING WEST OF AND PARALLEL TO THE FOLLOWING DESCRIBED LINE, SAID LINE BEING THE CENTERLINE OF TYACKE ROAD, LOCATED IN SECTION 23, TOWNSHIP 8 NORTH, RANGE 26 EAST, W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 23, SAID POINT BEING THE TRUE POINT OF BEGINNING, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE; THENCE NORTH 00¦05'33" WEST, 1,493.92 FEET AT THIS POINT THE STRIP BEGINS TO WIDEN; THENCE CONTINUING NORTH 00¦05'33" WEST 50.00 FEET, AT THIS POINT THE STRIP IS 45.00 FEET WIDE AND CONTINUES TO WIDEN; THENCE CONTINUING NORTH 00¦05'33" WEST, 50.00 FEET, AT THIS POINT THE STRIP IS 55.00 FEET WIDE AND CONTINUES TO WIDEN; THENCE CONTINUING NORTH 00¦05'33" WEST, 25.00 FEET, AT THIS POINT THE STRIP IS 60.00 FEET WIDE; THENCE CONTINUING NORTH 00¦05'33" WEST 25.00 FEET, AT THE POINT IN THE STRIP IS 60.00 FEET WIDE AND BEGINS TO NARROW; THENCE CONTINUING NORTH 00¦05'33" WEST, 25.00 FEET, AT THIS POINT THE STRIP IN 55.00 FEET WIDE AND CONTINUES TO NARROW; THENCE CONTINUING NORTH 00¦05'33" WEST, 25.00 FEET, AT THIS POINT THE STRIP IS 45.00 FEET WIDE AND CONTINUES TO NARROW; THENCE CONTINUING NORTH 00¦05'33" WEST, 3,573.76 FEET MORE OR LESS TO THE NORTHEAST CORNER OF SAID SECTION 23 AND THE TERMINUS OF DESCRIBED LINE PER QCD AF#2004-043345, 12/13/2004. **TOWNSHIP 9 NORTH, RANGE 26 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 27: THE EAST HALF AND THE NORTHWEST QUARTER.
134963000000000	CHRISTEN ACRES LLC	163	
134964000000000	CHRISTEN ACRES LLC	162	

Parcel Number	Owner	Acres[1/]	Affected Lands
			SECTION 27: THE SOUTHWEST QUARTER. SECTION 28: THE NORTH HALF OF THE NORTH HALF. SECTION 28: THE SOUTH HALF OF THE NORTH HALF. SECTION 34: THE NORTH HALF. SECTION 34: THE SOUTHWEST QUARTER. SECTION 34: THE SOUTHEAST QUARTER.
133861000001000	CVAR A WASHINGTON PARTNERSHIP	435	**TOWNSHIP 8 NORTH, RANGE 26 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 33: ALL OF SECTION. LESS PORTION DEFINED AS FOLLOWS. LESS 3.60 ACRES TO BENTON COUNTY. QUIT CLAIM DEED 12/8/61 EASEMENT TO BENTON COUNTY FOR ROAD, 12/8/61 BONNEVILLE POWER ASSOCIATION TAKING LINE 7/23/78 LESS THAT PORTION OF SECTION 33 DEFINED AS FOLLOWS. COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 33. THENCE NORTH 89 DEGREES 57' 27' WEST ALONG THE SOUTH LINE THEREOF. FOR 1702.55 FEET. TO THE TRUE POINT OF BEGINNING. THENCE NORTH 03 DEGREED 12' 40' EAST FOR 440.84 FEET. THENCE NORTH 47 DEGREES 50' 04' WEST FOR 1045.46 FEET. THENCE NORTH 66 FEET. 59' 50' WEST FOR 206.53 FEET. THENCE SOUTH 87 DEGREES 22' 50' WEST FOR 278.12 FEET. THENCE NORTH 10 DEGREES 39' 01' EAST FOR 359.49 FEET. THENCE NORTH 03 DEGREES 13' 54' WEST FOR 308.07 FEET. THENCE NORTH 12 DEGREES 34' 17' EAST FOR 698.46 FEET. THENCE NORTH 50 DEGREES 13' 59' WEST FOR 342.12 FEET. THENCE 76 DEGREES 43' 50' WEST FOR 353.82 FEET. THENCE 89 DEGREES 57' 30' WEST FOR 1008.55 FEET. THENCE SOUTH 00 DEGREES 02' 33' WEST FOR 1609.50 FEET. THENCE SOUTH 89 DEGREES 57' 27' EAST FOR 738.87 FEET. THENCE SOUTH 01 DEGREES 01' 38' WEST FOR 1242.05 FEET. TO THE SOUTH LINE OF SAID SECTION 33. THENCE SOUTH 89 DEGREES 57' 27' EAST. ALONG SAID LINE, FOR 1917.53 FEET TO THE TRUE POINT OF BEGINNING. EXCEPT THE SOUTH 30 FEET THEREOF CONVEYED TO BENTON COUNTY FOR ROAD PURPOSED (AUDITOR FEE #467169). SECTION 34: ALL OF SECTION, 525 ACRES MORE OR LESS.
134860000000000	CVAR A WASHINGTON PARTNERSHIP	541	
102872000007000	DESERT LAND LLC	146	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 2: THE WEST HALF OF WEST HALF, FRACTIONAL. SECTION 3: ALL OF SECTION. FRACTIONAL. SECTION 4: THE SOUTH HALF NORTH HALF AND THE SOUTH HALF. LESS 8.50 ACRES ROAD RIGHT OF WAY. LESS PORTION DEEDED TO BENTON COUNTY FOR ROAD ROW DESCRIBED AS FOLLOWS; A PARCEL OF LAND SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER
103870000000000	DESERT LAND LLC	588	
104871000002000	DESERT LAND LLC	472	
106871000001001	DESERT LAND LLC	58	
106871000002000	DESERT LAND LLC	432	
107871000000000	DESERT LAND LLC	326	
108872000000000	DESERT LAND LLC	471	

Parcel Number	Owner	Acres[1/]	Affected Lands
109870000000000	DESERT LAND LLC	637	OF SECTION 4, TOWNSHIP 8 NORTH, RANGE 27 EAST, W.M. BENTON COUNTY, WASHINGTON, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS; COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 49' 42" WEST ALONG THE WESTERLY LINE OF SAID SECTION 4, A DISTANCE OF 240.44 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF WEBBER CANYON ROAD, AND THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE CONTINUE NORTH 00 DEGREES 49' 42" WEST ALONG SAID WESTERLY LINE, A DISTANCE OF 107.17 FEET; THENCE LEAVING SAID WESTERLY LINE SOUTH 56 DEGREES 52' 26" EAST A DISTANCE OF 130.55 FEET, TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE SOUTH, SAID CURVE HAVING A RDIUS OF 622.96 FEET AND A CENTRAL ANGLE OF 10 DEGREES 27' 39" FROM THIS POINT THE RADIUS POINT BEARS SOUTH 13 DEGREES 08' 56" EAST AND THE LONG CHORD BEARS SOUTH 71 DEGREES 37' 15" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 113.74 FEET MORE OR LESS TO THE POINT OF BEGINNING. ALSO A PARCEL OF LAND SITUATE IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 8 NORTH, RANGE 27 EAST, W.M. BENTON COUNTY, WASHINGTON, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 49' 42" WEST ALONG THE WESTERLY LINE OF SAID SECTION 4, A DISTANCE OF 240.44 FEET TO A POINT ON THE NORTHERLY RIGHT OF WQAY LINE OF WEBBER CANYON ROAD, SAID POINT BEING A POINT ON A CURVE CONCAVE TO THE SOUTH SAID CURVE HAVING A RADIUS OF 622.96 FEET AND A CENTRAL ANGLE OF 23 DEGREES 58' 53" FROM THIS POINT THE RADIUS POINT BEARS SOUTH 13 DEGREES 08' 56" EAST AND THE LONG CHORD BEARS SOUTH 71 DEGREES 37' 15" WEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 260.75 FEET; THENCE SOUTH 89 DEGREES 37' 42" EAST ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 734.81 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST SAID CURVE HAVING A RADIUS OF 768.51 FEET AND A CENTRAL ANGLE OF 44 DEGREES 09' 36"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 592.31 FEET TO THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE, NORTH 21 DEGREES 09' 30" EAST A DISTANCE OF 50.54 FEET TO A POINT ON A NON-TANGENT CURVE, SAID CURVE HAVING A RADIUS OF 748.51 FEET AND A CENTRAL ANGLE OF 10 DEGREES 31' 18", FROM THIS POINT THE RADIUS POINT BEARS NORTH 47 DEGREES 17' 45" WEST AND THE LONG CHORD BEARS NORTH 37 DEGREES 26' 41" EAST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 137.75
110870000000000	DESERT LAND LLC	637	
116871000001000	DESERT LAND LLC	153	
117872000000000	DESERT LAND LLC	486	
118870000000000	DESERT LAND LLC	660	
119873000000000	DESERT LAND LLC	158	
135860000000000	DESERT LAND LLC 135860000000000	544	

Parcel Number	Owner	Acres[1/]	Affected Lands
			FEET; THENCE NORTH 53 DEGREES 42' 01" EAST A DISTANCE OF 50.59 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF WEBBER CANYON ROAD, SAID POINT BEING A POINT ON A NON-TANGENT CURVE, SAID CURVE HAVING A RADIUS OF 768.51 FEET AND A CENTRAL ANGLE OF 17 DEGREES 32' 26" FROM THIS POINT THE RADIUS POINT BEARS NORTH 60 DEGREES 19' 44" WEST AND THE LONG CHORD BEARS SOUTH 37 DEGREES 26' 29" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AND SAID RIGHT OF WAY LINE, A DISTANCE OF 235.27 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. EXCEPTING THERE FROM ALL THOSE OF THE ABOVE DESCRIBED PARCEL LYING WITHIN THE COUNTY ROAD RIGHT OF WAY. (DESCRIPTION CHANGE FOR ROAD RIGHT OF WAY PER QCD, AF#2008-007746, 3/21/2008). SECTION 6: ALL OF GOVERNMENT LOTS 1 AND 2 AND THE EAST 343 FEET OF GOVERNMENT LOT 3. SECTION 6: THE SOUTH HALF OF THE NORTH HALF, FRACTIONAL AND THE SOUTH HALF, FRACTIONAL. SECTION 7: THE EAST HALF LESS 7.30 ACRES FOR ROAD RIGHT OF WAY. SECTION 8: THE NORTHWEST QUARTER AND THE SOUTH HALF. LESS 0.04 ACRES FOR ROAD RIGHT OF WAY. LESS 11.68 AC TO BENTON COUNTY FOR ROAD RIGHT OF WAY. 6/18/97 AF#97- 14491. SECTION 9: ALL OF SECTION. SECTION 10: ALL OF SECTION. SECTION 16: THE NORTH HALF OF THE NORTH HALF. SECTION 17: THE WEST HALF AND THE SOUTHEAST QUARTER. LESS 3.66 AC TO BENTON COUNTY FOR ROAD RIGHT OF WAY. 6/18/97 AF#97- 14490. SUBJECT TO RIGHT OF WAY EASEMENT, BENTON REA 7/29/97 AF#97-17921 AND AF#97-17922. EXCEPT PORTION DEEDED TO BENTON COUNTY FOR ROAD RIGHT OF WAY (TRAVIS RD) PER QCD, AF#2006-034090, 10/13/06. SECTION 18: ALL OF SECTION. SECTION 19: SOUTHWEST QUARTER. EXCEPT THAT PORTION DEEDED TO BENTON COUNTY FOR ROAD ROW (CLODIUS RD) PER QCD, AF#2007-008989, 3/23/2007. SECTION 35: ALL OF SECTION. EXCEPT .05 ACRES TO BENTON COUNTY FOR ROAD PURPOSES. 10/28/76 QUIT CLAIM DEED. EXCEPT ROADWAY SLOPE 10/26/76.
129701000002000	EBY,TRUSTEES EMERSON L & LOYETTE	312	**TOWNSHIP 7 NORTH, RANGE 30 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 29: THE NORTH ONE/HALF: LESS THE EAST 750 FEET OF THE NORTH 600 FEET THEREOF: ONE/HALF INTEREST ONLY. SECTION 28: THE NORTH ONE/HALF: THE SOUTHWEST QUARTER: ONE/HALF INTEREST ONLY. SECTION 32: THE SOUTH ONE/HALF OF THE NORTHWEST QUARTER: ONE/HALF INTEREST ONLY.
128701000000000	EBY, TRUSTEES EMERSON L & LOYETTE E	479	
132702000002000	EBY, TRUSTEES EMERSON L & LOYETTE E	80	

