

BEFORE THE STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

In the matter of:)
 Application No. 2006-02) Land Use
) Consistency Hearing
)
 DESERT CLAIM WIND POWER PROJECT) Pages 1 - 61
 _____)

A Land Use Consistency Hearing in the above matter was held in the presence of a court reporter on January 30, 2007, at 7:00 p.m., at the Kittitas Valley Events Center, Home Arts Building, 512 North Poplar Street, in Ellensburg, Washington before Energy Facility Site Evaluation Councilmembers.

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JUDGE TOREM: Good evening, Folks. We will be on the record now in the Land Use Consistency Hearing. My name is Adam Torem. I'm the Administrative Law Judge. I work for the Office of Administrative Hearings in Olympia, Washington and I'm here tonight with the Energy Facility Site Evaluation Council or EFSEC.

This is the matter of Application No. 2006-02, the EnXco, Incorporated, Desert Claim Wind Power Project. Today is January 30, 2007. It's a little after seven o'clock in the evening. We're at the fairgrounds in Ellensburg, Washington, and we have a court reporter as usual to record the proceedings tonight.

I am going to go down the table here and have Allen Fiksdal perhaps point at each of the Councilmembers and have them introduce themselves and then we'll explain

1 the purpose of this land use consistency hearing.

2 MR. SWEENEY: Good evening. My name is Tim
3 Sweeney. I'm with the Washington Utilities and
4 Transportation Commission.

5 MR. FRYHLING: I am Dick Fryhling and I'm
6 with the Department of Community, Trade, and Economic
7 Development.

8 MR. CREWS: I'm Kyle Crews with the Attorney
9 General's Office. I represent the Council.

10 CHAIR LUCE: I'm Jim Luce. I'm Chair of the
11 Energy Siting Council.

12 AUDIENCE MEMBER: We can't hear.

13 CHAIR LUCE: I am Jim Luce and I'm Chair of
14 the Energy Siting Council.

15 MS. WILSON: I am Judy Wilson. I'm with the
16 Department of Natural Resource.

17 MR. TAYER: I am Jeff Tayer. I am with the
18 Department of Fish and Wildlife.

19 MS. JOHNSON: Patty Johnson and I'm Kittitas
20 County's representative.

21 JUDGE TOREM: Thank you. We're missing
22 Hedia Adelsman from the Department of Ecology. She
23 couldn't make it for this and she will review a transcript
24 so she knows what occurred.

25 This hearing tonight is the land use

1 hearing. You will recall you were here some time ago for
2 the initial informational meeting to explain the purpose
3 of what the EFSEC Council does and what this project, the
4 Desert Claim Wind Power Project is proposing to do.

5 Tonight we're here under Revised Code of
6 Washington 80.50.090(2) and Chapter 463-26 of the
7 Washington Administrative Code, particularly Chapter
8 463-26-050, and that requires that the Council hold a
9 hearing to determine whether this proposed project is
10 consistent or not with local land use plans and the zoning
11 code here in Kittitas County.

12 Now, I anticipate that we're going to have a
13 very short presentation from the Applicant and a short
14 presentation from the County as to their individual
15 opinions as to the consistency and thereafter we open it
16 up to public comments. We've had public comment on this
17 project before and we will have public comment on this
18 project again if the process continues. And as we go
19 through public comments tonight though because this is a
20 land use consistency hearing should be focused on whether
21 there's an issue with the zoning code, with the land use
22 plan, or something to do with land use.

23 So tonight as much as people may want to
24 voice pro or con wind power issues in general, I'm going
25 to ask you to keep your comments limited to land use

1 issues because that's what this hearing is about. At the
2 informational hearing it was much more wide open. We're
3 going to have some very much more wide open opportunities
4 for public comment in the future when we come back for
5 either an adjudication if we get that far or any other
6 public hearings.

7 So tonight I have a list already of 20 folks
8 that have signed up. If your comments are not going to be
9 particularly directed to land use, I will interrupt you
10 and ask if you have land use directed comments. But for
11 the sake of folks that are here tonight about the land use
12 consistency issue I'll try to ask you to limit it. If
13 you've got to say something tonight, if you can keep it
14 short, well, fine. I won't interrupt you until we get the
15 first 30 seconds or minute to sort out where you're going.
16 It's on use though. We're going to give three minutes per
17 person, and I'll be holding up something that tells you
18 when you have one minute left and when your time is done.
19 As we've done in the past please come and recognize we do
20 have a court reporter. So if you can speak into the
21 microphone so the rest of you can hear. If you can also
22 speak at a slow and deliberate pace, that way she can take
23 it down. And look up at me every once in a while to see
24 where you are. I'll be showing the one minute sign or the
25 time to please bring it to an end.

1 Written comments can be given to
2 Mr. Fiksdal, and if you've already handed your written
3 comments into Ms. Talburt at the entrance table there, the
4 Council will get copies of those. They will also become
5 part of the record at this hearing.

6 Let me ask the Applicant who's going to
7 speak on behalf of EnXco whether this project is
8 consistent with local land use plans or zoning codes.

9 MS. MCGAFFEY: Good evening, Councilmembers
10 and Judge Torem. My name is Karen McGaffey and I
11 represent Desert Claim Wind Power in these proceedings.

12 In connection with my presentation tonight,
13 I am going to be referring to three figures and I think
14 all the Councilmembers were going to have copies of these.
15 And I know that the Council is familiar with the basic
16 project description from the application that you received
17 in November of last year, but let me just summarize for
18 everyone here that the Desert Claim Project consists of 90
19 turbines located on approximately 4,800 acres northwest of
20 the town of Ellensburg. The first figure in your packet
21 which was also a figure that was found in the original
22 application shows where the project area is located
23 relative to downtown Ellensburg, the interstate highway
24 system, and the transmission lines. So you can see the
25 general location.

1 The project area is made up of land that's
2 owned by five private landowners, as well as land owned by
3 the Washington Department of Natural Resources. The
4 project area itself lies in Kittitas County and it's
5 therefore governed by the Kittitas County Comprehensive
6 Plan and the zoning regulations that are found in Chapter
7 17 of the Kittitas County Code. The second figure in your
8 packet is a map from the Kittitas County Comprehensive
9 Plan, and you will see that different shades refer to
10 different designations in that plan, and the entire
11 project area falls within an area that has been designated
12 rural by the comprehensive plan.

13 The third figure in your packet is a map
14 from the Kittitas County Zoning Code. Again, different
15 color shadings refer to different zoning designations in
16 the county code. You'll see that the project area falls
17 within two different zoning areas. The southern portion
18 or the southern half of the project falls within an area
19 that's been zoned Ag 20 for agricultural use with 20 acre
20 minimum parcel size. The approximate half of the project
21 to the north is located within the zoning district known
22 as forest and range. Desert Claim believes that the
23 proposed project is compatible with existing land uses in
24 the vicinity of the project area, and that it's consistent
25 with the policies and goals outlined in the Kittitas

1 County Comprehensive Plan and Zoning Code. Nonetheless,
2 Desert Claim acknowledges that the project has not
3 obtained the county approvals required under the Kittitas
4 County Code.

5 I know from processing other applications
6 this Council is quite familiar with the Kittitas County
7 Code Provision so I won't belabor them in great detail;
8 however, for the record let me just summarize that under
9 the Kittitas County Zoning Code there is no zone in which
10 a wind power project is an outright permitted use.

11 Instead under the code or rather the code provides that
12 wind farms may be authorized in areas such as the project
13 area chosen in this case that are zoned as Ag. 20, forest
14 and range, commercial agricultural and commercial forest.
15 Under the Kittitas County Code Provisions a wind project
16 proposed in one of these types of areas requires three
17 different approvals.

18 First, a wind farm resource development
19 permit with an accompanying development agreement;
20 secondly, a site specific amendment of the comprehensive
21 plan; and, thirdly, a site specific rezone to designate
22 the project area as open farm resource overlay zoning
23 district.

24 In January of 2003, Desert Claim submitted
25 an application to the county in an effort to obtain those

1 three approvals. The county accepted the application as
2 complete and proceeded through its process which included
3 among other things the preparation and publication of a
4 Final Environmental Impact Statement.

