

IN THE STATE OF WASHINGTON  
COUNTY OF KITTITAS

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

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VERBATIM TRANSCRIPT OF PROCEEDINGS

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May 31, 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

1 APPEARANCES:

2 KITTITAS COUNTY BOARD OF COUNTY COMMISSIONERS:

3 COMMISSIONER DAVID BOWEN, Chairman

4 COMMISSIONER ALAN CRANKOVICH

5 COMMISSIONER PERRY HUSTON

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1           CHAIRMAN BOWEN: Okay, it is May 31st, 2006,  
2           6:00 p.m. We are in the Kittitas County Events  
3           Center at the Fairgrounds Home Arts Building. We  
4           are here for continued public hearing regarding  
5           the Kittitas Valley Wind Power Project Z-2005-22  
6           submitted by Sagebrush Power Partners, LLC. This  
7           meeting has been continued from May 3rd.

8           I'm going to go ahead and start out with  
9           declarations from each of the commissioners. For  
10          myself, I've spoken with CDS Director Darryl  
11          Piercy regarding and basically verifying meetings  
12          with the applicant and seeing how -- how that was  
13          working out for everybody.

14          I also spoke with Civil Deputy Prosecutor  
15          James Hurson regarding EFSEC and the meetings  
16          with the applicant, and the only real  
17          determination there was we did decide that he  
18          should probably go in person to the two EFSEC  
19          hearings or meetings that occurred between May  
20          3rd and today.

21          Heard some random comments out in the public  
22          regarding the article in the paper and the  
23          preliminary denial that was put forward at the  
24          May 3rd hearing. Cut everybody off, didn't get  
25          into specifics, and just said the hearing's still

1 open and the process still needs to move forward.

2 And for once I couldn't help myself and I  
3 read the three letters to the editor from  
4 Mr. Yoder, Mr. Johnson, and Mr. Lee, which mostly  
5 were about process. And so I'm going to address  
6 process a little bit later, but not at this point  
7 in time.

8 And with that, that is the declarations I  
9 have.

10 Hearing that, is there anyone here wishing  
11 to object to my continued sitting in hearing on  
12 this issue?

13 Seeing no one wishing to object,  
14 Commissioner Crankovich?

15 COMMISSIONER CRANKOVICH: Thank you,  
16 Mr. Chairman. I talked to Mr. James Hurson this  
17 morning regarding some process. I, too, couldn't  
18 resist the letters to the editor this time  
19 around. The same ones that you read. And I  
20 received -- we received a letter dated May 15th,  
21 2006, and which we received on the same date from  
22 Erin Anderson representing the applicant, and  
23 that's it for me.

24 CHAIRMAN BOWEN: Hearing those declarations,  
25 is anyone wishing to -- it's my turn -- object to

1 Commissioner Crankovich continued sitting on this  
2 hearing?

3 COMMISSIONER CRANKOVICH: Actually I have  
4 one thing to add, Mr. Chairman. We were just  
5 given the letters just now.

6 CHAIRMAN BOWEN: Yes.

7 COMMISSIONER CRANKOVICH: So those included.

8 CHAIRMAN BOWEN: The letters he's referring  
9 to are Horizon Wind Energy sent a letter on,  
10 let's see, May 19th to CDS, and CDS responded on  
11 May 22nd and Horizon Wind responded back on the  
12 23rd. And the gist of the letters was talking  
13 about if we were still open to dialogue and some  
14 request for some details, which unfortunately  
15 staff wasn't able to provide because we hadn't  
16 had that dialogue here in open hearing. And I  
17 guess that would be the gist of those letters.  
18 Staff will go over those more as we move forward.

19 Hearing those declarations, does anyone wish  
20 to object to Commissioner Crankovich continued  
21 sitting in hearing on this issue?

22 Seeing no one wishing to object,  
23 Commissioner Huston?

24 COMMISSIONER HUSTON: Thank you,  
25 Mr. Chairman. There is a journalism class at

1 Central that has been dealing with county issues.  
2 Two students interviewed me regarding process of  
3 a variety of county issues, amongst which was the  
4 wind farm. Farms, I should say.

5 Let's see, there's been a number of folks in  
6 the community ask about the status of the  
7 particular project before us. They were referred  
8 to tonight's hearing where we would be reviewing,  
9 as is known, draft conclusions and findings.

10 The letter dated May 15th came to my  
11 attention through the clerk of the board, who  
12 asked what to do with it. At that point I did  
13 have a conversation with Chief Civil Deputy  
14 Hurson, and this is all in absence of the  
15 chairman, who was off on another assignment at  
16 that time.

17 What I decided to do with the letter was to  
18 refer it to our regular agenda session, where the  
19 Board would take delivery of it and determine how  
20 to approach it. The decision made at that  
21 meeting was to refer to the record in tonight's  
22 hearing.

23 In my conversation with Mr. Hurson, he did  
24 at that point ask if there would be any  
25 willingness for staff to try to glean some

1 greater detail out of the letter. My instruction  
2 to him was that that would be appropriate. That  
3 too was discussed at the regular agenda session.  
4 All of that discussion was referred forward.

5 Let's see, I don't recall that I read all  
6 three letters to the editor, but I'm aware of  
7 them and their contents. Same ones that have  
8 been indicated. And I dare say that's it.

