BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of: Application No. 2006-02	COUNCIL ORDER NO. 829
DESERT CLAIM WIND POWER, L.L.C., L.L.C.	REQUEST FOR EXTENSION TO FILE REQUEST FOR PREEMPTION
DESERT CLAIM WIND POWER PROJECT	

This matter came on and was commenced before a majority of the members of the ENERGY FACILITY SITE EVALUATION COUNCIL (EFSEC or Council) on April 30, 2007 at Olympia, Washington, pursuant to Revised Code of Washington (RCW) 80.50.090 (4) and Washington Administrative Code (WAC) Chapters 463-18-050. This was a special meeting to consider a request for extension to file a request for state preemption. This matter was decided at this meeting and the Council unanimously agreed to an extension until June 30, 2007. June 30 falls on a Saturday which makes any request for preemption due on the next business day, July 2, 2007.

Background and Procedural Matters:

On November 3, 2006, Desert Claim Wind Power L.L.C., a wholly owned subsidiary of enXco Inc., "Desert Claim" or the Applicant herein, submitted application No. 2006-02 to the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) to construct and operate the Desert Claim Wind Power Project (herein the "Project"), a 180-megawatt wind turbine electrical generation facility consisting of 90 wind generation turbines. The proposed Project is located within Kittitas County, roughly 8 miles north of the city of Ellensburg.

On March 3, 2007 the Applicant filed a Motion For Determination requesting the Council to determine that the Applicant had made all reasonable efforts to resolve non-compliance with land use requirements.

On March 7, 2007 the Council issued Order No. 825, Order on Consistency with Local Land Use Plans or Zoning Ordinances. This Order gave the Applicant and Kittitas County until

April 30, 2007 or later if mutually agreed by the Applicant and the Council to resolve land-use inconsistency issues.

On April 24, 2007 the Applicant submitted to the Council a letter requesting an extension until May 31, 2007 to file a preemption request to the Council.

Meeting Procedure:

The following Council members were present: Jim Luce, Chair. Present by telephone: Judy Wilson (Department of Natural Resources), Jeff Tayer (Department of Fish & Wildlife), Richard Fryhling (Department of Community, Trade, and Economic Development), Patti Johnson (Kittitas County), and Tim Sweeney (Utilities and Transportation Commission). Hedia Adelsman (Department of Ecology) was absent and excused from attending.

Governing Statute and Regulations:

Chapter 463-28 WAC provides for a process for resolving land use inconsistencies; applications for state preemption of land use plans and zoning ordinances; and Council determination of whether the state should preempt local and regional land use plans or zoning ordinances when an application is not consistent with such plans or ordinances in effect on the date of application. If such land use inconsistency issues are not resolved an applicant may file a written request for preemption within ninety days after completion of the public hearing, or later if mutually agreed by the applicant and the Council.

Order:

Based on the information produced at the hearing or timely submitted to EFSEC offices, the Council, having fully considered all such matters, unanimously adopts the following Order:

1. The Applicant and Kittitas County shall attempt to reach agreement on land use consistency issues.

2. The Applicant has until Saturday, June 30, 2007, or the next business day, July 2, 2007 to file a written request for state preemption as authorized in WAC 463-28-040. Absent compelling reasons, further extensions will not be granted.

DATED and effective at Olympia, Washington, the 30th day of April, 2007.

WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL

James O. Luce, Chair