

Data Request ID	Washington Administrative Code (WAC) Reference	Notes	Data Request	Connected to SEPA Determination	Applicant Response
S-1	WAC 197-11-960 Background - A.10	In preparation for planning for any permit process, EFSEC wants to research 401 requirements for any Corps of Engineers 404 permit that might be required for this proposal.	Which Nationwide(s) are you anticipating you might qualify under for your Corps of Engineers 404 permit?		<p>Nationwide Permit 12 – Utility Line Activities, 14 - Linear Transportation Projects.</p> <p>Because all permanent project impacts to jurisdictional water features will be from roads, verification will be sought under NWP 14. This permitting approach is consistent with conversations on the topic between EDF RE and U.S. Army Corps of Engineers (“Corps”) Project Manager for the project. Accordingly, the Certification Conditions and Nationwide Specific (No. 14) Conditions provided in the Department of Ecology’s (“Ecology”) March 6, 2017, Section 401 certification of the 2017 Nationwide Permits will apply. See <a href="http://www.nws.usace.army.mil/Portals/27/docs/regulatory/permit%20guidebook/2017%20NWPs/REVISED%20FINAL%20401%20for%20ECOLOGY.pdf?ver=2017-03-17-185445-763">http://www.nws.usace.army.mil/Portals/27/docs/regulatory/permit%20guidebook/2017%20NWPs/REVISED%20FINAL%20401%20for%20ECOLOGY.pdf?ver=2017-03-17-185445-763</a></p> <p>The Corps may elect to verify temporary impacts associated with transmission line installation activities separately under NWP 12, Utility Line Activities; Ecology’s Certification Conditions and Nationwide Specific (No. 12). Section 401 Certification Conditions are the same as those applied to NWP 14.</p>
S-2	WAC 197-11-960 Background – A11  Revised Project Description Sections 3.2.1 and 4.9	The previous proposal identified 27 miles of underground cable with 25.5 laid as part of the project road system. The current proposal identified 34 lineal miles <u>most</u> of which would be laid as part of the temporary construction access roads or the permanent project road system.	<p>Of the 34 lineal miles of underground cable that would <u>not</u> be part of the temporary or permanent road system, could any be laid across wetlands, streams, or other sensitive habitats?</p> <p>Would it be possible to conduct horizontal direction drilling to go under <u>all</u> wetlands, streams, and sensitive habitats that might require a cable crossing? If not, what would construction of the crossing involve?</p>	Yes	<p>As explained in Section 3.2.1 of the Project Description, there will be approximately 34 miles of underground collection lines. There will be approximately 20 miles of access roads, so up to 14 miles of the collection lines may fall outside the footprint of a road. Some of this collection line will cross wetlands, streambeds, or other sensitive habitats. However, those crossings were included in the impact calculations that have been provided to the Council.</p> <p>Desert Claim does intend to use horizontal directional drilling in some instances, when it makes sense given the importance of the resources that would otherwise be impacted. However, in many instances, the temporary impact to wetlands or intermittent stream beds will be so minimal that it would not justify the disturbance to upland habitat that would be associated with drilling.</p>

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S-3	WAC 197-11-960 Cultural and Historic – A.13	FSEIS table 1.5-1 states that the applicant would “conduct additional survey work and consultation with the Yakama Nation in conjunction with micro-siting to identify traditional Cultural Properties and sites associated with culturally important events and people.”	Does the applicant still propose to conduct additional survey work and consultation with the Yakama Nation in conjunction with micro-siting to identify traditional Cultural Properties and sites associated with culturally important events and people?	Yes	<p>Since EFSEC published the 2009 FSEIS, much additional archaeological, historical and cultural work has been done for the project. This additional work has been documented in the February 9, 2018, cultural resources report by Archaeological Investigations Northwest, Inc. (AINW) that was submitted to EFSEC with the amendment request. As explained in the AINW report, considerable effort has been made in the project design to avoid impacting cultural resources.</p> <p>The Yakama Nation prepared a study of cultural and historic resources in 2010. This is the survey that the FSEIS said would be conducted. The results of the Yakama Nation study are discussed in the AINW report, as is mitigation related to the traditional plant gathering areas referenced in that report. Desert Claim has had on-going discussions with the Yakama Nation about avoiding and mitigating any impacts to areas of importance. Desert Claim met with Johnson Meninick (Cultural Resources Program Manager), Jessica Lally (CRP Archeologist) and Noah Oliver (CRP Archeologist) at Yakama Nation offices on December 4, 2017. The 2018 AINW report was also reviewed by Yakama Nation cultural resources staff prior to submittal to EFSEC.</p>

