IN THE STATE OF WASHINGTON
COUNTY OF KITTITAS

KITTITAS COUNTY BOARD OF COUNTY )
COMMISSIONERS SPECIAL MEETING )
RE KITTITAS VALLEY WIND POWER )
PROJECT )

VERBATIM TRANSCRIPT OF PROCEEDINGS

May 3, 2006
6:00 p.m.
Kittitas County Fairgrounds
Ellensburg, Washington

HEARING BEFORE THE KITTITAS COUNTY
BOARD OF COUNTY COMMISSIONERS

REPORTED BY:
LOUISE R. BELL, CCR NO. 2676
APPEARANCES:

KITTITAS COUNTY BOARD OF COUNTY COMMISSIONERS:

COMMISSIONER DAVID BOWEN, Chairman
COMMISSIONER ALAN CRANKOVICH
COMMISSIONER PERRY HUSTON
CHAIRMAN BOWEN: It is Wednesday, May 3rd, 6:00 p.m. We are at the Kittitas County Fairgrounds Home Arts Building. We are here for continued public hearing to consider the Kittitas Valley Wind Power Project, Z-2005-22, submitted by Sagebrush Power Partners, LLC.

I'm going to go ahead and start out today with some declarations. And start with myself. Last Friday morning I had a brief discussion with Commissioner Huston on which of us would talk to staff about the prehearing meeting with the proponent and the subject matter. It was decided that I would, as Chair, and which made sense, so I spoke with CDS Director Piercy regarding the prehearing meeting.

He indicated he advised them to specifically answer the commissioners' questions from the transcript the applicant had indicated they thoroughly reviewed --

And I will slow down.

Format or structure of the response was not part of the discussion.

Spoke with Chief Civil Deputy Prosecutor James Hurson, who gave me a similar account of the events of the prehearing meeting. Which he
left in the middle of to join me on my field trip to the Hopkins Ridge.

I'm trying to think. I did ask Director Piercy to put together a history of this particular application for me to make sure that as I get later on in my testimony that I was -- was correct in my assumptions and what I was pulling from the record.

And everything else was just process stuff with Deputy Prosecutor Hurson.

So with that, is there anyone here who wishes to object to my continued sitting in hearing on this application?

Seeing no one wishing to object, Commissioner Crankovich.

COMMISSIONER CRANKOVICH: Thank you, Mr. Chairman. Other than Jim Hurson stopping briefly by my office today to see if there was anything I needed, which my reply was no, that I was doing fine with the information that I have before me, I have nothing to declare.

CHAIRMAN BOWEN: Hearing those declarations, is there anyone who wishes to object to Commissioner Crankovich continued sitting on this public hearing?
Seeing no one, Commissioner Huston.

COMMISSIONER HUSTON: Well, let's see. You dealt with process questions, so I have not talked to staff. I have not talked to Mr. Hurson. I have the Development Agreement dated May 1, 2006, which was delivered to us May 1, 2006.

Other than that, I don't believe I've talked to anybody.

CHAIRMAN BOWEN: Okay. Hearing those declarations, is there anyone wishing to object to Commissioner Huston's continued sitting in hearing on this issue?

Seeing no one, everyone will remain seated. Thank you.

I'm going to go ahead and start with an opening statement that I drafted up. I spent a lot of time the last five days going through the record. Got a box, I didn't bring it all, but the pertinent information is sitting here next to me. And I spent a good portion of this morning trying to collect those thoughts and put them in order.

And what occurred to me is as I left the last meeting, I had the sense that I need to
clarify the record a bit. The correspondence from the proponent implied the County has unreasonably delayed this process, that we may not be acting in good faith.

It also implies that they have made great sacrifices in adjusting the number of turbines proposed at the project.

I want to take a few minutes to discuss the application timeline; staff involvement; the number of proposed turbines, based on information in the record; and the decision to point out 174-turbine option known as Alternative A, Page 2-39 of the DEIS, which within the record states it was considered but rejected for various reasons by the applicant prior to initiating any application process.

We need to remember this is the proponent's application. County staff have hundreds of applications to review and follow up on. The best any staff member can do is answer questions about process and stay away from giving technical advice for appearance of fairness or legal advice by state statute.

The previous decision to apply directly to EFSEC for preempt with their previous proposal.
was a business decision made by the proponent. To imply that that time period spent with EFSEC was an unreasonable delay by the County is a blatant distortion of the facts.

The application was received on October 14, 2005, and after receiving supplemental information was accepted as complete on December 2nd, 2005. That's noted in Book 1, Proposed Findings of Fact and Conclusions by Kittitas Valley Wind Power Project December 30, 2005, Page 1.1, Executive Summary.

It was concluded to ensure appropriate public comment and to accommodate a busy holiday schedule, the public hearings would begin on January 10, 2006. They were continued to January 11 and January 12th, giving adequate time for the proponent, the public, and staff to present their information. The county staff was complimented by Erin Anderson for being with them every step of the way.

The Kittitas Board of County Commissioners continued their portion of the hearing to January 26, February 7, and February 13 for purposes of keeping track of Planning Commission progress and to propose scheduling for the BOCC
review of the Planning Commission record.

The Planning Commission continued their hearings to January 30th. The proponent had a conflict with the 24th date which was originally proposed. The Planning Commission completed their deliberations on January 30th. Staff prepared Planning Commission Findings of Fact, documents which were delivered to the BOCC on February 13th.

The applicant was given an opportunity to respond to the deliberation and conclusions that arose from the record during Planning Commission deliberations.

On February 21st, 2006, to give ample time for public review and preparation for comment, the BOCC continued the hearing on March 29th and 30th. The applicant's response was received by the BOCC and the public on March 15, 2006.

March 29th and 30th BOCC public hearings were held to receive comment from staff, the proponent, and the public. The hearing was continued to April 12th, giving the BOCC time to review the newly presented testimony and prepare for deliberations.

At the April 12th meeting the Board
indicated several topics of concern, requested response from the applicant, and agreed without objection from anyone in the room and with a positive response from the proponent to have the commissioners conduct individual site visits. The hearing was continued to April 27th.