9 CHAIRMAN BOWEN: Commissioner Huston, you  
10 mentioned a May 15th, letter and I assume you're  
11 referring to the May 19th letter from Horizon  
12 Wind; is that correct?

13 COMMISSIONER HUSTON: Well, no, mine's dated  
14 May 15th. Stamped in our office May 15th. From  
15 Gilreath Law Offices, is the letter I'm referring  
16 to.

17 CHAIRMAN BOWEN: I don't have that one in my  
18 stack. Okay, fair enough.

19 Hearing those declarations, does anyone wish  
20 to object to Commissioner Huston remaining  
21 sitting in hearing on this issue?

22 Seeing no one wishing to object, all three  
23 commissioners remain seated.

24 I'm going to go over how I envision the  
25 beginning portion, anyway, of today's hearing.

1 Moving forward, we'll have staff do an overview  
2 of the correspondence with Horizon Wind, the  
3 EFSEC meetings, discussions by staff with  
4 applicant, and then if there's any clarification  
5 on the draft resolution.

6 After they're done with those four items, I  
7 was going to have any follow-up comments by the  
8 commissioners and then address the applicant and  
9 see if they do -- if it appears they wish to  
10 reinitiate dialogue. And we'll go from there.

11 So with that, I'd like to have staff go  
12 ahead and give an overview of what's before us  
13 that's new.

14 MR. DARRYL PIERCY: Thank you, Mr. Chairman,  
15 members of the Board. For the record, Darryl  
16 Piercy, Director of Community Development  
17 Services.

18 Mr. Chairman, if it's agreeable to you, I  
19 will address the issues of the letters from  
20 Horizon and the response from Community  
21 Development Services. Following that, I would  
22 call on Mr. Hurson to discuss the presentation  
23 that he had at EFSEC and the discussions that  
24 took place at that body, if that is an  
25 appropriate direction for us to go.

1 CHAIRMAN BOWEN: Certainly.

2 MR. DARRYL PIERCY: Thank you. With that,  
3 then, just for clarification, the Board of County  
4 Commissioners did receive a letter from -- I  
5 believe it was from Erin Anderson on May 15th.  
6 That letter was distributed to the Board of  
7 County Commissioners and it was discussed at the  
8 Board of County Commissioners' regular agenda on  
9 May 16th. So that has been entered into the  
10 record both at that meeting and also for the  
11 meeting this evening.

12 And I believe, Mr. Chairman, we have  
13 provided you a copy of that letter now.

14 CHAIRMAN BOWEN: Yes, I do have it now,  
15 thank you.

16 MR. DARRYL PIERCY: Great. That led to  
17 direction from the Board of County Commissioners  
18 to staff to arrange for a meeting with the  
19 applicants and at least have an informal  
20 discussion as to whether or not there was a need  
21 for additional discussions to take place.

22 In the course of that meeting, Mr. Hurson,  
23 Ms. Valencia, and myself from staff met with  
24 representatives of Horizon Wind Energy. We  
25 discussed the current proposal as well as the

1 direction that we believed was on the record from  
2 the Board of County Commissioners.

3 We all agreed that it was not the obligation  
4 or the responsibility or even the desire that  
5 staff would propose a particular project or that  
6 staff would in any way design the project and  
7 allow Horizon to react to that.

8 What we did discuss were the parameters that  
9 were included with the direction from the Board  
10 of County Commissioners at your meeting on  
11 May 3rd.

12 At that time we tried to respond to any  
13 questions that the applicant had. We left the  
14 meeting with the understanding that the applicant  
15 would look at the record, take the range of  
16 setbacks that were identified and proposed by the  
17 Board of County Commissioners at that time, and  
18 return with a proposal that would address some  
19 possible scenarios that could meet those goals.

20 It was also understood that there may not be  
21 any scenarios that would work from the prospect  
22 of either the setbacks that were identified by  
23 the Board on May 3rd or in terms of economic  
24 viability for the applicant to meet those setback  
25 requirements.

1           We did identify within that meeting the  
2 original configuration that was included in the  
3 environmental -- Draft Environmental Impact  
4 Statement for the original project that I believe  
5 was developed in 2003.

6           Within that Environmental Impact Statement,  
7 the draft, there was a diagram within that  
8 document that labeled a moderate scenario. We  
9 discussed the idea that removing turbines from  
10 that, that would allow for a larger setback,  
11 could very possibly allow for a range of turbines  
12 which the applicant was currently proposing and  
13 still meet approximately half-mile setbacks.

14           Mr. Hurson specifically identified strings  
15 within that diagram that were contained within  
16 the center of the project, if you will, and those  
17 are no longer part of the current proposal. And  
18 we did question why those had been removed and  
19 why those could not be included in their current  
20 proposal. They took that under advisement and  
21 indicated that a proposal would be reviewed and a  
22 response would be forthcoming.

23           The Department of Community Development  
24 received a letter from Horizon Wind Energy signed  
25 by Dana Peck on May 19th. It was addressed to

1 myself, Director of Community Development  
2 Services. In that, Horizon requested specific  
3 information in regards to very specific setback  
4 numbers in which they could identify proposals  
5 and run their scenarios.

6 As we had indicated in the meeting with them  
7 on -- earlier that week and also in previous  
8 conversations, we were not prepared to offer a  
9 specific footage setback that they could plug  
10 into their formulas.