Parcel Number	Owner	Acres[1/]	Affected Lands
101780000000000	EDWARDS ESTATE ETHEL M 101780000000000	636	**TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 1: ALL OF SECTION, FRACTIONAL. SECTION 2: THE EAST ONE HALF: AND THE EAST ONE HALF OF THE NORTHWEST QUARTER. SECTION 10: SOUTHEAST QUARTER. SECTION 11: THE EAST ONE HALF OF THE SOUTHEAST QUARTER. SECTION 12: THE NORTHEAST QUARTER. SECTION 12: THE NORTHWEST QUARTER.
102781000000000	EDWARDS ESTATE ETHEL M 102781000000000	405	
110784000000000	EDWARDS ESTATE ETHEL M	166	
111784000000000	EDWARDS ESTATE ETHEL M	81	
112781000000000	EDWARDS ESTATE ETHEL M	161	
112782000000000	EDWARDS ESTATE ETHEL M	159	
117700000000000	FIORE, TRUSTEE SHIRLEY (legal owner Ben Blair Trust)	16	**TOWNSHIP 7 NORTH, RANGE 30 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 17: PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QURTER LYING SOUTH OF 9 MILE CANYON RD. SECTION 9: PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER LYING SOUTHEAST OF 9 CANYON RD.
109703000000000	FIORE, TRUSTEE SHIRLEY 109703000000000 (legal owner Ben Blair Trust)	5	
101770000000000	G A REESE FARM LLC	682	**TOWNSHIP 7 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 1: ALL OF SECTION. FRACTIONAL. 02/01/67 EXCEPT EXISTING ROAD RIGHT OF WAY PER QCD (AF#2003-006927, 02-14-2003) AND EXCEPT THAT PORTION FOR ROAD RIGHT OF WAY. (DESCRIPTION CHANGE PER AF#2013-031906, 9/13/2013). SECTION 2: ALL OF SECTION. FRACTIONAL. SUBJECT TO EASEMENTS AND RESTRICTION OF ORDER 02/01/67 EXCEPT EXISTING ROAD RIGHT OF WAY PER QCD (AF#2003-006928, 02-14-2003) EXCEPT EXISTING ROAD RIGHT OF WAY PER QCD (AF#2003-006929, 02-14-2003) SECTION 3: ALL OF SECTION, FRACTIONAL. EXCEPT EXISTING ROAD RIGHT OF WAY PER QCD (AF#2003-006930, 02-14-2003. SECTION 12: THE NORTH HALF. EXCEPT EXISTING ROAD RIGHT OF WAY PER QCD (AF#2001-002040, 01-26-2001) AND EXCEPT THAT PORTION FOR ROAD RIGHT OF WAY. (DESCRIPTION CHANGE PER AF#2013-031906, 9/13/2013).
102770000000000	G A REESE FARM LLC	670	
103770000000000	G A REESE FARM LLC	642	
112771000000000	G A REESE FARM LLC	332	
108783000000000	HAMILTON FARMS HORSE HEAVEN LLC	170	**TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 8: THE SOUTHWEST QUARTER. THAT PORTION OF THE EAST 120 ACRES OF THE NORTHEAST QUARTER OF SECTION 13, BENTON COUNTY WASHINGTON, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 13; THENCE ALONG THE EAST LINE OF SAID SECTION 13 SOUTH 00°14’58” EAST FOR 2706.94 FEET; THENCE LEAVING SAID EAST LINE SOUTH 89°57’08” WEST 35.01 FEET TO THE SOUTHEAST CORNER OF SAID EAST 120 ACRES AND THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTH LINE OF SAID EAST 120 ACRES SOUTH 85°52’02” WEST FOR 1911.71 FEET TO THE SOUTHWEST CORNER OF SAID EAST 120 ACRES; THENCE ALONG THE
113771000000002	HAMILTON FARMS HORSE HEAVEN LLC	95	
113774000000000	HAMILTON FARMS HORSE HEAVEN LLC	116	

Parcel Number	Owner	Acres[1/]	Affected Lands
			WEST LINE OF SAID EAST 120 ACRES NORTH 00°00'19" EAST FOR 1778.03 FEET; THENCE SOUTH 89°59'41" EAST FOR 950.00 FEET; THENCE NORTH 00°00'19" EAST FOR 959.72 FEET TO THE RIGHT OF WAY OF REESE ROAD; THENCE ALONG SAID RIGHT OF WAY NORTH 85°30'29" EAST FOR 485.46 FEET; THENCE NORTH 84°47'45" EAST FOR 150.00 FEET; THENCE SOUTH 83°54'32" EAST FOR 152.93 FEET; THENCE SOUTH 52°12'59" EAST FOR 94.08 FEET; THENCE SOUTH 13°54'00" EAST FOR 362.27 FEET; THENCE SOUTH 00°14'58" EAST FOR 2226.01 FEET TO THE TRUE POINT OF BEGINNING. (BOUNDARY LINE ADJUSTMENT PER AF#2018-013199, 05/09/2018). SECTION 13: ALL OF SECTION, LESS WEST 400 ACRES. LESS THE EAST 120 ACRES OF THE NORTHEAST. SUBJECT TO EASEMENTS AND RESTRICTION OF RECORD. EXCEPT EXISTING ROAD RIGHT OF WAY PER QCD (AF# 2001-002259, 01/29/2001.)
124863000000000	JOHN C WILEY LLC	156	**TOWNSHIP 8 NORTH, RANGE 26 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 24: 160 ACRES MORE OR LESS SOUTHWEST QUARTER. EXCEPT THAT PORTION DEFINED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION BEING THE TRUE POINT OF BEGINNING AT THIS POINT THE STRIP OF LAND IS 30 FEET WIDE; THENCE NORTH 00 DEGREES 05' 33" EAST 1593.92 FEET, AT THIS POINT THE STRIP BEGINS TO WIDEN; THENCE CONTINUING NORTH 00 DEGREES 05' 33" EAST 50 FEET, AT THIS POINT THE STRIP IS 40 FEET WIDE AND CONTINUES TO WIDEN; THENCE CONTINUING NORTH 00 DEGREES 05' 33" EAST 50 FEET, AT THIS POINT THE STRIP IS 55 FEET WIDE AND BEGINS TO NARROW; THENCE CONTINUING NORTH 00 DEGREES 05' 33" EAST 75 FEET, AT THIS POINT THE STRIP IS 40 FEET WIDE AND CONTINUES TO NARROW; THENCE CONTINUING NORTH 00 DEGREES 05' 33" EAST 25 FEET, AT THIS POINT THE STRIP IS 30 FEET WIDE; THENCE CONTINUING NORTH 00 DEGREES 05' 33" EAST 758.84 FEET TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION AND THE TERMINUS OF SAID DESCRIBED LINE. CONTAINING 158.18 ACRES MORE OF LESS. (QCD AF#04-043343, 12/13/04). SECTION 26: ALL OF SECTION. 640 ACRES MORE OR LESS. SECTION 27: ALL OF SECTION. 640 ACRES MORE OR LESS.
126860000000000	JOHN C WILEY LLC	645	
127860000000000	JOHN C WILEY LLC	665	
115860000000000	KOVACH LAND CO,	642	**TOWNSHIP 8 NORTH, RANGE 26 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 15: ALL OF SECTION.
113783000001000	LOW KATHRYN L	199	**TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 13: SOUTH ONE HALF: PORTION DEFINED AS FOLLOWS: THE SOUTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 13.
118791000001000	LOW KATHRYN L	234	
118791000002000	LOW RALPH A & KATHRYN	78	

Parcel Number	Owner	Acres[1/]	Affected Lands
			TOWNSHIP 7 NORTH, RANGE 29 EAST OF THE WILLAMETTE MERIDIAN: SECTION 18: THE NORTH HALF LESS THE SOUTH HALF OF THE NORTHEAST QUARTER THEREOF. SECTION 18: THE SOUTH HALF OF THE NORTHEAST QUARTER.
120701000000000	MILLS TRUSTEE JAY ROBERT	324	**TOWNSHIP 7 NORTH, RANGE 30 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 20: THE EAST ONE/HALF, LESS THE EAST 30 FEET TO COUNTY 1-5-53; EXCEPT A STRIP OF LAND OF VARYING WIDTHS SITUATED IN THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 7 NORTH, RANGE 30 EAST, W.M., BENTON COUNTY. SECTION 20: THE WEST ONE/HALF, EXCEPT THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 7 NORTH, RANGE 30 EAST, W.M., BENTON COUNTY, WASHINGTON, LYING NORTHWESTERLY OF NINE CANYON ROAD, AS CONVEYED IN DEEDS TO BENTON COUNTY UNDER AUDITOR'S FILE NOS. 141254 AND 141284. (SWD, AF#2008-016710, 6/09/2008, SEE SURVEY #3851): ALSO EXCEPT A STRIP OF LAND OF VARYING WIDTHS SITUATED IN THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 7 NORTH, RANGE 30 EAST, W.M., BENTON COUNTY WASHINGTON, SAID STRIP BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 20; THENCE SOUTH 00°11'43" WEST, ALONG THE WEST LINE OF SAID SECTION 20, A DISTANCE OF 2064.23 FEET TO A POINT ON THE EXISTING CENTERLINE OF NINE CANYON ROAD, BEING THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE NORTH 52°37'44" EAST, ALONG SAID EXISTING CENTERLINE, A DISTANCE OF 304.34 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 1400 FEET AND A CENTRAL ANGLE OF 14°36'34" FROM WHICH THE RADIUS POINT BEARS NORTH 54°27'05" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 356.97 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 20, FROM WHICH THE RADIUS POINT BEARS NORTH 39°50'32" WEST; THENCE NORTH 00°11'43" EAST, ALONG SAID WEST LINE, A DISTANCE OF 76.26 FEET TO THE TRUE POINT OF BEGINNING: ALSO EXCEPT A STRIP OF LAND OF VARYING WIDTHS SITUATED IN THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 7 NORTH, RANGE 30 EAST, W.M., BENTON COUNTY WASHINGTON, SAID STRIP BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 20; THENCE SOUTH 00°11'43" WEST, ALONG THE WEST LINE OF SAID SECTION 20, A DISTANCE OF 2064.23 FEET TO A POINT ON THE EXISTING CENTERLINE OF NINE CANYON ROAD; THENCE NORTH 52°37'44" EAST,
128704000000000	MILLS TRUSTEE JAY ROBERT	159	
129703000000000	MILLS TRUSTEE JAY ROBERT	323	
132702000001000	MILLS TRUSTEE JAY ROBERT	80	
132703000000000	MILLS TRUSTEE JAY ROBERT	160	

Parcel Number	Owner	Acres[1/]	Affected Lands
			ALONG SAID EXISTING NINE CANYON ROAD CENTERLINE, A DISTANCE OF 543.80 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 409.26 FEET AND A CENTRAL ANGLE OF 56°29'00"; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 403.45 FEET; THENCE NORTH 03°51'16" WEST A DISTANCE OF 83.55 FEET TO THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE NORTH 03°51'16 WEST, CONTINUING ALONG SAID EXISTING NINE CANYON ROAD CENTERLINE A DISTANCE OF 20.82 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE EAST, HAVING A RADIUS OF 409.26 FEET AND A CENTRAL ANGLE OF 33°08'00; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 236.67 FEET, THENCE NORTH 29°16'44" EAST A DISTANCE OF 363.21 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 572.96 FEET AND A CENTRAL ANGLE OF 26°03'00"; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 260.50 FEET; THENCE NORTH 55°19'44" EAST, CONTINUING ALONG SAID EXISTING NINE CANYON ROAD CENTERLINE, A DISTANCE OF 825.46 FEET; THENCE NORTH 55°19'44" EAST, LEAVING SAID EXISTING NINE CANYON ROAD CENTERLINE, A DISTANCE OF 132.34 FEET TO A POINT ON THE NORTH LINE OF SAID NORTHWEST QUARTER OF SECTION 20; THENCE NORTH 89°54'01" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 871.72 FEET TO THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER OF SECTION 20; THENCE SOUTH 00°41'43" EAST, ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF SECTION 20, A DISTANCE OF 50.00 FEET; THENCE SOUTH 89°54'01" WEST A DISTANCE OF 258.71 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 1950.00 FEET AND A CENTRAL ANGLE OF 02°52'46"; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 98.00 FEET; THENCE SOUTH 82°38'58" WEST A DISTANCE OF 97.49 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 1945.00 FEET AND A CENTRAL ANGLE OF 05°43'46", FROM WHICH THE RADIUS POINT BEARS SOUTH 05°50'38" EAST; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 194.50 FEET, FROM WHICH THE RADIUS POINT BEARS SOUTH 11°34'25" EAST; THENCE SOUTH 71°06'34" WEST A DISTANCE OF 97.51 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 1935.00 FEET AND A CENTRAL ANGLE OF 20°03'13", FROM WHICH THE RADIUS POINT BEARS SOUTH 14°26'18" EAST; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 677.25 FEET, FROM WHICH THE RADIUS POINT BEARS SOUTH 34°29'31" EAST; THENCE SOUTH 51°06'50" WEST A DISTANCE OF 96.74 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE TO THE SOUTHEAST,