The site visits were conducted at Hopkins Ridge near Dayton, Washington, on April 19th, 20th, and 21st. Hopkins Ridge was selected because it had turbines and towers similar in size to those proposed on the project before us.

On April 27th we met in open public hearing to discuss our site visits and the applicant's response dated April 25th, 2006 to the request from the April 12th meeting.

The response from the applicant read like a legal brief. Inserted into the record an irrelevant April 2001 date in regards to Alternative A, a 174-tower project that was considered and rejected by the applicant years before any application was submitted to anyone.

The only technical information I found associated with the 174-tower project was Figure 2-6 in the DEIS that shows towers ranging from 100 feet to 400 feet in height. No power
production projections are given.

The five bullet points on Page 1 of the brief made it clear that the applicant had read the transcript and understood there were issues to address.

The consistent issues from each commissioner were reflected in the fourth bullet point. Proposed setbacks that address shadow flicker and visual impacts while maintaining an economically viable project was the verbiage used in the brief.

Statements such as "reasonable period of time" and "longstanding good faith efforts" are included, which appears to be legal posturing for future EFSEC meetings.

This project comes down to compatibility with neighboring land uses. I believe there may be more parcels involved, but using Table 3.2-5 within the DEIS dated December '03, I counted at least 126 parcels.

Information in the record shows there are 60 residences within one mile. 43 non-participating landowner structures within 3230 feet. 41 within 3000 feet. 27 within 2500 feet. 16 within 2000 feet. And 9 within 1500 feet.
Setbacks, whether mitigation or safety, from these locations and non-participating property lines are based on the following criteria contained in the record. Safety: 541 feet, based on tower heights and ice throw criteria. Noise: 1000 feet, based on the EDNA criteria. Visual impacts: Measured at four-tenths of a mile, which is 2112 feet, used as the closest criteria. That was the closest point of measurement for visual impacts. And shadow flicker: 200 feet to 3300 feet, criteria based on testimony of Andrew Young in regards to Exhibit No. 15 in Book 1 of the Proposed Findings of Fact and Conclusions for Kittitas Valley Wind Power Project dated December 30th, 2005, and a letter written September 18th, 2003, by Chris Taylor, Page 3-181 Desert Claim Wind Power Project, Final Environmental Impact Statement. Both noted in the record as experts in the field of wind turbines.

Contour maps highlighted Andrew Young's testimony, Exhibit No. 15: Anything -- and this is quoted: Anything outside the burgundy line is less than 24 to 25 hours per year and is insignificant and extends 1 kilometer or more
than 3300 feet.

Chris Taylor's correspondence indicates that any receptor beyond 2000 feet would not be subject to shadow flicker. This indicates to me that although safety and noise impacts can be mitigated in the proposed 1320 feet, the visual impacts and shadow flicker cannot.

If I base the setback on the criteria in the record, it appears to be appropriate to use somewhere between 2000 and 3300 feet from non-participating landowners.

My site visit resulted in my having a comfort level with proposing a minimum 2000 feet from a non-participating property line and a minimum of 2500 feet from a non-participating landowner's residence. These observations correspond with the criteria in the record.

What does that do to the number of turbines? The April 25th, 2006 brief has a chart that shows a number of turbines proposed at different stages. 174 down to 65 if a person read it without having the rest of the story.

I referred to a memo from Horizon Wind Energy dated March 30th, 2006. It mentions the range in the December 2003 DEIS from 82 to 150
turbines, and the August 2004 draft supplement continues to reference those same numbers. Followed by a December 2005 addendum to the DEIS at Page 2-1 indicating 80 turbines. Now we are at 65.

Final page; I'm almost there.

How did we get there? Visual impacts were assessed at specific points around the project, so based on terrain, towers were removed that helped diminish the effect from that specific viewpoint. Drive up the road a mile or down the road a half mile and you would have a different visual impact that may or may not have been diminished by the changes at the last viewpoint.

It seems to me that setbacks from non-participating land owners are the crucial criteria. Removing towers solely to reduce visual impacts from a randomly chosen, specific point, rather than from an existing permanent structure, is failed logic, in my opinion.

The brief states that they have presented approximately a 50 percent reduction in the number of towers. If you read the charts in the record, you will see that with the choice of technology, the tower they propose to use is
rated at 3 megawatts. And the draft EIS only covers the installation of 82 of them.

The current proposal of 65 is approximately a 20 percent reduction in the number of turbines, or 17 towers. The difference in the 82 and 150 towers also includes overall height difference of 410 feet versus 260 feet. I will assume that the 174 towers brought up earlier are even smaller in height and production capacity, but there is nothing in the record evaluating them to confirm that fact.

The final item I wanted to touch on in the brief presented April 27, 2006 is the statement that the 1320-foot setback distance would further minimize visual and shadow flicker effects to three existing non-participating residents. That could be read to infer that are are only three residences near the project, when in fact there are at least 43 non-participating landowner structures within 3230 feet, which is .61 miles or less than a kilometer.

Those are the facts that I dug out of record, based on what was presented to us at the last hearing. And I just -- to infer that staff hasn't been helpful and to almost I guess
dissolve yourself, move yourself away from what's presented or what the record is or the application itself was disingenuous, in my opinion.

That's pretty much my opening statement.

We did receive the Development Agreement on Monday afternoon, as Commissioner Huston presented. I don't know if -- I wanted to give the two commissioners a chance to add anything they wanted to my statements and give staff an opportunity to fill in any holes that I might have left out.

So Commissioner Crankovich, anything to add at this point?

COMMISSIONER CRANKOVICH: I don't have anything to add to your -- your observations. I did go through the Development Agreement. So Commissioner Huston, do you have anything to add to the Chairman's opening statement?

COMMISSIONER HUSTON: Not regards an opening statement. There are a number of issues in the Development Agreement itself that I think need to be clarified or even amended. But that can certainly wait until we hear staff's presentation. And probably I can avoid
redundancy by listening to what they have gleaned out of the document, if anything.