5 In April 2005, at the conclusion of that
6 process the Board of County Commissioners denied Desert
7 Claim's application. So at this point the project does
8 not have the approvals that are required under the county
9 code. Thank you.

10 JUDGE TOREM: Thank you.

11 From Kittitas tonight, Mr. Hurson, are you
12 making a presentation? Ah, Mr. Piercy.

13 MR. PIERCY: Members of the Board, good
14 evening. For the record, Darryl Piercy. I'm Director of
15 Community Development Services for Kittitas County.

16 JUDGE TOREM: Let me ask Mr. Hurson whether
17 or not he wants you to give testimony or just a summary.
18 Mr. Hurson, did you want this to be sworn testimony or we
19 can do it either way?

20 MR. HURSON: I don't think it's necessary.
21 If you want to swear him in you can.

22 JUDGE TOREM: We'll take it as a summary
23 then. Thank you.

24 MR. PIERCY: Thank you. Before I begin
25 there's three items I would like to introduce into the

1 record. The first of those is actually a letter that was
2 received in your office this afternoon submitted by
3 William Erickson. He believed that he was submitting it
4 to the right location. We accepted the letter on behalf
5 of EFSEC and I'll be submitting that into the record on
6 his behalf. I would also like to submit to you out of the
7 Kittitas County Code Chapter 17.61A. This is the chapter
8 of the code that specifically deals with wind farm
9 resource overlay zones as referred to the previous
10 speaker's comments.

11 In addition, I will be submitting into the
12 record Resolution No. 2005-46. This is the resolution
13 adopted by the Board of County Commissioners in the matter
14 before them in consideration of the Desert Claim
15 application. This was the denial of that application.
16 The reason I wanted to introduce the resolution that was
17 adopted by the Board of County Commissioners that denied
18 the Desert Claim Wind Power Project application to
19 Kittitas County was to demonstrate that that in fact was
20 the application that had been reviewed, had gone through
21 the local process, was judged and reviewed according to
22 Kittitas County code that was ultimately denied.

23 Now, you do not have before you this evening
24 a request for preemption of that action. There was court
25 action which took this project forward, and that was found

1 to be in favor of the County in terms of the decision. We
2 consider this application at this point in time dead, and
3 that the issue before you for consideration this evening
4 is actually a new application that has been submitted on
5 behalf of the Desert Claim Project to the EFSEC board.
6 This is not an application that we have considered or have
7 reviewed at the local county level; therefore, as was
8 clearly explained by the previous speaker the process for
9 Kittitas County in terms of the land use review has not
10 been undertaken for the application before you.

11 I think it's very important to identify and
12 have the distinction between the previous application
13 which was denied and the new application before you which
14 actually sits on other lands. Although part of the
15 application may look like the old application, it is not.
16 It's substantially modified and it involves different
17 areas of the county, and it involves different zoning
18 districts in the county. The Kittitas County Code Chapter
19 17.61A is very clear. It outlines the process in which
20 one must go through in order to be granted local land use
21 consistency. There are very specific requirements in
22 terms of what is necessary to be obtained from Kittitas
23 County in order to have that distinction of being
24 consistent with our local land use requirements.

25 Now, we have had wind power projects that

1 have gone through the process as you know and have been
2 very successful in obtaining the necessary approvals from
3 Kittitas County to move forward with the construction of
4 their project. Wild Horse is clearly the example of how
5 that process works, how where when properly located and
6 properly mitigated the process can reach local land use
7 consistency and move forward.

8 Now, in the resolution that I provided to
9 the Board this evening, the Board of County Commissioners
10 were very clear in terms of their rationale and their
11 reasoning behind the denial of the original Desert Claim
12 Project. That was challenged in a court of law. It was
13 found to be in favor of Kittitas County, and it has not
14 gone forward to this Board seeking preemption of that
15 action.

16 The new application before you needs to go
17 through a similar process. If in fact as the Applicant
18 has stated in their literature that's been submitted as
19 part of their application they've learned from that
20 original application and have made improvements, then it
21 is important for the local jurisdiction, Kittitas County,
22 to see what those improvements might entail and how they
23 in fact would comply and be consistent with local land use
24 requirements.

25 We're anxious to be able to do that. We're

1 anxious to be able to take this project through the
2 process to see how it compares to the requirements of
3 Kittitas County, to see how the issues that were outlined
4 in the original Environmental Impact Statement for the old
5 project and will I'm sure be incorporated into the new
6 project in some fashion, how those identified mitigation
7 measures are going to be included in their new
8 application. There were clearly issues associated with
9 that environmental impact statement that went unmitigated
10 in the original application before Kittitas County. That
11 is in part the reason why the original application was
12 denied. But you can see through the findings of facts
13 that were developed by the Board of County Commissioners
14 that there were many other issues that were of importance
15 to the local citizens of Kittitas County and ultimately to
16 our elected officials who made that decision.

17 But, again, we're anxious to look at that
18 application. We're anxious to have it go through our
19 local process if in fact there are substantial
20 improvements to the project, and they can find mitigation
21 measures to meet those adverse impact that were identified
22 in the environmental impact statement prepared on behalf
23 of the applicant for this project. We would be more than
24 willing to look at those and take those through our
25 processes and see how they compare with the requirements

1 of our local codes.

2 I would be happy to respond to any questions
3 that the Board might have.

4 JUDGE TOREM: Mr. Piercy, you said that the
5 resolution and its findings of fact detail the rationale
6 for denial of the original application. Are those
7 explanations to be found in the findings of fact?

8 MR. PIERCY: I believe you'll find those
9 within the findings of fact. Although the resolution does
10 touch on some of the more process of the County's efforts,
11 the findings of fact actually begin to detail the
12 rationale and the reasons why that original application
13 was denied.

14 JUDGE TOREM: Because I'm looking at
15 findings of fact that looks like Paragraphs 7(b), perhaps
16 7(c). I haven't gotten to paragraph 8 yet. It may have
17 the actual reasons that the Board was unable to make
18 findings regarding the public health, safety, and welfare.
19 7(b) seems to be the actual reasoning. Are there other
20 places? because I think we're sitting with the clock
21 running. So I'm looking at this, and I just want to be
22 able to direct the Councilmembers to those pertinent
23 paragraphs where we can.

24 MR. PIERCY: I think you'll also find that
25 Item No. 8 there has identified issues pertaining to the

1 proximity to local residences as well as compatible uses.

2 JUDGE TOREM: Councilmembers, any questions
3 for Mr. Piercy?

4 MR. TAYER: So let me try to summarize your
5 summary here. Are you saying that you don't know whether
6 this application is from your County's perspective
7 consistent with your land use?

8 MR. PIERCY: Well, it's clear that it is not
9 because it has not met the criteria required under our
10 zoning code in order to become consistent with our local
11 land use. Because we have not had an opportunity to
12 review it through our local process the requirements of
13 our code could not be met. We would require that it go
14 through our process in order to be able to issue the
15 subarea plan, the amendment to our comprehensive plan, the
16 overlay zone to our zoning map. All of those items must
17 be in place along with the development agreement in order
18 for this project to be consistent with our local land use
19 codes.

20 JUDGE TOREM: So it seems to be there's
21 agreement from the Applicant and the County that at this
22 time, this project, the current application before EFSEC
23 is not consistent with local land use plans or zoning
24 codes.

25 MR. PIERCY: That's certainly the position

1 of the County. I would not speak for the Applicant.

2 JUDGE TOREM: I'm getting a nod that the
3 Applicant concurs with that.

4 All right. So thank you, Mr. Piercy.

5 MR. PIERCY: Thank you.

6 JUDGE TOREM: At this point of the meeting
7 the Council will hear public comment, but I want the
8 public commenters to understand what happens at this point
9 that at the end of the meeting the Council according to
10 WAC 463-26-110 shall make a determination as to whether
11 the proposed site is consistent and in compliance with
12 land use plans, and if it's not, we pick up in the WAC
13 463-28-030. If the Council tonight determines during the
14 hearing that the site of this proposed facility is not
15 consistent and in compliance with the local land use plans
16 and zoning ordinances, then several things have to happen.