11 What we did again say in our response is  
12 that they should check the record, that they  
13 should look at the setbacks that were offered and  
14 recommended by the Board of County Commissioners  
15 on May 3rd, or at least identified as setbacks to  
16 consider, and that they should address those  
17 within any proposal that they would bring  
18 forward.

19 On May 23rd a letter to the Board of County  
20 Commissioners was sent by Horizon Wind Energy  
21 indicating that they believed that they could no  
22 longer provide any specific proposals or any  
23 additional proposals until they had very specific  
24 setback information which they could base their  
25 analysis on.

1           So that is where we have left our  
2 communication with the applicant at this time.  
3 We believe that we have provided them as clear a  
4 direction as is possible within the record.

5           I would like to emphasize, as Mr. Chairman  
6 has, that we have not had communication in terms  
7 of specific clarification with the Board of  
8 County Commissioners and staff. We have not  
9 encouraged direct communication between the Board  
10 of County Commissioners and the applicant. We  
11 feel that the public process is the process in  
12 which that kind of discussion should take place.

13           And as we indicated in our letter -- in my  
14 letter to the applicant that was dated May 22nd,  
15 that we had an opportunity on May 3rd to clarify  
16 those specific items, and that opportunity  
17 unfortunately was lost. But we do have the  
18 opportunity of all public forums to provide more  
19 clarification if the applicant so chooses.

20           I'd be happy to respond to any questions.

21           CHAIRMAN BOWEN: Any questions for Director  
22 Piercy?

23           Okay, thank you.

24           Mr. Hurson?

25           MR. JAMES HURSON: Thank you, Mr. Chairman.

1 Jim Hurson, Deputy Prosecutor. A few points.

2 One thing would I suggest before I get into  
3 the background, when the Board indicated it had  
4 read those letters to the editor, perhaps I would  
5 suggest that we add those to the official record,  
6 since the Board did read those. You could have  
7 staff get those out of the paper and we can make  
8 those part of the record so it's clear as to what  
9 you all reviewed.

10 CHAIRMAN BOWEN: Certainly.

11 MR. JAMES HURSON: As far as background and  
12 trying to follow up on what Mr. Piercy said, when  
13 we last met on May 3rd, based upon the motion and  
14 my understanding of the motion, I discussed with  
15 other county staff the nature of the motion, and  
16 it appeared to be still open for discussion but  
17 the applicant had ceased the discussion.

18 And I decided that it was -- on May 9th  
19 there was an EFSEC monthly meeting which they  
20 always ask for status updates. So it was decided  
21 that I would go to that status update on the  
22 monthly EFSEC meeting which deals with all of the  
23 processes and would update the EFSEC council on  
24 what was occurring and where we were.

25 I did discuss that with the chairman before

1 I went in advance for approval that yes, it was  
2 okay for me to go and explain what had occurred,  
3 and he did advise that that was.

4 So on May 9th I went to Olympia for the  
5 EFSEC meeting, explained to the council what had  
6 occurred, that there was basically non-  
7 responsiveness to the questions but indicated  
8 that the County was still amenable to discussions  
9 and in essence asked the council to help get the  
10 applicant back to the negotiating table.

11 They asked if I was asking for any official  
12 action by the council, and I said no, I think I  
13 was just asking for some direction; and I think  
14 the acting Chair indicated to the applicant that  
15 he thought it would be a good idea if the  
16 applicant recontacted the County.

17 So after that, then, we had the letter of  
18 May 15th which Commissioner Bowen discussed that  
19 was brought in on the 16th.

20 After that we met with some of the Horizon  
21 staff on the 17th. Mr. Piercy's already gone  
22 through that. In part of the discussions, part  
23 of the difficulty we had is that we can't speak  
24 for the Board, of course; the Board is the one  
25 that makes the decisions.

1           And you had all disclosed some ranges but  
2           there wasn't, like, a final vote on any specific  
3           number or distance that you were looking at. And  
4           so none of us felt comfortable trying to say  
5           exactly what the consensus of the Board was,  
6           because there was -- there were some ranges and  
7           some information. And basically suggested that  
8           that was -- those were the type of questions that  
9           could be answered in a public forum but that  
10          staff doesn't have the authority to speak on  
11          behalf of or negotiate for the commissioners in a  
12          private meeting.

13           And some of the issues we discussed, like  
14          Mr. Piercy was talking about, is the setback from  
15          homes. The earlier proposals that they had that  
16          had turbines that were located I guess you could  
17          say towards the middle and further away from the  
18          setbacks and couldn't those be in place there.

19           We also said that -- there was some  
20          discussion on that, and I couldn't recall, so I  
21          was telling them I don't remember where the Board  
22          was or if they'd reached the question of what  
23          would be, like, a setback from property lines  
24          per se. If -- you've got residential setbacks,  
25          and then would there be a property line setback

1 for non-participating owners?

2 I was unclear what that was because I don't  
3 remember the Board getting to that point in their  
4 discussion, and so I suggested that that perhaps  
5 be an area for inquiry.

6 And also there could be setback issues for  
7 other things like roads and what exactly would be  
8 the expectations on that.

9 I'm saying this because I haven't told any  
10 of the board members that that was what we  
11 discussed. So I -- but you wanted some  
12 background on what we had talked about.

13 So those were the discussions we had there.  
14 And then there was the series of letters. The --  
15 yesterday, May 30th, we had a prehearing in  
16 Olympia, prehearing conference in Olympia at 8:30  
17 in the morning.