CHAIRMAN BOWEN: Okay, thank you. Staff, are you prepared to add anything to what I had to say or to move on into the Development Agreement?

MR. DARRELL PIERCY: Mr. Chairman, members of the Board, for the record, Darrell Piercy, Director of Community Development Services.

I would just like to add for the record that we have provided to the Board of County Commissioners three documents this evening that they have in their possession that were not previously in the record.

One has been identified as the Development Agreement, which was delivered to Community Development Services at a 3:57 p.m. on May 1st of 2006.

The second item is a verbatim transcript of the hearing of Thursday, April 27th. It is now available and has been provided to the Board of County Commissioners.

And then we did produce and provide, as Chairman Bowen has indicated, a project history. That was identified and discussed by Commissioner Bowen, but each of the three commissioners have
received a copy of that document.

Copies of all of these documents are available should the public desire to have those, and we will very shortly have a copy of the Development Agreement posted on our website for anyone who would care to review that online as well.

Commissioner -- commissioners, we have as a staff, both your legal counsel and your community development staff, have had an opportunity to review the Development Agreement, we are prepared to address comments in regards to that; we are prepared to go through it element by element in terms of issues that we have seen. And if you'd like, we're certainly prepared to do that.

Or we're here as a resource to answer any questions that you might have as well. However you would like us to proceed, we're very happy to do that.

I think we should also indicate that our concern that was expressed at the last hearing in regards to the new information that was being introduced to the public record as a result of the response from the applicant continues to be a concern of staff.
As was touched on briefly by Commissioner Bowen, we believe that the matrix that is located within that document does, in fact, introduce new evidence that was not in the record prior to that evening. And in the citations that were given as part of the testimony by the applicant, we can find where there's no specific documentation where much of the numerical information that was provided both in terms of tax revenue and in terms of revenue associated with individual landowners was, in fact, consistent with any other documentation that we could find in the record, including those citations that were provided by the applicant.

I'd be happy to proceed however you wish, Mr. Chairman.

CHAIRMAN BOWEN: Mr. Hurson, anything you want to add?

MR. JAMES HURSON: I don't have anything to add, unless you have some questions and want further clarification on any of the issues raised.

CHAIRMAN BOWEN: Commissioners, do you want to hear staff's view of the document, or do you want to go ahead and get yours out now? And have
staff comment on those as well as their observations?

COMMISSIONER CRANKOVICH: I'll defer to your choice. It makes no difference to me.

CHAIRMAN BOWEN: You look poised and ready, Commissioner. Why don't you --

COMMISSIONER CRANKOVICH: Okay. I will use the draft Development Agreement before me. As you can see, I've tagged several things. And I'll start in order of what has been my requests at this point.

Page 10, Article 5.8 regarding road degradation, monitoring, improvements, and mitigation, it is stated that that portion of Hayward Hill Road that will be used for the project construction and operations of approximately two miles will be improved to a 22-foot gravel road from Bettis Road to Kittitas Reclamation District Canal.

And as I've identified prior, in the additional recommended mitigation measures under fire protection, it specifically points out that there should be an improvement to the southern portion of Hayward Hill Road which comes from Highway 10. And I'll read it verbatim here:
Implement the terms of any negotiated agreements between Fire District No. 1 and the applicant regarding improvements to the southern portion of Hayward Hill to ensure adequate fire protection to this project area.

One thing I do want to point out, and this is with all due respect: Fire department personnel do not make the decision on any improvements that will be made or be required to be made. This board does.

So with that said, I am going to continue my stance that the whole Hayward Hill Road will be improved.

It also points out that Bettis Road will be -- let's see, the portion of Bettis Road that will be used for project construction and operation approximately 1.45 miles from State Highway 97 to Hayward Hill Road will be improved following construction to current Kittitas County road standards applicable to this section of road.

My original request was that the entire Hayward -- or entire Bettis Road be improved. I am willing to give this consideration if -- you know, what's in the Development Agreement if any
and all project traffic will be restricted to this area. If they start to use all of Bettis Road, then I'm going to expect that the entire road be improved.

And those are just the road things that are near and dear to my heart.

One thing that I see on Page 4 -- I'll step back a page -- is the applicant agrees to abide by the proposed SEPA mitigation measures contained in Exhibit D as well as the development standards set forth in this agreement.

And so I guess that leads me to -- I have some points for clarification, I guess. Under -- on Page 11 under 5.14, turbine setbacks from residences, it's been -- it is stated here that a setback of one-quarter mile or 1320 feet shall be maintained between project turbines and existing residences and neighboring landowners who have not signed agreements with the applicant.

And going back to the proposed SEPA mitigation measures -- and this is under minimize risk of ice throw and to minimize risk of tower collapse and blade throw. And I'll read this:

In order to prevent ice from causing a potential danger, the propose turbines would be
located at least 1000 feet from any residences.

Now, the 1000 feet doesn't coincide with the 1320, and I was just wondering how that is.

And it leads me into another question of this, you know -- and we have to consider public health, safety, and welfare. By signing an agreement to allow turbines to be closer than what has been identified as a safe area in your proposal, you know, how can that not be considered a safety risk? And at what point, even by them agreeing to such, does the risk, you know -- is it minimized by allowing turbines to be placed closer? This is -- you know, we're, we're here to protect the overall health, safety, and welfare, and so this is under your mitigation measures for ice throw.

Then in the tower collapse it -- the applicant proposes setbacks of at least the height of the tower plus the blade overall tip height from any public roads and residences. So that to me contradicts the minimum -- the minimal risk of ice throw measures that are identified.

It also -- there is a number of -- it identifies 328 feet from public roads. Will also be equipped with fail-safe ice and sensor system.
How is the magic number of 328 feet arrived at?

It, it says the tip height would range from 260 feet to a high of 410 feet. I believe in the record up to this point that 260 feet would be -- that those towers wouldn't even be considered, due to the reduced number proposed for the project.

