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Written Testimony of Doug Miller, General Manager Public Utility District No. 2 of Pacific County (December 6, 2011)

Good morning Chairman Hastings, Ranking Member Markey and distinguished Members of the Committee. My name is Doug Miller, and I am the General Manager of Public Utility District No. 2 of Pacific County in Washington State, testifying on behalf of Energy Northwest and four public utility districts. I am pleased to have this opportunity to provide these brief remarks regarding the permitting process surrounding the Radar Ridge Wind Energy Project.

I am here today to tell you about an unfortunate (and expensive) sequence of events affecting a well-intentioned renewable energy project we attempted to build. My hope is that my testimony will help bring attention to the overly-burdensome regulatory process preventing construction of renewable energy projects, and lessen the risk that others who simply want to do the right thing for their communities suffer a similar fate.

Background of the Public Utilities

Before speaking directly about the Project, I would like to provide you with a brief background on my Utility and the other participants in the Radar Ridge Wind Project. P.U.D. No. 2 of Pacific County is a medium-sized public utility in southwest Washington providing electricity service to just over 17,000 customers. Our P.U.D. offers a “green power” retail product for our customers and therefore must purchase enough of a renewable wholesale product to cover our “green power” purchases. Historically, the District has purchased a majority of our wholesale power, depending on the contract period, from the Bonneville Power Administration (“BPA”), of

which greater than 75% comes from hydroelectricity, a resource that is not recognized as renewable. Therefore, our Utility was looking at the Radar Ridge Wind Project for two reasons, to: (1) meet the renewable needs of our green power retail customers, and (2) provide an economic boost to Pacific County since the Project would have been constructed in our County near the community of Naselle.

The other three participating utilities - Clallam, Grays Harbor, and Mason #3 County P.U.D. - were interested in developing the Project because they each have more than 25,000 customers and thus are required under Washington State's renewable energy standard to have 15 percent of their wholesale power portfolio consist of renewable sources by 2020.

All four Project participants are members of Energy Northwest, a Joint Operating Agency ("JOA") formed under the laws of the State of Washington. Energy Northwest has 28 members, either public utility districts or municipal utilities within the State. The JOA is a wholesale electric utility that operates the Columbia Generating Station and explores and develops, with member interest, other generating projects such as the Nine Canyon Wind Project, and White Bluffs Solar Station. Energy Northwest provided project management for the Radar Ridge Wind Project with input from the four participants.

Overview of the Radar Ridge Project

Energy Northwest continually prospects for potential generating sites and in 2006, contracted with my Utility to place a wind monitoring device on our communication tower atop Radar Ridge, located in Southwest Washington. The initial monitoring results from this location were encouraging - enough so that Energy Northwest asked its members if anyone would be interested in exploring the development of a wind project on Radar Ridge. The four P.U.D.'s became involved in this Project, and the five entities have worked for the past five years on a range of studies to evaluate and permit the Project, including wind monitoring, avian and wildlife studies, transmission connection agreements with the Bonneville Power Administration, a site lease with the Washington Department of Natural Resources ("WDNR"), and a range of environmental permitting documents.

Based on the initial studies and analyses developed by Energy Northwest, the utilities elected to pursue the Radar Ridge Wind Project because:

- (1) Radar Ridge possesses an economically attractive, winter-peaking wind resource that would serve the time of year during the period of highest customer load;
- (2) The Project would be located in western Washington, closer to our customer loads, and would avoid further taxing heavily loaded transmission lines that cross the Cascade Range;
- (3) The Project would be located near an existing BPA Substation that could be accessed via construction of a relatively short, three mile transmission line;
- (4) The Project would be located on State Department of Natural Resources land already used for industrial purposes, and containing existing telecommunications facilities, an active gravel quarry, and active logging operations. Money from the State lease for Project land would benefit Washington schools as well as the local community in which the Project exists; and

Clean Renewable Energy Bonds

During the development of permitting documents for the Project, the Utilities, with assistance from Energy Northwest, applied to the U.S. Treasury Department and were granted authority to use Clean Renewable Energy Bonds or “CREBs” to finance Project construction. The Utilities ultimately received authority to use over \$200 million in CREBs to finance this and one other project; however, the CREBs expire in the first quarter of 2013, and must be issued in advance of this deadline. Energy Northwest developed a Project schedule in collaboration with FWS and BPA to obtain Project permits by December 31, 2011, to allow use of the CREBs.

Development of the Project Permit Application

As a condition of Energy Northwest’s lease with the WDNR, Energy Northwest studied the potential effects of Project construction and operation on marbled murrelets, a species listed under the Endangered Species Act (“ESA”). Energy Northwest worked closely with State fish

and wildlife agencies, and the U.S. Fish and Wildlife Service over a period of several years to evaluate the effects of the Project on this species and other wildlife species in the Project area. The results from the Environmental Assessment were extensively peer reviewed. The studies concluded that the Project was not likely to have a significant adverse impact on marbled murrelets or other sensitive species.

To address concerns expressed by FWS, Energy Northwest agreed to pursue an Incidental Take Permit (“ITP”) under the ESA. The permit would have contained measures to minimize and mitigate the impacts of the Project on listed marbled murrelets, and it would have authorized any potential take of listed marbled murrelets that could occur over the life of the Project. Energy Northwest engaged in a multi-year process with FWS to develop an acceptable application for an ITP, including numerous meetings, and technical workshops with the Service, the State, and environmental organizations. In addition, FWS performed an independent scientific peer review at its own expense evaluating scientific information contained in permit application documents. The level of study and peer review associated with this process remains unprecedented, and far exceeds any published agency policies.