Parcel Number	Owner	Acres[1/]	Affected Lands
			HAVING A RADIUS OF 1930.00 FEET AND A CENTRAL ANGLE OF 08°35'40", FROM WHICH THE RADIUS POINT BEARS SOUTH 37°21'24" EAST; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 289.50 FEET, FROM WHICH THE RADIUS POINT BEARS SOUTH 45°57'04" EAST; THENCE SOUTH 39°38'50" WEST A DISTANCE OF 96.49 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 1925.00 FEET AND A CENTRAL ANGLE OF 13°52'39", FROM WHICH THE RADIUS POINT BEARS SOUTH 48°48'57" EAST; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 466.25 FEET, FROM WHICH THE RADIUS POINT BEARS SOUTH 62°41'6" EAST; THENCE SOUTH 27°18'24" WEST A DISTANCE OF 208.52 FEET TO THE TRUE POINT OF BEGINNING; (PER QCD FOR EMINENT DOMAIN, AF#2013-024048, 7/12/2013). SECTION 28: THE SOUTHEAST QUARTER. SECTION 29: THE SOUTH ONE/HALF. SECTION 32: THE NORTH ONE/HALF OF THE NORTHWEST QUARTER. SECTION 32: THE SOUTHWEST QUARTER.
115782000000000	MONASMITH FAMILY FARM LLC	322	**TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 15: THE WEST ONE HALF. SECTION 16: THE EAST ONE HALF.
116781000000000	MONASMITH FAMILY FARM LLC	323	
111870000000000	PEARSON BROTHERS LLC	652	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 11: ALL OF SECTION. SECTION 14: ALL OF SECTION.
114870000000000	PEARSON BROTHERS LLC	623	
131870000000000	PEARSON DAVID W & CLARA L	557	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN**: SECTION 31: ALL OF SECTION, FRACTIONAL. ROAD RIGHT OF WAY SLOPES 10/26/76 QUIT CLAIM DEED TO BENTON COUNTY FOR ROAD. 10/26/76. SECTION 32: THE SOUTH HALF. ROAD RIGHT OF WAY SLOPES 10/26/76 QUIT CLAIM DEED TO BENTON COUNTY FOR ROADS. 10/26/76 EXCEPT EXISTING ROAD RIGHT OF WAY PER QCD (AF#2003-006933, 02-14-2003). LESS PORTION TO BENTON COUNTY FOR TRAVIS ROAD PER QCD, AF#2006-021801, 7/07/2006. SECTION 34: ALL OF SECTION. EXCEPT EXISTING ROAD RIGHT OF WAY PER QCD (AF#2003-006934, 02-14-2003). **TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 8: THE NORTH ONE HALF AND THE SOUTHEAST QUARTER. SECTION 16: THE WEST ONE HALF.
132873000000000	PEARSON DAVID W	285	
134870000000000	PEARSON DAVID W	601	
108781000000000	PEARSON DAVID W & CLARA L	504	
116782000000000	PEARSON DAVID W & CLARA L	324	
117780000000000	PEARSON DAVID W & CLARA L	679	

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			SECTION 17: ALL OF SECTION.
122873000000000	PEARSON WAYNE R	165	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:**
122874000000000	PEARSON WAYNE R	166	SECTION 22: THE SOUTHWEST QUARTER. SECTION 22: THE SOUTHEAST QUARTER.
119880000000000	REESE ESTHER M	660	**TOWNSHIP 8 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:**
120883000000000	REESE ESTHER M	200	SECTION 19: ALL OF SECTION. FRACTIONAL: HALF MINERAL RIGHTS RESERVED 8/25/54 3/22/57. SECTION 20: THE PORTION DEFINED AS FOLLOWS: THE SOUTH HALF OF THE SOUTH HALF. THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER.
125870000000000	REESE KERRY DAVID	650	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 25: ALL OF SECTION.
126871000001001	REESE THOMAS W & MARILYN	634	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:**
124874000000000	REESE THOMAS WALTER	164	SECTION 26: ALL OF SECTION. SECTION 24: THE SOUTHEAST QUARTER.
130881000000000	REESE THOMAS WALTER	164	**TOWNSHIP 8 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:**
130882000000000	REESE THOMAS WALTER	493	SECTION 30: THE PORTION DEFINED AS FOLLOWS: THE NORTH HALF OF THE NORTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER. SECTION 30: THE PORTION DEFINED AS FOLLOWS: THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, THE SOUTH HALF OF THE SOUTHEAST QUARTER AND THE WEST HALF, FRACTIONAL.
117790000000000	ROBERT B INC	603	**TOWNSHIP 7 NORTH, RANGE 29 EAST OF THE WILLAMETTE MERIDIAN:**
118793000000000	ROBERT B INC	312	SECTION 17: ALL OF SECTION. LESS 36.77 ACRES MORE OR LESS TO SR 221 POSSESION AND USE 8-27-82. GENERAL TELEPHONE EASEMENT 11-22-76. RIGHT OF WAY EASEMENT 9-23-82. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD 1-5-68. QUITCLAIM DEED FROM STATE TO OWNER ON SR 12 9-2-69.
119790000000000	ROBERT B INC	635	
120791000000000	ROBERT B INC	455	
120792000000000	ROBERT B INC	131	
124782000000000	ROBERT B INC	490	
125781000000000	ROBERT B INC	317	
129791000000000	ROBERT B INC	588	SECTION 18: THE SOUTH HALF DEFINED AS FOLLOWS: FRACTIONAL. THE PORTION OF EXCESS HIGHWAY RIGHT OF WAY DEFINED AS FOLLOWS: THE PORTION OF THE SOUTHWEST OF THE NORTHWEST OF SECTION 17 AND THAT PORTION OF THE SOUTHEAST OF THE NORTHEAST AND THE NORTHEAST OF THE SOUTHEAST OF SECTION 18 DESCRIBED AS BEGINNING AT THE POINT OF INTERSECTION OF A LINE DRAWN FROM A POINT OPPOSITE HIGHWAY ENGINEERS' STATION (HEREINAFTER REFERRED TO AS H.E.S.) LS 3131+50 ON THE LS LINE SURVEY OF SR 82 JUNCTION SR 14 TO PLYMOUTH ROAD, AND 140.00 FEET NORTHWESTERLY THEREFROM, SOUTHWESTERLY TO A POINT OPPOSITE H.E.S. LS 3132+50
129791000000001	ROBERT B INC	2	
130790000000000	ROBERT B INC	613	

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			ON SAID LS LINE SURVEY AND 250.00 FEET NORTHWESTERLY THEREFROM, AND A LINE DRAWN FROM A POINT OPPOSITE H.E.S. 1497+00 ON THE SR 14 LINE SURVEY OF SR 14, BECK ROAD TO BATEMAN ROAD AND 135.00 FEET WESTERLY THEREFROM, SOUTHWESTERLY TO A POINT OPPOSITE H.E.S. 1494+00 ON SAID SR 14 LINE SURVEY AND 190.00 FEET WESTERLY THEREFROM, THENCE FROM SAID POINT OF BEGINNING NORTHEASTERLY TO A POINT OPPOSITE SAID H.E.S. LS 3131+50 ON SAID LS LINE SURVEY AND 140.00 FEET NORTHWESTERLY THEREFROM. THENCE NORTHEASTERLY PARALLEL WITH SAID LS LINE SURVEY TO THE POINT OF INTERSECTION OF A LINE DRAWN PARALLEL WITH AND 135.00 FEET NORTHWESTERLY AND WESTERLY, WHEN MEASURED AT RIGHT ANGLES AND/OR RADIALLY, FROM THE SAID SR 14 LINE SURVEY. THENCE SOUTHWESTERLY AND SOUTHERLY ALONG SAID PARALLEL LINE TO A POINT OPPOSITE SAID H.E.S. 1497+00 THEREON THENCE SOUTHWESTERLY TO THE POINT OF BEGINNING. TOGETHER WITH ALL RIGHT, TITLE AND INTEREST OF GRANTOR HEREIN IN AND TO THE PORTION OF THE CERTIFICATE OF PERPETUAL EASEMENT CONVEYED BY LELA OWENS ET AL, TO STATE OF WASHINGTON DATED JANUARY 26, 1968, RECORDED FEBRUARY 27, 1968 IN VOLUME 238, PAGE 192, AUDITOR FEE #587871, DEFINED AS FOLLOWS: AS 'A STRIP OF LAND 20.00 FEET WIDE IN THE NORTHEAST OF THE SOUTHEAST OF SECTION 18, LYING WESTERLY OF, PARALLEL WITH AND CONTIGUOUS TO THE WESTERLY RIGHT OF WAY LINE OF SAID HIGHWAY AND EXTENTION FROM H.E.S. 1498+00 NORTHERLY TO H.E.S. 1499+50.' (#87-18143 11-23-87). LESS PORTION TO SR 82 8-27-82 GENERAL TELEPHONE EASEMENT 11-22-76 QUITCLAIM DEEDED FROM STATE TO OWNER ON SR 12 9/69 TOGETHER WITH EASEMENT 1-10-83. PERPETUAL EASEMENT 2-2-68. SECTION 19: ALL OF SECTION. FRACTIONAL. LESS 0.48 MORE OR LESS TO SR 221 POSSESSION AND USE 8-27-82. SECTION 20: THE NORTHEAST QUARTER AND THE SOUTH HALF. QUITCLAIM DEED FROM STATE TO OWNER ON SR 12 (9-20-69). LESS 18.36 ACRES MORE OR LESS TO SR 221 POSSESSION AND USE 8-27-82. SECTION 20: THE NORTHWEST QUARTER LESS 8.07 ACRES TO HIGHWAY 12 (2-27-68). QUITCLAIM DEED ON FORMER SR 12 9-2-69 0.52 ACRES. LESS 20.20 ACRES TO SR 221 POSESSION AND USE 8-27-82 **TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 24: THE WEST HALF TOGETHER WITH THE SOUTHEAST QUARTER THEREOF. SECTION 25: THE NORTH ONE/HALF.

Parcel Number	Owner	Acres[1/]	Affected Lands
			TOWNSHIP 7 NORTH, RANGE 29 EAST OF THE WILLAMETTE MERIDIAN: SECTION 29: ALL OF SECTION LESS PORTION NORTHWEST OF THE SOUTHWEST DEFINED AS FOLLOWS: BEGINNING AT HIGHWAY ENGINEERS' STATION (HEREINAFTER REFERRED TO AS H.E.S.) 1395+78.00 P.O.C. ON SR 14, BENTON COUNTY SUNDRY SITE PLANS. THENCE NORTH 78¦ 37' 00' EAST TO H.E.S. B20+10.84 P.C. THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 320.00 FEET TO H.E.S. B22+71.52 PT. THENCE SOUTH 54¦ 42' 30' EAST TO H.E.S. 24+37.44 P.C.. THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 350.00 FEET TO H.E.S. 26+44.76 P.T. THENCE SOUTH 88¦ 39' 00' EAST TO H.E.S. 28+19.71 AND THE TRUE POINT OF BEGINNING. THENCE SOUTH 02¦ 47' 30' WEST A DISTANCE OF 190.36 FEET. THENCE NORTH 82¦ 47' 30' WEST FOR A DISTANCE OF 150.40. THENCE NORTH 02¦ 47' 30' EAST FOR A DISTANCE OF 175.00 FEET. THENCE SOUTH 88¦ 39' 00' EAST TO THE TRUE POINT OF BEGINNING. EXCEPT THE NORTH 25.00 FEET THEREOF. LESS 1.89 ACRES FOR STATE HIGHWAY 14 (4-4-69). LESS 52.54 ACRES MORE OR LESS TO SR 221 8-27-82. THAT PORTION OF VACATED ROAD RIGHT OF WAY AS PRESENTED IN THE IN BOARD OF COMMISSIONERS OF BENTON COUNTY RESOLUTION 10-776, AUDITORS FILE NUMBER 2010-03643, RECORDED 12/10/2010, WHICH IS LYING ADJACENT TO THE FOLLOWING DESCRIBED LAND; ALL OF SECTION 29, LESS PORTION NORTHWEST OF THE SOUTHWEST DEFINED AS FOLLOWS: BEGINNING AT HIGHWAY ENGINEERS' STATION (HEREINAFTER REFERRED TO AS H.E.S.) 1395+78.00 P.O.C. ON SR 14, BENTON COUNTY SUNDRY SITE PLANS. THENCE NORTH 78¦ 37' 00' EAST TO H.E.S. B20+10.84 P.C. THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 320.00 FEET TO H.E.S. B22+71.52 PT. THENCE SOUTH 54¦ 42' 30' EAST TO H.E.S. 24+37.44 P.C.. THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 350.00 FEET TO H.E.S. 26+44.76 P.T. THENCE SOUTH 88¦ 39' 00' EAST TO H.E.S. 28+19.71 AND THE TRUE POINT OF BEGINNING. THENCE SOUTH 02¦ 47' 30' WEST A DISTANCE OF 190.36 FEET. THENCE NORTH 82¦ 47' 30' WEST FOR A DISTANCE OF 150.40. THENCE NORTH 02¦ 47' 30' EAST FOR A DISTANCE OF 175.00 FEET. THENCE SOUTH 88¦ 39' 00' EAST TO THE TRUE POINT OF BEGINNING. EXCEPT THE NORTH 25.00 FEET THEREOF. LESS 1.89 ACRES FOR STATE HIGHWAY 14 (4-4-69). LESS 52.54 ACRES MORE OR LESS TO SR 221 8-27-82. SECTION 30: ALL OF SECTION, FRACTIONAL. LESS 1.29 ACRES FOR STATE HIGHWAY 14 4-4-69. LESS 6.24 ACRES TO SR 221 POSSESSION AND USE 8-27-82. QUITCLAIM DEED FROM RURAL ELECTRIC ASSOCIATION TO HIGHWAYS 2-23-72.

