BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application No. 2006-02

Desert Claim Wind Power Project

EXHIBIT 11

PREFILED DIRECT TESTIMONY

DAVID S. STEEB

Q. Please state your name and business address.

A. David S. Steeb

Desert Claim Wind Power

430 N. Pearl Street

Ellensburg, WA 98926

Q. What is your position?

A. I am Project Director for the Desert Claim Wind Power Project, and have been the Project Director since 2001.

Q. In your capacity as Project Director, what has been your role or your duties?

A. As Project Director of Desert Claim Wind Power, I am responsible for directing the development and permitting of the wind project. My duties include project land

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acquisition, supervising the project's environmental studies and reports, working with our consultants and experts, meeting with and taking the lead in our relationships with the permitting agencies both at the county and state levels, directing public relations efforts, and serving as the spokesperson for Desert Claim. I also coordinate with enXco personnel on validating the wind resource, acquiring interconnection and transmission rights, and potential construction and operations of the project. Within the enXco structure, I am responsible for Desert Claim's management on a day-to-day basis for the development and permitting of the project with direct communications and oversight to enXco upper management.

Q. What topics will you address in your prefiled testimony?

A. I will testify about the following topics:

(1) My Background and Experience

(2) Project Description

(3) Project Site Selection

(4) Project Construction

(5) The Application for Site Certification, Environmental Studies and Proposed Mitigation

(6) Public Services

(7) Setbacks

(8) Request for Preemption

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Background & Experience

Q. Please describe your educational background.

A. I have a Bachelor of Arts in Education (1976) and a Bachelor of Science in Mechanical Engineering (BSME 1978) from the University of Washington.

Q. Please describe your professional background.

A. I have 31 years of experience in a broad range of activities and responsibilities in the independent power industry. I have been involved in the assessment, development, marketing, engineering, construction management, and startup commissioning of several thousand megawatts of electrical power generating facilities. Since August 1999, I have work with enXco in the Pacific Northwest to locate, acquire and develop wind generation sites to meet wind power markets with regional utilities.

In 1988, I formed a company called Independent Power, Inc., that provides project development and consulting services to the renewable, cogeneration and small power industry. Prior to that, I worked on project engineering and construction of combustion turbine power facilities with General Electric, and directing the design of biomass and gas fired power facilities as chief engineer of NEPCO.

Project Description

Q. Generally describe the Desert Claim Project ("Project") as it is now proposed.

A. The Desert Claim Wind Power Project is a 190 megawatt (MW) wind power project located on approximately 5,200 acres in unincorporated Kittitas County, about 8

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miles northwest of the City of Ellensburg. I refer to these 5,200 acres as the "Project Area" and it is shown on **Exhibit 11.1** to my testimony.

The Project consists of 95 wind turbines. We propose to use the REpower MM92 model turbine, which is a 2 MW turbine, with a total tip height of 410 feet. The proposed configuration of these turbines is shown on **Exhibit 11.2** to this testimony.

In addition to the turbines, the Project will have a variety of associated facilities, including permanent meteorological towers, a power collection system, a substation, a transmission line to interconnect the Project with the regional transmission system located within the Project Area, a system of Project access roads, and an Operation and Maintenance building.

A more detailed description is provided in the Project Description section of the Revised Application for Site Certification (**Exhibit 1**), which I prepared with the assistance of various consultants and counsel.

Q Can you describe the ownership of the property that makes up the Project Area?

A. Yes. The Project Area consists of approximately 5,200 acres. Of that, 1,529 acres are owned by the Washington Department of Natural Resources (WDNR) and are under a long-term lease. 2,551 acres are under lease from four private landowners. The Project has an option to purchase the remaining 1,120 acres from another private landowner.

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Q. Is the current Project proposal different than the project described in the November 2006 Application for Site Certification?

A. Yes. Since filing the Application for Site Certification in November 2006 (**Exhibit 2**), we have been able to obtain development rights to some additional property. We also made some important changes to the Project after reviewing EFSEC's decision and the Governor's approval concerning the Kittitas Valley Wind Project. The primary changes since the 2006 Application, which are reflected in the February 2009 Revised Application, are:

(1) We expanded the Project Area to approximately 5,200 acres. We were able to acquire an option to purchase private land located west of the area described in the November 2006 Application. At the same time, we eliminated the northeastern portion of the Project Area described in the 2006 Application. The difference between the current Project Area and that described in the 2006 Application is shown on **Exhibit 11.3**

(2) We increased the distance between Project turbines and non-participating residences. In the revised configuration, there are only seven non-participating residences that are closer than 2,500 feet from a proposed turbine. All of these residences are more than the 4-times-turbine-height (1,640 feet for the REpower wind turbine to be used in the Desert Claim Project) distance EFSEC required in its decision regarding the Kittitas Valley Project. In the revised configuration, the closest non-participating residence is 1,687 feet from a turbine.

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(3) We increased the number of turbines from 90 to 95. Even though we increased the distance between turbines and non-participating residences and eliminated some property in the northeast, the addition of property in the southwest allowed us to increase the total number of turbines.

(4) We changed the wording of our mitigation commitment regarding shadow flicker, to adopt the formulation set forth by EFSEC in the Site Certification Agreement for the Kittitas Valley Project. Although our original proposal was very similar, we wanted to make clear that we were willing to do the same thing EFSEC required of the Kittitas Valley Project.

(5) We revised the Project Description to make clear that we would not be constructing a new 4,000-foot transmission line to interconnect the Project with the regional transmission system. The Revised Application identifies two possible substation locations. At this point, we do not know whether the Project will be interconnected via the Bonneville Power Administration (BPA) transmission lines or the Puget Sound Energy (PSE) transmission lines. Based on the final interconnection decision, a substation will be constructed adjacent to the interconnection point and a short transmission line will connect the substation to the existing transmission lines.

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Q. How much electricity will the Project generate?

A. With 95– 2MW turbines, the Project has a maximum design capacity of 190 MW. The amount of electricity generated at any particular time will vary with wind conditions. On average, wind projects across the northwest tend to operate at a 28 to 32 percent capacity factor, and we expect the Desert Claim Project to operate within that range.

Q. The Project includes a system of access roads within the Project Area. Can you describe this internal road system?

A. Yes. There will be a system of roads within the Project Area used for construction access as well as for on-going operations and maintenance. Figure 11 in the Revised Application for Site Certification shows the general layout of the road system, understanding that the final location of roads will be determined after the final siting of turbines.

The permanent Project roads will have compacted gravel surface, and will be 15-20 feet wide. During construction, some roads will be temporarily widened to 35-50 feet. After construction, however, areas of temporary widening will be restored and revegetated. There may be instances where portions of the wider roads may remain to facilitate future crane access for maintenance. If so, those wider portions would become permanent roads and would be included in the permanent impacts totals to be mitigated. The Revised Application provides our best estimate of the temporary and permanent impacts associated with these roads, but our goal will be to minimize

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these impacts as much as possible and to provide compensatory mitigation consistent with the WDFW Guidelines for actual impacts.