17 As a condition necessary to continue
18 processing enXco's application it is the Applicant's
19 responsibility to make the necessary application for the
20 change in or permission under the land use plans and
21 zoning ordinance and then make all necessary and
22 reasonable efforts to resolve noncompliance. There's some
23 other details there about staying the process and the
24 timing, but the Applicant while they're trying to resolve
25 those inconsistencies has to come back and make regular

1 reports to the EFSEC Council.

2 Those will probably be made at the EFSEC
3 Council's monthly meetings that are held in Olympia and
4 there will be a block on the agenda for the folks that
5 want to call in or perhaps participate by telephone. The
6 Council handles a number of other issues and won't be
7 coming to Ellensburg for the updates, but those updates
8 will ask that the Applicant reduce them to writing and
9 make them available perhaps through the County's office
10 here or some other way on our website. But folks that
11 feel like the updates are not including you here in the
12 valley they'll be available to you and we'll have written
13 updates. Also if you participate in those future
14 meetings, we will have a call number for folks. I don't
15 know what the capacity will be, but if we get e-mails in
16 advance that say we're going to be calling in, we'll make
17 sure the line has sufficient capacity as much as
18 technology allows. So I just want people to know that's
19 where we'll go from there and I would anticipate that the
20 Council later this evening after hearing your comments,
21 having heard no evidence yet tonight that it is consistent
22 will be making the finding I've described and requiring
23 the Applicant to proceed under WAC 463-28 and proceed with
24 the required actions when there is noncompliance.

25 Now, if they don't come back within 90 days

1 or get an extension that's agreed to by the Council, then
2 at this point Mr. Piercy would have said the application
3 before EFSEC will be dead. It can't go further unless
4 they file a request for preemption or they ask for an
5 extension after those 90 days. So you can mark your
6 calendar three months from now that the Council will have
7 either extended the deadline to resolve noncompliance or
8 they will have filed a request for preemption and then
9 we'll determine what the next steps should be to schedule
10 an adjudication in the matter.

11 Councilmembers, anything else to add
12 procedurally?

13 CHAIR LUCE: A question, Judge Torem. I
14 think I heard the Applicant say this project is not
15 consistent, and I think that's the position of the
16 Applicant. I think I also heard the County say this
17 application is not consistent. So the purpose of the
18 hearing tonight is to determine whether it's consistent.
19 So I guess nobody signed up to say whether they're
20 testifying that it's consistent or not consistent. I
21 guess just having heard what I heard from the Applicant
22 and from the County is anybody out there testifying that
23 it is consistent?

24 JUDGE TOREM: One or two.

25 CHAIR LUCE: All right. We'll have some

1 people testifying it is consistent. All right. That's
2 what I was curious about.

3 JUDGE TOREM: As much as you already are
4 reading this from me as well, folks, that the purpose
5 again tonight the WAC, the Administrative Code under
6 463-26-060 requires that we publicly announce tonight that
7 opportunity for testimony by anyone shall be allowed, but,
8 again, it specifies it has to be relative to the
9 consistency and compliance with land use plans and zoning
10 ordinances. So, again, limit your testimony in that
11 regard. If it's going to be just simple comments on the
12 wind project after about 30 seconds to a minute, I will be
13 interrupting. We have 20 people listed. Several of them,
14 a few have asked that--is it Mark Fickes?--make the
15 announcements on their behalf and use their time. That's
16 Mike Robertson and Liz Robertson have dedicated time. We
17 have heard from Mr. Jamie Carmody that he was going to do
18 that. I think you're standing in for him tonight. So
19 when I call Mr. Fickes up, he's going to speak for a
20 little bit longer because the time has been seated to him.
21 We've allowed that process before so you can consolidate
22 the comments. Everyone will be given three minutes and,
23 Mr. Fickes, by the sheet I think I will give nine minutes,
24 and we'll hope that you can wrap it up with less than that
25 as well.

1 The first speaker as usual, Mr. Lee Bates.
2 He will be followed by Jeff Howard and David Lee.

3 COMMENTS BY LEE BATES

4 I am Lee Bates from 1509 Brick Road,
5 Ellensburg. I represent myself. I am against EFSEC and
6 the Governor being involved in this wind farm issue for
7 the following reasons:

8 Growth management and the comprehensive plan
9 is Kittitas County planning its own growth without
10 government interference. Having EFSEC and the Governor
11 decide whether or not we need another wind farm I feel is
12 a violation of the principle of growth management. EFSEC
13 should not be able to override the County. This issue
14 should be resolved at the local level without the state
15 getting involved.

16 JUDGE TOREM: Thank you, Mr. Bates.

17 Jeff Howard.

18 COMMENTS BY JEFF HOWARD

19 My name is Jeff Howard, 21 Fawn Road, Cle
20 Elum. When the Applicant first came to this county, it
21 made public statements to the effect that it would apply
22 for its project at the county planning level and abide by
23 that decision, whichever way it went.

24 Upon examination of that application the
25 Planning Commission recommended against it for numerous

1 reasons; specifically including that it was not compatible
2 with the uses of the surrounding land. When the Board of
3 County Commissioners took up the matter, they also after
4 much additional public input and deliberation voted no.
5 The Applicant then took the issue to court in an attempt
6 to get the judge to override the County decision. That
7 effort failed. Then they submitted the application to
8 this commission in an attempt to get a preemption order
9 which would supposedly bring the Governor in to act
10 against the prior rulings of Kittitas County and its
11 citizens. So here we are with the Applicant refusing to
12 honor their original commitment to abide by the County
13 regulations and instead taking a third bite at the apple.
14 It's obvious their original promises have been broken and
15 here they are with no credibility asking the state
16 commission to give them what they want.

17 This project is not and never will be
18 compatible with the uses of the surrounding land. An area
19 of homes, farms, mini ranches, and recreational properties
20 is not a good location in which to draft a huge industrial
21 installation that will degrade property values and
22 irritate the residents for 30 plus years to come.

23 The facts involved here were considered very
24 carefully by this County, and the Applicant has basically
25 been told to look elsewhere. There are appropriate

1 locations in this county about 20 miles east of here for
2 their project. There is no compelling reason whatsoever
3 to allow them to blight this area with their massive,
4 intrusive machines to the direct detriment of all who live
5 and work here. Thank you.

6 JUDGE TOREM: Thank you, Mr. Howard.

7 David Lee and then, Mr. Fickes, you will be
8 up next.

9 COMMENTS BY DAVID LEE

10 Good evening. I'm David Lee. I live at
11 5821 Robbins Road in Ellensburg. I have three issues too,
12 but I'll probably pass on at least one of them. But I
13 don't think the Applicant should be allowed to continue
14 this process in this County without starting over again.
15 I have a couple hundred acres up where I'm at and the DNR
16 land it's right behind me. And it's an issue for me
17 because I have cattle on my property. And based on what I
18 saw in this year's hunting pamphlet, I would be afraid to
19 step anywhere close to that wind farm project up near
20 Whiskey Dick or Wild Horse where it's called because
21 you're not allowed to be on it.

22 So what happens if the cattle in my land
23 wander over because of the fences and items like that and
24 I have to go get them? And what if I'm on a horse, what
25 if I'm on a quad, and I have to retrieve these cattle

1 under wind farms that are going to be right behind me?

2 So with that in mind and the tourism in
3 Kittitas County and you got a nice pamphlet here put out,
4 you know, I don't see where any of it includes winds
5 farms. And, yeah, they're good in the right place, and a
6 quarter mile from where I live I don't want to see them.
7 Thank you.

8 JUDGE TOREM: Thank you. Mr. Fickes.

9 When Mr. Fickes is done, Helen Wise will be
10 next and then Tina Sands.

11 COMMENTS BY MARK FICKES

12 Your Honor, Councilmembers, my name is Mark
13 Fickes, F-i-c-k-e-s. I'm a partner in Velikanje, Moore &
14 Shore, a law firm in Yakima, and I'm here subbing on
15 behalf of my partner, Jamie Carmody. He's participated in
16 most phases of this project.

17 We're here on behalf of the Residents
18 Opposed to Kittitas County Turbines, a large group of
19 landowners and property owners that believe that there's
20 compatibility concerns which warrant denial of this
21 project. They understand or I hope most of them
22 understand that tonight's not the time to go into all
23 that. It should be a relatively short hearing. I've
24 heard the Applicant say it. I've heard the County say as
25 a matter of law the project's not consistent with the

1 comprehensive planning and zoning code. I agree with that
2 wholeheartedly, but I think the Applicant's being a little
3 cute.