And let's see. So those -- I guess those are questions that I have of inconsistencies that I see from the proposed setback to what is also contained in the record.

With that, my opinion is that 1320 feet is inadequate. After seeing firsthand the project in Dayton and seeing that even in the project the closest home was a half a mile identified, give or take, so I'm going to assume that it's 2500 feet-plus. I did locate one outside the project that was, I believe, within a quarter of a mile. But everything else was -- that I could find was in the half-mile or more range.

My requirement would be -- Commissioner Bowen set out 2500 feet. I would, I would suggest one-half mile from non-participating landowners. And this could be accomplished by either turbine relocation, elimination, and there
is an alternative that was presented in -- in information that you provided into the record of some level of compensation for non-participating landowners. And I would leave that up to what you would come up with.

So with that -- and also, as I identified in my visit to Dayton, the noticeable noise levels. And I purposely measured very identifiable shadow flicker of out beyond 1500 feet. And it is contained within the record that 2000 feet-plus would virtually eliminate that.

So that's what I have right now.

CHAIRMAN BOWEN: Thank you. Commissioner Huston?

COMMISSIONER HUSTON: Somewhat peculiar to the EFSEC process, I guess I'd remind everybody we're dealing with what is a draft Environmental Impact Statement other than a final -- rather than a final Environmental Impact Statement to be the norm in a county process. Nothing we can do about that; I just make that observation.

So I am basing my comments on, in fact, what is a draft plan and, needless to say, reserve the right to intercede should the final be remarkably different from the draft, because obviously that
sets things back into another discussion.

That said, going through the Development Agreement, keep in mind that I've always been the proponent of site-specific evaluations, so specific to this site I'm not comfortable with what was an ongoing litany in terms of different plans and studies that would be provided prior to construction. Which obviously implies after the permitting process has been completed.

Now, I understand that arguably there are some teeth prior to the construction process; however, there's more teeth prior to the actual permit being issued. Specifically, we had a variety of emergency plans referenced that would be completed prior to construction. Storage and spill plan prior to construction. The FAA certificates.

Because of the proximity to residences, I'm not convinced that we don't need more detail in terms of those plans prior to my being able to, to grant any kind of an approval to the project.

Commissioner Crankovich has chatted about the roads. I think we do need to firm that language up considerably. Such phrases as "restore to as near a condition as possible"
makes me a little nervous and is arguably in the eye of the beholder. We don't let the construction industry build the roads to "county specs or close." You build them to specifications, and that's the way it works.

In terms -- well, let's just cut to the chase. In terms of setbacks, the one thing that I do think we need to lay to rest right now -- and the Chairman had actually dealt with it in some detail and with some effectiveness, I might add. But looking at Page 15 of your Development Agreement, Section 7, we still have some level of plausible deniability, which we're just going to have to dispense with; what, the second paragraph, third sentence -- second sentence:

Other potential impacts, such as shadow flicker, noise impacts are not significant adverse impacts due to the distance of the turbines from potential receptors.

That is contradictory to Page 22 of your statement of conditions, where in fact it's identified that the distance does not mitigate those measures and other mitigation measures are proposed. The documents have to add up. And I understand that there was some effort at the last
hearing to detach oneself from that statement, but you'll prove to be quite unsuccessful, based on the information in the record now, for this commissioner.

There's been discussion of setbacks. Again, going back to my particular site visit, I measured a distance of 1644 feet upwind. I could still hear these things. And it was quite noticeable. I'm not going to suggest it was deafening, but I am going to suggest that based on 85 percent projection in terms of the operating rate which is in your documents, that would be approximately 20 hours a day, 7 days a week, or some other combination. I'm not convinced that we've mitigated that.

And before I begin to lose the sense of these things looming over me, I took a measured distance of 2760 feet, which interestingly enough is falling into the same general discussion range of my fellow commissioners, based on independent analysis and independent review of the records.

So it strikes me that the notion of a half-mile to 3000 feet is probably where we're coming to in terms of a non-participating property owner.
Now, I'm prepared to listen to discussion in terms of property owners waiving parts of those setbacks. It's going to have to be recorded in the form of CCRs or some other document that runs with the title of the land. But at this point I guess I'm prepared to hear the argument that people can waive their right to not hear something when 1644 feet away.

I'm not going to violate the safety setbacks. We've had that suggestion before. Even voluntarily I'm not going to let people enter into that ice throw, tower collapse, blade toss range that we have identified.

I would listen to someone waiving what I'm going to call probable significant adverse visual impact in terms of individual non-participating residences.

Now, I'm making a distinction between protection of a distant viewshed. That's different. And I'm not going to ask the property owners between Ellensburg and the Stewart range to not do anything to preserve my view of the Stewarts. That's a different concept, and I'm not talking about that.

I'm talking about living day-to-day with a
huge mechanical object looming overhead. And as I said, from personal perspective I didn't begin to lose that sense, again, at a measured distance of 2760 feet.

There's been the introduction of economic viability in terms of the project, and I submit from my perspective that's a business decision. There's been nothing introduced into the record in terms of what is a critical mass, that you have to site 20 or 50 or 200 towers to make it economically viable, so I have nothing to base those numbers on.

Nor do I have to recognize the notion that there are not alternate sites for this type of activity, because obviously there are; we've already approved one.

So I don't find that the discussion of how many towers is necessary to make it a viable project either in the record or, as such, compelling in terms of our discussion today.

Let's see, where am I? I believe those are the significant points that I would need to have --

Oh, excuse me, one more thing. It's just a curious anomaly and maybe it's just a typo, but
the road standard generally calls for a maximum grade of 12 percent. And in one part of your documents it parallels that and then repeats the variance process; and then another part of the document it calls for 15 percent maximum grade, so that might have just been a contradiction, perhaps not a significant point.

I believe that concludes my comments for the moment, Mr. Chairman.

CHAIRMAN BOWEN: Thank you. Anything else to add, Mr. Crankovich?

They have hit everything that I highlighted in here, and I used green and red, trying to get some -- break up my evening, actually, as I was working on this until about 1:30 in the morning.

