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SUPREME COURT
OF THE STATE OF WASHINGTON

TRI-CITIES C.A.R.E.S., BENTON COUNTY, and CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION,

Petitioners/Appellants,

v.

STATE ENERGY FACILITY SITE EVALUATION COUNCIL and JAY INSLEE, GOVERNOR of the STATE of WASHINGTON,

Respondents,

and

HORSE HEAVEN WIND FARM LLC,

Intervenor-Respondent.

BRIEF OF *AMICUS CURIAE* REPRESENTATIVE JOE FITZGIBBON

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I. INTRODUCTION

Joe Fitzgibbon ("Representative Fitzgibbon") presents this *amicus curiae* brief supporting the Energy Facility Site Evaluation Council's ("EFSEC" or the "Council") site certification agreement for the Horse Heaven Clean Energy Center (the "Project"). While Representative Fitzgibbon currently serves as a Washington State Representative for the 34th District, he submits this brief in his individual capacity, not in his capacity as a Washington State Representative.

II. IDENTITY AND INTEREST OF *AMICUS CURIAE*

Representative Fitzgibbon is the representative for Washington's 34th legislative district and the current Majority Leader in the Washington House of Representatives. He chaired the House's Environment and Energy Committee from 2014 to 2022. In the 2022 legislative session, Representative Fitzgibbon sponsored House Bill 1812, modernizing the Energy Facility Site Locations Act, RCW 80.50 ("EFSLA" or "Siting Act") "to streamline application review for energy facilities to

meet the state's energy goals ..." LAWS OF 2022, ch. 183, §1; RCW 80.50.010.

Representative Fitzgibbon has a strong interest in ensuring that policies enacted through the democratic legislative process are not undermined by actions that circumvent or disregard legislative intent and are given their full intended effect. He has an equally strong interest in ensuring Washington's clean energy future. This Court's decision here has potential to diminish the comprehensive climate action package that he sponsored, supported, and, along with a majority of his colleagues, passed. He submits this brief to advise the Court on the policy considerations, and existing Washington law, that informed the Legislature's development of Washington's climate framework.

III. STATEMENT OF THE CASE

For Washington, climate change is not merely an abstract policy issue; it is a defining challenge of our time, a battle for the health, safety, and economic security of every community in

our State. The Legislature responded to growing impacts from climate change with landmark laws, including the Clean Energy Transformation Act, RCW 19.405 ("CETA"), to accelerate the much-needed transition away from fossil fuels. The Project is exactly the kind of investment in clean energy development that those laws envisioned.

This case arises from a challenge to the State's approval of the Project. Developed by Scout Clean Energy ("Scout"), the Project proposes to supply more than 1,000 megawatts of clean electricity to Washington's power grid, a huge step in the fight against climate change.

The Project underwent a rigorous multi-year EFSEC review. EFSEC's process included comprehensive review under Washington's State Environmental Policy Act, RCW 43.21C ("SEPA"), multiple rounds of public comment, agency and tribal review, and a full, formal adjudicative hearing overseen by an administrative law judge. EFSEC initially recommended approval with broadly framed mitigation

measures that were not tied to specific impacts and that would have gutted the Project's generation capacity—undermining its climate benefits. Then Governor Jay Inslee exercised his authority under EFSLA to remand the recommendation, directing EFSEC to reconsider and narrow mitigation measures so they address actual impacts without erasing the Project's contribution to Washington's clean energy goals.

On remand, the Council refined mitigation measures to address concrete, site-specific impacts while maintaining the Project's essential clean energy contribution. With that refinement, EFSEC returned a revised site certificate agreement to Governor Inslee.

In October 2024, after reviewing the full administrative record and related State Environmental Policy Act analysis, Governor Inslee issued final approval. That decision reflects years of technical and legal scrutiny and includes enforceable mitigation measures.

For Washington State, the significance of Governor Inslee's approval could not be higher. Climate change threatens our ecosystems, our economy, and ultimately our way of life. Projects like this one are imperative to and to protect our state from the long-term negative impacts of climate change. The process used here is exactly what the Legislature intended. This Court should affirm Governor Inslee's decision.