18 And at that hearing they asked for a status  
19 update, and the council set tentative hearing  
20 dates, so I should -- I can disclose that,  
21 because this is a unique process where you have a  
22 land use application under GMA with a local  
23 county, but there's also an EFSEC component to  
24 it, so there is some interrelationship.

25 EFSEC has set the hearings to be held the

1 window of September 11th through 29th, and  
2 they've also rescheduled another prehearing  
3 conference for June 13th with an expected  
4 agenda -- and I'm reading from an e-mail I  
5 received -- that there would be an update in the  
6 land use consistency issues and they would be  
7 setting dates for prehearing filings, and then  
8 there's some other issues they'd be discussing.

9 So there's -- we have hearing dates  
10 currently set with EFSEC in late September and a  
11 June 13th scheduling date that EFSEC intends to  
12 have -- set some sort of a scheduling order.

13 And if you have any other questions or want  
14 more detail like that --

15 Oh, I guess I would say the motion -- when  
16 the Board last met there was a motion  
17 preliminarily to deny with -- and prepare draft  
18 findings. Staff did continue to prepare draft  
19 findings as instructed. I would emphasize that  
20 they are drafts.

21 I believe I dropped off copies to the Board  
22 this morning, late this morning. There's copies,  
23 I understand, for the public to see. The ones  
24 the Board have are different than the ones that  
25 the public has, because I think the Board got

1 single-sided copies and they don't have the word  
2 "draft" written across them.

3 And I did those as a draft, but if we get  
4 into a discussion, those may not be things that  
5 we need to discuss this evening, and there are  
6 some revisions to the draft that would be needed  
7 to be made if you get to that path on the  
8 discussion.

9 CHAIRMAN BOWEN: Okay, thank you. Any  
10 questions for Mr. Hurson?

11 With that, I'm going to make a --

12 MR. JAMES HURSON: I would -- just one other  
13 thing. I did mention -- on the EFSEC matter, I  
14 know I mentioned that I told Commissioner Bowen  
15 or basically got his approval that yes, that was  
16 an appropriate path. I did, after the fact,  
17 advise Commissioner Huston what had occurred, and  
18 I had gone, and he concurred that that was  
19 appropriate; and I separately contacted  
20 Commissioner Crankovich to let him know what had  
21 occurred and got his approval. I haven't told  
22 each of the board members that I talked to the  
23 other board members about it; but for the record,  
24 I talked separately to let you each know what had  
25 occurred but didn't get into any details about

1 what had occurred at EFSEC, just that I had gone  
2 to the meeting and had passed on the message.

3 CHAIRMAN BOWEN: Thank you. Any questions?

4 Okay, I did mention the three letters to the  
5 editor that I had read, and they seemed to focus  
6 on process. And we sit up here and we're in an  
7 office all day together, but we have to sit at  
8 our desk, read through the volumes of  
9 information, and draw our own conclusions.

10 And then when we get to these meetings is  
11 when we get to find out what the other person's  
12 thinking and we get to talk about it out loud in  
13 an open public setting. And it's for  
14 transparency purposes. And that's the same way  
15 we have to work on this Development Agreement, if  
16 we get to that point.

17 And it would be nice if we could sit in a  
18 conference room and kind of hash things out and  
19 then bring it forward, but it's not something we  
20 can do under the Open Public Meetings Act. So  
21 frustrating, inefficient, all that is  
22 acknowledged and recognized. And I just wanted  
23 to point that out.

24 We do our best to maintain decorum, both at  
25 the testimony portion and throughout the rest.

1 That frustration obviously can mount and can get  
2 under people's skin.

3 But I'm pleased to see the letters coming  
4 from Horizon Wind Energy to discuss this and look  
5 forward to hearing what they have to say. But I  
6 believe the other two commissioners might have  
7 some opening comments that they'd like to make.

8 COMMISSIONER CRANKOVICH: Thank you,  
9 Mr. Chairman. I just wanted to clear up a couple  
10 of things in response to the letter from Erin  
11 Anderson dated May 15th, 2006. And it's on the  
12 second page, and I'll quote her here.

13 "We note that at the May 3rd hearing,  
14 Horizon was chastised for offering new  
15 information, while the Board of County  
16 Commissioner members each offered significant new  
17 information regarding their visit to the Hopkins  
18 Ridge project."

19 That new information was agreed upon, as we  
20 were to give a report and/or declaration of our  
21 trip, describing what we saw and what we did. So  
22 that was forthcoming and it was known that it was  
23 going to be presented. So that covers that one.

24 Oh, also, you know, it was deemed a good  
25 idea that we went down to the Hopkins Ridge site

1 to get an idea of what a project looks like. And  
2 I will quote Dana Peck from the April 12th  
3 meeting. And he goes on to say, We're very  
4 encouraged in your interest in going to other  
5 sites. People who go to wind power sites tend to  
6 come back with real strong opinions; sometimes  
7 good, sometimes bad from our perspective, but  
8 you'll know how you feel when you go to one, and  
9 I just can't tell you what a positive development  
10 I think that will be for both you and your staff  
11 to give them guidance in their conversations with  
12 us.

13 So this was agreed-upon. So if you want to  
14 deem that new information, it was, but it was  
15 known that it was forthcoming.