4 When Ms. McGaffey got up here and spoke, she
5 clearly thinks and believes, this Applicant believes this
6 is the same application that was processed, started in
7 2003 that has been in fact denied by the Planning
8 Commission, the County commissioners, and upheld by the
9 Court.

10 Mr. Piercy is absolutely correct. The key:
11 this is a different application. There are material
12 changes, and the interesting issue that this Board needs
13 to decide once it determines that it's inconsistent is
14 what the process is. Mr. Piercy and the County and ROKT
15 believes that the County should be given the opportunity
16 to go through its wind energy resource overlay project.

17 In other words, before this Board has any
18 other hearings process, it should allow the County the
19 opportunity to review the modified amended application.
20 Different property, different turbines sets, bigger
21 turbines their impacts are different. The outcome may or
22 may not be the same. But the County is legally entitled
23 and the citizens of Kittitas County are legally entitled
24 to have that process repeated, and it was repeated because
25 of what the Applicant did. The Applicant chose, and I

1 think they were actually being responsible in this case,
2 they chose to make material modifications to the project.
3 What they're not going to like, of course, is that does
4 slow the process down a little bit.

5 There's four processes that the County needs
6 to go through: site specific comp. plan amendment, site
7 specific rezone, develop permit application, and
8 development agreement. And, again, as Mr. Piercy told you
9 that's not a foregone conclusion. That doesn't mean it's
10 going to be denied. This County has responsibly sited at
11 least one wind farm project, the Wild Horse Project that
12 this Board is familiar with. Again, that is the issue
13 that's of importance today. I know, I can tell the
14 Applicant does not agree with that process, and that's why
15 the County is here. That's why we're here.

16 So I guess real simply what we would like I
17 believe my partner Jamie Carmody filed a letter as part of
18 the record here, and the easy thing to do would be for
19 this Council to issue an order almost identical to the
20 order it issued on the Kittitas Valley Project. I think
21 that's Order No. 776, if I have it right, that basically
22 puts this process on hold. You don't get to the
23 preemption issue until this new application filed in
24 November goes through the process again, and those are all
25 the comments I have at the present time. Thank you.

1 JUDGE TOREM: Thank you, Mr. Fickes.

2 Helen Wise.

3 COMMENTS BY HELEN WISE

4 I am Helen wise. I live at 1106 East Third
5 Avenue in Ellensburg. I speak for myself. I would like
6 to make one comment before I begin. Several times you
7 will hear that this is referred to as an industrial
8 project.

9 JUDGE TOREM: Ms. Wise, can you speak into
10 the microphone. Thank you

11 MS. WISE: Thank you. You have seen and
12 heard it referred to as an industrial project. In the
13 chapters about utilities, it says utilities means the
14 supply, treatment, and distribution as appropriate of
15 electricity. Such utilities consist of both the service
16 activity along with the physical facilities necessary for
17 the utilities to be the suppliers. The Kittitas County
18 Comprehensive Plan is intended as I understand it to be a
19 guide for making the best use of county land and
20 resources, and at the same time protecting that land and
21 those resources. The comp. plan expresses the importance
22 of the County working together with Washington State
23 departments which you are representatives, other
24 utilities, utility developers, and citizens of the county
25 in the process that all to work together in this process

1 of accepting the land use applications for proposed
2 utility projects.

3 Goals, policies, and objectives referred to
4 GPO's, well, these are important in using and following
5 the guidance that I have seen practically no or heard no
6 responses from the Commissioners or the Planning
7 Commission that referred to any of the GPOs in the
8 comprehensive plan. Chapter 2 land use and Chapter 6
9 utilities both are very supportive of this, and you will
10 be noting that will give you this comprehensive plan
11 updates and amendments you will know that what they have
12 done since this Desert Claim Project that they've changed
13 the rules. They've amended so they can change the rules
14 on this application.

15 JUDGE TOREM: Thank you, Ms. Wise. If you
16 have written comments, Mr. Fiksdal will take those and
17 make sure the Board sees them.

18 Next is Tina Sands and I wanted to note
19 also, Mr. Fickes, you were speaking on behalf of Charles
20 Schantz as well. So Linda Schantz will be the next
21 speaker after Tina Sands.

22 COMMENTS BY TINA SANDS

23 I'm Tina Sands. I live on Smithson Road in
24 Ellensburg, and I'll try to keep it real brief. We and
25 many others have paid dearly to live where it is quiet,

1 rural, and nonindustrial. We didn't buy devalued land
2 underneath the airport flight path or next to the urban
3 housing project.

4 JUDGE TOREM: Ms. Sands, can you slow down
5 just a little bit.

6 MS. SANDS: Sorry. We didn't buy devalued
7 land underneath the airport flight path or next to the
8 urban housing project and hospital chopper pad. We went
9 out of our way to find a quiet, nonindustrial, rural
10 setting.

11 These monstrous industrial turbines should
12 not be built where people already live as they're not only
13 seen but felt and heard by residents for many miles from
14 the site of the turbines. This fact has already been
15 proven with the impacts of the Whiskey Dick project on the
16 citizens in the Park Creek area. Some of have said they
17 haven't heard any complaints about the Whiskey Dick
18 project, but they must have earplugs in. We've heard
19 plenty of unsolicited complaints about the noise and
20 lights that are impacting residents well outside the
21 considered, what was considered to be the impact zone.

22 Huge projects like this have major negative
23 impacts on the people who live near them and those many
24 miles away. The massive turbines create noise, vibration.
25 They have well established dangers, including fire danger,

1 massive visual intrusion by day and by night. If they
2 must be built such projects should be restricted to remote
3 areas where their impacts on population and land values
4 may be reduced.

5 The shape of the project being different and
6 that there are a different number of larger turbines than
7 previously proposed, notwithstanding this project is
8 proposed in an area where it has already been determined
9 turbines would not be compatible with the current land
10 use. Kittitas County carefully considered this location
11 and found it to be an area your wind turbines would not be
12 compatible. The superior court upheld this decision.
13 It's still immediately north of us and within a few miles.
14 So please speak to the Governor on our behalf. Recommend
15 that she deny this project. Don't let enXco corporation
16 do this to the citizens of this area. Have them build
17 their turbines where nobody lives.

18 JUDGE TOREM: Thank you, Ms. Sands.

19 Linda Schantz.

20 COMMENTS BY LINDA SCHANTZ

21 Hi, my name is Linda Schantz, and I represent
22 my husband and myself. We live at 4190 Robbins Road in
23 Ellensburg. We stand firm that the Desert Claim Wind Farm
24 Project is not compatible with the current land uses in
25 our current rural designation. Rural designation allows

1 for multiple uses, including residences, farming,
2 recreation, economic development opportunities, forestry,
3 and mining. It also has provisions for showing concern
4 for the natural critical habited areas, scenic areas, and
5 open space. And, lastly, it does outline good governance
6 with the wishes of the people of Kittitas County and needs
7 to comply with GMA.

8 It's been overwhelmingly proven over the last
9 three and a half years and actually five years with the
10 other project that the people of Kittitas County do not
11 want wind farms in this location. There's hundreds of
12 public testimony and letters but also the Kittitas
13 Planning Commission and the Board of County Commissioners
14 who denied this project, also superior court of Kittitas
15 County that upheld their position. We couldn't make the
16 wind farms consistent with land use and desirable to the
17 public convenience. They couldn't prove that the project
18 was good for the peace and the public good. Industrial
19 sites tend to be dangerous when sited in residential
20 areas.

21 In frustration we come down to kind of ask
22 why are we going through this again? But to be lawful I
23 guess we're being--at least I'm beginning to understand
24 that we need to go through the process again, and that if
25 this is a new application and as enXco has said, then we

1 need the County to go through the process and let us as
2 the public and the commissioners who knows best but
3 Kittitas County and the people who live here to go through
4 the land use consistency process. So I'm asking for you
5 to say this is not consistent and go forward from there.
6 Thank you.