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101760000000000	SCHMITT MICHAEL L & SCHMITT6 LLC 101760000000000	598	**TOWNSHIP 7 NORTH, RANGE 26 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 1: ALL OF SECTION, FRACTIONAL ROAD WAY SLOPES 10-26-76 QUIT CLAIM DEED TO BENTON COUNTY FOR ROAD 10-26-76.
115781000000000	SCHUTZ HOWARD	162	**TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 15: THE NORTHEAST QUARTER. SECTION 15: THE WEST ONE HALF OF THE SOUTHEAST QUARTER.
115784000001000	SCHUTZ HOWARD	81	
110781000001000	SIMMELINK ALLAN & SUSAN	166	**TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 10: THE NORTHEAST QUARTER. SECTION 10: THE WEST HALF OF THE NORTH HALF. **TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 23: ALL OF SECTION. **TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 4: THE SOUTH ONE HALF, FRACTIONAL. SECTION 7: ALL OF SECTION: LESS 1.59 ACRES FOR ROAD RIGHT OF WAY. ALSO LESS ONE ACRE OF SECTION 7, TOWNSHIP 7, NORTH RANGE 28, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE WEST LINE OF SAID SECTION 891 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SECTION. THENCE EAST PARALLEL TO THE SOUTH LINE OF SAID SECTION A DISTANCE OF 165 FEET. THENCE NORTH PARALLEL TO THE WEST LINE OF SAID SECTION A DISTANCE OF 264 FEET. THENCE WEST PARALLEL TO THE SOUTH LINE OF SAID SECTION A DISTANCE OF 165 FEET. THENCE SOUTH ALONG THE WEST LINE OF SAID SECTION A DISTANCE OF 264 FEET TO THE POINT OF BEGINNING. (PER WD#67654, REC'D APRIL 7, 1920) LESS THAT PORTION TO BENTON COUNTY FOR ROAD RIGHT OF WAY: A PARCEL OF LAND IN SECTION 7, TOWNSHIP 7 NORTH, RANGE 28 EAST, W.M. LYING WITHIN THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE NORTHWEST CORNER OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 28 EAST, W.M. SAID POINT BEING THE TRUE POINT OF BEGINNING: THENCE SOUTHERLY ALONG THE WEST SECTION LINE OF SAID SECTION 7, SOUTH 00 DEGREES 01 MINUTES 52 SECONDS EAST, 2,705.28 FEET TO THE WEST QUARTER CORNER OF SECTION 7: THENCE CONTINUING SOUTHERLY ALONG THE WEST SECTION LINE OF SAID SECTION 7, SOUTH 00 DEGREES 51 MINUTES 03 SECONDS EAST, 2,705.28 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 7: THENCE EASTERLY ALONG THE SOUTH SECTION LINE OF SAID SECTION 7, SOUTH 89 DEGREES 51 MINUTES 14 SECONDS EAST, 525.00 FEET: THENCE NORTH 00 DEGREES 08 MINUTES 46 SECONDS EAST, 30.00 FEET: THENCE NORTH 82 DEGREES 12 MINUTES 56 SECONDS WEST, 460.67 FEET: THENCE NORTH 17 DEGREES 33 MINUTES 01
123870000000000	SIMMELINK ALLAN & SUSAN	650	
104784000000000	SIMMELINK ALLAN B & SUSAN D	311	
107781000000000	SIMMELINK ALLAN B & SUSAN D	670	
109780000000000	SIMMELINK ALLAN B & SUSAN D	659	
118781000000000	SIMMELINK ALLAN B & SUSAN D	500	
110782000001000	SIMMELINK ALLAN & SUSAN	165	

Parcel Number	Owner	Acres[1/]	Affected Lands
			SECONDS WEST 104.40 : THENCE NORTH 00 DEGREES 51 MINUTES 03 SECONDS WEST, 150.00: THENCE NORTH 04 DEGREES 13 MINUTES 43 SECONDS EAST, 451.77 FEET: THENCE NORTH 00 DEGREES 51 MINUTES 03 SECONDS WEST, 300.00 FEET: THENCE NORTH 03 DEGREES 21 MINUTES 22 SECONDS WEST, 800.77 FEET: THENCE NORTH 00 DEGREES 51 MINUTES 03 SECONDS WEST, 150.00 FEET: THENCE NORTH 11 DEGREES 33 MINUTES 23 SECONDS EAST, 255.98 FEET: THENCE NORTH 00 DEGREES 51 MINUTES 03 SECONDS WEST, 50.00 FEET: THENCE NORTH 24 DEGREES 16 MINUTES 47 SECONDS WEST, 163.48 FEET: THENCE NORTH 00 DEGREES 51 MINUTE S01 SECONDS WEST 215.00 FEET, THENCE NORTH 00 DEGREES 01 MINUTES 52 SEOCNDS WEST, 2534.50 FEET: THENCE NORTH 11 DEGREES 16 MINUTES 43 SECONDS EAST, 101.98 FEET: THENCE NORTH 51 DEGREES 12 MINUTES 27 SECONDS EAST, 26.32 FEET: THENCE NORTH 82 DEGREES 27 MINUTES 31 SECONDS EAST, 125.90 FEET: THENCE NORTH 89 DEGREES 18 MINUTES 05 SECONDS EAST, 300.00 FEET: THENCE NORTH 00 DEGREES 41 MINUTES 55 SECONDS WEST 40.00 FEET TO A POINT ON THE NORTH SECTION LINE OF SAID SECTION 7: THENCE SOUTH 89 DEGREES 17 MINUTES 37 SECONDS WEST, 499.89 FEET TO THE NORTHWEST CORNER OF SAID SECTION 7, THE POINT OF BEGINNING AND THE TERMINUS OF SAID LINE. (1/26/2001 AF#2001-002044) ALSO LESS THAT PORTION FOR ROAD RIGHT OF WAY, DESCRIBED AS FOLLOWS: A STRIP OF LAND LYING SOUTH OF AND PARALLEL TO THE FOLLOWING DESCRIBED LINE, SAID LINE BEING THE CENTERLINE OF CLODFELTER ROAD, LOCATED IN THE NORTH HALF OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 28 EAST, W.M., MORE PARTICULARLY AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 7, FROM WHICH THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 7 NORTH, RANGE 28 EAST, W.M. BEARS N 0¦27'55" W, A DISTANCE OF 5388.82 FEET; THENCE N 89¦18'05" E, ALONG THE NORTH LINE OF SAID SECTION 7, A DISTANCE OF 300.00 FEET TO ENGINEER'S CENTERLINE STATION 3+00 AS SHOWN ON THE PLANS FOR CLODFELTER ROAD, CE 1710 CRP AT THE BENTON COUNTY ENGINEER'S OFFICE, BEING THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; AT WHICH THE STRIP OF LAND WIDENS FROM 40.00 ON THE RIGHT, A POINT ON THE EXISTING SOUTH RIGHT-OF-WAY LINE FOR SAID CLODFELTER ROAD, TO 50.00 FEET WIDE ON THE RIGHT; THENCE CONTINUING N 89¦18'05" E, A DISTANCE OF 900.00 FEET TO ENGINEER'S STATION 12-00, AT WHICH THE STRIP OF LAND IN 50.00 FEET WIDE ON THE RIGHT AND BEGINS TO WIDEN; THENCE CONTINUING N 89¦18'05" E, A DISTANCE OF 100.00 FEET TO ENGINEER'S STATION 13+00, AT WHICH THE STRIP OF LAND IS 55.00 FEET WIDE ON THE RIGHT; THENCE CONTINUING N 89¦18'05" E, A DISTANCE OF 200.00 FEET TO ENGINEER'S STATION 15+00, AT WHICH THE STRIP OF LAND IS 55.00 FEET WIDE ON THE RIGHT AND BEGINS TO NARROW,

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			THENCE CONTINUING N 89¦18'05" E, A DISTANCE OF 100.00 FEET TO ENGINEER'S STATION 16+00, AT WHICH THE STRIP OF LAND IS50.00 FEET WIDE ON THE RIGHT; THENCE CONTINUING N 89¦18'05" E, A DISTANCE OF 2900.00 FEET TO ENGINEER'S STATION 45+00, AT WHICH THE STRIP OF LAND IS 50.00 FEET WIDE ON THE RIGHT AND BEGINS TO WIDEN; THENCE CONTINUING N 89¦18'05" E, A DISTANCE OF 400.00 FEET TO ENGINEER'S STATION 49+00 AT WHICH THE STRIP OF LAND IS100.00 FEET WIDE ON THE RIGHT; THENCE CONTINUING N 89¦18'05" E, A DISTANCE OF 150.00 TO ENGINEER'S STATION 50+50, AT WHICH STRIP OF LAND IS 100.00 FEET WIDE ON THE RIGHT AND BEGINS TO NARROW; THENCE CONTINUING N 89¦18'05" E, A DISTANCE OF 197.99 FEET TO ENGINEER'S STATION 52+44.99, BEING THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 2000.00 FEET; AT WHICH THE STRIP OF LAND ON THE RIGHT CONTINUES TO NARROW; THENCE LEAVING SAID CENTERLINE AND CONTINUING N 89¦18'05" E, ALONG THE NORTH LINE OF SAID SECTION 7 AND TANGENT TO SAID CURVE, A DISTANCE OF 213.36 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID SECTION 7, AT WHICH THE STRIP OF LAND 49.18 FEET WIDE ON THE RIGHT, AS MEASURED ALONG THE EAST LINE OF SAID SECTION 7, AND BEING THE TERMINUS OF THIS DESCRIPTION. THE SAID STRIP OF LAND IS TO BE SHORTENED OR LENGTHENED TO MEET THE EAST LINE OF SAID SECTION 7. LESS 6.40 AC, MORE OR LESS, PER QCD AF#2005-013364, 4/27/2005. SECTION 9: ALL OF SECTION. SECTION 18: THE EAST ONE/HALF AND THE NORTHWEST QUARTER, FRACTIONAL. LESS PORTION TO BENTON COUNTY FOR ROAD PURPOSES DESCRIBED AS FOLLOWS: A PARCEL OF LAND IN SECTION 18, TOWNSHIP 7 NORTH, RANGE 28 EAST, W.M. LYING WITHIN THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE NORTHWEST CORNER OF SECTION 18, TOWNSHIP 7 NORTH RANGE 28 EAST, W.M. SAID POINT BEING THE TRUE POINT OF BEGINNING: THENCE SOUTHERLY ALONG THE WEST SECTION LINE OF SAID SECTION 18, SOUTH 00 DEGREES 45 MINUTES 01 SECONDS EAST, 2,706.94 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 18: THENCE ALONG THE CENTER OF SAID SECTION 18 SOUTH 89 DEGREES 45 MINUTES 48 SECONDS EAST 35.00 FEET: THENCE NORTH 00 DEGREES 17 MINUTES 41 SECONDS WEST 0.46 FEET: THENCE NORTH 00 DEGREES 45 MINUTES 01 SECONDS WEST 2,147.11 FEET: THENCE NORTH 04 DEGREES 57 MINUTES 37 SECONDS EAST, 50.25 FEET: THENCE NORTH 00 DEGREES 45 MINUTES 01 SECONDS EAST 125.00 FEET: THENCE NORTH 08 DEGREES 42 MINUTES 43 SECONDS WEST 304.14 FEET: THENCE NORTH 80 DEGREES 18 MINUTES 13 SECONDS EAST 313.29 FEET: THENCE SOUTH 89 DEGREES