Site Selection

Q. How was the Project site selected?

A. In 2000, enXco began looking for potential wind sites in Washington and quickly focused on Kittitas County as one area with significant wind potential. When identifying potential project sites, enXco considers several factors:

(a) Wind Resource. The most important factor in selecting a site for a wind power project is the available wind resource. When enXco began evaluating Kittitas County sites in 2001, it was looking for a site with an average wind speed of 13 to 17 miles per hour.

(b) Access to Electrical Transmission. Access to existing electrical transmission is a significant advantage in wind power project development. Having access to nearby lines, or in Desert Claim's case the lines are located within the Project Area, avoids or substantially reduces the costs associated with constructing new lines, which can cost from $500,000 to $1,000,000 a mile. The presence of nearby, or on-site, transmission lines also avoids the permitting complications of constructing new lines, eliminates aesthetic concerns about new cross-country lines, and places the project within a viewscape that is already affected by the large transmission towers and lines.

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(c) Environmental Constraints. enXco tries to avoid areas of significant known environmental concerns, such as lakes, rivers, wetlands, wildlife refuges and endangered species habitat.

(d) Available Real Estate. A utility-scaled wind power development typically requires at least 5,000 acres of open land. Developers look for large tracks of land, up to tens of thousands of acres, as potential areas for development, and then gradually focus in on specific areas. Ultimately, project development requires rights to use the land. The company's ability to negotiate leases with property owners is critical to site selection.

(e) Zoning and Land Use Regulations. Wind developers consider local land use requirements when identifying potential sites for wind project development. All things being equal, they would favor areas with minimal and known development restrictions and permitting processes.

Q. Let me ask you how each of those factors affected the selection of the Desert Claim site. First, wind resource?

A. Desert Claim is located on the eastern end of a pass through the Cascade Mountains in Washington State. Based on weather conditions between the somewhat arid eastern Washington and the "wet" coastal western Washington, the resulting high versus low pressures, respectively, cause significant winds through these passes, primarily blowing west to east much of the year. Such winds occur through Snoqualmie Pass, resulting in winds blowing eastward into Kittitas County. Winds

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that are capable of producing electrical power are located primarily on the northern side of the Kittitas Valley from Lookout Mountain on the western end to Whiskey Dick Mountain on the east (near the Columbia River). Wind developers, including enXco, have validated the wind resource potential, using meteorological measurement towers in Kittitas County for the past 7 to 8 years. The two areas that show the most potential are the eastern end of the Kittitas Valley north of I-90 and in the northwest portion of Kittitas Valley west of Lookout Mountain. Not surprisingly, these are the two areas in Kittitas County where wind projects have been constructed and proposed.

Q. Next, access to electrical transmission?

A. The site selected for the Desert Claim Project was ideal from the standpoint of transmission access. Bonneville Power Administration (BPA) operates five transmission lines that cross the Project Area. BPA has a 345 kV Rocky Reach-Maple Valley line that crosses the northern portion of the Project, and BPA has 2 - 230 kV and 2-500 kV lines that cross through the southern part of the Project Area. Puget Sound Energy (PSE) also operates the 230 kV Rocky Reach-Cascade line that crosses through the center of the Project Area. As a result, substations and interconnection points can be located on the Project site and above-ground transmission connections will be less than two hundred feet long. This also means that the Project will be located in an area that is already a major transmission corridor affected by multiple large transmission towers and lines.

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Q. Can you address the next factor, environmental constraints?

A. The Project Area was also desirable from the standpoint of environmental constraints. There are no lakes or rivers in the Project Area. There are relatively few wetlands, and those within the Project Area can be avoided. The Project Area has been and continues to be an active cattle grazing and ranching area within Kittitas County. There are no protected habitat areas, and surveys have shown the absence of any threatened or endangered species in the Project Area.

Q. What about available real estate?

A. The ability to negotiate property leases, or options, was a critical factor in the site selection. We did look at other nearby properties but some had already been leased to other wind developers, and we couldn't negotiate reasonable leases on others. In fact, the ability to negotiate leases has been something that's changed over time and has led to changes in the Project. Since the original site was selected, we have been able to negotiate additional leases with DNR and we have been able to obtain an option to purchase the property we added in the southwest portion of the site. We have also had leases expire in the northeast part of the Project, which has resulted in those properties being removed from the Project Area.

Q. What about zoning and land use regulations?

A. In 2001, when enXco, Inc., began evaluating potential sites in Kittitas County, wind projects were allowed as a conditional use in all Ag-20, Forest and Range, Commercial Agriculture and Commercial Forest zoning districts under Kittitas County Ordinance 2001-12. The original project site was all zoned Ag-20 and

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Forest and Range, so the site made sense from the standpoint of the local land use regulations.

In late 2002, after we had already put considerable resources into the Desert Claim site, the County enacted Ordinance 2002-19, which contained most of the wind power siting provisions now found in Kittitas County Code chapter 17.61A. Under chapter 17.61A, a wind project can be permitted in any area zoned as Ag-20, Forest and Range, Commercial Agriculture or Commercial Forest, but it requires a Wind Farm Resource Development Permit and a Development Agreement, a site-specific amendment to the County's Comprehensive Plan land use designation map, and a site-specific rezone. Although the permitting process had changed, the Code still allowed permits to be issued for properties zoned Ag-20 and Forest and Range, so the site we selected for Desert Claim met the zoning and land use criteria.

Significantly, under both the 2001 Conditional Use scheme and the 2002 Wind Overlay ordinance, there were no areas in the County where wind power projects were an outright permitted use, or where the zoning code designated any more favored status than the Desert Claim site. Nor were there any indications in the County ordinance that particular areas within the County were favored or disfavored for wind power development.

Q. Are there other viable sites in Kittitas County?

A. Puget Sound Energy is operating the Wild Horse project in the County, and both the Kittitas Valley and Vantage projects have been permitted and are under

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development, so those sites are presumably viable. There may be other viable sites for wind projects in the County, but I am not aware of them. More importantly, we do not think there is any available site that provides a better mix of the attributes we look for in a potential site than the Desert Claim Project site.

Q. Are you familiar with the area that Kittitas County designated as a pre-identified area for wind development in 2007?

A. Yes. In 2007, the County amended Kittitas County Code chapter 17.61A, adding section 17.61A.035, which designates an area of approximately 500 square miles in the eastern portion of the County as a pre-identified Wind Farm area. **Exhibit 11.4** is a map showing the pre-identified area. Under this new section of the County Code, wind projects located in the pre-identified area require a Development Agreement but do not require a zoning or comprehensive plan change. The new section also provides that projects in the pre-identified area should have a minimum one-half mile setback from existing residences, unless such a setback is "not attainable," in which case, an applicant can provide analysis of wildlife, noise, visual and traffic impacts in support of a request for a smaller setback.