16 One thing that I want to clarify for myself,  
17 and it's in the third page, and it references a  
18 commissioner during the April 27th hearing that  
19 stated that the noise level was relatively quiet  
20 and the next hearing the same commissioner states  
21 noticeable levels during the May 3rd hearing.

22 Well, that was me. And I did state that in  
23 my visit to Hopkins Ridge that the first tower  
24 that I went to that -- in close proximity that it  
25 was relatively quiet. That was explained that it

1 was not turning fast enough to produce energy.

2 I went through the transcript because I  
3 thought that I had gave a comment about the  
4 increased noise level levels. But I actually  
5 didn't. And for that I apologize. What I got to  
6 was that I had went to various locations and  
7 listened to the noise at those various locations  
8 at various distances. Somehow I got off track  
9 and not stating that there is a definite noise  
10 impact. So for that, I apologize for the  
11 omission.

12 And that's about all I wanted to clear up on  
13 that.

14 CHAIRMAN BOWEN: Thank you. Commissioner  
15 Huston, anything you want to open up with?

16 COMMISSIONER HUSTON: No observations at  
17 this time, Mr. Chairman.

18 CHAIRMAN BOWEN: Thank you. That takes us  
19 to the point where I'll address the applicant.  
20 It indicated in the letters that you have  
21 questions and need clarification and have an  
22 interest in reinitiating dialogue. So at this  
23 point I'd request that the applicant come up and  
24 give us an idea what they're thinking and where  
25 they'd like to go from here.

1 MR. TIM McMAHON: Good evening, Mr. Chair,  
2 members of the board. Tim McMahon here with  
3 Stoel Reeves Law Firm in Vancouver, Washington.  
4 Erin Anderson is unable to be here this evening  
5 for reasons that I wouldn't challenge; and she,  
6 however, sends her love. And I'm sure deeply  
7 regrets this experience.

8 I've been working with Horizon for years on  
9 this project; was here initially meeting with  
10 Mr. Hurson and your then planning director years  
11 ago about a conditional use permit. And, well,  
12 here we are, and I don't even want to begin to  
13 recite what that's been like since then.

14 But I am here on behalf of the applicant  
15 tonight to try to figure out where we are in this  
16 process. This process does present a number of  
17 conundra, which I guess is the plural for  
18 conundrum. In particular, the setback distances.

19 There is a vast, I mean vast difference in  
20 layout of a project whether it's 2000 feet from a  
21 property line, 2000 from a residence, up to 3000  
22 and, you know, a half mile to a property line,  
23 residences, et cetera.

24 I mean, the circles just -- that you overlay  
25 over the project area are very significantly

1 different, depending on the scenarios. So one  
2 can come up with something like eight different  
3 interpretations based on the record.

4 And Mr. Bowen, I really appreciate your  
5 comment that it is a messy process trying to do  
6 in a public setting, and I respect the fact that  
7 you came up with different positions, which was a  
8 clear indication that you all didn't sit in a  
9 conference room and figure this out.

10 So that's understandable, but in sitting  
11 down with county staff to try to work our way  
12 through the issues, it no doubt presented some  
13 real challenges.

14 We appreciate Mr. Hurson coming to EFSEC.  
15 My colleague, Darrell Peeples, was there and they  
16 did have an opportunity to talk together to  
17 EFSEC, and we did very much in good faith  
18 reinstitute communications with staff.

19 It is, again, it is challenging trying to  
20 work with staff under this system without  
21 delegated authority so that you can have a real  
22 exchange of information.

23 Which leads me to a response I just want to  
24 give to Commissioner Crankovich about the, the  
25 new -- so-called new information. We weren't --

1 and I apologize if you're interpreting it as a  
2 concern about the Board coming in with that new  
3 information about Hopkins. And you're right, I  
4 think the applicant did encourage that visit.

5 What the letter was intended to say is that  
6 this was real frustrating because we -- you know,  
7 we were accused at that meeting of bringing new  
8 information forward; and to do this process, one  
9 needs to be able to exchange new information.

10 And so it was -- it was from a point of  
11 frustration that that comment was made. It  
12 wasn't in any way meant to imply an objection to  
13 you going to Hopkins Ridge. Again, the applicant  
14 did support that visit, and I think the three of  
15 you gained significantly from doing that.

16 So back to the conundrum. We, my clients  
17 did, have attempted to try to figure out how to  
18 adjust the project site around. There are some  
19 very limiting factors that are stated in the  
20 letter that we provided to the Board dated the  
21 23rd, and I think it's the third paragraph.

22 It's just a snapshot summary of some of the  
23 factors on a site that limit the ability to move  
24 turbines around with wake effect and topographic  
25 features and the like. And in an effort to try

1 to relocate turbines on a project site around  
2 some setbacks that weren't entirely clear, it is  
3 just a very challenging thing to do.

4 What we did indicate in our correspondence  
5 was a 2500-foot setback from existing residences  
6 did result in nearly half of the project going  
7 away, and we've provided you a map with some  
8 pretty colors on it, I think, that showed that  
9 result.

10 So the conundrum here is how one can design  
11 an economically viable project while trying to  
12 meet the Board's needs or identified statements  
13 about the setbacks that aren't, you know, pulled  
14 together with any formal motion from the Board  
15 and how to do that in a way that is economically  
16 viable.