Parcel Number	Owner	Acres[1/]	Affected Lands
			51 MINUTES 14 SECONDS EAST, 125.00 : THENCE NORTH 00 DEGREES 08 MINUTES 46 SECONDS EAST, 30.00 FEET TO A POINT ON THE NORTH SECTION LINE OF SAID SECTION 18: THENCE WESTERLY ALONG THE NORTH SECTION LINE OF SAID SECTION 18, NORTH 89 DEGREES 51 MINUTES 14 SECONDS WEST 525.00 FEET TO THE NORTHWEST CORNER OF SAID SECTION 18 SAID POINT BEING THE POINT OF BEGINNING AND THE TERMINUS OF SAID LINE. CONTAINING .79 AC MORE OR LESS (1/26/2001 AF#2001- 002043) RE-RECORDD QCD AF#2005-013365, 04/27/2005 AMENDS AF#2001-002043.
102760000000000	SMITH CHAD W & KRISTEN L 102760000000000 Note: Lease negotiations for this parcel were underway at the time application mapping was prepared but subsequently determined that no lease would be issued. This parcel is still shown on project mapping but no facility infrastructure will be constructed on these lands unless a lease agreement is signed.	606	**TOWNSHIP 7 NORTH, RANGE 26 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 2: ALL OF SECTION, FRACTIONAL ROAD WAY SLOPES 10-26-76. SECTION 6: THE NORTHWEST QUARTER.
106772000000000	SMITH CHAD W & KRISTEN L 106772000000000 Note: Lease negotiations for this parcel were underway at the time application mapping was prepared but subsequently determined that no lease would be issued. This parcel is still shown on project mapping but no facility infrastructure will be constructed on these lands unless a lease agreement is signed.	152	
129873000001001	SMITH GREGORY J	53	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 29: THE SOUTH ONE/THIRD, LESS NORTH 295.5 FEET. OF EAST 295.5 FEET THEREOF. LESS THE EAST 1.4 THEREOF. LESS THE EAST HALF OF THE WEST HALF OF THE SOUTH ONE/THIRD THEREOF. SECTION 29: EAST HALF OF THE WEST HALF OF THE SOUTH ONE/THIRD. SECTION 29: THE EAST QUARTER OF THE SOUTH ONE/THIRD OF SECTION 29, TWP 8 N RANGE 27 LESS THE NORTH 295.5 FEET. OF THE EAST 295.5 FEET. OF SECTION 29. LESS PORTION DEEDED TO BENTON COUNTY FOR ROAD ROW (TRAVIS RD) PER QCD, AF#2006-030602, 09/15/2006. SECTION 32: THE EAST QUARTER OF THE NORTH HALF OF SECTION 32. LESS PORTION DEEDED TO BENTON COUNTY FOR ROAD ROW (TRAVIS RD) PER QCD, AF#2006-030602, 09/15/2006.
129873000002000	SMITH GREGORY J	53	
129874000003000	SMITH GREGORY J	102	
132871000001000	SMITH GREGORY J	141	
132872000001000	SMITH GREGORY J	72	
132872000002000	SMITH GREGORY J	71	

Parcel Number	Owner	Acres[1/]	Affected Lands
			SECTION 32: THE EAST HALF OF THE WEST HALF OF THE NORTH HALF THEREOF. SECTION 32: THE WEST HALF OF THE NORTHWEST QUARTER.
130871000002000	SMITH TRACY	648	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 30: ALL OF SECTION. LESS NORTHEAST 2 ACRES. SECTION 33: ALL OF SECTION. LESS SOUTH 75 FEET OF NORTH 625 FEET OF WEST 150 FEET OF NORTHWEST QUARTER. 26 BENTON COUNTY FIRE DISTRICT #5 EXCEPT EXISTING ROAD RIGHT OF WAY PER QCD (AF#2003-002686, 01-17-2003). EXCEPT PORTION DEEDED TO BENTON COUNTY FOR ROAD RIGHT OF WAY (TRAVIS RD) PER QCD, AF#2006-030603, 9/15/06. (ADJ. ACRES, 2013-000898, 1- 9-2013, (RE-RECORD OF 2006-030603, 9-15-2006)). SECTION 35: ALL OF SECTION LESS 1.45 AC M-L FOR RD R-W 2-6-67 EXCEPT EXISTING ROAD RIGHT OF WAY PER QCD (AF#2003-002684, 01-17-2003) EXCEPT EXISTING ROAD RIGHT OF WAY PER QCD (AF#2003-002685, 01-17-2003)
133871000000000	SMITH TRACY	598	
135870000000000	SMITH TRACY	585	
106781000000000	SMITH WAYNE H (Deed 2019-042110 transfer to Link, Janice K.)	455	**TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 6: NORTHEAST QUARTER AND THE SOUTH ONE HALF LESS THAT PORTION FOR ROAD RIGHT OF WAY, PER QCD AF#2005-011809, 04/15/2005. SECTION 6: ALL OF SECTION LESS THE NORTHEAST QUARTER AND LESS THE SOUTH ONE HALF THEREOF: (4/8/87) LESS 1.60 ACRES FOR ROAD RIGHT OF WAY: 2/1/67 MINERAL RIGHTS RESERVED. **TOWNSHIP 8 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 24: THE WEST HALF. SECTION 31: ALL OF SECTION. FRACTIONAL.
106782000000000	SMITH WAYNE H (Deed 2019-042110 transfer to Link, Janice K.)	158	
124872000000000	SMITH WAYNE H (Deed 2019-042110 transfer to Link, Janice K.)	321	
131880000000000	SMITH WAYNE H (Deed 2019-042110 transfer to Link, Janice K.)	602	
136870000000000	STATE OF WASHINGTON 136870000000000	551	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 36: ALL OF SECTION. LESS THE WEST 30 FEET AND THE SOUTH 30 FEET, THE EAST 10 FEET OF THE WEST 40 FEET OF THE NORTH 470 FEET OF SOUTH 500 FEET OF THE SOUTH- WEST SOUTHWEST, ALSO THE NORTH 7.11 ACRES FOR COUNTY RROAD. **TOWNSHIP 7 NORTH, RANGE 30 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 16: THE SOUTH 300 FEET OF THE WEST HALF. **TOWNSHIP 7 NORTH, RANGE 29 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 16: ALL OF SECTION. SECTION 36: ALL OF SECTION. **TOWNSHIP 8 NORTH, RANGE 26 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 36: THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE WEST 300 FEET OF THE NORTHWEST QUARTER.
116700000000000	STATE OF WASHINGTON, 116700000000000	336	
116790000000000	STATE OF WASHINGTON, 116790000000000	663	
136790000000000	STATE OF WASHINGTON, 136790000000000	637	
136860000000000	STATE OF WASHINGTON, 136860000000000	551	
136870000000000	STATE OF WASHINGTON, 136870000000000	1	

Parcel Number	Owner	Acres[1/]	Affected Lands
			TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN: SECTION 36: ALL OF SECTION. LESS THE WEST 30 FEET AND THE SOUTH 30 FEET, THE EAST 10 FEET OF THE WEST 40 FEET OF THE NORTH 470 FEET OF SOUTH 500 FEET OF THE SOUTH- WEST SOUTHWEST, ALSO THE NORTH 7.11 ACRES FOR COUNTY ROAD. 03/29/67
116871000002000	SUTOGA LLC	454	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 16: ALL OF SECTION: EXCEPT THE NORTH HALF OF THE NORTH HALF LESS PORTION DEEDED TO BENTON COUNTY FOR ROAD RIGHT OF WAY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 16: THENCE NORTH 0 DEGREES 45 MINUTES 35 SECONDS WEST ALONG THE WEST LINE OF SAID SECTION 16 A DISTANCE OF 1292.62 FEET, TO THE TRUE POINT OF BEGINNING: THENCE CONTINUING ALONG SAID WEST LINE A DISTANCE OF 1309.48 FEET: THENCE SOUTH 89 DEGREES 16 MINUTES 29 SECONDS EAST A DISTANCE OF 54.38 FEET: THENCE SOUTH 0 DEGREES 43 MINUTES 31 SECONDS WEST A DISANCE OF 200.00 FEET: THENCE SOUTH 25 DEGREES 32 MINUTES 27 SECONDS EAST A DISTANCE OF 56.49 FEET, TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 230.00 FEET, OF WHICH THE CHORD BEARS SOUTH 23 DEGREES 26 MINUTES 51 SECONDS WEST: THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45 DEGREES 26 MINUTES 40 SECONDS AN ARC DISTANCE OF 182.43 FEET TO THE WEST LINE OF SAID SECTION 16: THENCE SOUTH 0 DEGREES 45 MINUTES 35 SECONDS EAST, ALONG SAID SECTION LINE, ADISTANCE OF 169.15 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 950.00 FEET, OF WHICH THE CHORD BEARS SOUTH 10 DEGREES 53 MINUTES 26 SECONDS EAST: THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 20 DEGREES 55 MINUTES 54 SECONDS AN ARC DISTANCE OF 347.06 FEET: THENCE SOUTH 6 DEGREES 11 MINUTES 21 SECONDS WEST A DISTANCE OF 86.82 FEET: THENCE SOUTH 1 DEGREES 29 MINUTES 04 SECONDS WEST, A DISTANCE OF 300.17 FEET: THNENCE SOUTH 89 DEGREES 34 MINUTES 31 SECONDS WEST A DISTANCE OF 38.45 FEET TO THE POINT OF BEGINNING. (7/11/97 AF#97-16483). LESS PORTION DEEDED TO BENTON COUNTY FOR ROAD RIGHT OF WAY (TRAVIS RD) PER QCD, AF#2007-021306, 7/02/07. SECTION 19: ALL OF SECTION: LESS THE SOUTHWEST QUARTER QUARTER THEREOF. FOR RD. RIGHT OF WAY (AF#2004-011854 04/09/2004). SECTION 21: ALL OF SECTION: LESS THE SOUTHWEST QUARTER THEREOF, LESS THAT PORTION DEEDED TO BENTON COUNTY FOR ROADS (TRAVIS RD) PER QCD, AF#2007-021306, 7/02/07. SECTION 27: ALL OF SECTION.
119871000000000	SUTOGA LLC	487	
121871000000000	SUTOGA LLC	493	
127870000000000	SUTOGA LLC	653	

Parcel Number	Owner	Acres[1/]	Affected Lands
103702000002000	THOMAS FARMS INC,	282	**TOWNSHIP 7 NORTH, RANGE 30 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 3: THAT PORTION OF THE NORTH ONE/HALF LYING WESTERLY OF FINLEY ROAD AND SOUTHERLY OF ROAD 397 AND THE SOUTHWEST QUARTER. LESS THAT PORTION FOR ROAD RIGHT OF WAY, BEING DESCRIBED AS FOLLOWS: THE FOLLOWING DESCRIBED PARCEL LYING SOUTHWESTERLY OF THE KENNEWICK IRRIGATION DISTRICT CANAL RIGHT OF WAY SITUATED IN SECTION 3, TOWNSHIP 7 NORTH. RANGE 30 EAST, W.M., BENTON COUNTY, WASHINGTON, SAID PARCEL BEING DESCRIBED AS FOLLOWS: COMMENCING AT A FOUND BRASS CAP MONUMENTING THE WEST + CORNER OF SECTION 34, TOWNSHIP 8 NORTH, RANGE 30 EAST, W.M.; THENCE SOUTH 00¦29'41" EAST 2,698.48 FEET TO A FOUND BRASS CAP MONUMENTING THE NORTHWEST CORNER OF SAID SECTION 3, SAID POINT BEING 47.19 FEET LEFT OF STATION I 415+24.76 OF BENTON COUNTY RIGHT OF WAY PLANS I-82/SR397 INTERTIE PROJECT RIGHT OF WAY PLANS - PHASE 2 OLYMPIA STREET VICINITY TO FINLEY ROAD (ON FILE IN THE OFFICE OF THE BENTON COUNTY ENGINEER), SAID POINT ALSO BEING THE REAL POINT OF BEGINNING; THENCE ALONG THE NORTHERLY LINE OF SAID SECTION 3 NORTH 89¦44'10" EAST 514.85 FEET TO A POINT 231.52 FEET LEFT OF STATION I 420+00.00; THENCE LEAVING SAID NORTHERLY LINE SOUTH 21¦50'47" WEST 101.52 FEET TO A POINT 130.00 FEET LEFT OF STATION I 420+00.00; THENCE EASTERLY 593.79 FEET ALONG THE ARC OF A NON-TANGENT CIRCULAR CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A RADIUS OF 12,130.00 FEET, A CENTRAL ANGLE OF 02¦48'17" AND A LONG CHORD THAT BEARS SOUTH 66¦45'05" EAST 593.79 FEET TO A POINT 130.00 FEET LEFT OF STATION I 425+87.43; THENCE SOUTH 65¦20'56" EAST 597.18 FEET TO A POINT 130.00 FEET LEFT OF STATION I 431+84.61; THENCE SOUTHEASTERLY 1,440.15 FEET ALONG THE ARC OF A CIRCULAR CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A RADIUS OF 1,370.00 FEET, A CENTRAL ANGLE OF 60¦13'46" AND A LONG CHORD THAT BEARS NORTH 84¦32'10" EAST 1,374.75 FEET TO THE CENTERLINE OF THE KENNEWICK IRRIGATION DISTRICT CANAL, BEING A POINT 130.00 FEET LEFT OF STATION I 447+61.42; THENCE ALONG SAID CANAL CENTERLINE IN A SOUTHEASTERLY DIRECTION 264.00 FEET, MORE OR LESS, TO A POINT 117.22 FEET RIGHT OF STATION I 447+69.22, BEING ALSO A POINT 182.69 FEET RIGHT OF STATION FS 19+00.00; THENCE LEAVING SAID CANAL CENTERLINE, SOUTHWESTERLY TO A POINT 110.00 FEET RIGHT OF STATION I 447+16.00, BEING ALSO A POINT 125.00 FEET RIGHT OF STATION FS 19+00.00; THENCE SOUTHEASTERLY 46.35 FEET ALONG THE ARC OF A NON-TANGENT CIRCULAR CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A RADIUS OF 825.00 FEET, A CENTRAL ANGLE OF 03¦13'07" AND A LONG CHORD THAT BEARS SOUTH 25¦35'48" EAST 46.34 FEET TO A
109701000001000	THOMAS FARMS INC,	34	
110702000000000	THOMAS FARMS INC,	162	