To my knowledge, the Vantage Wind Project is the only project that has applied to the County for permitting under this new process for the pre-identified area. A copy of the Vantage Development Agreement is provided as **Exhibit 11.5**, and a copy of the related County Staff Report is provided as **Exhibit 11.6.**

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Q. Could Desert Claim develop a wind project in that pre-identified area, rather than at the current location?

A. I don't think so. Approximately 90% of the pre-identified area is not available for wind project development because it is either part of the United States Department of Defense's Yakima Training Center or one of several wildlife areas designated by the Washington Department of Fish and Wildlife (such as the Colockum Wildlife Area, the Quilomene Wildlife Area, the Wenas Wildlife Area, and the Whiskey Dick Wildlife Area). Much of the land that remains is already occupied by PSE's Wild Horse Project or has been permitted for the development of Invenergy's Vantage Project. A map showing the location of these areas is provided as **Exhibit 11.7**

The pattern of development activity in Kittitas County supports our assessment. The Wild Horse Project was developed first in the largest available area with a commercial resource. Invenergy developed their Vantage project next. Despite all of the acreage in the pre-identified area, they decided to squeeze their project into a narrow triangle south of Wild Horse between the Vantage Highway and I-90. Since then, there have been no other applications for wind projects in the pre-identified area by other wind developers. This is not surprising to me because the few large patches of land that remain are not located in high wind areas.

Q. Are there other areas in Washington State that could be developed for wind power instead of Kittitas County?

A. **Exhibit 11.8** is a Wind Power Resource Map for Washington that was prepared by the National Renewable Energy Laboratory. Washington State has a few areas that

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are considered to have significant potential for wind power. Kittitas County is one, as well as the counties along the Columbia River between Washington and Oregon. Wind flowing eastward from the Columbia River continues east through Walla Walla County to Columbia County. These eastern wind sites have substantial quantities of wind, which has led to wind development and construction in these areas. In fact, together with others in Klickitat County, enXco has developed the Goodnoe Hills wind project in Klickitat County near Goldendale. So, yes, there are definitely other viable wind sites in the state, but they aren't necessarily any better than the Desert Claim site. More importantly, these sites are not mutually exclusive. With the adoption of I-937, there is a significant need and desire for additional renewable power in Washington. The question is not "where is the best location for a single wind project?" Instead, all good wind power sites should be developed, and that includes the Desert Claim site.

Project Construction

Q. Can you generally describe the construction process?

A. Yes. The Project will be constructed over a period of approximately 9-10 months, using standard construction procedures typically used for wind energy projects. Final locations for project facilities will be determined (micro-siting when necessary to avoid sensitive areas or cultural resources), surveyed and staked. Next, project access roads, turbine pads and foundation will be constructed. Trenches will be excavated and underground power collection and communication cables will be installed. Overhead lines and transmission interconnection will be installed, and the Project substation will be constructed. The O&M facility will be constructed.

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Turbine towers, nacelles and rotors will be transported to the site and assembled. Safety and control systems will be installed, and all systems and equipment will be tested. At the conclusion of construction, final site grading, restoration of temporarily disturbed areas, and overall site cleanup will be performed.

As discussed in more detail in the Revised Application and the SEIS, wetlands and other sensitive areas and cultural protection areas will be marked in the field and avoided. Desert Claim will develop both a Construction Stormwater Pollution Prevention Plan (SWPPP) and a Temporary Erosion and Sedimentation Control Plan (TESCP) and submit them to the Council for approval prior to beginning construction. The SWPPP and TESCP will outline best management practices consistent with Ecology's *Stormwater Management Manual for Eastern Washington* that will be employed during Project construction.

Construction activities will result in the temporary disturbance of some areas. Following construction, these areas will be restored to their original condition and reseeded with native vegetation. Prior to beginning construction, Desert Claim will submit a Habitat Restoration Plan for the Council's approval.

Construction of the turbine tower foundations and pads will require considerable amounts of concrete. Desert Claim's construction contractor will be responsible for obtaining the needed aggregate and concrete. It is possible that the contractor may decide to construct a temporary concrete batch plant within or near the Project Area. If so, the contractor would be responsible for obtaining any required permits.

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Q: In the past, the Council has required wind projects to develop Construction Traffic Management Plan, a Construction Emergency Plan, a Construction Management Plan, a Construction Health and Safety Plan, a Construction Site Security Plan, and a Cultural and Archeological Resources Plan prior to beginning construction. Do you propose to prepare those plans?

A: Yes. We propose to submit those plans to the Council for approval prior to beginning construction.

Q. In its comments regarding the SEIS, the County has also proposed that you prepare a Road Signage Plan that is consistent with the Manual on Uniform Traffic Control Devices. Are you willing to do that?

A. Yes. We are willing either to submit such a plan to EFSEC for approval, or address signage in our Traffic Management Plan.

Q: EFSEC has sometimes required Certificate Holders to provide an Environmental Monitor during construction. Do you propose to have an Environmental Monitor?

A. Yes. Desert Claim proposes to pay for EFSEC to retain an independent, qualified engineering or environmental firm (or a person associated with such a firm) to serve as an Environmental Monitor. In consultation with the Environmental Monitor and EFSEC staff, Desert Claim will develop an environmental monitoring program designed to ensure compliance with the conditions, limits and specifications of the

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Site Certification Agreement. The program will include criteria for the Environmental Monitor to exercise "stop-work" authority.

Q: During the public hearing on the SEIS, a couple of individuals expressed concern about fires during construction or operation of the project. How do you respond to those concerns?

A. I would point out a few things in response. First, the Final EIS that the County prepared in 2004 addressed fire risks. It presented information showing that fires have been relatively rare, and it also identified some measures that could be taken to reduce the risk of fires. The most important thing it suggests is that the collection wires between turbines be located underground as much as possible, which is what we intend to do.

Second, Desert Claim will prepare a Construction Emergency Plan prior to beginning construction, which will include measures to prevent fires and to respond appropriately in the event of a fire. Among other things, Desert Claim will give all construction workers fire safety training, use mufflers and spark arrestors on all construction equipment, and make appropriate fire suppression equipment available to designated employees who have been trained to use the equipment.

Third, Desert Claim will prepare an Operations Emergency Plan prior to beginning commercial operation, which will include measures to prevent and respond to fires. Desert Claim will regularly inspect and maintain turbines to identify and prevent

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problems before they result in equipment-related fires. The turbines used in the Project will have a temperature recording and control system that will alarm and automatically shut down turbines in the event of a malfunction or fire.