17 We do have a project that has been  
18 shortlisted with Puget Sound Energy. It is a  
19 project of a magnitude that -- it's not half of  
20 the project that's been shortlisted; it's the  
21 full project that's been shortlisted, and there's  
22 a lot of interest in other utilities, as we  
23 indicated in the letter.

24 So we indicated in correspondence that a  
25 quarter-mile setback was what retained an

1 economically viable project.

2 And just for a little bit more information  
3 on that -- sorry if I'm rambling on, but I just  
4 want to make sure that I can kind of explain  
5 where our minds are right now. What we've agreed  
6 to do with that quarter-mile setback is  
7 essentially move the edge of the corridor out,  
8 okay, so that the edge of the corridor is moved  
9 at a greater distance away from any possible  
10 siting near residences.

11 And when one gets onto these project sites,  
12 it's not always easy to predict what one  
13 encounters on a site by moving the edge of the  
14 corridor out that distance. And not being able  
15 to have a little bit more flexibility does  
16 further constrain the project and kind of push it  
17 in ways that do make it difficult to site and to  
18 maximize the wind resource.

19 So just so you understand that there's a  
20 degree of flexibility but not a significant  
21 degree of flexibility. And we, you know, we  
22 certainly asked our clients to look carefully at  
23 the issue, and they came back with we could do a  
24 quarter mile and still be able to economically --  
25 in an economically viable way site the project.

1           So that's the conundrum. I'm frankly not  
2           sure what to do from here without the  
3           clarification from the Board that we've asked.  
4           We did ask for clarification about, you know,  
5           what is this middle of the project, you know,  
6           what setback distance are we dealing with and  
7           setback from what. And without that information  
8           it's just very difficult to proceed.

9           CHAIRMAN BOWEN: Sure. And I acknowledge  
10          that. Part of why we didn't have that  
11          information was that we just didn't get to that  
12          point in the last hearing to delegate that  
13          authority --

14          MR. TIM McMAHON: I understand.

15          CHAIRMAN BOWEN: -- that type of thing, to  
16          make a motion to that effect.

17          I do have a quick question for you. You  
18          mentioned or your letter indicates that a  
19          1320-foot setback is economically viable. Is  
20          that from property lines or from existing  
21          residences or what is that --

22          MR. TIM McMAHON: Residences. I think what  
23          we said was residential structures.

24          CHAIRMAN BOWEN: Any questions for  
25          Mr. McMahan at this time?

1 MR. TIM McMAHON: I appreciate this  
2 opportunity to address the Board. And I think  
3 it's clear, at least the way I'd like to  
4 interpret staff's presentation, that we have been  
5 attempting to sit down and talk. But there are  
6 some real limitations here. Thank you.

7 CHAIRMAN BOWEN: Thank you. And I'm going  
8 to go over some interpretations I've done. First  
9 of all, I did interpret Commissioner Huston's  
10 motion as preliminary denial, meaning we're  
11 leaving the door open to have these discussions,  
12 and I haven't heard anybody say anything  
13 different. So I did make that assumption.

14 I also had hoped to -- you were asking about  
15 the center of the project. It doesn't mean  
16 physically in the middle of the project; it just  
17 means away from the boundary lines, is what I  
18 intended, and I believe that's what my seatmates  
19 intended.

20 And I looked at strings from the original  
21 proposal when it was 120 or so turbines and where  
22 some of those were located and tried to figure  
23 out, okay, how many turbines could we possibly  
24 stick in there.

25 And then I also tried to remember from the

1 record, and I haven't had a chance to go back and  
2 look, but I know there were examples in there of  
3 projects that are 2 towers, 12 towers, 15 towers,  
4 25 towers. So I was trying to figure out how we  
5 get economic viability when there are other  
6 projects out there that have fewer towers.

7 And so that was part of my thought process,  
8 that I was hoping to get through some of that  
9 dialogue with the applicant as well on May 3rd.

10 Those would be the high points, I guess, of  
11 what's floating in my mind at the moment.

12 Commissioners, anything else?

13 COMMISSIONER CRANKOVICH: Not at this time.

14 CHAIRMAN BOWEN: Commissioner Huston?

15 COMMISSIONER HUSTON: Well, I suppose at  
16 some point, Mr. Chairman, we'll get down to the  
17 nitty gritty, if you will, I suppose. The --  
18 I -- we went through a long list of inaccuracies  
19 or challenges in the Development Agreement that I  
20 won't go through again. I think they were very  
21 specific.

22 The one thing that did have a range as  
23 opposed to a definitive number was, of course,  
24 the question of setback. There's been some  
25 discussion in the documents we have before us in

1 terms of how that process is unfolding now in  
2 comparison to the Wild Horse process.

3 And I guess I have to submit that for those  
4 who were involved in that one, it's evolving the  
5 exact same way. This is exactly how we did it.  
6 We sat down in public session and hammered it  
7 out. We were able to come to agreement on that  
8 one.

9 I certainly appreciate the notion that  
10 larger setbacks impacts the economic viability of  
11 a project. But with that, I counter not all  
12 sites are viable. We have already demonstrated  
13 that other sites are. So while I certainly  
14 appreciate the notion of the business model,  
15 that's not what we're talking about.

16 At this point we're talking about mitigating  
17 defined impacts in the Environmental Impact  
18 Statement as it was prepared through the course  
19 of this process.

20 In terms of my discussion at the last  
21 meeting, I'm going to make the distinction --  
22 we've made it before; this is not new  
23 information, but I'll make it more clear for the  
24 record if that would be the desire of the  
25 applicant.