7 JUDGE TOREM: Thank you, Ms. Schantz.

8 Next three speakers are J.P. Roan, David
9 Crane, and then Leslie White.

10 COMMENTS BY J.P. ROAN

11 My name is J.P. Roan. I live at 13991 Reecer
12 Creek Road. I've been a cattle rancher here in this
13 valley all my life. I'm the second generation of cattle
14 ranchers, and I find that if this project is approved,
15 that it's going to happen, it won't change anything with
16 my operation of continued grazing and raise cattle all in
17 one thing. Thank you.

18 JUDGE TOREM: David Crane.

19 COMMENTS BY DAVID CRANE

20 I'm David Crane, 1201 Vista Road, Ellensburg.
21 Allen and other respected Members of the
22 Council, I speak in favor of approving Application No.
23 2006-02 submitted by Desert Claim Wind Power, LLC. The
24 proposed wind power project is ideally suited to and
25 consistent with the agricultural nature of the surrounding

1 area. It is probably the only option open to the great
2 majority and valley who would like to see it remain
3 somewhat open like it is now and still productive.

4 The Desert Claim Wind Power Project is
5 perfectly sited to access the current transmission lines
6 which intersect the proposed area. How much better can it
7 get? The recent power outages proved the value of having
8 power facilities nearby in our valley. The Desert Claim
9 proposed project is consistent and compatible with the
10 rural part of our county. In the absence of a large
11 supply of water the area isn't useful for very much of
12 anything except maybe chasing hats or contests flying
13 kites unless you like to sit and stare at sage brush
14 behind wind break.

15 I am really at a loss to understand the
16 constant litany of negative rhetoric that has seemed to
17 dominate the public discussion. From my many discussions
18 with local people I know that the huge majority,
19 approximately 40,000 people in the valley, favor all three
20 of the wind farms while some don't care one way or the
21 other. There really are no substantial objections to them
22 in view of the projected need for clean and renewable
23 energy. If there were valid objections, then they would
24 have been heard by now.

25 The objections are overstated, emotional, and

1 very hypothetical, and I do believe the County
2 Commissioners when they refused this application did not
3 give valid reasons because I read the reasons they gave
4 for rejecting it, and one gentleman had written a lengthy
5 recitation of the complaints and questioned whether the
6 commissioners had even read the entire document which is a
7 very lengthy document, takes a lot of time. We say we
8 want clean, renewable energy and then when someone tries
9 to provide it, we recoil with dismay like it was some sort
10 of a disease. We have here before us the greatest
11 opportunity valuable to us in decades and we're treating
12 it like it's some kind of a cancer. Thank you very much.

13 JUDGE TOREM: Thank you, Mr. Crane.

14 Leslie White and he'll be followed by Ismael
15 Flores and then Bertha Morrison.

16 COMMENTS BY LESLIE WHITE

17 Mr. Chairman, Councilmembers, my name is
18 Leslie White. I reside at 15021 28th Avenue S.W. in
19 Burien, Washington. Even though I live in the suburb of
20 Seattle, my wife and I spend a great deal of time in
21 Kittitas County. We have a cabin in the area in a place
22 called Sun East which is close to the site. Even though
23 my property is not directly affected by it, many of my
24 neighbors are. We are remote so we do have solar power.
25 That is our power. We're certainly greenies when it comes

1 to that, and I certainly supported the Wild Horse project
2 because I felt it was sited correctly.

3 I do not feel this project is sited
4 correctly. I did take the time to review the County
5 zoning and the Ag. 20 zoning, and under Chapter 17.29.010
6 it talks about the intent of the zoning classification
7 preserved for the farmland from encroachment by
8 nonagricultural uses. I certainly don't see wind farms as
9 an agricultural use. It goes on to state it needs to
10 protect the rights and traditions of those engaged in
11 agriculture. I know there can be overlays so I read this
12 section on wind farm resource overlay zone, and it talks
13 about the purpose of it is to establish a process for
14 regulations, designation of properties located in areas of
15 Kittitas County suitable for location of wind farms to
16 protect the health, welfare, safety, and quality of life
17 for the general public, ensure compatible land use in the
18 vicinity of areas affected by the winds farms.

19 I don't think these are compatible. I think
20 it does affect all of these and the Council agreed with
21 that opinion and they rejected this. When you go down to
22 Chapter .040 it talks about mitigation measures, and the
23 commission when they reviewed this they found that there's
24 no mitigation measures adequate to protect the surrounding
25 property areas and they rejected this proposal.

1 And, lastly, under three, under that section
2 the approvals of the Board of County Commissioners set
3 forth in Subsection A and B of this section to only be
4 made if the determination of that A the proposal is
5 essential and desirable to the public conveyance. I don't
6 think that occurred. The proposal is not detrimental or
7 injurious to the public health and peace and safety of the
8 character of the surrounding neighbors, and I don't think
9 that's been established.

10 One last comment. I understand at speed
11 these turbines put out about 108 decibels. I understand a
12 Harley Davidson puts out about 94 decibels, and how would
13 you like to be in an area where you have 24/7 Harley
14 Davidson or 20 or 40 or 90 Harley Davidsons constantly
15 droning? I don't think that's peace and tranquility and
16 as part of the requirements is to maintain quality of life
17 and peace. Thank you very much.

18 JUDGE TOREM: Thank you, Mr. White.

19 Ismael Flores.

20 COMMENTS BY ISMAEL FLORES

21 Good evening Madam, Gentlemen, Judge. As a
22 property owner in that area my group which is Ozone
23 Investments we have a long history here in the Kittitas
24 Valley, from our early days from high school coming to
25 Ellensburg and competing with one of your finest teams, to

1 come to Central Washington University and advancing our
2 different degrees to a point where we have purchased 200
3 odd acres north of the proposed wind machines. Our
4 concern is that as, you know, representatives throughout
5 the state not just here in Ellensburg we're talking about
6 folks that belong in our organization that we go back 50
7 years, and our concern is we're not being heard.

8 We're congregating here in Ellensburg
9 because of what Ellensburg is and what it was 20, 30 years
10 ago: a place where you can come, you can enjoy peace, you
11 can enjoy tranquility in a place where you're safe.

12 Our property which would be nested north of
13 the proposed property, which has been rejected once, now
14 we're coming back through the back door to be reviewed
15 again. The concern that we have that is it's very easy to
16 change opinion. Kittitas doesn't need this. That's why
17 many of my friends that do live in the Puget Sound Area,
18 that do live in the Spokane area, that do live in the Sun
19 East side, Wanapum, Toppenish come to Ellensburg because
20 of the quality of life. The last thing we need here in
21 Kittitas County is to go metro. With the introduction of
22 these wind machines the concern is that the quality of
23 life will change drastically. Thank you very much.

24 JUDGE TOREM: Thank you, Mr. Flores.

25 Bertha Morrison. She will be followed by

1 Phyllis Whitbeck, and Sandy Sandall.

2 COMMENTS BY BERTHA MORRISON

3 Hi, I'm Bertha Morrison and I live at 9131
4 Nanum Road and I've lived there all my life. This land
5 from the time I can remember the land that they're talking
6 about has always been ranging land for livestock. It's
7 very compatible for the windmills. I was about 12 years
8 old as near as I can remember when the power lines, the
9 first power lines I remember up along hills. My folks
10 have had land in that area all my life, and I am sure that
11 the windmills will do us a lot of good and it's very
12 compatible for them.

13 JUDGE TOREM: Phyllis Whitbeck.

14 COMMENTS BY PHYLLIS WHITBECK

15 My name is Phyllis Whitbeck. I represent
16 myself and my husband. We live here in the valley at Post
17 Office Box 1175 Ellensburg, Washington up in Sun East, and
18 since the Planning Commission, the County Commissioners,
19 and courts said no to this project, we agree with their
20 findings. You have no other choice but to say no to any
21 rezoning and deny enXco's Desert Claim Wind Power Project.

22 With this I have a picture put out by one of
23 the photographers. Seven things you need into know before
24 you buy, and I drew a couple of wind turbines in here
25 using the back trees, figuring they were 50 feet tall, and

1 it doesn't look very nice to purchase that land if you're
2 going to use it for recreation or living. Thank you.