Finally, approximately half of the Project Area is currently within the local fire district and therefore is covered by fire service, while the other half does not currently have fire services. DNR does not fight fires on its land portions, used for cattle grazing, within the Project Area currently. Desert Claim will enter into a fire protection services agreement with Kittitas Valley Fire and Rescue (formerly Kittitas County Fire District No.2) prior to the start of construction so that the entire Project Area is included in the fire district service. We negotiated an agreement with them in 2004 and we need to update that agreement for the revised Project Area. This agreement may also benefit those landowners in that area that are currently outside of a fire services district by having the all the Project Area covered with fire protection, which in turn may allow these landowners to approach Kittitas Valley Fire & Rescue to annex their property into the fire service district.

Application for Site Certification

Environmental Studies & Mitigation Proposals

Q. What was your role in the preparation of the Revised Application for Site Certification and the environmental studies that support the application?

A. I had primary responsibility for preparing the Revised Application (**Exhibit 1**) as well as the November 2006 Application (**Exhibit 2**). With the advice of counsel and

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others, I developed an outline for the Revised Application, prepared the Project Description in consultation with wind resource experts at enXco, identified scientific and technical analysis that needed to be completed, retained consultants to complete that scientific and technical analysis, and reviewed and edited the Revised Application.

Q. This Application follows a slightly different format than other applications to the Council. Why is that?

A. That's true. I understand that applications to EFSEC often follow the organization of an EIS, so that EFSEC can easily use the information provided to produce an EIS document. In this case, however, Kittitas County had already published a Final EIS on an earlier version of the Project in connection with Desert Claim's application to the County. Rather than duplicate work that had already been done, we provided the Council with copies of the County FEIS and focused the Application for Site Certification and subsequent Revised Application on the changes that have been made to the Project. This included new environmental studies and analysis that had been performed since the County FEIS.

Q. Tab 1 of the Revised Application contains a Project Description. Does that Project Description accurately describe the Project that the Applicant proposes to construct and operate?

A. Yes, the Project Description accurately describes our proposal. However, it is important to understand that the exact location of each turbine and other project features within the Project Area may change during the final pre-construction

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engineering and siting process. Also, additional mitigation measures may be agreed upon in discussion with other stakeholders.

Q. Can you generally describe the Project?

A. Yes. The Project consists of 95 – 2MW wind turbines, which will be located within a 5,200 acre Project Area. In addition to the turbines, the Project will have four permanent free-standing (i.e. no guy wires) meteorological towers, a power collection system, a substation, a transmission line to interconnect the Project with the regional transmission system, a system of project access roads, and an O&M building.

Q. Will there be any air emissions associated with the Project?

A. There will be no air emissions associated with operating the wind project, except for emissions from vehicles used in Project operation and maintenance. The ability to generate electricity without causing air pollution is one of the chief advantages of wind power.

During Project construction, there would be air emissions from construction equipment and vehicles, and fugitive dust from construction related traffic, excavation and blasting. The construction contractor will minimize emissions by using well-maintained construction equipment and vehicles, and avoiding prolonged period of idling. The construction contractor will minimize construction-related dust by paving, planting or graveling areas exposed for prolonged periods, using water or an industry standard wetting agent to suppress dust on unpaved roads, limiting

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vehicle speeds to 25 mph on unpaved roads, covering truck beds when transporting dirt, covering construction materials that might emit dust, and promptly restoring and re-seeding of temporarily disturbed areas.

Q. Will the Project use water?

A. The Project will use very little water. Again, one of the major advantages of wind power is that it avoids the significant water use generally associated with generating electricity from fossil fuels or nuclear power.

During construction of the Project, water will be used for dust suppression and concrete mixing. During Project operation, water will be used by employees for domestic uses and sanitation, and is expected to be far less than 5,000 gallons per day. Water will either be acquired from a landowner, obtained by developing an exempt well, and/or from acceptable sources outside of the Project Area.

Q. Tab 2 of the Revised Application contains Visual Simulations. Can you explain how these were prepared?

A. Preparing visual simulations is a common technique used to illustrate the visual effect of various kinds of projects, including wind projects. Photographs are taken at various viewpoints. A consultant takes information about the turbine design and configuration, and uses that information to produce a computer-generated visual simulation depicting the viewpoint after the project is constructed.

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When Kittitas County prepared the EIS in 2003 and 2004, the County's staff and consultants (Huckell Weinman and Jones & Jones) selected the locations to be used for existing photographs and Project simulations. They then used the consulting firm called AWS True Wind LLC to produce the simulations that are found in the Final EIS. In 2006, when we prepared the original Application for Site Certification, we produced simulations reflecting the revised Project prepared at the same locations previously selected for the Final EIS. For the Revised Application submitted in February 2009, I asked Richard Weinman and the visual experts at Jones & Jones, who did the original work for the County, to review the revised turbine layout and consider whether there were additional or alternative locations that should be used for simulations. As explained in the Draft SEIS, they kept many of the locations from the County FEIS, modified some of locations, and added some additional locations.

During the Adjudicatory Hearing, we will provide large copies of some of the simulations as illustrative exhibits (**Exhibit 11.9**).

Q. Does Desert Claim propose any mitigation measures to minimize the impact of the Project on the visual environment?

A. Yes. The mitigation measures that have been included in the Project design include the following:

- Site Selection. When originally selecting the site for the Project, we decided to locate the Project on the valley floor, rather than on ridge lines, in order to minimize its visual impact. As a result, when viewers from Ellensburg look

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northwest toward the Stewart Range, the Desert Claim Project is in the distant foreground and does not break the horizon. The photo simulation from view 1B provided in the Revised Application for Site Certification illustrates this point.

- Increased Setbacks. The revised Project configuration increases the distance between turbines and non-participating residences. Only 7 non-participating residences are located within 2,500 feet of a turbine, and the closest one is 1,687 feet from a proposed turbine.

- Systematic Organization. Research has indicated that wind projects with turbines arranged in irregular or disorderly patterns, or that contain multiple types and sizes of turbines can have a negative impact on the visual environment. In order to avoid this, the Project uses one turbine model and the turbines are spaced fairly evenly, with no major gaps or isolated groupings.

- Neutral paint color and consistent design. The Project will use low-reflectivity; neutral-color finishes for turbines as approved by the FAA, and other Project facilities. We will construct Project buildings of local materials and in local building styles, and use earth-tone finish to better blend it with the surrounding landscape.

- Minimize Lighting. The Project's turbines will not have day-time white strobe lighting, and approximately forty-one turbines will be equipped with FAA required synchronized blinking red lights for evening/nighttime hours. We will minimize security lighting at the Project substation, and make any ground level security lighting motion-sensitive so that it will not impact the night landscape

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most of the time. The Project will use lighting devices designed to be least visible from ground level.