Parcel Number	Owner	Acres[1/]	Affected Lands
			POINT 125.00 FEET RIGHT OF STATION FS 18+60.30; THENCE SOUTH 70¦42'40" EAST 32.96 FEET TO A POINT 149.30 FEET RIGHT OF STATION FS 18+41.68; THENCE SOUTH 19¦17'20" WEST 37.19 FEET TO A POINT 125.00 FEET RIGHT OF STATION FS 18+18.13; THENCE SOUTHEASTERLY 37.16 FEET ALONG THE ARC OF A NON-TANGENT CIRCULAR CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A RADIUS OF 825.00 FEET, A CENTRAL ANGLE OF 02¦34'51" AND A LONG CHORD THAT BEARS SOUTH 19¦14'43" EAST 37.16 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY OF FINLEY ROAD, SAID POINT BEING 125.00 FEET RIGHT OF STATION FS 17+86.59; THENCE ALONG SAID WESTERLY RIGHT OF WAY THE FOLLOWING COURSES AND DISTANCES: SOUTHWESTERLY 61 FEET, MORE OR LESS TO A POINT 89.08 FEET RIGHT OF STATION FS 17+34.70; THENCE NORTHWESTERLY 50.00 FEET, MORE OR LESS, TO A POINT 48.20 FEET RIGHT OF STATION FS 17+69.47L THENCE SOUTHWESTERLY 237.00 FEET, MORE OR LESS, TO A POINT 61.34 FEET LEFT OF FS STATION 15+55.69; THENCE SOUTHEASTERLY 30.00 FEET, MORE OR LESS, TO A POINT 32.80 FEET LEFT OF FS STATION 15+45.77; THENCE SOUTHWESTERLY 203.00 FEET, MORE OR LESS, TO A POINT 63.91 FEET LEFT OF STATION FS 13+29.03; THENCE LEAVING SAID WESTERLY RIGHT OF WAY NORTH 70¦30'14" WEST 61.09 FEET TO A POINT 125.00 FEET LEFT OF STATION FS 13+29.03; THENCE NORTHERLY 394.12 FEET ALONG THE ARC OF A NON-TANGENT CIRCULAR CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A RADIUS OF 575.00 FEET, A CENTRAL ANGLE OF 39¦16'18" AND A LONG CHORD THAT BEARS NORTH 00¦08'15" WEST 386.45 FEET TO A POINT 175.00 FEET RIGHT OF STATION I 444+80.50; THENCE SOUTHWESTERLY 480.90 FEET ALONG THE ARC OF A NON-TANGENT CIRCULAR CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A RADIUS OF 1,675.00 FEET, A CENTRAL ANGLE OF 16¦27'00" AND A LONG CHORD THAT BEARS SOUTH 73¦22'14" WEST 479.25 FEET TO A POINT 175.00 FEET RIGHT OF STATION I 440+50.00; THENCE IN A NON-TANGENT DIRECTION SOUTH 08¦24'16" EAST 55.00 FEET TO A POINT 230.00 FEET RIGHT OF STATION I 440+5+0; THENCE WESTERLY 807.33 FEET ALONG THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A RADIUS OF 1,730.00 FEET, A CENTRAL ANGLE OF 26¦44'17" AND A LONG CHORD THAT BEARS NORTH 85¦02'08" WEST 800.03 FEET TO A POINT 230.00 FEET RIGHT OF STATION I 433+50.00; THENCE IN A NON-TANGENT DIRECTION NORTH 18¦20'00" EAST 50.00 FEET TO A POINT 180.00 FEET RIGHT OF STATION I 433+50.00; THENCE NORTHWESTERLY 185.24 FEET ALONG THE ARC OF A NON-TANGENT CIRCULAR CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A RADIUS OF 1,680.00 FEET, A CENTRAL ANGLE OF 06¦19'03" AND A LONG CHORD THAT BEARS NORTH 68¦30'28" WEST 185.15 FEET TO A POINT 180.00 FEET RIGHT OF STATION I 431+84.61;

Parcel Number	Owner	Acres[1/]	Affected Lands
			THENCE NORTH 65¦20'56" WEST 597.18 FEET TO A POINT 180.00 FEET RIGHT OF STATION 425+87.43; THENCE NORTHWESTERLY 285.12 FEET ALONG THE ARC OF A CIRCULAR CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A RADIUS OF 11,820.00 FEET, A CENTRAL ANGLE OF 01¦22'21" AND A LONG CHORD THAT BEADS NORTH 66¦02'07" WEST 283.11 FEET TO A POINT 180.00 FEET RIGHT OF STATION I 423+00.00; THENCE IN A NON-TANGENT DIRECTION NORTH 23¦16'43" EAST 30.00 FEET TO A POINT 150.00 FEET RIGHT OF STATION I 423+00.00; THENCE SOUTHWESTERLY 695.66 FEET ALONG THE ARC OF A NON-TANGENT CIRCULAR CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A RADIUS OF 11,850.00 FEET, A CENTRAL ANGLE OF 03¦21'49" AND A LONG CHORD THAT BEARS NORTH 68¦24'11" WEST 695.56 FEET TO THE WEST LINE OF SAID SECTION 3, BEING A POINT 150.00 FEET RIGHT OF STATION I 415+95.74; THENCE IN A NON-TANGENT DIRECTION NORTH 00¦04'44" EAST 209.47 FEET TO SAID REAL POINT OF BEGINNING; PER QCD AF#2004-042195, 12/02/2004 CONTAINING 24.00 AC., MORE OR LESS. SECTION 9: THE NORTH ONE/HALF. TOGETHER WITH THAT PORTION OF SAID SECTION 9 LYING WITHIN THE FOLLOWING DESCRIBED PARCEL: (SURVEY #1521) THAT PORTION OF THE WEST HALF AND THE NORTHEAST QUARTER OF SECTION 3, THE NORTHWEST QUARTER OF SECTION 10 AND THE NORTHEAST QUARTER OF SECTION 9 ALL IN TOWNSHIP 7 NORTH RANGE 30 EAST DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 3: THENCE NORTH 89 DEGREES 33'57' EAST 2202.09 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE KENNEWICK IRRIGATION DISTRICT CANAL WHICH HAS A WIDTH OF 75 FEET FROM CENTERLINE: THENCE ALONG SAID RIGHT OF WAY LINE SOUTH 25 DEGREES 59'52' EAST 69.74 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, THE RADIUS POINT OF WHICH BEARS NORTH 64 DEGREES 00'08' EAST 189.60 FEET: THENCE SOUTHEASTERLY ALONG SAID CURVE 214.27 FEET: THENCE NORTH 89 DEGREES 15'08' EAST 73.92 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH BEARS SOUTH 00 DEGREES 44'52' EAST 116.00 FEET: THENCE SOUTHEASTERLY ALONG SAID CURVE 76.16 FEET: THENCE SOUTH 53 DEGREES 07'52' EAST 317.90 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH BEARS SOUTH 36 DEGREES 52'08' WEST 154.20 FEET: THENCE SOUTHEASTERLY ALONG SAID CURVE 89.76 FEET: THENCE SOUTH 19 DEGREES 46'52' EAST 162.40 FEET TO THE BEGINNNING OF A CURVE TO THE LEFT, THE RADIUS POINT OF WHICH BEARS NORTH 70 DEGREES 13'08' EAST 189.60 FEET: THENCE SOUTHEASTERLY ALONG SAID CURVE 166.62 FEET: THENCE SOUTH 70 DEGREES 07'52' EAST 18.66 FEET TO THE INTERSECTION OF SAID RIGHT

Parcel Number	Owner	Acres[1/]	Affected Lands
			OF WAY LINE WITH THE NORTHWESTERLY RIGHT OF WAY LINE OF A COUNTRY ROAD KNOWN AS FINLEY ROAD, WHICH HAS A RIGHT OF WAY WIDTH OF 100 FEET FROM CENTERLINE: THENCE ALONG SAID ROAD RIGHT OF WAY SOUTH 19 DEGREES 34'40' WEST 350.19 FEET TO A CHANGE IN RIGHT OF WAY WIDTH TO 70 FEET FROM CENTERLINE: THENCE SOUTH 70 DEGREES 25'20' EAST 30 FEET: THENCE SOUTH 19 DEGREES 34'40' WEST 455.41 FEET TO THE BEGINNNG OF A CURVE TO THE LEFT, THE RADIUS POINT OF WHICH BEARS SOUTH 70 DEGREES 25'20' EAST 1978.14 FEET: THENCE SOUTHWESTERLY ALONG SAID CURVE 357.59 FEET: THENCE NORTH 80 DEGREES 46'47' WEST ON A RADIAL LINE 26.02 FEET TO THE NORTH-SOUTH CENTERLINE OF SAID SECTION: THENCE SOUTH 00 DEGREES 01'14' WEST 3360.51 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 3: THENCE SOUTH 00 DEGREES 05' 19' EAST 2645.70 FEET TO THE CORNER QUARTER OF SAID SECTION 10: THENCE SOUTH 89 DEGREES 03'45' WEST 2670.99 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 10: THENCE SOUTH 88 DEGREES 36'46' WEST 1548.00 FEET TO THE CENTERLINE OF NINE CANYON: THENCE ALONG SAID CENTERLINE NORTH 34 DEGREES 56'35' EAST 428.75 FEET: THENCE NORTH 33 DEGREES 08'59' EAST 128.09 FEET: THENCE NORTH 45 DEGREES 33'31' EAST 647.96 FEET: THENCE NORTH 35 DEGREES 09'22' EAST 1132.00 FEET: THENCE NORTH 26 DEGREES 15'04' EAST 268.78 FEET TO THE EAST LINE OF SAID SECTION 9: THENCE NORTH 00 DEGREES 02'20' EAST 596.35 FEET TO THE NORTHWEST CORNER OF SAID SECTION 10: THENCE NORTH 00 DEGREES 14'19' WEST 5232.84 FEET TO THE SAID POINT OF BEGINNING. SECTION 10: THE NORTHWEST QUARTER.
120870000000000	TOMASKE HERITAGE PROPERTIES, LLC	653	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 20: ALL OF SECTION: LESS THAT PORTION FOR ROAD RIGHT OF WAY, BEING DESCRIBED AS FOLLOWS: A STRIP OF LAND OF VARIABLE WIDTH SITUATE IN THE EAST HALF OF THE EAST HALF OF SECTION 20, TOWNSHIP 8 NORTH, RANGE 27 EAST, W.M., BENTON COUNTY, WASHINGTON, THE EASTERLY LINE OF SAID STRIP BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 20, AT THIS POINT THE STRIP OF LAND IS 260.00 FEET WIDE; THENCE NORTH 00¦58'56" WEST, ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 10.00 FEET, AT THIS POINT THE STRIP OF LAND BEGINS AT 260.00 FEET WIDE AND EXTENDS EASTERLY, PERPENDICULAR TO THE EAST LINE OF SAID SECTION 20, TO A POINT WHERE THE STRIP IS 160.00 FEET WIDE AND BEGINS TO NARROW; THENCE CONTINUE NORTH 00¦58'56" WEST, ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 10.00 FEET, AT THIS POINT THE STRIP OF LAND IS 60.00 FEET WIDE; THENCE CONTINUE NORTH 00¦58'56" WEST,
129872000000000	TOMASKE HERITAGE PROPERTIES, LLC	159	