1 I have always, I've consistently held we  
2 have essentially two setbacks, if you will. One  
3 from participating -- or excuse me,  
4 non-participating property owners; and the other  
5 the safety setbacks, as we've come to refer to  
6 it.

7 The safety setback I will not let anybody  
8 violate. Voluntarily or otherwise. There is a  
9 safety setback, and within that safety setback  
10 there will be no residences, there'll be no  
11 non-project roads. There'll be nothing of that  
12 nature other than the day-to-day activity of the  
13 people operating the project that obviously need  
14 to go there.

15 I can't suggest there'll not be a road next  
16 to a tower or you'll have to levitate to the  
17 tower to repair it, and I'm not suggesting that.  
18 I'm talking about non-project roads, I'm talking  
19 about residential structures. There is a safety  
20 setback -- I didn't jot that number down, but  
21 it's in the record -- and I will not let anyone  
22 sign that away. That's inviolate.

23 In terms of the other setbacks, I hovered in  
24 our last discussion as we went through the course  
25 of the discussion, and I would be willing to

1 accept, at least in terms of furthering  
2 discussion and getting another draft of a  
3 Development Agreement, 2500 feet from existing  
4 non-participating residents.

5 Now, I'm prepared to hear that as a  
6 2000-foot setback from non-participating property  
7 lines providing any existing residence is outside  
8 of that 2500-foot window.

9 Now, that's based on the discussion in the  
10 Environmental Impact Statement, based on the  
11 information I gathered in my site visit, which I  
12 declared in great detail for the record, so I  
13 won't go through that again.

14 I'm seeing those as minimum standards in  
15 order to deal with the impacts of putting a new  
16 land use, a new land use in an existing  
17 neighborhood.

18 Now, obviously if the neighborhood is all  
19 participating, back to my comments of a few  
20 moments ago. I'm prepared to let them waive  
21 voluntarily that outside setback, but I will not  
22 let them waive the safety setback.

23 Now, in terms of the economic impact to the  
24 project, again, I, I don't have anything in the  
25 record to indicate what an economically viable

1 project is. 5 towers, 50 towers? We went from  
2 150 to 65, so obviously there's a great deal of  
3 spread in terms of economic viability.

4 And I frankly don't know in terms of a new  
5 setback how you could relocate towers that were  
6 earlier dismissed to come back up to a number  
7 that is economically viable. I have no  
8 information on which to base even that  
9 discussion.

10 So at this point I'll just offer up what I  
11 know for a fact. These are the setbacks that I  
12 would be prepared to listen to as one board  
13 member.

14 And I think with that, Mr. Chairman, I'll  
15 conclude my remarks.

16 CHAIRMAN BOWEN: Commissioner Crankovich,  
17 anything to add right now?

18 COMMISSIONER CRANKOVICH: Well, the  
19 2500 foot that was suggested by Commissioner  
20 Huston, I -- in my visit to Hopkins Ridge, the  
21 closest house that I could find in the project  
22 was declared at half a mile, give or take. So  
23 you know, there's, what, a 140-foot difference  
24 there. 2500 foot from non-participating  
25 residents is an acceptable beginning, I guess,

1 for me.

2 The 2000 feet from non-participating  
3 property lines I think could, in my opinion,  
4 could lend to a little bit of confusion as such.  
5 I'm more concerned about the actual distance from  
6 the non-participating residents themselves.

7 As far as the safety setbacks, I did touch  
8 on that and I was a bit confused by the different  
9 safety setbacks that were identified. One being  
10 the tower height plus blade tip height and then  
11 an ice throw area of 1000 feet and somewhere in  
12 between.

13 So I think -- I do agree that, as I stated  
14 before, sometimes you have to protect people from  
15 themselves. And I think there should be a  
16 minimum -- and I don't know what that is right  
17 now -- there needs to be a minimum safety setback  
18 even for the participating owners.

19 So as far as -- as far as a non-  
20 participating setback, 2500 feet is agreeable  
21 because that's, you know, close to what I had  
22 suggested at a half mile anyway. So if we're  
23 looking for a number, 2500 feet would be  
24 acceptable to me.

25 CHAIRMAN BOWEN: From the residences?

1           COMMISSIONER CRANKOVICH: From the current  
2 non-participating residences.

3           CHAIRMAN BOWEN: Okay, thank you. And  
4 listening to Commissioner Huston and Commissioner  
5 Crankovich, as well as trying to think about what  
6 was said at the May 3rd, I had in my notes here  
7 2000 feet from non-participating landowner's  
8 property line, which is consistent with what I  
9 said last time, and 2500 feet from residences,  
10 non-participating, was consistent as well.

11           I did think that Commissioner Huston's  
12 suggestion that we needed to -- or  
13 Mr. Crankovich's -- I'm not sure which -- we need  
14 to protect people from themselves regarding the  
15 safety setbacks, I do agree with that.

16           I guess I got to the 2000 feet from  
17 information in the record, comments from  
18 Mr. Taylor and Mr. Young and from the applicant.  
19 The 2500 feet came more from site visits and  
20 looking at compatible land uses under county  
21 code. And that's where my rationalization comes  
22 for those setbacks.