Staff, anything we've missed or you think we should be thinking about or looking at?

COMMISSIONER HUSTON: Actually, Mr. Chairman, if I might, before we move to that, I don't have a specific observation in terms of the decommissioning language, but I also didn't have in front of me the templates that we've used in the past, so it may be fine.

I read through it and it struck me that there was a little bit of ambiguity in parts of
it. But I'll defer to staff and Legal if it hits -- I had no objection to the numbers. They seemed to be based on some methodology that made sense within in the past; and I still concur with the notion that if it's a regulated public utility that takes the project over, then they fall under a number of very stringent regulations. I didn't necessarily have that problem.

But in terms of the comparison of the guaranties, the letters of credit, and performance bonds, I just couldn't dredge up in my mind whether those spoke to the issues that we've had in the past performance guaranties and that sort of thing. So at some point staff might make comment on that.

CHAIRMAN BOWEN: Go ahead, Darrell.

MR. DARRELL PIERCY: Mr. Chairman, members of the Board, for the record, Darrell Piercy, Director of Community Development Services.

We are prepared to address at least a couple issues associated with the decommissioning, and there are several other issues within the document body itself that while well-addressed by the Board, we would like to continue to address
at least those items just for the record.

So if we may, I'll go through this document almost page-by-page to highlight some of those issues in which we found that there were concerns or at least discrepancies. Some of them border on minor, I will admit. However, if we're going to have this as a document that serves as a solid, valid contract, we feel that these issues needed to be clarified.

First off, on Page 4, if I could direct your attention to Page 4, Item F, it talks about a Consolidated Development Activities application. CDS no longer uses a Consolidated Development Activities application. I believe this was lifted from a previous document associated with the Wild Horse Wind Power Project. This was actually forwarded to us on a rezone application; and just for clarity, I think the document should accurately reflect the application that is before us.

Further on in that document, there's no discussion in regards to the updated amendment to the draft Environmental Impact Statement. We could not find that discussion in regards to that being an element of the application in any of the
discussion regarding the draft EIS or the SEPA process. We do feel that there should be a recognition that a specific addendum to the SEPA document was developed and included in the record as part of this application.

Item -- on Page 5, Item I, we believe that this should be referred to as a "previous" draft was the subject of a comment period and a hearing before the Kittitas County Planning Commission.

This current draft was not, and that is at least an item that I think should be reflected in the record, that the document has been modified in some ways and it is different than what was reviewed by the Planning Commission.

Again, on Page 6 where we've discussed the draft EIS, there's again no discussion of the addendum that was done to the draft EIS. Again, we feel that that environmental documentation should be reflected in that definition as well.

On Page 7, Item 2.14, the -- the definition is a different and new definition than we have seen in previous documents. We are at a loss as to why "loss" was included; and there's no pun intend on that, by the way; I apologize for that. But we are just are unsure why the wording from
previous documents has changed.

The same is true in 2.18. Substantial completion was defined in previous documents, documents that have been approved by the Board of County Commissioners for another wind farm project. In this case "for sale and commercial quantities" has been added to this definition; and frankly, we know that we had substantial discussion in regards to the discussion and the definition of "substantial completion" as we went forward on the Wild Horse project and feel that this is a concern that would have to be addressed in some fashion.

There are a number of citations in the document that talk about turbine height and setbacks associated with turbine height. I think the commissioners actually addressed that very well. I won't go into those each time in detail, but staff was concerned in regards to the discrepancies between the safety zone setback and the setback from participating structures and the setback from public roads.

This was a topic that has been discussed in numerous occasions and other projects before you for consideration of this nature. The safety
setback has been one that has always been determined to be important; in other words, we need to protect people sometimes from themselves. And setting a safety setback from existing residents, whether they're project or non-project participants, has been a concern in the past and I think would probably continue to be a concern in this document as well.

Staff also noted on Page 9 the issue of the 12 percent grade and how that might be exceeded. And continuing the language on Page 10, identifying -- a statement in which "approval shall not be unreasonably withheld."

There is a process to go through for a variance on grades. It oftentimes becomes an issue of whether emergency service vehicles can access those roads. It does deviate from county road standards, and I think it should be noted that that would be a deviation and we'd have to go through an appropriate process.

In terms of overall roadways, one of the things that is not specifically addressed in this document, and I think it is a concern of staff, is the substantial number of trucks and concrete vehicles that will be traveling county roadways.
as a result of this application were it to be approved.

Contrary to other applications of this type that have been approved by the County, this particular project does not propose any batching on site, which means all materials associated with turbine construction -- which is substantial in terms of the number of cubic yards of material that would be utilized -- will need to travel county roadways and perhaps state highways.

I believe that we should have some identification as to what those routes are, when the times of travel would take place, how many trips per day would be anticipated; and also the condition of those roadways should be examined as an element of this agreement as well.

And it doesn't specifically address the scope of that delivery service, which we feel is very important in terms of this application.

On Page 11 there's a discussion in regards to the access of publicly owned lands. It says, "Lands associated with the project," and since the project does in fact include publicly owned lands, certain public access restrictions are placed into the document that I don't believe
have been discussed as specific to this project in the past.

I think there would need to be additional review of this issue, since active recreation activities such as camping and off-road vehicle usage would not be allowed, consistent with this Development Agreement, and I'm not sure that is a statement that has been made to the public prior to this point and would not be one that I suspect that many people would be supportive of.

Going to Page 13, there's a discussion on decommissioning, funding, and surety. First off, it references a document, an addendum to the document. Let me get the wording correct. There is an exhibit to the document, Exhibit F, which identifies a cost for decommissioning. This exhibit addresses the decommissioning of 64 turbines, with their document now indicating that the proposal is for 65 turbines.

I suspect that they're not proposing that one turbine remain after decommissioning, so the numbers associated with the decommissioning plan are not accurate in relationship to the overall project of 65.

On Page 14, Paragraph C, there's a guaranty
section that is now included in this document. You may recall that this was a very lengthy discussion point in regards to the development of the decommissioning element of the Wild Horse Wind Power Project when that was approved.