Parcel Number	Owner	Acres[1/]	Affected Lands
			ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 685.21 FEET, AT THIS POINT THE STRIP OF LAND BEGINS AT 60.00 FEET WIDE AND EXTENDS EASTERLY, PERPENDICULAR TO THE EAST LINE OF SAID SECTION 20, TO A POINT WHERE THE STRIP IS 45.00 FEET WIDE, THENCE CONTINUE NORTH 00¦58'56" WEST, ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 350.00 FEET, AT THIS POINT THE STRIP OF LAND BEGINS AT 45.00 FEET WIDE AND EXTENDS EASTERLY, PERPENDICULAR TO THE EAST LINE OF SAID SECTION 20, TO A POINT WHERE THE STRIP IS 30.00 FEET WIDE; THENCE CONTINUE NORTH 00¦58'56" WEST, ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 1618.79 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE; THENCE NORTH 01¦09'55" WEST, ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 781.21 FEET, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE AND BEGINS TO WIDEN; THENCE CONTINUE NORTH 01¦09'55" WEST, ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 100.00 FEET, AT THIS POINT THE STRIP OF LAND IS 60.00 FEET WIDE AND CONTINUES TO WIDEN; THENCE CONTINUE NORTH 01¦09'55" WEST, ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 400.00 FEET, AT THIS POINT THE STRIP OF LAND IS 80.00 FEET WIDE AND BEGINS TO NARROW; THENCE CONTINUE NORTH 01¦09'55" WEST, ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 300.00 FEET, AT THIS POINT THE STRIP OF LAND IS 55.00 FEET WIDE AND BEGINS TO WIDEN; THENCE CONTINUE NORTH 01¦09'55" WEST, ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 200.00 FEET, AT THIS POINT THE STRIP OF LAND IS 60.00 FEET WIDE AND BEGINS TO NARROW; THENCE CONTINUE NORTH 01¦09'55" WEST, ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 200.00 FEET, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE; THENCE CONTINUE NORTH 01¦09'55" WEST, ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 691.06 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID SECTION 20, AND THE TERMINUS FOR THIS DESCRIPTION, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE; EXCEPTING THERE FROM ALL THOSE PORTIONS OF THE ABOVE DESCRIBED STRIP LYING WITHIN THE COUNTY ROAD RIGHTS OF WAY; PER QCD AF#2006-018262, 06/09/2006 CONTAINING 5.20 AC., MORE OR LESS. SECTION 29: THE WEST 160 ACRES OF THE WEST HALF OF THE NORTH TWO/THIRDS.
106872000001000	TRIPLE S FARMS INC,	45	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 06: GOVERNMENT LOT 3, EXCEPT THE EAST 343.00 FEET THEREOF AND ALL OF GOVERNMENT LOT 4.
125963000000000	TRIPLE S FARMS INC,	255	
131972000000000	TRIPLE S FARMS INC,	316	

Parcel Number	Owner	Acres[1/]	Affected Lands
136960000000000	TRIPLE S FARMS INC,	641	**TOWNSHIP 9 NORTH, RANGE 26 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 25: ALL OF SECTION. LESS THAT PORTION LYING NORTHEASTERLY OF THE FOLLOWING LINE. BEGINNING AT THE NORTHWEST CORNER SAID SECTION 25. THENCE SOUTH 0¦ 14' 45" WEST ALONG THE WEST LINE THEREOF 502.86 FEET. TO THE TRUE POINT OF BEGINNING OF SAID LINE. THENCE SOUTH 45¦ 35' 27" EAST 5599.79 FEET. THENCE SOUTH 74¦ 06" EAST 1260 FEET. TO A POINT ON THE EAST LINE SAID SECTION 25, WHICH BEARS SOUTH 1¦ 44' WEST A DISTANCE 5121.8 FROM THE NORTHEAST CORNER SAID SECTION AND TERMINUS OF SAID DESCRIBED LINE. **TOWNSHIP 9 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 31: THE WEST 300 ACRES OF SECTION. **TOWNSHIP 9 NORTH, RANGE 26 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 36: ALL OF SECTION. **TOWNSHIP 8 NORTH, RANGE 26 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 1: ALL OF SECTION. FRACTIONAL. 594.50 ACRES MORE OR LESS. SECTION 2: THE NORTH HALF AND FRACTIONAL SOUTHEAST QUARTER. 416.20 ACRES MORE OR LESS. SECTION 2: THE SOUTHWEST QUARTER. SECTION 12: THE EAST HALF AND THE NORTHWEST QUARTER.
101860000000000	TRIPLE S FARMS INC, 101860000000000	509	
102861000000000	TRIPLE S FARMS INC, 102861000000000	389	
102863000000000	TRIPLE S FARMS INC, 102863000000000	131	
112861000000000	TRIPLE S FARMS INC, 112861000000000	481	
134702000000000	VONO FAMILY PROPERTIES LLC Note: Lease negotiations for this parcel were underway at the time application mapping was prepared but subsequently determined that no lease would be issued. This parcel is still shown on project mapping but no facility infrastructure will be constructed on these lands unless a lease agreement is signed.	162	**TOWNSHIP 7 NORTH, RANGE 30 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 34: THE NORTHWEST QUARTER. SECTION 34: THE SOUTHWEST QUARTER THE NORTHWESTERLY PORTION.
134703000001000	VONO FAMILY PROPERTIES LLC Note: Lease negotiations for this parcel were underway at the time application mapping was prepared but subsequently determined that no lease would be issued. This parcel is still shown on project mapping but no facility infrastructure will be constructed on these lands unless a lease agreement is signed.	81	
134703000002000	WAKE BRAD D	81	**TOWNSHIP 7 NORTH, RANGE 30 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 34: THE SOUTHWEST QUARTER, THE SOUTHEASTERLY HALF. SECTION 34: THE SOUTHEAST QUARTER.
134704000000000	WAKE BRAD D	162	

Parcel Number	Owner	Acres[1/]	Affected Lands
103701000004000	WAKE FAMILY PROPERTIES L.L.C.	80	**TOWNSHIP 7 NORTH, RANGE 30 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 3: THE NORTH ONE/HALF, LYING SOUTHWESTERLY OF CANAL AND EASTERLY OF FINLEY ROAD: LESS PORTION DEFINED AS FOLLOWS: THAT PORTION OF GOVERNMENT LOT 2, LYING SOUTH OF KENNEWICK IRRIGATION DISTRICT CANAL AND EAST OF THE FOLLOWING DESCRIPTION LINE: COMMENCING AT THE SOUTHEAST CORNER OF GOVERNMENT LOT 1 OF SAID SECTION 3: THENCE WEST ALONG THE SOUTH BOUNDARY OF GOVERNMENT LOTS 1 AND 2 OF SAID SECTION 3 A DISTANCE OF 1900 FEET TO THE TRUE POINT OF BEGINNING: THENCE NORTH 01 DEGREE 18' WEST A DISTANCE OF 390 FEET TO THE SOUTH RIGHT OF WAY LINE OF THE KENNEWICK IRRIGATION DISTRICT CANAL. EASEMENT DEED 5-31-55. LESS 1.3 ACRES FOR ROAD 11-17-67. SECTION 3: THE SOUTHEAST QUARTER. SECTION 2: THE NORTHEAST QUARTER, SOUTHERLY OF CANAL: THE WEST ONE/HALF, SOUTHERLY OF CANAL: THE SOUTHEAST QUARTER, SOUTHERLY OF CANAL. SECTION 9: THE SOUTHEAST QUARTER. SECTION 10: THE EAST ONE/HALF. SECTION 10: THE SOUTHWEST QUARTER. SECTION 11: THE WEST ONE/HALF: LESS ONE ACRE SITUATED IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER WHERE THE MAIN RESIDENCE IS LOCATED WITH THE RIGHT OF INGRESS AND EGRESS. TOGETHER WITH PRIVATE ROAD OVER PORTIONS DEFINED AS FOLLOWS: PORTION OF THE SOUTHWEST QUARTER OF SECTION 1 TOWNSHIP 7 NORTH RANGE 30: PORTION OF THE NORTH ONE/HALF OF THE NORTH ONE/HALF OF THE NORTHEAST QUARTER OF SECTION 11 TOWNSHIP 7 NORTH RANGE 30. SECTION 14: THE NORTH ONE/HALF OF THE NORTHEAST QUARTER: THE NORTHWEST QUARTER. SECTION 15: THE NORTHEAST QUARTER. SECTION 15: THE NORTHWEST QUARTER.
103704000000000	WAKE FAMILY PROPERTIES L.L.C.	157	
102703000000000	WAKE FAMILY PROPERTIES LLC	332	
109704000000000	WAKE FAMILY PROPERTIES LLC	157	
110701000000000	WAKE FAMILY PROPERTIES LLC	325	
110703000000000	WAKE FAMILY PROPERTIES LLC	162	
111702000001000	WAKE FAMILY PROPERTIES LLC	315	
114701000000000	WAKE FAMILY PROPERTIES LLC	236	
115701000000000	WAKE FAMILY PROPERTIES LLC	162	
115702000000000	WAKE FAMILY PROPERTIES LLC	160	
129871000001000	WILEY JASON & RACHELLE	18	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 29: THE NORTHERLY 200 FEET OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER. LESS THAT PORTION FOR ROAD RIGHT OF WAY, BEING DESCRIBED AS FOLLOWS: A STRIP OF LAND OF VARIABLE WIDTH SITUATED IN THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 8 NORTH, RANGE 27 EAST, W.M., BENTON COUNTY, WASHINGTON, THE EASTERLY LINE OF SAID STRIP BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 29, SAID POINT BEING 1354.32 FEET NORTH 03¦05'03" EAST OF THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 29, AT THIS POINT THE STRIP OF LAND IS 30.00

Parcel Number	Owner	Acres[1/]	Affected Lands
			FEET WIDE; THENCE NORTH 03¦05'03" EAST, ALONG THE EASTERLY LINE OF SAID SECTION 29, A DISTANCE OF 1074.18 FEET, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET AND BEGINS TO WIDEN; THENCE CONTINUE NORTH 03¦05'03" EAST, ALONG THE EASTERLY LINE OF SAID SECTION 29, A DISTANCE OF 150.00 FEET, AT THIS POINT THE STRIP OF LAND IS 50.00 FEET WIDE AND CONTINUES TO WIDEN; THENCE CONTINUE LINE OF SAID SECTION 29, A DISTANCE OF 29.83 FEET TO THE TERMINUS FOR THIS DESCRIPTION, AT THIS POINT THE STRIP OF LAND IS 100.00 FEET WIDE; ALSO LESS THE NORTHERLY 65.00 FEET OF THE EASTERLY 904.82 FEET OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 8 NORTH, RANGE 27 EAST, W.M., EXCEPTING THEREFROM ALL THOSE PORTIONS OF THE ABOVE DESCRIBED STRIP LYING WITHIN THE EXISTING COUNTY ROAD RIGHTS OF WAY; PER QCD AF#2006-018261, 06/09/2006 CONTAINING 2.21 AC., MORE OR LESS.
107872000000000	WILEY RANCHES INC,	333	**TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 7: THE WEST HALF. FRACTIONAL. **TOWNSHIP 8 NORTH, RANGE 26 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 13: ALL OF SECTION. EXCEPT FOR RD. RIGHT OF WAY (AF#2004-011857 04/09/2004) LESS THAT PORTION FOR ROAD RIGHT OF WAY, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 13, SAID POINT BEING THE TRUE POINT OF BEGINNING, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE; THENCE NORTH 00¦02'17" WEST, 1,794.16 FEET, AT THIS POINT THE STRIP OF LAND WIDENS TO 60.00 FEET; THENCE CONTINUING NORTH 00¦02'17" WEST, 100.00 FEET, AT THIS POINT THE STRIP OF LAND NARROWS TO 30.00 FEET; THENCE CONTINUING NORTH 00¦02'17" WEST, 600.00 FEET, AT THIS POINT THE STRIP OF LAND WIDENS TO 55.00 FEET; THENCE CONTINUING NORTH 00¦02'17" WEST, 100.00 FEET, AT THIS POINT THE STRIP OF LAND NARROWS TO 30.00 FEET; THENCE CONTINUING NORTH 00¦02'17" WEST, 2,650.97 FEET, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE, AND BEGINS TO WIDEN; THENCE NORTH 00¦02'17" WEST, 30.00 FEET, AT THIS POINT THE STRIP OF LAND IS 60.00 FEET WIDE; THENCE NORTH 00¦02'17" WEST, 30.00 FEET TO THE TERMINUS OF SAID LINE, SAID POINT BEING THE NORTHWEST CORNER OF SAID SECTION 13; PER QCD AF#2004-043347, 12/13/2004 CONTAINING 3.77 ACRES, MORE OR LESS. SECTION 24: THE NORTHEAST QUARTER 160 ACRES MORE OR LESS. **TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 29: THAT PORTION OF THE NORTH TWO-THIRDS OF THE EAST HALF OF SECTION 29, TOWNSHIP 8 NORTH, RANGE 27 EAST, W.M. BENTON
113860000000000	WILEY RANCHES INC,	630	
124861000000000	WILEY RANCHES INC,	158	
129871000002001	WILEY RANCHES INC,	198	
111860000000000	WILEY RANCHES INC, 111860000000000	646	
114861000000000	WILEY RANCHES INC, 114861000000000	480	
128870000000000	WILEY RANCHES, INC,	666	

