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6 **BEFORE THE STATE OF WASHINGTON**
ENERGY FACILITY SITE EVALUATION COUNCIL

7 In the Matter of
8 Application No. 2003-01
9 SAGEBRUSH POWER PARTNERS, LLC,
10 KITTITAS VALLEY WIND POWER
11 PROJECT

INTERVENOR F. STEVEN
LATHROP'S MOTION TO
DISMISS APPLICANT'S
MOTION FOR PREEMPTION

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13 Comes now Intervenor F. Steven Lathrop and, based upon Council Order No. 793, asserts
14 as follows:

15 Intervenor F. Steven Lathrop previously filed a motion to stay the adjudicative
16 proceeding. That motion was recently the subject of Council Order No. 793. In Council Order
17 No. 793, at Page 2, the Council cites to Council Order No. 777 that required dispositive motions,
18 defined as "those seeking the dismissal of... any portion of a proceeding" to be filed at least 45
19 days before the next relevant adjudicative session. However, Council Order No. 793 does not
20 appear to deny Intervenor F. Steven Lathrop's motion to stay on the grounds the motion is a
21 dispositive motion and was not filed within 45 days prior to the next relevant adjudicative
22 session.

23 Based upon the Council's vote to continue the adjudicative session, at the request of the
24 applicant, the next relevant adjudicative session is more than 45 days away. As a result,
25 Intervenor F. Steven Lathrop requests that the Council dismiss the Applicant's request for
26 preemption for the reasons set forth in Intervenor Lathrop's Motion to Stay previously filed
herein. The court has no jurisdiction to preempt local land use regulations and permitting
requirements.

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Dated this _____ day of August, 2004.

Jeff Slothower – WSBA #14526
Attorney for Intervenor F. Steven Lathrop