IV. ARGUMENT

A. CLIMATE CHANGE IS AN EXISTENTIAL THREAT TO THE STATE OF WASHINGTON.

Washington is already experiencing climate change in ways that imperil health, safety, and livelihoods. Dwindling snowpack and shifting precipitation patterns are shrinking our reservoirs, leading to less water in summer months when the use is highest. *See* Washington State Department of Ecology, *Order and Determination by the Director* at 1 (June 5, 2025) (drought declaration).[1] Since 1900, temperatures have risen

[1] Found at this site: https://ecology.wa.gov/getattachment/46f3d043-15fb-4a1f-

two degrees Fahrenheit, and the number of hot days (defined as days with a maximum temperature of 90 degrees or higher in Eastern Washington and days with a maximum temperature of 95 degrees or higher in Western Washington) has increased from one day per year to up to 127 days per year. University of Washington Climate Impacts Group, *Washington State Climate Resilience Strategy*, Appendix A: Washington Climate Projections: Summary by Region.[2] More frequent wildfires and smoke affect air quality, transportation networks, timber resources, recreation, and local businesses. Washington State Department of Natural Resources, *Wildfire Season 2023 Work of Wildfire Assessment* at 15-16 (June 2024).[3] Sea levels on Washington's coastline have risen more than eight inches since

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99f9-de6d5c4fdc75/Drought-2025-June-Declaration-Order-FIXED.pdf.

[2] Found here: https://apps.ecology.wa.gov/publications/parts/2401006part1.pdf (last accessed Jan. 9, 2026)

[3] Found here: https://dnr.wa.gov/sites/default/files/2025-03/rp_workofwildfire_0624.pdf.

1880, amplifying flood risk, storm surges, erosion, and saltwater contamination in wetlands, aquifers, and agricultural soils. University of Washington Climate Impacts Group, *State of Knowledge: Climate Change in Puget Sound*, Section 4: Sea Level Rise at 4-2 (Nov. 2015)[4]; Washington State Department of Ecology, *Protecting Coastal Communities*.[5]

The accompanying human costs are real. During heat waves in the summers of 2020 and 2021, more than 150 State residents have died due to heat-related causes, underscoring the immediate public-health stakes of climate change. Washington State Department of Health, *Understanding the Washington Excess Mortality in 2020 and 2021 Report* at 2 (Sept. 2023).[6] The damage that climate change causes also extends to Washington's core economic sectors including forestry,

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[4] Found here: https://data.cig.uw.edu/picea/mauger/ps-sok/PS-SoK_2015.pdf

[5] Found here: https://ecology.wa.gov/air-climate/responding-to-climate-change/sea-level-rise (last visited Jan. 2, 2026)

[6] Found here: https://doh.wa.gov/sites/default/files/2023-09/422243-ExcessDeathsBrief.pdf.

agriculture, fisheries, outdoor recreation, and hydropower. *See, e.g.*, Washington State Department of Natural Resources, *20-Year Forest Health Strategic Plan* at 9 (Mar. 2025)[7]; University of Washington Climate Impacts Group, *Preparing Washington State Parks for Climate Change* at 1 (June 2017).[8]Heat waves, wildfires, and wildfire smoke threatened the health of our agricultural workers. Washington State Department of Agriculture, *Climate Resilience Plan for Washington Agriculture* at 9 (Mar. 2025).[9] Faced with these escalating threats to our health, economy, and way of life, the Legislature,

[7] Found here: https://dnr.wa.gov/sites/default/files/2025-03/rp_forest_health_20_year_strategic_plan.pdf
[8] Found here: https://cig.uw.edu/wp-content/uploads/sites/2/2014/11/WA-Parks-Vulnerability-Assessment.pdf.
[9] Found here: https://cms.agr.wa.gov/WSDAKentico/Documents/Pubs/AGR2-2502-003-ClimateResiliencePlanWA-Ag.pdf?_gl=1*b5b2dp*_ga*MTc0NTczNTc2MC4xNzYwOTc5OTUz*_ga_9JCK8SVQPE*czE3NjczOTcwOTkkbzEkZzAkdDE3NjczOTcwOTkkajYwJGwwJGgw

as the elected representatives of our State, had to take action to stop these impacts before they became irreversible.

B. THE LEGISLATURE HAS ALREADY ENACTED BOLD MANDATES TO FIGHT CLIMATE CHANGE.

In response to climate change, the Legislature enacted one of the most ambitious climate mandates in the country. It requires a coordinated, economy-wide transition to reduced greenhouse gas emissions and a clean energy economy.