Parcel Number	Owner	Acres[1/]	Affected Lands
			COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 29 AS MONUMENTED WITH A BRIDGE SPIKE, SAID CORNER IS 4799.53 FEET NORTH 01 DEGREES 14 MINUTES 51 SECONDS WEST OF THE SOUTHEAST CORNER OF SECTION 32, TOWNSHIP 8 NORTH, RANGE 27 EAST, W.M. AS MONUMENTED WITH A 5/8 INCH REBAR: THENCE NORTH 01 DEGREES 07 MINUTES 53 SECONDS EAST ALONG THE EAST LINE OF SAID SECTION 1781.03 FEET: THENCE SOUTH 89 DEGREES 54 MINUTES 58 SECONDS WEST ALONG THE SOUTH LINE OF SAID NORTH TWO-THIRDS OF THE EAST HALF OF SECTION 29 A DISTANCE OF 2637.70 FEET TO THE NORTH-SOUTH CENTER OF SECTION LINE: THENCE NORTH 01 DEGREES 02 MINUTES 50 SECONDS EAST ALONG SAID CENTER SECTION LINE 239.15 FEET TO THE TRUE POINT OF BEGINNING: THENCE CONTINUING NORTH 01 DEGREES 02 MINUTES 50 SECONDS EAST ALONG SAID CENTER SECTION LINE 705.95 FEET: THENCE SOUTH 89 DEGREES 57 MINUTES 34 SECONDS EAST ALONG THE SOUTH LINE OF THE NORTH 159 ACRES OF THE EAST HALF OF SAID SECTION 29 A DISTANCE OF 1070.14 FEET: THENCE SOUTH 47 DEGREES 00 MINUTES 51 SECONDS WEST 586.79 FEET: THENCE SOUTH 67 DEGREES 46 MINUTES 27 SECONDS WEST 546.90 FEET: THENCE SOUTH 56 DEGREES 22 MINUTES 16 SECONDS WEST 177.17 FEET TO THE SAID TRUE POINT OF BEGINNING. TOGETHER WITH AND SUBJECT TO EASEMENTS, RESERVATIONS, COVENANTS AND RESTRICTIONS OF RECORDS AND IN VIEW. TO BE COMBINED WITH THE PARCEL LEGALLY DESCRIBED AS: THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 8 NORTH, RANGE 27 EAST W.M. BENTON COUNTY, WASHINGTON: EXCEPT THE EAST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER: TOGETHER WITH THE NORTH 2/3 OF THE WEST HALF OF SAID SECTION 29: EXCEPT THE WEST 160 ACRES THEREOF. EXCEPT PORTION DESCRIBED AS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 29 AS MONUMENTED WITH A BRIDGE SSPIKE, SAID CORNER IS 4799.53 FEET NORTH 01 DEGREES 1. **TOWNSHIP 8 NORTH, RANGE 27 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 11: ALL OF SECTION. SECTION 14: THE NORTH HALF AND SOUTHWEST QUARTER: LESS THAT PORTION FOR ROAD RIGHT OF WAY, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 14, THENCE NORTH 00¦02'17" WEST, 2,652.57 FEET, SAID POINT BEING THE TRUE POINT OF BEGINNING, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE; THENCE NORTH 00¦02'17" WEST, 2,652.57 FEET, AT THIS POINT THE STRIP OF LAND BEGINS TO WIDEN; THENCE NORTH 00¦02'17" WEST, 30.00 FEET,

Parcel Number	Owner	Acres[1/]	Affected Lands
			AT THIS POINT THE STRIP IS 60.00 FEET WIDE, THENCE NORTH 00¦02'17" WEST, 30.00 FEET TO THE TERMINUS OF SAID LINE, SAID POINT BEING THE NORTHEAST CORNER OF SECTION 14; PER QCD AF#2004-043347, 12/13/2004 CONTAINING 1.82 ACRES, MORE OR LESS. SECTION 28: ALL OF SECTION. LESS THAT PORTION FOR ROAD RIGHT OF WAY, BEING DESCRIBED AS FOLLOWS: A STRIP OF LAND OF VARIABLE WIDTH SITUATE IN THE WEST HALF OF THE WEST HALF OF SECTION 28, TOWNSHIP 8 NORTH, RANGE 27 EAST, W.M., BENTON COUNTY, WASHINGTON, THE WESTERLY LINE OF SAID STRIP BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 28, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE; THENCE NORTH 01¦25'19" WEST, ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 700.55 FEET, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE AND BEGINS TO WIDEN; THENCE CONTINUE NORTH 01¦25'19" WEST, ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 450.00 FEET, AT THIS POINT THE STRIP OF LAND IS 50.00 FEET WIDE AND BEGINS TO NARROW; THENCE CONTINUE NORTH 01¦25'19" WEST, ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 300.00 FEET, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE; THENCE CONTINUE NORTH 01¦25'19" WEST, ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 1200.00 FEET, AT THIS POINT THE STRIP OF LAND BEGINS AT 30.00 FEET WIDE AND EXTENDS EASTERLY, PERPENDICULARLY TO THE WEST LINE OF SAID SECTION 28, TO A POINT WHERE THE STRIP IS 40.00 FEET WIDE AND BEGINS TO WIDEN; THENCE CONTINUE NORTH 01¦25'19" WEST, ALONG THE WEST LING OF SAID SECTION 28, A DISTANCE OF 21.74 FEET, TO THE WEST QUARTER CORNER OF SAID SECTION 28; THENCE NORTH 03¦05'03" EAST, ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 128.50 FEET, AT THIS POINT THE STRIP OF LAND IS 60.00 FEET WIDE; THENCE CONTINUE NORTH 03¦05'03" EAST, ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 100.00 FEET, AT THIS POINT THE STRIP OF LAND IS 60.00 FEET WIDE AND BEGINS TO NARROW; THENCE CONTINUE NORTH 03¦05'03" EAST, ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 100.00 FEET, AT THIS POINT THE STRIP OF LAND IS 30.00 FEET WIDE; THENCE CONTINUE NORTH 03¦05'03" EAST, ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 2200.00 FEET, AT THIS POINT THE STRIP OF LAND BEGINS AT 30.00 FEET WIDE AND EXTENDS EASTERLY, PERPENDICULAR TO THE WEST LINE OF SAID SECTION 28, TO A POINT WHERE THE STRIP IS 35.00 FEET WIDE; THENCE CONTINUE NORTH 03¦05'03" EAST, ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 50.00 FEET, AT THIS POINT THE STRIP OF LAND IS 35.00 FEET WIDE AND BEGINS TO WIDEN; THENCE CONTINUE

Parcel Number	Owner	Acres[1/]	Affected Lands
			NORTH 03¦05'03" EAST, ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 44.94 FEET, AT THIS POINT THE STRIP OF LAND BEGINS AT 145.00 FEET WIDE AND EXTENDS EASTERLY, PERPENDICULAR TO THE WEST LINE OF SAID SECTION 28, TO A POINT WHERE THE STRIP IF 321.39 FEET WIDE; THENCE CONTINUE NORTH 03¦05'03" EAST, ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 50.00 FEET WIDE, MORE OR LESS, TO THE NORTH LINE OF SAID SECTION 28 AND THE TERMINUS OF THIS DESCRIPTION, AT THIS POINT THE STRIP OF LAND IS 321.39 FEET WIDE; EXCEPTING THERE FROM ALL THOSE PORTION OF THE ABOVE DESCRIBED STRIP LYING WITHIN THE EXISTING COUNTY ROAD RIGHTS OF WAY; PER QCD AF#2006-019138, 06/16/2006 CONTAINING 4.16 AC., MORE OR LESS.
114784000000000	WILKERSON LARRY & LORI	159	**TOWNSHIP 7 NORTH, RANGE 28 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 14: THE SOUTHEAST QUARTER. SECTION 19: THE NORTHEAST QUARTER. SECTION 20: THE EAST HALF AND THE EAST HALF OF THE NORTHWEST QUARTER APPROXIMATLY 400.00 AC. SECTION 20: THE WEST HALF OF THE NORTHWEST QUARTER. SECTION 21: THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER. SECTION 21: THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER. SECTION 21: THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER. SECTION 22: THE SOUTHEAST QUARTER THEREOF. SECTION 23: ALL OF SECTION. SECTION 21: WEST ONE HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER. SECTION 21: SOUTH ONE HALF OF THE NORTHWEST QUARTER. SECTION 21: SOUTHWEST QUARTER.
119781000001001	WILKERSON LARRY & LORI	166	
120781000001001	WILKERSON LARRY & LORI	414	
120782000001000	WILKERSON LARRY & LORI	86	
121781000002000	WILKERSON LARRY & LORI	41	
121781000003000	WILKERSON LARRY & LORI	41	
121781000004000	WILKERSON LARRY & LORI	41	
122784000000000	WILKERSON LARRY & LORI	168	
123780000000000	WILKERSON LARRY & LORI	652	
121782000004000	WILKERSON LARRY E & LORI D	18	
121782000005000	WILKERSON LARRY E & LORI D	80	
121783000000000	WILKERSON LARRY E & LORI D	162	
115790000000000	WOODEN TETON PROPERTIES LLC	663	**TOWNSHIP 7 NORTH, RANGE 29 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 15: ALL OF SECTION. **TOWNSHIP 7 NORTH, RANGE 30 EAST OF THE WILLAMETTE MERIDIAN:**
119703000000000	WOODEN TETON PROPERTIES LLC	158	

Parcel Number	Owner	Acres[1/]	Affected Lands
121790000000000	WOODEN TETON PROPERTIES LLC	661	SECTION 19: THE SOUTHWEST QUARTER, FRACTIONAL. LESS ROAD RIGHT OF WAY. (DESCRIPTION CHANGE PER AF#2015-020230, 07/14/2015). **TOWNSHIP 7 NORTH, RANGE 29 EAST OF THE WILLAMETTE MERIDIAN:** SECTION 21: ALL OF SECTION. UNITED STATES TRANSMISSION LINE EASEMENT 5-17-56. SECTION 22: ALL OF SECTION, LESS THE EAST 1/2 OF THE SOUTHEAST. LESS THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4. SECTION 24: THE NORTHEAST AND THE SOUTH HALF. SECTION 25: ALL OF SECTION. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD 10-26-65. SECTION 27: ALL OF SECTION. SECTION 28: ALL OF SECTION. SECTION 34: ALL OF SECTION. LESS THE SOUTHWEST OF THE SOUTHEAST OF THE SOUTHWEST AND LESS THE WEST 1/2 OF THE SOUTHEAST OF THE SOUTHEAST OF THE SOUTHWEST. SECTION 35: THE SOUTH HALF. SECTION 34: ALL OF SECTION LESS THE SOUTHWEST OF THE SOUTHEAST OF THE SOUTHWEST AND THE WEST HALF OF THE SOUTHEAST OF THE SOUTHEAST OF THE SOUTHWEST. **TOWNSHIP 7 NORTH, RANGE 30 EAST OF THE WILLAMETTE MERIDIAN** SECTION 30: THE NORTHWEST QUARTER, FRACTIONAL. SECTION 31: ALL OF SECTION. FRACTIONAL.
122791000001000	WOODEN TETON PROPERTIES LLC	557	
124791000000000	WOODEN TETON PROPERTIES LLC	477	
125790000000000	WOODEN TETON PROPERTIES LLC	642	
127790000000000	WOODEN TETON PROPERTIES LLC	647	
128790000000000	WOODEN TETON PROPERTIES LLC	656	
134791000000000	WOODEN TETON PROPERTIES LLC	636	
135793000000000	WOODEN TETON PROPERTIES LLC	323	
134793000000000	WOODEN-TETON PROPERTIES, LLC	15	
130702000000000	WOODEN TETON PROPERTIES LLC	156	
131700000000000	WOODEN TETON PROPERTIES LLC	633	
	TOTAL[2/]	**72,295**	

Notes:

1/ Parcel acreage is from Benton County parcel data, accessed January 2021. Available online at: https://www.co.benton.wa.us/pview.aspx?id=725&catid=0

2/ Total parcel acreage is less than the Project Lease Boundary acreage, because the Project Lease Boundary includes the area of roadways, which is not included in individual parcel acreages.