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S-4	WAC 197-11-960 Background – A11  Revised Project Description Section 1. Introduction	Different turbines are proposed for the project. Among other differences, they appear to have longer blades.	Will the new turbines' maximum outer revolution speed be any different than the speeds identified in the FSEIS?	Yes	<p>The proposed Vestas and Seimens turbines have longer blades than the Repower turbines previously considered. The RePower MM92 turbines had blades 46 meters in length; the Vestas and Siemens turbines currently proposed have blades that are 54-69 meters in length. Although the turbines have longer blades and each individual turbine, therefore, has a larger rotor swept area, there will be many fewer turbines in the new configuration. The total rotor swept area for the project will be 36-48 percent less than the configuration authorized by the SCA, depending upon which turbines are used.</p> <p>The speed at which the turbine blade spins differs depending upon the wind speed and the point on the blade at which the speed is measured. The following table indicates the rotations per minute (RPM) that the blades will spin as well as the speed (in meters per second) at the which the outer tip of the blade will rotate at a constant wind speed of 6 meters per second (m/s).</p> <table border="1" data-bbox="1898 842 2508 1282"> <thead> <tr> <th colspan="3"><b><u>Rotor Speed Calculated at 6 m/s Wind Speed</u></b></th> </tr> <tr> <th></th> <th><b>RPM @ 6m/s</b></th> <th><b>Tip speed [m/s]</b></th> </tr> </thead> <tbody> <tr> <td>Vestas 2.0-110</td> <td>11.6</td> <td>33.4</td> </tr> <tr> <td>Vestas 4.2-136</td> <td>8.1</td> <td>28.9</td> </tr> <tr> <td>Siemens 2.415-108</td> <td>9.2</td> <td>25.9</td> </tr> <tr> <td>Siemens 2.625-120</td> <td>8.2</td> <td>25.7</td> </tr> <tr> <td>MM 92 Repower</td> <td>10.5</td> <td>25.4</td> </tr> </tbody> </table>	<b><u>Rotor Speed Calculated at 6 m/s Wind Speed</u></b>				<b>RPM @ 6m/s</b>	<b>Tip speed [m/s]</b>	Vestas 2.0-110	11.6	33.4	Vestas 4.2-136	8.1	28.9	Siemens 2.415-108	9.2	25.9	Siemens 2.625-120	8.2	25.7	MM 92 Repower	10.5	25.4
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S-5	WAC 197-11-960  Draft SCA Article V.A.1 Mitigation measures	“Full time on site” has been deleted from environmental monitoring for the construction phase.	Is the applicant suggesting that environmental monitoring would or should not be full time on site during construction? If yes, why do you believe full time is not needed?	Yes	<p>Desert Claim is amenable to having an environmental monitor on-site whenever EFSEC staff deems it appropriate. In most wind power construction projects, there are some activities that warrant constant monitoring and others that do not. Desert Claim expects that the specific details of Environmental Compliance Monitoring Program required by SCA Article V.A. will be developed with EFSEC staff. Desert Claim proposed deleting the phrase “full time on site” in the SCA in order to give EFSEC staff flexibility to develop an appropriate and reasonable protocol for environmental monitoring, and avoid the presence of a monitor at times when the monitor would serve no purpose.</p> <p>Desert Claim did not intend any reduction in the environmental standards to which project construction will be held. EFSEC staff has experience with wind power project construction, and Desert Claim is confident that monitoring protocols will be developed that ensure required environmental safeguards are implemented. We also note that SCA Art. V.A.7. continues to provide that “No excavation, filling or re-grading work shall be performed at any time unless the EM is available for full, concurrent and independent environmental monitoring on-site.”</p>
S-6	WAC 463-60-125  Draft SCA Article I.A Site Description	Attachment A, site description meets-and-bounds missing.	Please provide Attachment A.	Yes	Consistent with past practice, Desert Claim anticipated providing the formal legal description of the site after EFSEC had made a final decision approving the requested amendment. Please let us know if you require a formal legal description sooner.
S-7	WAC 463-68-040  Draft SCA Article II.9 Definition of “Construction”	SCA Definition of Construction inconsistent with WAC definition. SCA definition does not include the WAC terms “significant earthwork” (-040(1)) or “roadbuilding” (-040(4)). Start of construction plays into whether the environmental monitor must be present for specific activities, see comment S-5.	Significant earthwork and roadbuilding activities can generate runoff. Is the applicant suggesting the presence of the environmental monitor is not necessary for these activities?	Yes	<p>This definition of “construction” has been in the SCA since it was first recommended by the Council and executed by the Governor. The Certificate Holder, Desert Claim, has not proposed any change to this definition. Consistent with our previous discussions with EFSEC staff, Desert Claim only proposed changes relating to the project changes being proposed.</p> <p>As explained above, Desert Claim will work with EFSEC staff to develop the scope, criteria and protocols for the Environmental Compliance Monitoring Program required by the SCA. Desert Claim assumes that proper implementation of stormwater best management practices would be addressed by the monitoring program. We also note that SCA Art. V.A.7. specifically provides that “No excavation, filling or re-grading work shall be performed at any time unless the EM is available for full, concurrent and independent environmental monitoring on-site.”</p>