The cornerstone of Washington's climate policy is CETA. Representative Fitzgibbon supported this law and sponsored its companion bill, House Bill 1211, 66th Leg., Reg. Sess. (Wash. 2019), to lay the foundation for the decarbonization of the entire state economy by starting with the electricity sector, enabling a carbon-free transition of other emitting sectors, specifically transportation, buildings, and industry, onto clean electricity. While the 2019 Legislature did not adopt House Bill 1211, it did adopt Engrossed Second Substitute Senate Bill 5116 which mirrored the house bill. The

legislation mandates that electric utilities meet decarbonization targets by:

- eliminating coal-fired electricity by 2025;[10]
- achieving carbon neutrality by 2030; and
- delivering 100% carbon-free electricity by 2045.

LAWS OF 2019, ch. 288; RCW 19.405.010(2).

But the Legislature did not just stop with CETA. Representative Fitzgibbon, along with a majority of his fellow legislators, passed the Climate Commitment Act in 2021, RCW 70A.65, which established aggressive economy-wide reductions in greenhouse gas emissions, including a 95% reduction by

[10] CETA's first milestone required that all utilities remove coal-fired generation from Washington's allocation of electricity by December 31, 2025. Washington's electric utilities met this requirement. *See* Washington Utilities and Transportation Commission, *CETA Implementation and Investor-Owned Utility Compliance for presentation to House Environment & Energy Committee* at 4 (Jan. 16, 2025), https://app.leg.wa.gov/committeeschedules/Home/Document/274783 (noting that the three utilities subject to CETA will either relinquish their ownership rights or remove costs of coal-fired resources from rates by the end of 2025).

2050, and called for more state funding for "[p]rograms, activities, or projects that deploy renewable energy resources." LAWS OF 2021, ch. 316, §29(d); RCW 70A.65.260(d). Additional legislation targeted nearly all economic sectors: it mandated that 100% of cars sold in Washington be zero-emission by 2035, required transportation fuel emission reductions, and established a cap-and-trade program to lower private-sector emissions. *See* LAWS OF 2020, ch. 143 (RCW 70.120A); LAWS OF 2025, ch. 319 (RCW 70A.535); LAWS OF 2021, ch. 316 (RCW 77.12.320). In 2023, the Legislators, among others, co-sponsored H.B. 1216, which further prioritized rapid clean energy siting by better coordinating state and local permitting processes and reducing redundancies. LAWS OF 2023, ch. 230, amending RCW 44.39.010 and 44.39.010, adding new chapters to RCW Title 43,[11] and adding

[11] Including RCW 43.158, Clean Energy Projects of Statewide Significance—Clean Energy Coordinated Permitting Process and RCW 43.394, The Interagency Clean Energy Siting Coordinating Council.

new sections to RCW Chapters 43.21C,[12] 36.01,[13] 36.70B[14] and 80.50.[15] . Taken together, these laws reflect not just a commitment to, but a clear legislative statement and action that fighting climate change is essential to safeguarding Washington's people and economy, and thus its future.

C. SIGNIFICANT AND RAPID CLEAN ENERGY DEVELOPMENT IS NECESSARY TO MEET CETA'S DIRECTIVE.

This state cannot meet CETA's mandates without the rapid deployment of new clean energy generation resources.

The need for accelerated clean energy development is something that CETA explicitly acknowledges. CETA states that "[t]he transition to one hundred percent clean

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[12] RCW 43.21C.535, Clean Energy Projects—Nonproject Environmental Impact Statements and RCW 43.21C.538, Clean Energy Projects—Nonproject Environmental Impact Statements—Lead Agency Use

[13] RCW 36.01.360, Prohibition on Requiring Demonstration of Need of Certain Energy Infrastructure

[14] RCW 36.70B.180, Clean Energy Project Review—Limitations on Demonstration-of-Need Requirements

[15] Including RCW 80.50.075, Clean Energy Project Siting Coordination with Other Permitting Processes

energy…must happen faster than our current policies can deliver…." RCW 19.405.010(3). The Legislature recognized, and continues to recognize, the need for accelerated growth based on anticipated growth in demand from increased electrification. Apart from reducing the significant and negative impact of fossil fuels on the climate, increased energy is needed for the construction of data centers to support Washington's increased use of technology tools including, but not limited to, the internet, social media and Artificial Intelligence. Within the month preceding this brief, the Seattle Times,[16] the Seattle Met Magazine,[17] and the Columbia Basin

