

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

**In the Matter of
Application No. 2003-01**

SAGEBRUSH POWER PARTNERS, L.L.C.

**KITTITAS VALLEY WIND POWER
PROJECT**

**NOTICE OF OPPORTUNITY TO FILE
LATE PETITIONS FOR
INTERVENTION AND TO ADD NEW
ISSUES BASED ON ISSUANCE OF THE
DRAFT ENVIRONMENTAL IMPACT
STATEMENT –
January 16, 2004**

The Application

On January 13, 2003, Sagebrush Power Partners L.L.C., a wholly owned subsidiary of Zilkha Renewable Energy, submitted an Application for Site Certification to the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) to construct and operate the Kittitas Valley Wind Power Project (Project), a 182-megawatt generation facility consisting of 121 wind generation turbines. Related Project facilities include: access roads; foundations; underground and overhead electrical lines, substations and interconnection facilities to allow transmission through existing Puget Sound Energy or Bonneville Power Administration transmission lines; an operations and maintenance center; and associated supporting infrastructure and facilities. The proposed Project would be located within Kittitas County, on the ridges on either side of state Highway 97, 12 miles northwest of the city of Ellensburg.

EFSEC has taken lead agency status under WAC 173-11-938 of the State Environmental Policy Act (SEPA) rules for the environmental review of this wind generation facility. A public informational and SEPA scoping meeting was held in Ellensburg, Washington, on March 12, 2003. A Land Use Consistency hearing was held in Ellensburg, Washington, on May 1, 2003. A Draft Environmental Impact Statement was issued for public comment on December 12, 2003.

More specific information about the project is available from EFSEC's office or from reviewing the application at public libraries in Kittitas County. Information regarding the project is also on EFSEC's Internet site at: www.efsec.wa.gov.

Procedural History

The Council is reviewing Application No. 2003-01 under the procedures set forth in Chapter 80.50 of the Revised Code of Washington (RCW) and Title 463 of the Washington Administrative Code

(WAC) for reviewing applications for new major energy facilities. The statute requires the Council to hold an adjudicative proceeding under Chapter 34.05 RCW, the Administrative Procedure Act. On May 16, 2003, EFSEC noticed its intention to hold adjudicative hearings relating to Application No. 2003-01 in accordance with the procedural rules found in Chapter 463-30 WAC.

The statutory parties to this adjudicative proceeding are the applicant, Sagebrush Power Partners, L.L.C., and the Counsel for the Environment (as defined in RCW 80.50.020(12)), Assistant Attorney General John Lane. On May 16, 2003, EFSEC also noticed the Opportunity to File Petitions for Intervention under the requirements of RCW 34.05.443, RCW 80.50.090, and WAC 463-30-400. EFSEC considered petitions that were received at a pre-hearing conference on June 26, 2003. On July 3, 2003, EFSEC granted intervention to the following petitioners: Washington State Department of Community, Trade and Economic Development; Kittitas County; Renewable Northwest Project; Phoenix Economic Development Group; Sierra Club Cascade Chapter; Residents Opposed to Kittitas Turbines; F. Steven Lathrop; and Chris Hall.

Notice of Deadline for Submitting Late Petitions for Intervention based on Issuance of the Draft Environmental Impact Statement– January 16, 2004

In the Council's May 16, 2003, Notice of Opportunity to File Petitions for Intervention, the Council indicated that upon issuance of a Draft Environmental Impact Statement (DEIS) for public comment, parties who have been granted intervenor status may petition the Council to permit them to add new issues based on new information or issues that have been identified in the DEIS. Other persons may also petition the Council to intervene for the first time if they can establish that new information identified in the DEIS, not previously known or reasonably discoverable, demonstrates that an interest of theirs could be impaired or impeded by the proposed project. The DEIS was issued for public comment on December 12, 2003.

An intervenor may be any "person" as defined in RCW 80.50.020(3): an individual; partnership; joint venture; private or public corporation; association; firm; public service company; political subdivision; municipal corporation; government agency; public utility district; or any other entity, public or private, however organized. Any such person who wishes to participate in this proceeding may petition for intervention. The nature of intervenor status and a discussion of factors that the Council has used in deciding whether to grant petitions for intervention are set out later in this notice.

Each person admitted to an adjudicative proceeding as an intervenor is a party to the proceedings only for the purposes and subject to any limitations and conditions specified in the EFSEC order granting their intervention.

In this case, the deadline for submitting requests for late Intervention based on issuance of the DEIS is January 16, 2004.

The Council will consider the requests for late Intervention based on issuance of the DEIS and determine whether or not to grant intervention. The Council will consider requests for late Intervention according to the requirements of WAC 463-30-400 and the specificity requirements of this notice.