3 JUDGE TOREM: Sandy Sandall will be followed
4 by Kirk Deal and then Darryl Piercy and Mike Gossler.

5 COMMENTS BY SANDY SANDALL

6 I'm Sandy Sandall. I reside at 8560 Elk
7 Springs Road. My P.O. Box is 954, Ellensburg. I
8 represent myself and my wife. I listened to some of the
9 comments, and in the past people have thrown out that
10 they'd rather see wind farms rather than 60 acres or 800
11 acres of property or homes. I don't know whether they
12 really looked into it, but the County Commissioners, the
13 Planning Commission, and the County Commissioners are the
14 ones that make the decision on whether they have homes
15 sited in some of these areas.

16 The proposal is not essential to public
17 convenience because of the enormous size of the tower
18 blades. Land values will be negatively affected by this.
19 Way back three, four years ago someone came to my place,
20 and he worked for the county and he was looking for land
21 and I said, "Well, Sun East might have something, but be
22 aware that the wind farms may be going over that way." He
23 said, "Well, that would be a good negotiating factor."
24 Does that tell you anything?

25 Wind farms I don't think you will find

1 anybody that's against alternative energy. Wind farms in
2 the proper location are great when the public and
3 landowners are not going to be affected. Kittitas County
4 isn't the only place in the State of Washington that can
5 produce wind farms. Grant it the power lines are close.
6 Sorry about that. That's not the only thing that's out
7 there. It's again location, location, location. Thank
8 you.

9 JUDGE TOREM: Thank you, Mr. Sandall.

10 Kirk Deal.

11 COMMENTS BY KIRK DEAL

12 Good evening. Thank you for the opportunity
13 to talk to you here tonight. Kirk Deal, 507 South Third,
14 Yakima. I'm here to speak about the consistency of the
15 proposed project. I feel it is consistent with the land
16 use currently going on in the area. We've heard ranchers
17 describe the fact that they can continue doing their
18 livelihood there. It doesn't prevent them. It doesn't
19 deteriorate the land for use as that kind of use.

20 In addition, most power generation is
21 actually consistent with all types of land use. We put
22 power plants in cities. We put power plants in the
23 country, and the country it just doesn't seem like it's an
24 issue so long as the land use that's currently going on
25 can continue. Thank you.

1 JUDGE TOREM: Thank you, sir.

2 Darryl Piercy, did you still want to speak,
3 public comment? No.

4 All right. Then Mike Gossler and he'll be
5 followed by Catherine Clerf and Rick Forster and then
6 David Forster.

7 COMMENTS BY MIKE GOSSLER

8 Good evening, Councilmembers. My name is
9 Mike Gossler. I reside at 3212 74th Place S.E., Mercer
10 Island, Washington. I own property up in Sun East. I'm
11 here because I received a notice of the land use
12 consistency hearing that defined the purpose of this
13 proceeding to be a determination whether the proposed
14 Desert Claim Wind Power Project site is consistent with
15 Kittitas County or regional land use plans and zoning
16 ordinances. Since I understood that was the purpose of
17 the hearing and I understand the hearing basically is to
18 decide a dispute, I have to say I was rather baffled when
19 I had heard Ms. McGaffey get up here and acknowledge at
20 the beginning of this proceeding that Desert Claim
21 concedes that the project does not comply either with the
22 local zoning code or with the comprehensive plan which, of
23 course, as she explained in her somewhat summary
24 proceeding of the procedural history of the last project
25 is exactly the case. What she omitted to include in that

1 was the fact that on November 5 of 2005 the Kittitas
2 County Superior Court affirmed the decision of the Board
3 of County Commissioners and specifically its determination
4 of that particular project did not comply either with the
5 zoning code which is pretty clear.

6 We've got Agriculture 20 and we've got
7 forest and range. You know 415-foot turbines don't really
8 look like they comply very effectively with that. And so
9 I also was anticipating in light of that history and in
10 light of the numerous hearings that I and most of the
11 other people in this room have come over to testify for
12 from time to time I was anticipating some explanation as
13 to why the new project is materially different in terms of
14 having a lesser impact that would result in some
15 determination that in fact this project is in fact
16 consistent with the comprehensive plan or with the zoning
17 code. I heard nothing. In fact, as I said, we show up to
18 hear why it's consistent and now we're told that it's not.
19 I'm not sure why we're here. It seems like it's a
20 complete disregard on the part of EFSEC, of the time of
21 this Council, and the time of everybody in this room.
22 Thank you.

23 JUDGE TOREM: Catherine Clerf.

24 COMMENTS BY CATHERINE CLERF

25 Catherine Clerf, 60 Moe Road, Ellensburg,

1 Washington 98926, speaking for myself. I do not represent
2 any party to the Desert Claim Project.

3 To qualify my invested interest, I am the
4 fourth generation of a cattle ranching and farming family
5 that has been in Kittitas County since the early 1980s.
6 For those of you on this panel you have heard me speak
7 before. As regards to the specific subject of land use
8 for wind driven renewable energy creation in the County of
9 Kittitas, I make the following observations:

10 I draw your attention to other
11 utility-related infrastructures in Kittitas County; namely
12 cell and internet towers. They are sited along existing
13 interstates and roads, situated in towns, in back yards of
14 personal residents, with some in farm parts where farmers
15 and ranchers work daily.

16 In Kittitas County it would be a fair
17 statement to say that most cell towers are in lands zoned
18 rural, whether they're forest and range or agriculture.
19 Cellular communication is used by not only the public at
20 large but also extensively by utility and safety services
21 in the county.

22 The concept of wind-based electricity
23 production technology was first introduced in the county
24 in the 1970s owing to the simple fact that this is where
25 the wind blows. You see an example of this just east of

1 Thorp and north of I-90.

2 Now, we roll forward to the current century
3 at the beginning of this decade in this county with this
4 very project Desert claim. The Applicant for this project
5 made its intention known. Desert Claim as configured
6 meets the underlying principles of Kittitas County's land
7 use. The project turbine towers will be in rurally zoned
8 lands, specifically forest and range and Ag. 20. They are
9 entirely compatible with cattle ranching, wildlife
10 preservation, and shrub-steppe conservation. All of the
11 properties owners, including the state DNR inside the
12 project area, are operating cattle ranches for other
13 land-based uses which are agreeable to concurrent usage of
14 their land to create electricity for the common, private,
15 and public good while the project creates a secondary
16 revenue stream off of their land.

17 The entire project was sited practically and
18 prudently adjacent to high voltage transmission lines
19 which have been in residences for decades in this area of
20 the county; thus, allowing for a huge costly to all
21 electricity ratepayers because hundreds of thousands, if
22 not millions of dollars, would not unnecessarily be spent
23 on bringing wind power to the marketplace. Thank you.

24 JUDGE TOREM: Thank you, Ms. Clerf.

25 Rick Forster and David Forster will be the

1 next speakers.

2 COMMENTS BY RICK ROSTER

3 My name is Rick Forster, 2411 268th Avenue,
4 Redmond. That picture back there is looking out from my
5 cabin. We have 40 acres up on the hill there in Sun East
6 up there.

7 Noise is part of the zoning of public
8 health. If you go to a Seahawks game you run about 100 to
9 105 decibels. Okay? These turbines can run that. That
10 noise is directly at our cabins. Noise does not stop at
11 1,500 feet. We can hear trains eight miles away. There
12 is no way for them to say noise will not affect our
13 health.

14 What they need to do is as part of an
15 environmental statement in the future if they wish to
16 proceed is they should do noise studies where they have
17 the high range, 105 decibels, and they set them at the
18 proper elevation, the balloons or whatever, do 30-day
19 studies, record these studies on people's properties, and
20 they should run 24 hours a day so that you pick up the
21 different atmosphere so that noise travels differently
22 with the different weather conditions, etc. Okay?
23 Because it will be terrible on people's health and
24 welfare.

25 Furthermore, all these pamphlets and

1 pictures they continue to put the artist's renderings of
2 these towers always seems out of scale to me, and I'm a
3 steel fabricator so I know what a scale is. And as part
4 of the building permit process many big cities when
5 they're building 40-story buildings they have to do actual
6 scale models of the area to show how it affects other
7 buildings and properties.