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[16] Greg Kim, *Five large data centers eyed for Seattle*, THE SEATTLE TIMES (April 10, 2026), https://www.seattletimes.com/seattle-news/climate-lab/five-large-data-centers-eyed-for-seattle/

[17] Josh Cohen, *The Fight over Data Centers Next Door: Will our AI future come with high utility prices and accelerated climate change?* SEATTLE MET MAGAZINE, (April 20, 2026), https://www.seattlemet.com/news-and-city-life/2026/04/data-centers-climate-change-washington

Herald in Moses Lake, along with the Tri-City Herald[18] have all reported on the increased need for power relating to the construction of data centers in Washington State, a present and growing industry here. With these multiple considerations in mind, CETA accelerated clean energy development as a foundational policy priority.

Washington's utilities desperately need new renewable resources to come online quickly to meet the 2030 climate targets and meet the increasing need for clean power. Only one of Washington's utilities is on track to meet the 2030 requirement to be carbon neutral. *See* Washington Utilities and Transportation Commission, *CETA Implementation and Investor-Owned Utility Compliance for presentation to House*

[18] Cheryl Schweizer, *Data centers, including Sabey, play crucial role*, THE COLUMBIA BASIN HERALD (April 14, 2026), reposted by THE TRI-CITY HERALD, https://www.tri-cityherald.com/living/article315410400.html

Environment & Energy Committee at 5 (Jan. 16, 2025).[19] Absent swift additions of renewable capacity, Washington will be unable to achieve the 2030 targets required under state law. Additionally, our state could lag behind the need for clean energy to provide power supporting the technology that Washington State residents use every day.

Because of increasing demand, Washington needs even more energy than the Legislature anticipated when it passed CETA. Since it was adopted, the use of electric vehicles and heat pumps (both of which are themselves beneficial in the fight against climate change) has exponentially increased. Additionally, the use of artificial intelligence, digital infrastructure, and data centers – all prodigious consumers of electric power – have become essential to the daily lives of the people of Washington state.

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[19] Found here: https://app.leg.wa.gov/committeeschedules/Home/Document/274783.

Now our state is expecting a shortfall as early as this year, when demand will outpace supply by 1,321 MW. E3, *Resource Adequacy and the Energy Transition in the Pacific Northwest: Phase 1 Results* at 9-10 (Sept. 22, 2025).[20] That deficit is predicted to grow to a shortfall of 8,689 MW by 2030 if planned renewable energy projects do not come online. *Id*. That gap will continue to grow, with Washington's expected energy demand doubling by 2045. Northwest Power and Conservation Council, *9th Plan Demand Forecast* (Apr. 25, 2025).[21]Because of this anticipated growth, Washington desperately needs more clean energy generation than was originally anticipated when CETA went into effect, and it needs that clean energy generation right now.

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[20] Found here: https://www.utc.wa.gov/sites/default/files/2025-10/Revised%20V3%20E3%20Presentation%20RA%20Study%20September%2022%20WA%20RA%20Meeting.pdf.
[21] Found here: https://www.nwcouncil.org/fs/19380/2025_0429_2.pdf.

D. THE LEGISLATURE ADOPTED AND AMENDED THE SITING ACT TO ACCELERATE CLEAN ENERGY DEVELOPMENT.

Expeditious permitting under EFSLA is essential to meeting the pressing need for more renewable energy facilities. The purpose of the Siting Act has always been to ensure that energy facilities permitting "decisions are made timely and without unnecessary delay." RCW 80.50.010(6). To that end, the Legislature placed time limits on each phase of the EFSEC permitting process. RCW 80.50.100(1)(a), (3)(a). It consolidated oversight of all the components that go into siting decisions under a single decision-making authority, the Governor. RCW 80.50.100. The Siting Act also gives EFSEC significant discretion in the siting process and gives untrammeled discretion to the Governor to make the decision on whether to approve or deny a permit. *See, e.g.*, RCW 80.50.100.