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S-8	Ch. 463-42 WAC/Ch. 463-72  Draft SCA Article IV.D Initial Site Restoration Plan	WAC 463-66-040(4) requires consistency with Chapter 463-72 WAC, which is acknowledged in the request cover letter, p. 5. However, Draft SCA Art. IV.D cites WAC 463-42-655, which was repealed in 2004.	Is the applicant claiming grandfathering rights from when the initial application was submitted to the county in 2004? Please clarify the applicable WAC and verify consistency of the proposal with the applicable rules.	Yes	<p>To be clear, although this information request (S-8) refers to the “Draft SCA Article IV.D.” this section is part of the final SCA that was executed by the Governor and Desert Claim. The Certificate Holder is not proposing to add or amend this section. The SCA includes this and other provisions that concern the preparation of an initial and detailed site restoration plans, and Desert Claim has not proposed any changes to these provisions. <u>See</u> Article III. H; Article IV.D.; and Article VIII.</p> <p>As noted in the information request, these provisions in the SCA reference WAC chapter 463-42 and WAC section 463-42-665, which were the applicable regulatory provisions at the time the SCA was issued. Desert Claim has no objection to updating these provisions to reference the corresponding site restoration regulations currently in effect, WAC 463-72-020, -040 and -050.</p>
S-9	WAC ?  Draft SCA Article VII.H Shadow Flicker	Draft SCA Article is inconsistent with the SCA’s current language, gives the applicant more discretion, and puts more onus on the affected property owner.	Please provide justification for loosening the stringency of the original SCA requirements.	Yes	<p>Desert Claim has requested a change in the SCA language with respect to shadow flicker to give EFSEC more flexibility to craft an appropriate solution if an issue of concern were to arise during the project’s operation. The SCA was issued at a time when neither EFSEC nor the industry had very much experience with operating wind projects in the United States. Since then, it has been EDF’s experience that shadow flicker concerns are relatively rare with wind projects, and can often be addressed by planting shrubs or trees for the affected homeowner or by purchasing new window treatments for the homeowner. Turning off turbines is generally considered a last resort in these situations. The proposed language would still give EFSEC the option of requiring turbines to be turned off if appropriate, but would also allow the flexibility of other possible solutions that may be better suited to the particular circumstance. The proposed amendment gives the Council more flexibility and does not constrain its authority.</p> <p>Desert Claim submitted a technical report on shadow flicker with its amendment request. Based on the analysis presented in that report, Desert Claim does not anticipate shadow flicker to be a problem with the project.</p>
S-10	Ch. 463-42 WAC/Ch. 463-72  Draft SCA Article VIII.A Detailed Site Restoration Plan	Same comment as S-8	Same request as S-8.	Yes	<u>See</u> response to S-8 above.

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S-11	WAC 463-66-020/030  Draft SCA Article VIII.B.3 Project Termination	Subsection 3 is far more prescriptive than anything in the cited WACs.	Please explain the purpose/specificity of this proposed SCA provision. Isn't subsection 4 sufficient?	?	Again, to be clear, Article VIII.V.3. is not a draft provision that Desert Claim is proposing to add or change. That section is part of the SCA that was executed by the Governor and Desert Claim. Desert Claim has not proposed to amend this section and is willing to comply with it. However, Desert Claim also has no objection to removing this section, if EFSEC believes subsection 4 is sufficient.
S-12	WAC 463-72-040(3)  Draft SCA Article VIII.	There is no mention or commitment in the SCA article for the applicant to attain/maintain pollution liability insurance coverage, as required by the WAC.	Does the applicant commit to attaining/maintaining pollution liability insurance coverage?		EFSEC recommended approval of the SCA with Article VIII as written, and the Governor executed it. Desert Claim is not proposing any change to this provision.  The referenced regulation - WAC 463-72-040(3) - concerns the elements that should be addressed in an Initial Site Restoration Plan. The SCA requires Desert Claim to submit an Initial Site Restoration Plan for the Council's review and approval prior to beginning Site Preparation. <u>See</u> Article IV.D. As explained in response to S-8 above, Desert Claim has no objection to changing the regulatory reference in the SCA to WAC 463-72-040, which would incorporate the regulatory requirements by reference.
S-13	WAC 463-60-332  Draft SCA Art. IV.E and existing SCA WDFW and CFE stipulations.		WDFW and CFE requests Applicant provide latest Wildlife and Habitat Management studies be submitted.  Does the West document dated January 18, 2018 contain the most recent data?	Yes	The January 2018 report prepared by WEST was submitted as part of the amendment request, and is now posted on EFSEC's website. This report presents the historical data, as well as more recent data collected during the 2015-17 surveys. WEST continues to collect data at the site, some of which relates to pre-construction requirements in the SCA. If it would be helpful, Desert Claim could schedule a time for its wildlife biologists to meet with EFSEC staff, WDFW and the CFE, to answer any additional questions.