How to Submit a Petition for Late Intervention based on Issuance of the DEIS

To be considered timely, Petitions for late Intervention based on the issuance of the DEIS for Application No. 2003-01 must be **received in the offices of the Council no later than the close of business (5 p.m.) on January 16, 2004**. Petitions for late Intervention must be filed with:

Washington State Energy Facility Site Evaluation Council
Attn: Allen J. Fiksdal, EFSEC Manager
P.O. Box 43172
925 Plum Street SE
Olympia, WA 98504-3172

A copy of each petition must be served on Sagebrush Power Partners L.L.C., on the Counsel for the Environment, and on all other parties and their official representatives as specified in the official service list (see Attachment A) at the same time they are filed with the Council.

Persons wishing to intervene should consider relevant provisions of Chapter 463-30 WAC. In particular, WAC 463-30-400 establishes the following requirements for Petitions for Intervention:

“All petitions to intervene shall be verified under oath by the petitioner, shall adequately identify the petitioner, and shall establish with particularity an interest in the subject matter and that the ability to protect such interest may be otherwise impaired or impeded.”

All late petitioners must indicate with specificity the new information identified in the DEIS, not previously known or reasonably discoverable, and must demonstrate that an interest of theirs could be impaired or impeded by the proposed project as a result of this new information. The identification of such issues must be specific enough for the Council and other parties to identify the specific problem that could cause harm to the petitioner or agency and the nature of that harm.

All existing parties to this case who intend to petition the Council to add additional issues based on new information that has been discovered as a result of issuance of the DEIS shall submit petitions on or before the deadline for late Intervention based on issuance of the DEIS (January 16, 2004).

In considering whether to file a petition to become an intervenor, potential parties should recognize that persons who are granted intervenor status assume responsibilities they must meet in order for the adjudicative process to be an effective means for all participants to resolve the significant issues that are raised. Intervenors are expected to appear in the proceeding, either on their own behalf or through an attorney. Intervenors must study other parties' cases so they can participate knowledgeably. They must decide whether to cross-examine other parties' witnesses and determine the nature and scope of the cross-examination. Intervenors also have the responsibility either to attend the entire proceeding, including prehearing conferences, or to monitor the proceeding to learn when their interests will be at issue -- otherwise they may be bound by matters that are resolved in their absence. Intervenors have the

responsibility to become familiar with the Council's procedural rules and guidelines to enable them to participate knowledgeably and to advance their interests effectively. Because of potential delay to the proceeding that could interfere with rights of other parties involved, and because simply appearing to give advice to one party could give the appearance of impropriety or could adversely affect the rights of others, the Council has a limited ability to instruct participants on procedural matters. Intervention is not a step to be approached casually. Becoming an intervenor in a Council adjudicative proceeding may require a significant commitment of time and financial resources.

To see examples of petitions for intervention that have been filed in previous EFSEC cases, you may contact the EFSEC office at (360) 956-2047.

The designation of issue(s) may be a factor in determining whether to grant intervention and will be used to organize and to manage the hearing. Parties may add additional issues later in the proceeding on the same bases on which the Council may grant late-filed petitions for intervention.

Other Opportunities for Public Participation

Besides formal intervention, public participation in the EFSEC process is accommodated in several additional ways. First, under RCW 80.50.080, the Counsel for the Environment represents "the public and its interest in protecting the quality of the environment". Second, RCW 80.50.090(3) affords an opportunity for members of the public to present testimony in the hearing without having to intervene formally. Third, the public has the opportunity to participate in the environmental review portion of the Council's process through comments on the Draft Environmental Impact Statement.

When evidentiary hearings begin, the Council plans to schedule specially-designated sessions for the purpose of receiving the testimony of members of the public, at one or more times and places to be set by later notice of hearing. The Council will maintain a copy of current records of the hearing at its offices in Olympia for the use of persons who may wish to review them. Mr. John Lane has been designated as Counsel for the Environment by the Attorney General under RCW 80.50.080 to represent the public and its interest in protecting the quality of the environment. Persons wishing to contact the Counsel for the Environment may use the address or telephone number listed in Attachment A.

WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

Dated in Olympia, Washington this _____ day of December, 2003.

Allen J. Fiksdal, EFSEC Manager

Attachment A: Kittitas Valley Wind Power Project - Application No. 2003-01, Service List