8 If you made these people do scale models and
9 do it in a mild range around it, you would see how this
10 would impact hundreds of properties, not 32 that they talk
11 about, but hundreds of properties and homes in the area.
12 This would completely show how the property values are
13 impacted, people's views, health, and lives.

14 And one other thing. Were those turbines
15 sitting there five years ago we had a fire there. They
16 had the tanker from Wenatchee come put the fire out. If
17 those were there today, you couldn't put that fire out.
18 If the fire would be right up on Blewett Pass up on top of
19 Blewett, give it one hour, you would be up on Table top
20 because of the way the wind blows. Because they will not
21 be able to fly their tankers there to put those fires out
22 because they can't get retard to them. Thank you.

23 JUDGE TOREM: Thank you, Mr. Forster.

24 David Forster.

25 MR. FORSTER: I submitted written comments.

1 JUDGE TOREM: All right. Submitted written
2 comment. The next speakers are Steve Kulchin, R.B.--I
3 can't read your last name, sir.

4 MR. PETERSON: Peterson.

5 JUDGE TOREM: R.B. Peterson and then Dale
6 Haberman. So Steve Kulchin, please.

7 COMMENTS BY STEVE KULCHIN

8 Good evening. My name is Steve Kulchin. I
9 live in Redmond, Washington. I have property at Sun East.
10 I've prepared a bit of a study that I'll turn into you.
11 It's a chart showing land use specific issues of windmill
12 projects in the state compared to Desert claim.

13 I am actually fairly alarmed what I see is
14 being proposed. These other Washington State and
15 Northwest Regional Wind Farms, including the State Line,
16 Nine Canyon, Big Horn, Hawkins Ridge, Klondike, and the
17 Wild Horse wind farms are all located in remote
18 uninhabited regions. This project is proposed within a
19 neighborhood of rural residences. Simply stated this
20 project does not belong in this location.

21 Here we have residents who have chosen to
22 live in unique, natural, and an open unobstructed region.
23 Desert Claim will adversely impact and forever change the
24 character of this region. In review of the physical facts
25 of the Desert Claim Project compared to other regional

1 wind farms shows very alarming information. This project
2 is the most densely compacted wind farm in the state
3 that's currently proposed. The other wind farms average
4 99 acres per each tower. Desert Claim is proposed at one
5 tower per 53 acres. This project also has the tallest
6 towers installed in the Northwest. The distance to the
7 top of this blade is 414 feet. This is similar to a
8 40-story building in this most unprecedented neighborhood
9 location. The blades are also the largest ever proposed
10 with a diameter of 303 feet. The proposed generation of
11 two megawatts per tower generator is also the largest and
12 perhaps the noisiest. This project is not in a remote,
13 uninhabited location like the others; rather it is being
14 proposed in a residential neighborhood. Thank you.

15 Kittitas County is a naturally located
16 regional growth center. It is wisely planning its growth
17 and expansion by respecting the natural environment. The
18 record shows the local government, including the county
19 planning commission and local courts, rejected this
20 project primarily due to being in the wrong location.
21 Based on physical facts the name Desert Claim is truly
22 most appropriate for this overzealous attempt to develop
23 the most densely compacted wind farm utilizing the largest
24 ever windmills in a residential location. Thank you.

25 JUDGE TOREM: Thank you, Mr. Kulchin.

1 Mr. Peterson.

2 COMMENTS BY ROBERT PETERSON

3 Bob Peterson. I live at 70 Chukau Ridge
4 Road up in Sun East. It will be short here. This letter
5 is in regards to the land use by the wind turbine
6 companies. The land that would--let's see. The land that
7 the wind farm turbine companies want to use as a
8 reservation border of lands that has a lot of natural
9 springs on it. These springs will be affected by blasting
10 done to the land nearby, and also it will poison the
11 water. Because when you pour the concrete and it's got
12 lye in it so it will be poisoning the water. And if you
13 people want to come up and take a look where we're at,
14 you're more than welcome. Thank you.

15 JUDGE TOREM: Thank you, Mr. Peterson.

16 Dale Haberman. He will be followed by Bill
17 Erickson and Andrew Johnson I believe it is.

18 COMMENTS BY DALE HABERMAN

19 Dale Haberman, Lyons Road. I represent me
20 and my family. I am fourth generation landowner in
21 Kittitas County. It's evident to me that the wind power
22 project is consistent with the farming and ranching in
23 that area. It will provide added income for the landowner
24 in that area. I believe it will slow down urban sprawl.
25 Thank you.

1 JUDGE TOREM: Bill Erickson.

2 COMMENTS BY WILLIAM ERICKSON

3 William Erickson, 6980 Wilson Creek Road.

4 I've been up there about 40 years so we haven't been
5 anything recent. I'm concerned about the problems. We're
6 downwind. Concerned about downwind and water problems.
7 We are downwind from the proposed area. There's areas up
8 there in the Wilson-Naneum creek areas you can't walk
9 through. There's no way you can get through them. Worry
10 about fire. We've had 80-mile-an-hour winds. You can
11 guess that sometimes whatever is mechanical is subject to
12 failure. I'm looking at those wild fires they had in
13 California. Why take the risk? I mean it's not worth it.
14 There are too many residents around.

15 On the water there's oil in those turbines.
16 Up above there's on those smaller ones they had proposed
17 is 80 plus gallons of hazardous oil. Drop one of those
18 what happens to your streams? What happens to the aquifer
19 where the wells are? Why take the risk? It isn't worth
20 it.

21 The lights, you know, we came from Wenatchee
22 today. You can see those lights from Quincy, George along
23 the east bank of the Columbia River. You can see them all
24 the way to the far end of the valley. It's about 50 miles
25 around. You can see those things. These are higher. How

1 far are you going to be able to see them? Thank you.

2 There's health matters. It's just not
3 physical, but there's mental health you have to be
4 concerned about, those that have been down there. Strobe
5 lights, you have wildlife. I use strobe lights in order
6 to keep the deer out away from the apples, and the ground
7 aho hogs away from the haystacks. I don't think anybody
8 has looked at the strobe lights and how it's going to
9 affect the wildlife. I think all of them have--it changes
10 the whole flavor of the valley from agriculture to
11 industrial, and we don't want that.

12 JUDGE TOREM: Thank you, sir.

13 Andrew Johnson. You would be followed by
14 Ron Verhei, Jack White, and finally our last speaker is
15 Holly Pinkart.

16 COMMENTS BY ANDREW JOHNSON

17 Andrew Johnson, 260 Lenex road. I'm
18 testifying for myself. In listening to what I've heard up
19 to now it appears there are a couple of basic issues here.
20 One of them is a matter of jurisdiction. Traditionally in
21 our county when controversy comes up, it starts on the
22 lowest level and then works its way to the top until a
23 proper decision can be made.

24 In this particular case the basic issue,
25 there is a couple basic issues that I see. One of them

1 is, is the proposed project in conformance with the land
2 use that is laid down by law? And that's not something we
3 back here we're going to be able to decide. Those who are
4 given the mandate to decide that are the ones that will
5 decide it.

6 In my mind it starts with the County. In
7 the previous project that was turned down the County took
8 the responsibility to start with, it went through the
9 courts, and ultimately was turned down. In this
10 particular case that is where we are today.

11 The second issue is, is this the same old
12 project or is it a new one? That's something that needs
13 to be decided. If it's a new one, then it should start
14 with the County and work its way through, and if the
15 Applicants don't agree, they can appeal to you folks.
16 Thank you for your time and that's all I have.

17 JUDGE TOREM: Thank you, Mr. Johnson.

18 Ron Verhei.

19 COMMENTS BY RON VERHEI

20 My name is Ron Verhei. I reside in Bothell,
21 Washington. I'm here representing members of the
22 carpenters union who build and maintain these units.
23 Through my travels both personal and work I've seen wind
24 turbine farms in the states of Hawaii, Washington,
25 California, Nevada, and Oregon. They have never been

1 built in a residential area. They have always been built
2 in areas of farm, range, and forestry. The proposed code
3 as I understand through zoning now is the property is
4 farm, range and forest, therefore consistent.