- Removal of Decommissioned Turbines. Broken or inoperable turbines can have a negative aesthetic impact so Desert Claim has committed to promptly repair conspicuous turbine malfunctions and remove decommissioned towers.

Q. Tab 3 of the Revised Application is called a Regulatory Matrix. What is that?

A. EFSEC's regulations identify the information that is supposed to be included in an Application for Site Certification. Tab 3 contains a table that shows where each element listed in the regulations can be found.

Q. Tab 4 of the Revised Application contains a memo from Ecology and Environment. Can you explain Ecology and Environment's involvement in the Project?

A. In designing the Desert Claim Project, our goal has always been to avoid any impacts to streams or wetlands. When we were revising the Project to submit the November 2006 Application to EFSEC, we retained Ecology and Environment (E&E) to identify any streams and delineate any wetlands in the Project Area. We then used the results of their survey to locate turbines and project facilities to avoid any impacts to streams or wetlands. E&E then reviewed the project configuration, and produced a memo for the original EFSEC Application describing the streams and wetlands in the Project Area and confirming the absence of impacts. When we revised the Project, we went through the same process. E&E surveyed the property

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being added to the Project Area, and we used their survey results to locate turbines and project facilities. We provided the new configuration to E&E, and the memo provided at Tab 4 documents their review and their conclusion that the Revised Project will not result in any impacts to streams or wetlands.

Q. Tab 5 of the Revised Application contains a report from David Young of WEST Inc. Can you explain WEST's involvement in the Project?

A. WEST was one of the consulting firms that worked on the County FEIS, performing the avian, wildlife and habitat studies. When we began preparing the EFSEC application, we retained David Young of WEST to update the work they had done previously in light of changes made to the Project since the County FEIS. He produced a report that was included in the November 2006 Application. Then, when we made further changes to the Project, we asked him to update his analysis for the Revised Project, and the new report is found at Tab 5.

Q. What does Desert Claim propose to do to minimize or mitigate impacts to habitat?

A. During construction, Desert Claim proposes to avoid and minimize impacts to habitat by implementing the following measures:

- Minimizing temporary construction impacts to the extent practicable.
- Flagging sensitive habitat areas (e.g. springs, wetlands, raptor nests) near proposed construction activity and avoiding those areas.
- To the extent practicable, construction activities that temporarily disturb habitat will be conducted during the months of May through October,

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when soil moisture is relatively low. However, trenching of underground electric collection cables may be performed outside this window.

- Construction workers will avoid driving over or otherwise disturbing areas outside the designated construction areas.
- Implementing the Temporary Erosion and Sediment Control Plan and the Construction Stormwater Water Pollution Prevention Plan discussed above.
- Develop and Implement a Habitat Restoration Plan for temporarily disturbed areas. These areas will be reseeded with native vegetation and implementing noxious weed control measures.

In general, we propose to mitigate the unavoidable impacts to habitat by following the WDFW Wind Power Guidelines (2003, 2009). The WDFW Guidelines recommend that compensatory mitigation be provided for habitat impacts, either by providing a mitigation parcel based on the ratios set forth in the Guidelines or by providing a mitigation fee to WDFW. We have met with representatives of WDFW several times (either in person or by phone) and are in the process of negotiating a compensatory mitigation package with WDFW. We expect to be able to provide the Council with more information about the specifics of the mitigation package soon, and propose to submit a detailed Habitat Mitigation Plan for the Council's approval prior to beginning construction.

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Q. What does Desert Claim propose to do to minimize or mitigate impacts to birds and wildlife?

A. The Desert Claim Project follows many of the recommendations in the WDFW Guidelines that are intended to avoid and minimize wildlife impacts. In particular:

- The Project is located "in agricultural and other disturbed land" and uses "existing transmission corridors."
- The Project avoids high bird and bat aggregation areas.
- The Project minimizes the use of overhead collector lines.
- The Project uses tubular, rather than lattice, towers.
- The Project does not use guy wires.
- The Project will minimize use of lights on towers to the extent allowed by federal aviation regulations.
- The Project will control noxious weeds.
- The Project will develop and implement a Fire Protection Plan and a Traffic Management Plan that will limit vehicle-driving speeds on Project roads to 25 mph.
- The Project will reduce availability of carrion by implementing a carcass removal program.
- The Project will minimize road and stream crossings.
- At the conclusion of the Project life, Desert Claim will remove turbines and related facilities and restore the site to approximate pre-project conditions.

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Desert Claim also proposes to implement measures to minimize and mitigate impacts to birds and wildlife that are consistent with the WDFW Guidelines and the recommendations of WDFW staff, and are also very similar to measures required by the Council for the Wild Horse and Kittitas Valley wind projects. These measures include:

- Development of a Post-Construction Avian Monitoring Plan. The Plan will be developed in consultation with WDFW.
- Formation of a Technical Advisory Committee (TAC). The TAC will review monitoring data and make recommendations to EFSEC if it concludes that additional studies or mitigation are warranted to address impacts that were not foreseen or that substantially exceed impacts that were predicted.

Q. Have you had a chance to review the comments on the Supplemental Environmental Impact Statement (SEIS) submitted by the Washington Department of Fish and Wildlife (WDFW), the Washington Department of Ecology (WDOE), and the Counsel for Environment (CFE), suggesting various mitigation measures relating to habitat and wildlife impacts?

A. At this point, I have only had a chance to briefly skim the SEIS comments. Our intention is to sit down with representatives of WDFW, WDOE and CFE, get our scientists together to talk about these issues, and see if we can reach agreement about a reasonable approach.

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Q. Tab 6 of the Revised Application contains a report prepared by Julia Meier of Global Energy Concepts entitled "Sound Mapping for Desert Claim Project." Can you explain GEC's involvement in the sound aspects of the Project?

A. Yes. Global Energy Concepts (GEC) is a consulting firm that specializes in wind resource assessment, project design and management of wind energy facilities. We retained GEC to perform the computer modeling and analysis of Project sound and shadow flicker. The November 2006 Application contained reports that Julia Meier from GEC prepared, that summarize the sound and shadow flicker analysis they performed. GEC has since updated their analysis to reflect changes made in the Project. Tab 6 contains their updated report summarizing their sound assessment for the revised Project.

Q. Is Desert Claim willing to commit to comply with the noise limits found in the Department of Ecology regulations, WAC chapter 173-60, which EFSEC has adopted by reference?