EFSEC:		
Allen Fiksdal, EFSEC Manager Energy Facility Site Evaluation Council 925 Plum Street SE, Building 4 PO Box 43172 Olympia, WA 98504-3172 Ph: (360) 956-2152 Fax (360) 956-2158 allenf@ep.cted.wa.gov	Ann Essko, Assistant Attorney General 905 Plum Street, Building 3 P.O. Box 40108 Olympia, WA 98504-0108. Ph: (360) 664-2510 Fax: (360)586-3593 anne@atg.wa.gov	Adam Torem Administrative Law Judge Office of Administrative Hearings P.O. Box 42489 Olympia, Washington 98504-2489 Ph: (360) 753-2531 Fax: (360) 586-6563 atore@oah.wa.gov
Sagebrush Power Partners LLC - Applicant:		
Chris Taylor Zilkha Renewable Energy 210 SW Morrison, Suite 310 Portland, OR 97204 Ph: (503) 222-9400 Fax:(503) 222-9404 ctaylor@zilkha.com	Darrel Peeples Attorney at Law 325 Washington Street NE, #440 Olympia, WA 98501 Ph: (360) 943-9528 Fax: (360) 943-1611 dpeeples@ix.netcom.com	
Counsel for the Environment:		
Mr. John Lane Assistant Attorney General Office of the Attorney General 1125 Washington St. SE PO Box 40100 Olympia, WA 98504-0100 Ph: (360) 586-2438 Fax: (360) 664-0229 JohnL1@atg.wa.gov		
Washington State Department of Community, Trade and Economic Development:		
Tony Usibelli Assistant Director, Energy Policy Division CTED PO Box 43173 Olympia, WA 98504-3173 Ph.: (360) 956-2125 Fax: (360) 956-2180 tonyu@ep.cted.wa.gov	Mark Anderson Senior Energy Policy Specialist CTED PO Box 43173 Olympia, WA 98504-3173 Ph: (360) 956-2170 Fax: (360) 956-2180 marka@ep.cted.wa.gov	
Kittitas County:		
James E. Hurson Kittitas County Prosecutor Kittitas County Courthouse - Room 213 Ellensburg, WA 98926 Ph: (509) 962-7520 Fax: (509) 962-7022 JAMESH@co.kittitas.wa.us	Clay White Kittitas County Planning 411 N Ruby Street, Suite 2 Ellensburg WA 98926 Ph:(509) 962-7506 Fax:(509) 962-7697 clayw@co.kittitas.wa.us	
Renewable Northwest Project:		
Sonja Ling Renewable Northwest Project 917 SW Oak Street, Suite 303 Portland, OR 97205-2214	Susan Elizabeth Drummond Foster Pepper & Shefelman P.L.L.C. 1111 Third Avenue, Suite 3400 Seattle, WA 98101-3299	

Attachment A: Kittitas Valley Wind Power Project - Application No. 2003-01, Service List

Ph: (503) 223-4544 Fax: (503) 223-4554 sonja@mp.org		Ph: 206-447-4400 DrumS@foster.com	
Phoenix Economic Development Group:		Sierra Club Cascade Chapter:	
Debbie Strand Executive Director Phoenix Economic Development Group 1000 Prospect Street PO Box 598 Ellensburg, WA 98926 Ph: (509) 962-7244 Fax: (509) 962-7141 phoenix@elltel.net		Louise S. Stonington Sierra Club Cascade Chapter 1922 15 th East Seattle, WA 98112 Ph: (206) 322-7193 lstoni@hotmail.com	
Residents Opposed to Kittitas Turbines (ROKT):			
Residents Opposed to Kittitas Turbin P.O. Box 1680 Ellensburg, WA 98926 Phone: 425/868-5959		James C. Carmody Velikanje, Moore & Shore, P.S. 405 East Lincoln Avenue P.O. Box 22550 Yakima, WA 98907 Ph: 509/248-6030 Fax: 509/453-6880 jcc@vmslaw.com Please also e-mail Shawna Butler at shawna@vmslaw.com	
Mike Robertson 4101 Bettas Rd. Cle Elum, WA 98922 Ph: 509/857-2113 kestrels.edge@elltel.net		Hal and Gloria Lindstrom 1831 Hanson Rd. Ellensburg, WA 98926 Ph: 509/925-1807	Steve and Amy Oslund 31802 NE 139th Street Duvall, WA 98019 Ph: 425/788-3520 amy_oslund@hotmail.com
Geoff Saunders 22807 NE 23rd Street Sammamish, WA 98074 Ph: 425/868-5959 geoff@geoffsaunders.com		Ed Garrett and Rosemary Monaghan 19205 67th Avenue SE Snohomish, WA 98296 Ph: 425/483-9770 garrett_ew@netos.com	
F. Steven Lathrop:			
F. Steven Lathrop Lathrop, Winbauer, Harrel, Slothower & Denison, LLP 1572 Robinson Canyon Road P. O. Box 1088 Ellensburg WA 98926 Ph: (509)-925-5622 Fax: 509-925-3861 steve@lwhsd.com		Jeff Slothower Lathrop, Winbauer, Harrel, Slothower & Denison, LLP 201 West Seventh Avenue Ellensburg, WA 98926 Ph: (509) 925-6916 Fax: (509) 962-8093 jslothower@lwhsd.com	
Chris Hall:			
Chris Hall			

Attachment A: Kittitas Valley Wind Power Project - Application No. 2003-01, Service List

<p>106 E. 10th Avenue Ellensburg, WA 98926 Ph: (509) 962-6955 E-mail: hall@ellensburg.com</p>	
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