To prioritize renewable energy development to meet the state's clean energy goals, the Washington Legislature amended

the Siting Act in two ways. First, the Legislature expressly recognized the need for new clean energy production to meet Washington's clean energy goals. H.B. 1812, § 1 (adding "recognizing the need for clean energy in order to … meet the state's greenhouse gas reduction obligations" to RCW 80.50.010); LAWS OF 2022, ch. 183, §1. Second, the Legislature directed EFSEC to consider projects that "encourage the development and integration of clean energy sources" and "provide abundant *clean* energy at reasonable cost" because such projects are in the broad interest of the public. *Id.* (emphasis added). These amendments reflect the Legislature's intent to "moderniz[e] [EFSEC] to meet the state's clean energy goals," H.B. 1812 preamble, and empower EFSEC and the Governor with the tools and flexibility necessary to accelerate clean energy development in alignment with Washington's climate and energy goals. *S. Ways & Means Comm., Executive Session on H.B. 1812* at 2:03:56, 67th Leg. (TVW, Feb. 28, 2022) (statement of Senator Carlyle: bill

represents a "serious effort to recognize the importance of building next generation of renewable energy"); *H. Env't & Energy Comm., Executive Session on H.B. 1812* at 00:40:06, 67th Leg. (TVW, Feb. 3, 2022) (statement of Representative Fitzgibbon: H.B. 1812 "is a step towards making sure that we can improve certainty for project proponents that we're going to need for the clean energy infrastructure of the future").[22] These amendments were designed for moments like this—to ensure that projects delivering abundant clean energy move swiftly through permitting, because timely action is not just a goal, but an imperative in Washington's fight against climate change.

E. THE LEGISLATURE CONSIDERED EXISTING WASHINGTON LAW WHEN ADOPTING CLIMATE CHANGE LEGISLATION

[22] *See also S. Env't, Energy, & Technology Comm., Public Hearing on H.B. 1812* at 00:42:31 (TVW, Feb. 16, 2022) (statement of Becky Kelly, Senior Policy Advisor for Climate to Governor Inslee: "This bill is part of the Governor's focus on ensuring that we build the clean energy future here in Washington.").

One concern argued by the Petitioners is an alleged visual impact of the installation of wind turbines within the Horse Heaven Hills area of Benton County.[23] *Tri-Cities C.A.R.E.S. Brief, p. 1-2, 44-55, 58, 60; Yakama Tribe Brief, p. 49*. Said another way, the Petitioners are concerned that the view of the Horse Heaven Hills in Benton County will change as a result of the Project.

Tri-Cities C.A.R.E.S cites to RCW 80.50.010(2) in support of its claim that the statute bars an impact to views and has since its adoption in 1970. *Tri-Cities C.A.R.E.S. Brief, p. 35-36.* It also contends that "dismissal of aesthetic and visual impacts as 'subjective' and 'limited,' without supporting findings, conclusions or reasoning or citation to the record fails

[23] The Horse Heaven Hills are a long range of rolling hills located in Klickitat, Yakima and Benton counties in Eastern Washington. They stretching a span which is 50 miles long and 20 miles wide. *See* Jennifer Webster, *Where is Horse Heaven Hills Ava?* (November 28, 2022) https://great-american-adventures.com/where-is-horse-heaven-hills-ava/

to demonstrate the required balancing analysis" described in RCW 80.50.010(2). *Tri-Cities C.A.R.E.S. Brief, p. 35-36.*

Mr. Fitzsimmons disagrees with this approach. First, As is shown in the record before the Court, an exhaustive review of the visual impacts of the Project was conducted. *Horse Heaven LLC Brief, p. 13-14.* This review included a balancing of the various factors contained within RCW 80.50.010. These factors include encouraging "the development and integration of clean energy sources" and the provision of "abundant energy at a reasonable cost" in addition to "the esthetic and recreational benefits of the air, water and land resources" in Washington State. RCW 80.50.010(2), (3) and (4). The statute does not, however, guarantee a right to a view by design; to do so would thwart the natural progress of the developing society of Washington state including necessary infrastructure like the Project.