A. Yes. The modeling summarized in GEC's report predicts that noise from the Project will be no more than 50 dBA at all non-participating residential properties so we do not anticipate having any problem complying with regulations. Just to be clear, there are three locations along the Project boundary where the modeling predicts sound levels exceeding 50 dBA: At two locations along the North Branch Canal (one in the southeast portion of the Project Area and another in the south central portion of the Project Area), the modeling predicts that the sound level in the canal itself (a non-residential property) will be 52 dBA, but that it will be reduced to 50 dBA or less at the properties south of the canal. In the southwest corner of the Project area, the

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modeling also predicts that sound levels will exceed 50 dBA along the Project Area boundary. In this area, the Project has an option to purchase 1,120 acres from a property owner who will continue to own property to the south and west of the Project Area boundary. This participating property owner is aware that the modeling has predicted sound levels exceeding 50 dBA along the south and west boundaries but has agreed to a waiver of any sound limitations.

Q. Tab 7 of the Revised Application contains a report from KPFF Consulting Engineers. Can you explain KPFF's involvement in the Project?

A. This is the same report that we provided as part of the original EFSEC Application in November 2006. We retained KPFF Consulting Engineers, to determine how much of a safety setback should be maintained between turbines and residences and public roads. The engineers considered worst case scenarios for tower collapse, blade throw and ice flow, and calculated the radius of potential impacts including an additional 25% safety factor. The report documents their analysis and their recommendation that the Project use a 625-foot safety setback.

Q. Does Desert Claim propose to maintain the 625-foot safety setback?

A. Yes. All turbines will be located at least 625 feet from all residences, occupied structures, public roads, and public rights of way. With one exception, all turbines are also located at least 625 feet from the Project Area boundary. The exception concerns the new property added in the southwest corner of the Project. As part of the transaction, the property owner has agreed that turbines may be located less than 625 feet from the boundary between the portion of the property that will become part

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of the Project area and the portion of the property being retained by the current owner. However, this participating property owner has also agreed to maintain the 625-foot safety setback by ensuring that no occupied building is constructed closer than 625 feet from any turbine.

Q. Tab 8 of the Revised Application contains another report from Global Energy Concepts entitled "Shadow Mapping for Desert Claim Project." Can you explain GEC's involvement in the shadow flicker aspects of the Project?

A. Yes. In addition to the sound modeling, we retained GEC to perform shadow flicker monitoring and analysis. This report summarizes their analysis for the Revised Project configuration.

Q. What does Desert Claim propose to do to avoid or minimize impacts from shadow flicker?

A. We have located the turbines far enough away from the residences of non-participating property owners so that we do not expect shadow flicker to be an issue. Because there are only seven non-participating residences within 2,500 of a turbine and the nearest one is 1,687 feet away, we do not expect any residences to experience shadow flicker. Nonetheless, we propose that EFSEC include the same mitigation requirement in the Site Certification Agreement that it included in the Kittitas Valley SCA, specifically:

> To mitigate for shadow flicker effects, the Certificate Holder shall shut down the operation of a wind turbine generator, for the duration of such impact, upon the written request of a non-participating landowners whose residence:

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- was constructed as of November 3, 2006, or was located on a property with vested rights to build as of November 3, 2006; and
- is located within 2,500 feet of the offending turbines; and
- has a line of sight view of the turbine.

Within five (5) business days of receipt of any such request, the Certificate Holder shall notify EFSEC of the request received to mitigate shadow flicker effects. In addition, within two (2) weeks of original receipt of any such request, the Certificate Holder shall notify EFSEC of the actions taken in response. EFSEC shall retain authority to review and override the Certificate Holder's denial(s) of any non-participating landowner's request(s) in this regard.

Q. Tab 9 is a letter from Aviation System Inc. Can you explain their involvement in the Application?

A. We retained Aviation Systems Inc. to review the propose turbine configuration and design a lighting plan that would comply with FAA regulations. Tab 9 contains their report and lighting plan. When the turbine layout is finalized and before the start of turbine foundation construction, the Project will apply to the FAA for a Hazard Determination and obtain approval of the lighting plan.

Q. Tab 10 contains a document entitled "Supplemental Regulatory Information." Can you explain what that is?

A Yes. In putting together the Application, we tried to present information about the Project as concisely as possible. Since the County has already published an FEIS on the original version of the Project, we wanted to avoid repeating work that had already been done by the County. At the same time, we wanted to be sure that we

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were providing all of the information that EFSEC regulations require to be included in an Application for Site Certification. Tab 10 contains some miscellaneous information that is required by the regulations but did not really fit anywhere else.

Q. What does Desert Claim propose with respect to site restoration after the end of the Project's life?

A. In general, we expect that at the conclusion of the Project's life, the wind turbine nacelles, blades, towers, foundations, cables, and other facilities will be removed to a depth of 4 feet below grade. Areas around the Project facilities will be regraded, Project access roads will be removed (except for any roads that landowners want to remain), and disturbed lands will be restored. Prior to beginning construction, Desert Claim will post a bond or corporate surety as security to cover site restoration costs. Following the Council's past practice, we expect that the Site Certification Agreement will require Desert Claim to submit an Initial Site Restoration Plan (including proposed financial security) for the Council's approval prior to beginning Project construction.

Public Services

Q. Do you expect the Desert Claim Project to make significant demands on public services?

A. No. This is a topic that was addressed in the County FEIS in some detail, but like most energy projects, I expect the Desert Claim Project to contribute significant amounts of tax revenue to support public services but not to place much demand on public services. For example, the Project won't require public utilities to be extended

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or cause an influx of population that would put demands on public schools. The Project could call upon the services of the local fire district, but as I explained previously, we will have a fire services agreement with Kittitas Valley Fire & Rescue under the terms of which we will pay their millage rate for those services regardless of whether Project facilities are within their existing service district or not. Although I don't expect the Project to place much demand on public services, Professor Richard Mack and his colleagues at Central Washington University have estimated that the Project will contribute approximately $900,000 in annual tax revenues to local taxing districts, including the Ellensburg School District, the Cle Elum School District, the Fire District and the Hospital District, as well as County taxes for services (Sheriff, Co. Staff, etc) and County roads.

Q. In comments that Kittitas County submitted regarding the SEIS, the County recommended that video be used to document before and after conditions of roads being used for construction access (Smithson Road, Reecer Creek Road and Lower Green Canyon Road) and that Desert Claim be responsible for making any repairs necessary to ensure that these roads are returned to as good or better condition after construction as they were before construction. Is Desert Claim willing to agree to do that?

A. Yes.

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Setbacks

Q. How close are turbines located to the residences surrounding the Project Area?

A. There are nine residences located within 2,500 feet a turbine. The locations of these residences are shown on **Exhibit 11.10** to my testimony. Of those nine residences, two are owned by participating property owners.

The following table shows the distance between the seven non-participating residences and the nearest turbine.