During this process of engagement, Energy Northwest worked closely with FWS, State wildlife agencies, and environmental organizations to identify Project proposals that would address environmental concerns. As an example, in response to suggestions from FWS, Energy Northwest secured an option to purchase 261 acres of murrelet habitat from a nearby timber company as mitigation for the Project. Energy Northwest developed Project proposals in an open, collaborative manner, with substantial opportunity provided for public comment, resulting in the development of an ESA permit application that was submitted to FWS in 2011 consistent with the parties agreed schedule. FWS and the State wildlife agencies provided substantial input into the ESA permit application, and Energy Northwest believed that the application incorporated the agencies’ comments.

Environmental Review Process

During the development of the ESA permit application, FWS expressed a desire for Energy Northwest to sponsor the development of an Environmental Impact Statement (EIS) to analyze the potential impacts of the Project on the environment. Energy Northwest had previously

concluded that the Project would have no significant environmental impacts, and submitted a draft EA to FWS for its use in the National Environmental Policy Act process. However, in the interest of collaborating with FWS, Energy Northwest agreed to support the development of an Environmental Impact Statement (“EIS”). Energy Northwest agreed to this more lengthy environmental review process only after FWS and the Bonneville Power Administration (“BPA”) agreed to complete the permitting process by December 31, 2011. This schedule, and the parties’ agreements to work together on these matters, are reflected in a Memorandum of Understanding (“MOU”) executed in 2009. This permitting schedule would have enabled the Utilities to make use of the CREBs.

After executing the MOU, FWS sought bids from contractors to prepare an EIS. FWS retained a consulting firm to develop the EIS; however, the process to retain the NEPA contractor took longer than expected, and was longer than the process contemplated in the MOU. Nonetheless, Energy Northwest agreed to continue to fund EIS development based upon the assurances provided to it by FWS that FWS would continue to honor agreements contained in the MOU.

Breakdown of the Process

In early 2011, it became apparent that development of the EIS was significantly delayed for several reasons. First, FWS requested another peer review of available scientific information. The process to solicit and secure a contract with a qualified firm took longer than FWS expected. In addition, development of the EIS with the NEPA contractor was delayed, and deviated substantially from the schedule contained in the MOU. Energy Northwest tried on several occasions, working through BPA, to bring the Project back on schedule; however, these attempts were unsuccessful. At several junctures, BPA expressed frustration with the lack of progress on the EIS, and unresponsiveness of FWS during development of the draft EIS.

In late 2011, Energy Northwest attempted to expedite completion of a draft EIS for public review and comment to salvage the Project and the CREBs. During this period, FWS indicated its intent to develop an alternative to the proposed permit application for inclusion in the EIS. After months of work, FWS outlined a new Project alternative that would have rendered the

Project uneconomic if adopted. A comparison of the mitigation proposed by Energy Northwest based on the science and that of FWS under this new alternative is depicted below:

	<u>Energy Northwest</u>	<u>FWS</u>
Curtailment of Project year	90 minutes around dawn during murrelet breeding season	varies totaling 4 months each
Monitoring Equipment	Not proposed	on each turbine
Habitat Development	\$1 million	\$10 million
Term of Permit extensions	25 years	5 years with potential

Also, the addition of this new alternative would have required significant additional time to analyze in the EIS, making it highly unlikely that a final ESA permit would be issued on the schedule contemplated in the MOU. Energy Northwest communicated these concerns to FWS and BPA on several occasions; however, Energy Northwest was unable to resolve this situation. As a result, Energy Northwest was left with no choice but to abandon the Project, and relinquish its CREB allocation.

Conclusion

In conclusion, it is highly unfortunate that the Radar Ridge Wind Project could not proceed despite the best efforts of the many parties involved, including FWS, BPA, State agencies, environmental organizations, and the Utilities. The decision to abandon this Project, resulting in the loss of \$4 million in Project development costs contributed by the Utilities, and the return \$200 million in CREBs to the federal government, is not something the Utilities take lightly. The decision to abandon this Project was reached after careful deliberation, and after years of attempting in good faith to make the process work.

The Project had, and continues to have, overwhelming support in Pacific County, and would have provided substantial economic and environmental benefits to the State of Washington. A unique aspect of this Project was that it was located on State trust lands, and money generated under the State lease would have benefited public schools in the State of Washington as well as Pacific County through revenue sharing agreements. The Project would have also generated 250-300 temporary jobs and 9 permanent positions in Pacific County, along with indirect benefits to local businesses serving this workforce. Pacific County has been particularly hard-hit by the economic down turn, and these jobs and related tax revenues will be sorely missed by our local citizens.

I am here today not simply to explain to you the unfortunate history of Radar Ridge, but as a public official, I am also here to help sort out how we avoid repeating these types of situations in Washington, and other similar communities. A lesson I would take away from this experience is that a more transparent, reliable permitting process is needed under the ESA to permit renewable energy projects. I would also say that more formal oversight by Congress of the permitting process is needed to insure that waste of public resources can be avoided. Finally, I would say a need exists for independent review of FWS decisions, short of litigation, to insure that the agency makes its decisions without delay, and on the basis of the best available scientific information.

Thank you for the opportunity to provide these remarks.