

FRIENDS OF THE COLUMBIA GORGE

January 21, 2010

RECEIVED

Columbia River Gorge Commission
Attention: Nancy Andring
P.O. Box 730
White Salmon, Washington 98672

JAN 25 2010

ENERGY FACILITY SITE
EVALUATION COUNCIL

RE: Appeal of Skamania County Resolution No. 2009-54

Dear Nancy:

Please find enclosed Appellants' Notice of Appeal for filing in the above-referenced matter.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Nathan Baker
Staff Attorney

Enclosures

cc: Gary K. Kahn
J. Richard Aramburu
Peter S. Banks
Timothy L. McMahan
Erin L. Anderson
Mark Womble
Allen Fiksdal
Karen Witherspoon
Skamania County Pioneer

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

LORELEY DRACH; TOM DRACH;)
JOYCE EASTWICK; MIKE EASTWICK;)
CHARLIE GUTHRIE; REBECCA)
MAXEY; WIRT MAXEY; ALEXANDER)
MECL; CHERYL PARK; VICKI PRYSE;)
DAN RAWLEY; JEANNIE RAWLEY;)
JULIE REGOS; LASZLO REGOS;)
ADRIENNE RUDERMAN; GLENDA)
RYAN; MATT RYAN; FRIENDS OF)
THE COLUMBIA GORGE, INC; and)
SAVE OUR SCENIC AREA,)

Appellants,)

vs.)

SKAMANIA COUNTY,)

Respondent.)

CRGC No. _____

Skamania County Resolution No. 2009-54

NOTICE OF APPEAL

I.

Notice is hereby given that the above-captioned Appellants appeal that land use decision of Respondent entitled Skamania County Resolution 2009-54 (Certification of Land Use Consistency Review for the Amended Application for the Whistling Ridge Energy Project). The Decision reviews the Whistling Ridge Energy Project (“Project”) and finds the Project “consistent with the Skamania County land use plans and applicable zoning ordinances.”

The Decision became final on December 22, 2009. Appellants first learned of the Decision seventeen days later, on January 8, 2010. Appellants first received a copy of the Staff Report for the Decision on January 21, 2010.

This Appeal is limited only to the portions of the Project proposed within the General Management Area of the Columbia River Gorge National Scenic Area, and the County’s erroneous

conclusion that these portions of the Project are consistent with, and allowed pursuant to, the County Scenic Area ordinance.¹ The County erroneously determined that the portions of the Project proposed within the General Management Area are allowed, despite the Project's industrial nature. The Project is an industrial use and is strictly prohibited within the General Management Area. In addition, Respondent failed to provide proper notice of its action.

ADR Statement: Appellants are willing to attempt to resolve the appeal through mediation or other alternative dispute resolution.

Shortened Record: Appellants are not willing to consider a shortened record.

II.

Appellants Loreley Drach, Tom Drach, Joyce Eastwick, Mike Eastwick, Charlie Guthrie, Rebecca Maxey, Wirt Maxey, Alexander Mecl, Cheryl Park, Vicki Pryse, Dan Rawley, Jeannie Rawley, Julie Regos, Laszlo Regos, Adrienne Ruderman, Glenda Ryan, and Matt Ryan are represented by:

Gary K. Kahn
Reeves, Kahn & Hennessy
P.O. Box 86100
Portland, OR 97286-0100
(503) 777-5473
gkahn@rke-law.com

///

///

///

¹ Given the Gorge Commission's appellate role over county decisions involving land use and development matters within the National Scenic Area, 16 U.S.C. § 544m(a)(2), this is the only portion of the County's Decision that is currently ripe for review.