Residence Number (See Exhibit 11.3)	Distance to Nearest Proposed Turbine
1	1,778 feet
2	2,241 feet
3	1,687 feet
4	1,694 feet
5	1,915 feet
6	1,789 feet
7	1,856 feet

Q. What are the setbacks for the Project?

A. As I explained previously, the safety setback is 625 feet. All turbines will be located at least this far from all occupied structures, public roads and above-ground utilities. This safety setback is based upon the safety hazard analysis prepared by KPFF Engineers, which I described above.

After reviewing the Council's decision regarding the nearby Kittitas Valley Wind Project, we reconfigured the turbines so that no turbine is closer to a non-participating residence than 4 times the turbine tip height, which is 1,640 feet. As

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shown on the table above, the closest residence is actually 1,687 feet from the nearest turbine.

Q. During your efforts to permit the original project through the Kittitas County process, did the County require a particular residential setback distance?

A. No. The Kittitas County Code does not include a specific setback requirement, and during our various meetings with staff and public hearings before the Board of County Commissioners, representatives of the County never told us that a particular setback distance would result in the County's approval of the Project. Early in the process, we proposed a 1,000-foot setback from existing residences, which is a pretty standard setback in the industry, and the County Commissioners seemed satisfied with it initially. Much later in the process, however, the County Commissioners, County attorney and Planning Department staff mentioned setbacks of 2,000 feet, 2,500 feet or one-half mile from time to time. The numbers shifted enough over time that we have never felt confident that if we agreed to any one of those numbers, the County would have approved the Project.

For us, the County process began in 2002 with our first pre-application meeting and continued until the Board of County Commissioners issued their decision in April 2005. Throughout that time we had numerous meetings with Community Development Services staff and public meetings and hearings with the Board of County Commissioners to discuss issues, including setbacks. **Exhibit 11.11** is a CD containing transcripts of the Board of County Commissioner hearings. **Exhibit 11.12** is a letter regarding setbacks that we sent to County staff on December 20,

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2004. **Exhibits 11.13, 11.14** and **11.15** are three progress reports submitted to the Board of County Commissioners describing changes made to the proposed Development Agreement to address issues, including setbacks, raised by the Board of County Commissioners. **Exhibit 11.16** is the Board of County Commissioners' final decision. These documents reflect our efforts to propose alternatives and to try to reach agreement with the Commissioners and staff about the appropriate setback distance. However, they also show the unwillingness of Commissioners and staff to ever indicate what setback would be acceptable to the County.

Q. Have you tried to reach agreement with the County about setbacks since starting the EFSEC process?

A. Yes. We tried to meet with the Commissioners to discuss the distance between turbines and residences in 2006 (both before and after submitting our Application for Site Certification), but the County Commissioners have not been willing to meet with us. In May 2007, we met with Darryl Piercy, who was then the Kittitas County Director of Community Development Services. He told us that he believed that the Board of County Commissioners would require a 2,500-foot setback from existing residences unless there were site-specific reasons justifying a lesser distance. However, when we asked to meet with the Commissioners to discuss this issue directly, the Commissioners refused to meet with us. Attached as **Exhibit 11.17** is a copy of the letter dated May 22, 2007, that we received from Darryl Piercy, and **Exhibit 11.18** is a copy of a letter dated June 1, 2007, that I wrote in reply.

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Q. Why hasn't Desert Claim simply agreed to a 2,500-foot setback?

A. We propose to use the setbacks that EFSEC recently determined were appropriate for a very similar project located near the Desert Claim Project. We felt that EFSEC had carefully balanced the pros and cons of greater or lesser setbacks and came to a reasonable conclusion to require a setback of at least four times the height of project turbines. The Governor ultimately approved the project with turbines at that distance from residences.

Q. Are there any reasons that EFSEC should not require a larger setback?

A. Yes. There are several reasons. First, we do not believe a larger setback is necessary to avoid or mitigate the Project's impacts. The modeling performed by GEC indicates that the current setback distances are sufficient to ensure compliance with the state noise regulations, and to avoid shadow flicker. The analysis of visual impacts presented by David Blau also indicates that the setbacks are more than sufficient to prevent turbines from appearing to loom over nearby residences.

Second, increasing the setbacks would require Desert Claim to reduce the number of turbines in the Project, which would reduce the amount of renewable energy that the Project generates. The Project would offset less fossil fuel-generated power, which means more fossil-fuel related environmental impacts, such as air pollution, greenhouse gas emissions, and large uses of water. In adopting I-937, the people of Washington required a significant percentage of Washington's electricity to come from renewable sources. Requiring greater setbacks would mean that more wind projects would be required to achieve I-937's goals, which would make compliance

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more expensive for utilities and their ratepayers. Ironically, by requiring more projects to be sited, greater setbacks would likely also mean that more Washington residents would find themselves living near wind power projects and being affected by changes in their views.

Third, the reduction in turbines that would result from requiring greater setbacks would also result in a corresponding reduction in the local and statewide economic benefits associated with the Project. Professor Mack will be offering testimony about the Central Washington University study that estimated that the Project would generate $17.3 million in economic activity in Kittitas County during construction and $2.8 million annually during operations, in addition to approximately $1.2 million in annual property tax revenues. If, for example, the number of turbines were reduced by 10, it could cost the local community $1.8 million in economic activity during construction and $125,000 annually in tax revenue. Similar reductions would occur to economic activity and tax revenue at the state level.

Fourth, the reduction in turbines would also have a significant effect on the Project's economics. A commercial wind project has many costs that are relatively fixed, including costs of permitting, transmission grid interconnection and facilities that must be constructed regardless of the number of turbines. With these fixed costs, the marginal cost of electricity goes up as we reduce the number of turbines. That has an implication for the owners of the project, but also affects cost of electricity for the ratepayers.

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Q. What would a 2,500-foot setback mean for the Project?

A. Looking at the current configuration, increasing the setback to 2,500 feet could eliminate up to 10 turbines, or 20 MW of capacity.

Q. How does the residential setback that you are proposing compare to the setbacks required by other jurisdictions?

A. I have not done a comprehensive review of all of the wind power regulations, ordinances and permitting decisions, but I do know that the 1,687 feet minimum in Desert Claim's configuration is a larger setback than what is typically required in my experience.

I am aware of a couple of counties in Washington that have enacted ordinances that establish specific setback requirements for wind projects. The Garfield County Zoning Ordinance requires turbines to be a minimum of a quarter mile or 4-times-tip-height from turbines from existing residences. The Klickitat County Zoning Ordinance requires turbines to be at least 200 feet away from existing residences.

I am also aware of a few states that have developed model ordinances or siting guidelines that address setbacks and all of those require less distance between turbines and nearby residences.