This section was removed from that project. In essence, this paragraph puts on -- the burden of any decommissioning on the good faith and good name of the company that has ownership of the project, with some criteria being identified for that. That was rejected as part of a discussion for the Wild Horse project, and that did not meet the criteria or the concerns of the County that there be a strong and vibrant guarantee that the project was able to be properly decommissioned.

On Page 15, Item No. 7, the second paragraph, it refers to project and equipment design, safety setback zone as described in Section 5.17. There is no Section 5.177 in this document. So we're not sure which section that is referring to. I suspect it was one that was earlier in the document than 5.17, but that is an inaccurate reference.

On Page 19, Section 10.2, although we are not yet sure what the effect of this change in
wording is, there's a significant reduction in the overall language of this binding effect section from a previously approved agreement with the Wild Horse Wind Power Project.

I'm not sure Jim will be able to speak to that tonight, but he is aware of that reduction; and whether or not he's had an opportunity to fully identify what that reduction language might mean, we're not sure of the purpose at this time and just note that for the record, that there is a fairly substantial reduction in the language associated with that section.

With that, that would conclude our remarks at this time, in regards to the document before you for consideration, from Community Development Services. I belief that Mr. Hurson does have some additional thoughts and comments.

CHAIRMAN BOWEN: Thank you, Mr. Hurson; go ahead.

MR. JAMES HURSON: Yes, Jim Hurson, Deputy Prosecutor. I'll try not to repeat some of the comment the commissioners had, I already had, and many that Mr. Piercy had too.

There are some other language changes, however, like Page 7 -- I'm trying not to
duplicate the things. So I'm trying to tag them. Page 7, the force majeure, which is the act-of-God thing that excuses performance, not in the time when they expanded the definition of that, which would basically allow for additional matters to not require performance.

I believe we -- for Wild Horse we negotiated the language that was agreed to, but I'm not -- I don't remember if this is the earlier version in Wild Horse or whatever, but it's not the final one.

They did delete the term "liability" and put in "loss." I'd have to double-check as we go through these and see how the interplay of the language and terms and definitions are important as we go through those.

On one of the development standard issues, Page 8, 5.1 it indicates the turbines would be within corridors as provided in the project description, and I believe that is out of the Wild Horse project, but "within the corridors" seems to maybe have a broad range of what does that actually mean, given the fact that the corridors are essentially the same in the 120 versus the 65.
And does that mean that the turbines could be moved, like one line of turbines is eliminated and all those turbines are pushed off to another line somewhere else and still be within the corridor? So then you have a question of was that properly analyzed, was that part of the analysis itself? That would be something I'd have to work out to more clearly define where they would all go.

One thing would I note, I believe the comment on Page 9, turning over to 10, about the 12 percent, I think that was out of the Wild Horse language. Whether that has worked or not, I don't know. I don't know if there's anything in the record on that. And if you're going to reopen the record, that might be an issue to address, as to whether exceeding the 12 percent standard worked out on the Wild Horse project. And if we're going to be reopening the record and talk about Development Agreements, that might be an issue to talk about.

As far as traffic monitoring, 5.95, 10, it basically appears that they'll do traffic monitoring and things related to SR-97, but I'm not sure how it interplays with impacts on Bettis
Road. So I would suggest that maybe that could be clarified to make sure that if you're doing traffic monitoring, you're also taking care of the impacts to Bettis, not just the state highway.

I had some of the similar contacts -- comments regarding the safety setbacks versus the other sort of setbacks. I'm going to try not to repeat, so I'm taking a minute here.

Oh, on Page 16, termination, I think this was the original Wild Horse language proposal, but the Wild Horse one we also had language that said it must currently terminate in the EFSEC site survey relating to the project in order for termination of this Development Agreement to become effective.

Yeah, the idea of that when we did the prior one was that you wouldn't want a situation where you approve, then have consistency, EFSEC approves, and they terminate our agreement and EFSEC controls everything and the County's left out of any further involvement in the project because we no longer have an agreement.

Page 18, the collateral assignments without consent of the County. Deleted the last phrase
that's in the Wild Horse one which said "and maintains financial assurances for decommissioning." So that was -- that language was in the Wild Horse when we approved it. It's not in this proposal.

Page 19, 10.2, binding effect, that was the one Mr. Piercy was talking about being a shorter definition. The Wild Horse definition also included binding effect on lots, parcels, or parties or owners related to the project, rather than just the applicant and the County. And I think that had to do with assuring that any binding effect goes with the land itself and not just the wind farm owner, since the land is all under leases and the lessees are not signators to the agreement.

The -- on Exhibit A, and it may not -- I'm not quite sure -- it makes a comment about if a larger turbine model is selected, i.e., over 3 megawatt nameplate, fewer turbines will be installed. So I'm not too sure where that came from, because I think every proposal we've had has had a maximum of 3-megawatt turbines, but the exhibit seems to contemplate that they could have larger turbines. So I'd suggest that would not
be used.

And a general comment about the SEPA mitigations, which I frequently have about SEPA mitigations on documents, is your EIS or draft EIS makes suggestions that these are things that you should do; you should do this, you should do that. As a condition of approval, you need to change your "shoulds" to "shall" or "must" so they become not merely a suggestion to the -- the person who has to mitigate, but an actual requirement.

And that is basically a general comment that would go throughout the SEPA mitigation attachments, because there were lots of "shoulds" and "coulde," and you might want to talk some more sort of language, and any mitigations I think would need to be nailed down pretty tight.

One last comment, and this is -- this is not a fine-tooth comb review by me by any stretch. I spent a few hours trying to go through it. I'm sure there's other issues. Trying to highlight.

One other thing I note is on the decommissioning, Mr. Piercy noted that it was about 64. I'd note that the cost estimate -- by taking the number of turbines and dividing up the
dollar amounts, the 2006 cost estimate is the same as the 2003 cost estimate. Which is what Wild Horse had.