Appellant Friends of the Columbia Gorge, Inc. is represented by:

Gary K. Kahn
Reeves, Kahn & Hennessy
P.O. Box 86100
Portland, OR 97286-0100
(503) 777-5473
gkahn@rke-law.com

Nathan Baker, Staff Attorney
Friends of the Columbia Gorge
522 SW 5th Avenue, Suite 720
Portland, OR 97204-2100
(503) 241-3762 x101
nathan@gorgefriends.org

Appellant Save Our Scenic Area is represented by:

J. Richard Aramburu
Aramburu & Eustis
720 Third Avenue, Suite 2112
Seattle, WA 98104-1860
(206) 625-9515
rick@aramburu-eustis.com

The governing body of Respondent, Skamania County, is the Skamania County Board of

County Commissioners, whose contact information is as follows:

Skamania County Board of County Commissioners
P.O. Box 790
Stevenson, WA 98648-0790
(509) 427-3700

Respondent, Skamania County, is represented by:

Peter S. Banks, County Prosecutor
Skamania County Courthouse
P.O. Box 790
Stevenson, WA 98648-0790
(509) 427-3790
banks@co.skamania.wa.us

///

///

///

///

III.

Applicant, Whistling Ridge Energy, LLC, was represented in the proceedings below by:

Timothy L. McMahan
Erin L. Anderson
Stoel Rives LLP
900 SW 5th Ave., Ste 2600
Portland, OR 97204
Timothy L. McMahan: (503) 294-9517, tlmcmahan@stoel.com
Erin L. Anderson: (503) 294-9546, elanderson@stoel.com

Other persons mailed written notice of the land use decision by Skamania County, as indicated by its records in this matter,² include the following:

Karen Witherspoon, Director
Skamania County Community Development Department
P.O. Box 790
Stevenson, WA 98648-0790

Skamania County Pioneer
P.O. Box 219
Stevenson, WA 98648-0219

Allen Fiksdal, Manager
Washington Energy Facility Site Evaluation Council
905 Plum Street SE
Olympia, WA 98504-3172

NOTICE:

Anyone designated in paragraph III of this Notice of Appeal who desires to participate as a party in this case before the Columbia River Gorge Commission must file with the Commission a Motion to Intervene in this proceeding within 14 days of the date of this Notice, as required by

² Appellants have filed a records request with the County for copies of its records indicating all persons to whom written notice of the Decision was mailed. The County has not yet furnished these records. If the records, once furnished, list additional persons to whom written notice of the Decision was mailed, Appellants will immediately transmit this Notice of Appeal to those additional persons, and will notify the Gorge Commission.

Commission Rule 350-60-160. Anyone who desires to present oral argument to the Commission must intervene and file a brief as required by Commission Rule 350-60-120(1).

Dated: January 21, 2010

REEVES, KAHN & HENNESSY



for

Gary K. Kahn, WSBA No. 17928

Attorney for Appellants Loreley Drach; Tom Drach; Joyce Eastwick; Mike Eastwick; Charlie Guthrie; Rebecca Maxey; Wirt Maxey; Alexander Mecl; Cheryl Park; Vicki Pryse; Dan Rawley; Jeannie Rawley; Julie Regos; Laszlo Regos; Adrienne Ruderman; Glenda Ryan; Matt Ryan, and Friends of the Columbia Gorge, Inc.

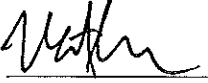
FRIENDS OF THE COLUMBIA GORGE, INC.



Nathan Baker, WSBA No. 35195

Attorney for Appellant Friends of the Columbia Gorge, Inc.

ARAMBURU & EUSTIS, LLP



for

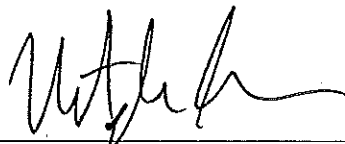
J. Richard Aramburu, WSBA No. 466

Attorney for Appellant Save Our Scenic Area

CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2010, I served a true and correct copy of this Notice of Appeal on all persons listed in paragraphs II and III of this Notice of Appeal by first-class mail.

Dated: January 21, 2010

A handwritten signature in black ink, appearing to read 'Nathan Baker', written over a horizontal line.

Nathan Baker, Staff Attorney
Friends of the Columbia Gorge