State	Setback
Massachusetts Model Ordinance	1.5 times tip height from residence

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Michigan Siting Guidelines	Tip height from property line
Minnesota Model Ordinance	750 feet from residence 1.1 to 1.25 times tip height from property line
New York Model Ordinance	At least tip height from residence
Oregon Model Ordinance	1.5 times tip height from property line
Wisconsin Model Ordinance	1000 feet or 2 times tip height from residence

Preemption

Q. Desert Claim filed a Request for Preemption on June 28, 2007. Is Desert Claim still requesting preemption?

A. Yes.

Q. You submitted a Declaration dated June 27, 2007, which has been attached as Exhibit 11.19. Is your declaration still true and accurate?

A. Yes. Some of the people mentioned in my Declaration no longer hold the positions that they held at that time, but the chronology of events remains accurate.

Q. Can you summarize the process that Desert Claim went through at the County level prior to filing an Application with EFSEC?

A. Yes. In January 2003, we filed an application with Kittitas County to obtain the approvals required under the County's wind permitting provisions, Kittitas County

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Code chapter 17.61. The original application proposed a 180 MW wind power project, with 120 – 1.5MW turbines spread out over 5,237 acres.

For more than two years after filing the application, Desert Claim worked with County staff and consultants to try to address issues that arose and participated in numerous meetings with and hearings before the Board of County Commissioners (BOCC). Desert Claim pursued this County permitting process in good faith. The company spent hundreds of thousands of dollars and countless person-hours on the county permitting process. When County Commissioners, County staff or members of the public identified concerns, we tried to propose workable solutions designed to address those concerns. For example, during the time from October 2004 through March 2005, we had many public meetings with the County Commissions in which we discussed with them proposed solutions to shadow flicker, project decommissioning, project access roads and road extensions, fire services agreement, and complaint resolution process, as well on possible setbacks. However, even when the County Commissioners issued their final decision denying the project, we were still not able to understand what it would take to make the Project acceptable to the Commissioners.

A detailed chronology of the County process is provided with my previous declaration (**Exhibit 11.19**).

Desert Claim appealed the BOCC decision to Superior Court. The Court upheld the County's decision, but in doing so, found that "Desert Claim made extraordinary

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efforts to satisfy two different boards of county commissioners over the process of the application it submitted to the County." **Exhibit 11.20** is a copy of the Superior Court decision.

Q. In connection with filing the initial Application with EFSEC in November 2006, did Desert Claim make additional efforts to try to resolve Kittitas County's concerns about the project?

A. Prior to filing the Application, Darin Huseby, who was then enXco's Development Director for the Northwest Region met with each of the Kittitas County Commissioners to discuss the changes we made to the Project. On November 6, 2006, I hand-delivered copies of the Application to each of the Commissioners and to the Director of Community Development Services.

On November 30, 2006, Desert Claim sent a follow-up letter to the Commissioners, asking to meet with them and expressing the hope that the company and the County would work together to resolve any issues. A copy of that letter is provided as **Exhibit 11.21.** We then received a letter from then Commissioner Bowen dated December 5, 2006, stating that the County had "no interest" in "making a decision on the project" outside the process outlined by KCC chapter 17.61A. A copy of that letter is provided as **Exhibit 11.22**.

In January 2007, EFSEC held a land use consistency hearing in Ellensburg, and found that the Project was not consistent with the Kittitas County land use requirements in existence at the time because the County had denied the required

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approvals for the Project. In March 2007, we filed a motion with EFSEC asking the Council to determine that Desert Claim had satisfied the requirement under the Council's old regulations (which have since been repealed) to make reasonable efforts to cure inconsistencies with local land use requirements. During the course of briefing that motion, Desert Claim offered to spend another thirty days meeting with the County to try to identify and resolve any County concerns.

On May 17, 2007, we met with Kittitas County Community Development Services Director Darryl Piercy. At that meeting, he explained that, with the changes we had made to the Project, he believed the Commissioners' only remaining concern would be the residential setback. He believed that the Commissioners would want a 2,500-foot setback. However, Mr. Piercy also acknowledged that the BOCC had the responsibility for making decisions under the County Code. We, therefore, requested an opportunity to meet with directly with the Commissioners. By letter dated May 22, 2007, Mr. Piercy explained that the Commissioners declined our request to meet with them. A copy of that letter is provided as **Exhibit 11.17**.

Soon afterwards, we filed our Request for Preemption with the Council.

Q. In connection with the February 2009 Revised Application, have you made any further efforts to determine whether the County is satisfied with the revised Project?

A. Yes. Prior to filing the Revised Application, I directed our attorney to contact the County's attorney to alert him that we had modified the Project, that we would be

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filing a revised Application, and that we would be happy to sit down at any point if the County had any remaining concerns that they would like to discuss. I also directed our attorney to reiterate this offer when we saw the County's attorney at the Prehearing Conference in Ellensburg in April. As of this date, however, we have not heard back from the County's attorney or County officials.

Additionally, our local consultant hired for community relations dropped off a copy of the economic study for each of the Commissioners with a note to call if they had any questions. We also invited all of the Commissioners to the public information meeting on the evening of March 5, 2009, in which Professor Mack presented the findings of the Central Washington University study regarding the Economic Impacts by the Project on Kittitas County.

Q. Since filing the Revised Application have you taken steps to inform the local community about changes in the project?

A. Yes. Desert Claim maintains an office in Ellensburg. During the past eight years, and in particular during the past few months, I have spent considerable time in Ellensburg, meeting with people informally to discuss the Project. In addition to these informal meetings, we have made the following more formal presentations:

- Project presentation and presentation of the CWU report entitled "Economic Impacts to Kittitas County of the Proposed Desert Claim Wind Power Project" at public meeting jointly hosted by the Ellensburg Chamber of Commerce and the Economic Development Group of Kittitas

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County on March 5, 2009. Approximately 75 members of the community attended the meeting.

- Presentation to the Ellensburg School Board on March 11, 2009.
- Presentation to Kittitas Valley Fire and Rescue on March 12, 2009.
- Presentation to Ellensburg Morning Rotary Club on March 16, 2009.
- Presentation to Generations (young entrepreneurs group) on April 7, 2009.
- Presentation to Ellensburg Noon Rotary Club on April 8, 2009.

Since March, I have also had meetings with the CFO of Kittitas Valley Community Hospital, the Superintendent and CFO of Ellensburg School District, the Executive Director of Ellensburg Chamber of Commerce, the Executive Director of Economic Development Group of Kittitas County, the Kittitas County Assessor, and Central Washington University representatives from their environmental studies and business departments. In addition, members of the Project team have met with all of the 13th District legislators, including Senator Holmquist, Representative Hinkle and members of Representative Warnick's staff. I have also been able to talk with many private individuals that have contacted me about the Project.

Q. Does that conclude your testimony at this time?

A. Yes.

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