And with inflation being what it was, I don't know if there's been any thought to looking at, you know, are things costing as much in 2006 as they did in 2003; should there be some sort of a recognition of inflation and additional cost that we normally anticipate.

And that is all I have for so far.

CHAIRMAN BOWEN: Thank you. Any questions for staff?

I realize this is really dry, listening to us do this up here. But we are elected to read this word-for-word and to try and look out for the future generations here in the county, and that's what we're trying to do. And as well as those people that are there now.

I would propose at this time if the proponent or applicant wants to come up and address some of these or if you want to have a break and --

Yes, I see some nodding of a break. If that's all right with the commissioners, we'll take a ten-minute, fifteen? What do you need,

(A break was taken.)

CHAIRMAN BOWEN: It was noted in the break that we might not be able to be heard in the back, so we turned it up a little bit, and I'll try and speak up a little louder as well.

And I didn't ask my seatmates; is it -- I assume it is appropriate to bring up the applicant now and have them address some of our questions and issues?

Okay. Whenever you're ready.

MR. CHRIS TAYLOR: Good evening, Chairman Bowen, members of the commission. For the record, Chris Taylor representing the applicant.

I'd like to start by saying thank you very much for your time. It's obvious that you've spent a lot of time preparing for this evening and reviewing what is a very voluminous record, and we certainly appreciate your attention to all that detail, and we appreciate your comments.

With respect to the many comments and questions that have been raised tonight, I'd like to point out we have repeatedly asked for comments from staff on this Development Agreement since it was submitted in December, and tonight
we're very pleased to have those comments tonight; and we're pleased to have your comments tonight.

We believe that the concerns that you've raised this evening and that staff have raised this evening are adequately addressed in the record.

In the interest of brevity and given the amount of time that's already been spent on this project by you, by us, by staff, by the community, I'd like to just state that on -- as a representative of the applicant and on behalf of Sagebrush Power Partners and its parent company, Horizon Wind Energy, I must inform you that at the proposed setback of 2500 feet, as I -- if I've understood correctly the proposal from the Board, would, in our opinion, render this project inviable.

Thank you very much.

CHAIRMAN BOWEN: Thank you. Gentlemen?

It sounds like we have hit an impasse regarding both or all three of us. Kind of from an independent route we came up with similar numbers. We didn't end up agreeing, necessarily, on those numbers, but they were all on that --
you know, a range starting at 2000 feet on out.

I guess I would -- Mr. Taylor's comments regarding the time spent on this and the effort that's gone into this, everybody has taken this quite seriously, and I appreciate those comments you made.

Let me refer to my seatmates and see what direction we'd like to go tonight.

COMMISSIONER HUSTON: Well, with due respect, Mr. Taylor's comments didn't take us anywhere. There's absolutely nothing in the record that speaks to what is a viable or an inviable project. He's made an assertion, and I assume that assertion would be followed up with "We don't intend to discuss this with you anymore, Mr. Huston," or "We're withdrawing our application," or "We intend to ask for preemption from EFSEC" or some conclusion to this discussion. You've indicated it's not viable. Prove that to me so that I can determine whether or not in fact there is something in the record that I should consider.

We have an assertion; we have nothing more. There is nothing in the record to indicate that 5 towers is not viable or 15 or 500. I mean,
obviously there's a lot of room in the discussion, because it went from a hundred-and-some-odd to 65, so needless to say, it wasn't with pinpoint accuracy that it was proposed in the beginning.

I mean, I appreciate that you're now telling me that it's not a viable project, but -- so what am I supposed to do with that? Are you withdrawing your application from further consideration by this board?

MS. ERIN ANDERSON: Mr. Chair, commissioners, Erin Anderson, 200 East Third, 105 East First in Ellensburg and Cle Elum respectively, for the proponent.

Mr. Taylor has indicated to you that it is not an economically viable project at a 2000 or -- I believe he said 2500-foot setback.

At this point you could vote to thumbs-up, thumbs-down this project. The application is in front of you. We can't go forward at 2500 feet. And it is before you, so you could take whatever action you choose.

CHAIRMAN BOWEN: Okay.

MS. ERIN ANDERSON: Thank you.

CHAIRMAN BOWEN: What I'm hearing is that
the applicant doesn't want to go forward any further. I don't know if we can interpret that as a withdrawal or closing of the books or what.

Commissioner Huston, you're pulling the mic close, so I'll...

COMMISSIONER HUSTON: I think it's important to note for the record, Mr. Chairman, that through this entire process we've had continuous notation in terms of the items in the record. We now have an assertion by the proponent, who's essentially tossed their hands up and said, It's not viable.

I guess at this point -- frankly I'm a bit disappointed that after all this time and effort and months of discussion, they're not even prepared to offer into the record -- we've already discussed the need to throw this back open for comment. They're not even prepared to discuss in fact why it's not viable, what constitutes an economically viable project, or anything in the record to substantiate what has been a last-minute assertion that apparently there is a magical number of towers that makes a project viable.

I'm hearing nothing to support that
assertion, nothing whatsoever, other than I guess they don't want to play anymore. And I think it's important when this record goes to EFSEC that after a great deal of deliberation, a great deal of discussion, a great deal of effort on the part of a number of citizens, as well as staff and the Board of County Commissioners of Kittitas County, we're now at a point where essentially the hands have gone up and I guess the discussion is over.

And frankly, I'm not absolutely sure why we can't get a more definitive statement from the applicant, although I suspect I know why; it'll play much better in front of EFSEC.

If in fact this is your last and best effort, applicant, come to the microphone and tell me that the draft I have dated May 1, 2006, is the absolute final and best offer of the applicant, and then I guess I'll base my decision on that.

CHAIRMAN BOWEN: We should note for the record the applicant doesn't wish to reply to that statement.

COMMISSIONER HUSTON: Well, then, we'll note for the record that they do not wish to indicate
whether in fact this is their best offer; and I
guess we'll then have to make our decision in
essentially a vacuum at this point. I would note
for the record the applicant has chosen to no
longer participate in the process in a meaningful
manner.