Long-standing Washington law does not guarantee a right to a view to any person. In *Collinson v. John L. Scott*, 55

Wn. App. 481, 778 P.2d 534 (1989),[24] the Court of Appeals held that no right to a view exists in Washington state under the common law. There, the Collinsons built a home on the western slope of Capital Hill in Seattle with the understanding that no one could build on the property below them. That belief was incorrect. Those downhill property owners built two multi-story, multi-unit condominiums which blocked the westerly view from the Colinson's home. *Id.* at 482. The Collinsons filed suit seeking damages and injunctive relief claiming that the condominiums constituted nuisances under RCW 7.48 by "obliterating" their view. *Id.* The case was dismissed on

[24] *Collinson* has been recognized by other courts in Washington State: *Mustoe v. Xiaoye Ma,* 193 Wn. App. 161, 169, 371 P.3d 544 (2016); *MJD Props., LLC v. Haley*, 189 Wn. App. 963, 971, 358 P.3d 476 (2015); *Asche v. Bloomquist*, 132 Wn. App. 784, 797, 133 P.3d 47 (2006); *Pierce v. Northeast Lake Wash. Sewer & Water Dist.*, 69 Wn. App. 76, 82 n. 5, 847 P.2d 932 (1993); *Weymiller v. Ringlee*, 2024 Wash. App. LEXIS 1538, *12, 2024 WL 3580784 (Docket No. 58618-5-II); *McColl v. Anderson*, 2015 Wash. App. LEXIS 2860, *13, 2015 WL 7259962 (Docket No. 46728-3-II); GR 14.1.

summary judgment for the downhill property owners. *Id.* at 483.

The *Collinson* court acknowledged the general rule that a building/structure cannot constitute a nuisance simply because it obstructs a view. *Id*. at 485 citing *Scharlack v. Gulf Oil Corp*., 368 S.W.2d 705, 707 (Tex. Civ. App. 1963), *Wolf v. Forcum*, 130 Ind. App. 10, 161 N.E.2d 175, 178 (1959), *Venuto v. Owens-Corning Fiberglas Corp*., 22 Cal. App. 3d 116, 99 Cal. Rptr. 350, 357 (1971), and, *Mohr v. Midas Realty Corp*., 431 N.W.2d 380 (Iowa 1988). The court noted that this rule is a "repudiation of the English doctrine of ancient lights" which gave an adjoining property owner an easement for light over a neighbor's property. *Collinson*, 55 Wn. App. at 485-486, citing *Prah v. Maretti*, 108 Wis. 2d 223, 321 N.W.2d 182, 188 (1982). Division One stated:

> The doctrine [of ancient lights] has been repudiated on the basis that "'it is not adapted to the conditions existing in this country and could not be applied to rapidly growing communities

> without working mischievous consequences to property owners.'"

Collinson, 55 Wn. App. at 485-486, citing *Venuto*, at 127 (quoting 1 Cal. Jur. 2d *Adjoining Landowners* §30, at 758-59); *Scharlack*, at 707; *see also* Kim R. York and Richard L. Settle, *Symposium on Energy Issues in the Pacific Northwest: Potential Legal Facilitation or Impediment of Wind Energy Conversion System SITING.,* 58 WASH. L. REV. 387, 390 (1983) (stating that "[t]the common law has never recognized a right to unobstructed flow of wind or sunlight").

In its Fall 2025 edition, the Seattle University Law Review issued, an article entitled "Living Property" which reviews the English doctrine of ancient lights and explains why the United States rejected it:

> There is no easement for light and air in the United States unless it is created by agreement between neighbors through an easement or covenant. One cannot acquire a view by prescription. Although some early cases embraced the notion that one can stop a neighbor from building on their own land if you have enjoyed a view over their property for a long time, that limitation on the right to build on one's land would have substantially limited the

> development rights of landowners exactly the policy that the United States did not want. Statutes and case law rejecting the doctrine emerged over the course of the nineteenth century. The rejection of the doctrine stripped owners of a right they had previously enjoyed under the common law inherited from England while enlarging their rights at the same time since they were free from lawsuits that might challenge their own liberties on their own land.

Joseph William Singer, *Living Property*, 49 SEATTLE U. L. REV. 111, 187-188 (Fall 2025) (footnotes with citations omitted).

Thus, consistent with the rejection of the English doctrine of ancient lights in Washington state and throughout the United States, view protection is not a part of the balancing test of RCW 80.50.010. To do so would resurrect the rejected doctrine of ancient lights, something the United States and Washington state have refused to do. And while RCW 80.50.010 generally sounds in an equitable balancing test, a view is not within it as "[e]quity cannot restrict one landowner to confer a benefit on" another. *Collinson*, 55 Wn. App. at 488.

V. CONCLUSION

For the above reasons, Representative Fitzgibbon, asks the Court to affirm the decision of EFSEC and the Governor.

I certify that this document contains 3,754 words, pursuant to RAP 18.17.

DATED: April 27, 2026.

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