5 JUDGE TOREM: Thank you.

6 Jack White.

7 COMMENTS BY JACK WHITE

8 Jack White, 1332 S.E. 195th Street, Renton,
9 Washington. Own part of the property that is part of the
10 Desert Claim Project. Inherited it from my parents that
11 have been long-time residents of the county. We believe
12 that the property and use of the property for wind farms
13 is consistent with agricultural area, and that that will
14 allow the property to continue to be used in an
15 agriculture manner and not impede the use of the land for
16 an agricultural purpose. Thank you.

17 JUDGE TOREM: Thank you, Mr. White.

18 Holly Pinkart will be the last public
19 commenter and then the Council will entertain some
20 discussion or a motion as to the consistency or
21 inconsistency of the project and that will be made from
22 someone else up here, not from the floor.

23 COMMENTS BY HOLLY PINKART

24 Thank you. My name is Holly Pinkart. I
25 reside at 5900 Robbins Road. I speak for myself and for

1 my husband and I'm also a biologist.

2 I think it's interesting that it was
3 mentioned that a wind farm of this size is compatible with
4 conservation of shrub steppe. Shrub steppe is fragile
5 environment. Blasting the heck out of it and pouring
6 hundreds of thousands of tons of concrete in there to
7 support turbines is not consistent with the conservation
8 of shrub-steppe. If it ever recovers, it will take a
9 very, very long time and very diligent attention to detail
10 in restoring that community and that is not existent in
11 this current proposal. There are lots of issues
12 associated with this. You've heard a lot of this so I
13 won't go over those again.

14 What I would like to say is that I realize
15 as we look at different energy opportunities occasionally
16 you need to destroy the environment in order to bring
17 those to the floor. I would urge you against that in this
18 case for something that although it's renewable it's not a
19 constant source of energy and it's not storable. So it's
20 use it as it's made and that's it.

21 I would also like to remind you that as far
22 as wind energy goes if you use California as example,
23 California generates about 30 percent of wind energy that
24 the world is making at that moment and it supplies about
25 one percent of what California actually uses. So I would

1 like you to kind of weigh that against what it would
2 actually do to the county. Thank you very much.

3 JUDGE TOREM: Thank you, Ms. Pinkart.

4 We will take a brief recess for the court
5 reporter to change paper.

6 (Off the record to change steno paper.)

7 JUDGE TOREM. We are ready to resume again.

8 It's now 8:20 or thereabouts, and I want to remind the
9 Councilmembers that tonight we had a presentation from the
10 Applicant and essentially a concurring presentation from
11 the County and 31 people have signed up to speak and
12 probably 28 or so did present testimony tonight as to
13 compliance or noncompliance.

14 The Washington Administrative Code citation
15 is 463-26-100. It says that in cases like this when no
16 certificates relating to land use plans and zoning
17 ordinances indicating consistency are presented to the
18 Council, then the Applicant and local authorities address
19 compliance or noncompliance, and that's what was done
20 tonight.

21 Under WAC 463-28-030, the Council if they
22 make tonight a finding of noncompliance, which is
23 essentially what the Council has heard from the Applicant
24 and the County and a number of the speakers, then if that
25 finding is made tonight at the end of the hearing, that

1 forces the Applicant to take necessary measures to make
2 application for change in or get permission under Kittitas
3 County land use plans and zoning ordinances or make all
4 reasonable efforts to resolve the noncompliance. So if
5 the Council is to vote and find noncompliance tonight,
6 then it's on the Applicant to take the next step, and,
7 again, as I'll remind the audience the 90-day indication
8 is in 463-28-040. If the Applicant wants to continue
9 processing the application before EFSEC, they must file a
10 written request for state preemption if they do not
11 demonstrate compliance within 90 days after completion of
12 this public hearing, or it can be later if they've asked
13 for extension and it's granted by the Council.

14 So that's where we are tonight is the Council
15 needs to have a motion and a second on that motion and
16 then any necessary discussion as to whether this project
17 should be found in compliance or noncompliance with the
18 local codes.

19 MR. FRYHLING: I would like to make a motion
20 that we make a determination of noncompliance.

21 JUDGE TOREM: Mr. Fryhling has made the
22 motion.

23 Is there a second?

24 MR. WILSON: Second.

25 JUDGE TOREM: All right, Ms. Wilson.

1 Is there any need for discussion on this,
2 Councilmembers?

3 CHAIR LUCE: Call for the question.

4 JUDGE TOREM: I don't see any discussion. I
5 think it's been had already by the members of the public
6 here. The question has been called.

7 The motion if supported with an aye vote,
8 would find that this project is inconsistent. The no vote
9 would mean you actually think it is consistent.

10 All those in favor of Mr. Fryhling's motions
11 say aye.

12 COUNCILMEMBERS: Aye.

13 JUDGE TOREM: Any opposed?

14 Hearing none, then the Council has
15 unanimously found that the project as proposed is
16 inconsistent with Kittitas County land use plans and
17 zoning ordinance, and, Ms. McGaffey, that means that the
18 Applicant has to be in compliance with 463-28-030. So,
19 one, begin to take those measures and the 90-day clock
20 will run from today. We will get an order out on land use
21 inconsistency in this case within the next probably 20 to
22 30 days and get that out to the public here. But, again,
23 the date of the hearing is today, and that's when the 90
24 days will run.

25 Does the County or the Applicant have

1 anything further for the Council tonight before we adjourn
2 the hearing?

3 Mr. Hurson.

4 MR. HURSON: Jim Hurson, Deputy Prosecutor.
5 Just briefly I wasn't sure of the timing for the
6 intervention motions. I assume the County is going to
7 want to seek intervention, and I think I already have my
8 motion ready and I was just wondering what the timing on
9 that would be.

10 JUDGE TOREM: I had discussed that quickly
11 tonight with Mr. Fiksdal. I know what Mr. Hurson is
12 referring to is if there is going to be process, then we
13 would need to have people intervene. Typically as you
14 know there's an environmental impact statement being done
15 by EFSEC. One has been done on the previous project by
16 the County, and as I think Mr. Piercy said that would
17 probably be incorporated by reference. Whether or not
18 additional environmental impact analysis needs to be done,
19 the County will be informed and it will be at that point
20 when we begin to get the environmental impact analysis
21 rolling any further process that will publish a notice for
22 those that wish to intervene. So folks like the ROKT
23 group which would be intervenors as this process goes
24 forward.

25 I don't know when that's going to be,

1 Mr. Hurson. We'll probably in the next 30 to 60 days have
2 some indication from the Applicant how they wish to
3 proceed. Certainly within the next 90 days we'll know if
4 there's going to be a process to go forward and what the
5 date for intervention will be. We don't know yet.

6 MR. HURSON: I was just anticipating as far
7 as it would be helpful to the County we had actual
8 standing as a party to the matter if we were involved in
9 the earlier different application with the EIS. I would
10 assume that there would be a desire to consult with the
11 County regarding what we did on the EIS, potential
12 rescoping of the issues, if necessary. And so I just
13 wanted to get a more formalized connection so the County
14 is involved with the EFSEC process.

15 JUDGE TOREM: I think you can rest assured
16 that the County's intervention petition will be granted,
17 and I think you can rest assured that until we have the
18 need for formal adjudication to be set up we would like to
19 see the County come and complement the presentations made
20 by the Applicant and let us know where they are because
21 the Applicant will give us those reports, and we've always
22 had I believe even before intervention status, before
23 Mr. Hurson, were regular reports from the County as well.
24 And whether you or Mr. Piercy were to travel to Olympia
25 for those monthly meetings when it's on the agenda or

1 simply phone in and listen to what the Applicant says and
2 give us your update as well, we would welcome it.

3 MR. HURSON: Thank you.

4 JUDGE TOREM: Ms. McGaffey, anything else
5 from the Applicant?

6 MS. MCGAFFEY: No, thank you.

7 JUDGE TOREM: All right. Thank you, members
8 of the public, for taking the time to come out tonight.
9 We are adjourned at 8:30 p.m.

10 * * * * *

11 (Whereupon, the land use hearing was
12 adjourned at 8:30 p.m.)
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A F F I D A V I T

I, Shaun Linse, CCR, Certified Court Reporter,
do hereby certify that the foregoing transcript
prepared under my direction is a true and accurate
record of the proceedings taken on January 30, 2007,
in Ellensburg, Washington.

Shaun Linse, CCR
CCR NO. 2029