CHAIRMAN BOWEN: So noted. Mr. Hurson, what
are our options from here?

MR. JAMES HURSON: Well, you can -- you
could take a vote on what you want to do. It
does sound like the applicant has essentially
told the County no and they do not want to
discuss this any further.

And the Board could then take action
reflecting the applicant's lack of desire to
further discuss the matter with the County and
has given no proposals, counterproposals, or
discussion in response to the Board's discussion.
And take action from there.

I would, however, as long as I have the mic,
like to point out Mr. Taylor made some comment
about they've been asking us to give them
comments on the Development Agreement, and this
is essentially the first time is what he seemed
to be saying.
Mr. Taylor hasn't been in the meetings, and I months ago suggested the applicant clean up their Development Agreement, clarify the language, and make a specific proposal to the Board and not just throw out the document.

And I pointed out several ambiguities and problems with what they had, some of which the Board brought out. And they chose not to make any sort of a change.

So I don't appreciate Mr. Taylor trying to put in the record, for EFSEC's purposes, obviously, that somehow the County staff was not talking to them. I specifically recall pointing out that even the simple math of number of turbines times megawatts equals maximum output, the math needed to make sense and little things like that drive us nuts and need to be cleaned up, and suggested that they clean up the application.

So we did talk about the inadequacies of the Development Agreement early on. They chose not to make those changes.

COMMISSIONER HUSTON: Mr. Chairman, a motion?

CHAIRMAN BOWEN: Certainly, Commissioner
Huston.

COMMISSIONER HUSTON: Mr. Chairman, I would move to, on a preliminary basis, deny the application for the project submitted by Sagebrush Power Partners, LLC, based on the contents of the Development Agreement dated May 1, 2006, which contains fatal flaws and inconsistent language which the applicant has indicated for the record they do not wish to correct. Staff directed to prepare enabling documents, including Findings of Fact and Conclusions of Law for our future review.

COMMISSIONER CRANKOVICH: Second.

CHAIRMAN BOWEN: It's been moved and seconded to deny on a preliminary basis the application as presented and noted by Commissioner Huston.

Any discussion to that motion?

COMMISSIONER CRANKOVICH: I'll put in my thoughts. This began long before I was seated as a commissioner, and I believe -- I will say for myself that I have reviewed everything that's been put in front of me and worked on what I thought could be a reasonable solution. And I am kind of disappointed that it just ends like this.
CHAIRMAN BOWEN: Thank you. Any other discussion?

My discussion was pretty well noted in my opening statement. I think there's criteria that's in the record and that I guess supports the setbacks we're proposing. It's obviously up to the applicant how they want to act from this point.

Any further discussion?

Hearing none, all those in favor indicate by saying aye.

COMMISSIONER CRANKOVICH: Aye.

COMMISSIONER HUSTON: Aye.

CHAIRMAN BOWEN: I too will vote aye. The motion carries. This hearing is concluded -- oh, I should probably ask for a motion for adjournment.

COMMISSIONER HUSTON: What would be the time line in terms of staff's needs for preparing the document?

They're discussing that.

MR. DARRELL PIERCY: Mr. Chairman, for the record, Darrell Piercy, Director of Community Development Services.

In looking at our schedules and the time
that Mr. Hurson will be available to help assist in working on the development of the enabling documents, we believe that an approximately 30-day period will be sufficient. I know that sounds like a fairly lengthy time, but this is a very complicated document; we want to make sure that it's done correctly and would appreciate some additional time than we normally would provide for this type of response.

CHAIRMAN BOWEN: Any comments, commissioners?

I see we have Memorial Day weekend in there as well, which shortens up the month of May a bit. Let's see, 30 days from now takes us to June 1st, basically. Somewhere in there. The 1st or -- our regular agenda's on the 6th. I don't have June's schedule in front of me, so I don't know how booked we are on some of those dates. I've got something June 1st in the evening. Would May 31st work for staff? It's a Wednesday.

MR. JAMES HURSON: This is Jim Hurson. I'll tell you what part of the problem is, is the week of May 22nd I'm out of town on business for a week.
CHAIRMAN BOWEN: Okay.

MR. HURSON: And so I won't be back really until the day after Memorial Day. I mean, I could -- what I could do -- if you schedule after that, that's fine. What I would do is I would work to get my part of the draft done before I'm gone, and so that would hopefully get it to the Board, then, say, a week or ten days before the hearing and then we could set a date if you wanted like on June 1st or the 31st, that's fine. That just gives me direction to get it done before I go to my training.

CHAIRMAN BOWEN: I don't want to cut you short on time, but I don't want to delay this proceeding either.

MR. HURSON: That's fine. I'll put it in as a priority.

CHAIRMAN BOWEN: Okay, the 31st? Is that what I came up with now?

Okay, so I would move to continue this public hearing to May 31st, 6:00 p.m., and we'll go back here at the fairgrounds in the Home Arts Building.

COMMISSIONER HUSTON: Second.

CHAIRMAN BOWEN: It's been moved and
seconded to continue this public hearing to May 31st, 6:00, Kittitas County Fairgrounds Home Arts Building.

Any discussion to that motion?
Hearing none, all those in favor indicate by saying aye.

COMMISSIONER CRANKOVICH: Aye.
COMMISSIONER HUSTON: Aye.
CHAIRMAN BOWEN: I too will vote aye, and the motion carries. This hearing is concluded.

(The proceeding was adjourned at 7:21 p.m.)
CERTIFICATE

STATE OF WASHINGTON )
) ss.
COUNTY OF YAKIMA )

This is to certify that I, Louise Raelene Bell, Certified Court Reporter and Notary Public in and for the State of Washington, residing at Yakima, reported the within and foregoing hearing; said hearing being taken before me as a Notary Public on the date herein set forth; that said hearing was taken by me in shorthand and thereafter under my supervision transcribed, and that same is a full, true and correct record of the hearing.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I financially interested in the outcome of the cause.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal this _____ day of __________, 2006.

________________________________________
LOUISE RAELENE BELL, CCR
CCR No. 2676