23           I'm not opposed to the applicant approaching  
24 non-participating landowners and asking for  
25 variances down to the safety setback or variances

1 based on geography. If you've got an issue where  
2 somebody's backed up against a cliff and having  
3 the tower 200 feet back from the cliff or  
4 whatever -- I guess I should say the safety  
5 setback from the cliff -- may not be an issue  
6 there. So I'm willing to discuss that under a  
7 variance situation.

8 And with that, it sounds like we have -- at  
9 least everybody's consistent with the 2500 foot  
10 from current non-participating residences.

11 And only thing kind of hanging out there is  
12 Commissioner Crankovich's concern about the  
13 2000 feet from non-participating landowners'  
14 property lines. And my issue there is a  
15 property-right issue for that non-participating  
16 landowner and his or her ability to use that  
17 property to their -- their fullest as well. So  
18 that's, that's pretty much why I put those  
19 criteria in place.

20 The only other thing we've -- I think  
21 Commissioner Huston touched on is that the  
22 current Development Agreement has some  
23 inconsistencies in it and needs some clean-up,  
24 which obviously can be done. And once we -- if  
25 we can set parameters that work for the three of

1 us and if they happen to work for the applicant,  
2 then we can move forward with delegating  
3 authority to staff to work with the applicant on  
4 that agreement.

5 So that would be the summary of my comments.  
6 Anything else from the board members?

7 COMMISSIONER CRANKOVICH: Yeah, I did have  
8 one more, Mr. Chairman. I've put this out there  
9 before and it came from information that was  
10 provided by the applicant in the record, that --  
11 as a way of possibly working with the  
12 non-participating landowners; and this is just an  
13 option to throw out there. Possibly some kind of  
14 compensation that would lend itself to making  
15 them agreeable. That would -- that's not a pipe  
16 dream; that was in the information that you gave  
17 us.

18 CHAIRMAN BOWEN: And I would assume that  
19 could be part of the variance process. That  
20 might be how they manage to get their variance  
21 from some folks, I would suppose.

22 COMMISSIONER CRANKOVICH: That's all I have.

23 CHAIRMAN BOWEN: Commissioner Huston, did I  
24 take any liberties with your comments regarding  
25 the variances?

1           COMMISSIONER HUSTON: No, your recitation's  
2 accurate, Mr. Chairman. The only reason I make  
3 the distinction between the 2500-foot setback  
4 from an existing residential structure versus  
5 2000 from a non-participating property line on  
6 which there is no structure -- and I suppose I  
7 could get the figures incorrect -- but I suppose  
8 one could orient a structure that doesn't exist  
9 to stay outside of that impact area.

10           So -- as opposed to 2500 feet from the  
11 property line I suppose obviously is a safer way  
12 to go, but sensitive to the economic viability of  
13 the project, I was trying to come up with a  
14 setback that would get me to where I think this  
15 needs to go and still make it not too restrictive  
16 on the existing property owners who are  
17 non-participating.

18           CHAIRMAN BOWEN: Any other comments?

19           Does the applicant have any questions for us  
20 or need some clarification at this point or some  
21 time to talk and visit?

22           COMMISSIONER HUSTON: Actually,  
23 Mr. Chairman, if I might make a suggestion -- I  
24 don't know if the staff's in any position to  
25 comment on our observations at this point; the

1 ball arguably is in the applicant's court. One  
2 thing I think we ought to do irrespective of what  
3 the applicant might be prepared or not prepared  
4 to do is actually give staff some feedback in  
5 terms of the proposed Findings and Conclusions.

6 I mean, I recognize we're working on dual  
7 tracks, if you will; but if nothing else, I think  
8 the discussion regarding Findings and Conclusions  
9 might well lend some clarity to the record and  
10 give some additional guidance to the applicant if  
11 in fact they wish to pursue additional drafts of  
12 the Development Agreement; or obviously if they  
13 don't, then we still need to do the Findings and  
14 Conclusions.

15 CHAIRMAN BOWEN: Sure. Maybe we should have  
16 that discussion first so if they do want to  
17 discuss amongst themselves, they can have all the  
18 information in front of them. Does that make  
19 some sense or?

20 MR. TIM McMAHON: Again, Mr. Chairman and  
21 Commissioners, Tim McMahan for the record. I, I  
22 just need to point out that a 2000-foot setback  
23 from non-participating property lines, based upon  
24 the current information that we have, indicates  
25 somewhere between 15 to 20 or so turbines left in

1 the project. And I can definitively tell you  
2 that is not an economically viable project.

3 We're struggling with 2500 from existing  
4 residents, so if that's the direction the Board  
5 is heading, I can definitively tell you that.

6 I think on the safety setback -- and I'll  
7 look over at staff -- I think we've always kind  
8 of been of a mind that 547 -- 541 --

9 COMMISSIONER HUSTON: 541 is the number in  
10 my mind.

11 MR. TIM McMAHON: Right. Is there and  
12 agreed. It was the Wild Horse standard, and I  
13 think we've always been operating with that  
14 belief, so I think you can take that off the  
15 table.

16 And the only last thing I would say is in  
17 terms of the comments on the Development  
18 Agreement, we obviously took copious notes, we  
19 have the transcript. There's nothing, in my  
20 opinion, in the comments we heard back  
21 collectively from staff and the Board that isn't  
22 resolvable, and we need to check back with  
23 general counsel in Houston and the like.

24 But in terms of the Development Agreement  
25 itself, that is not an obstacle. But moving

1 forward with that quite frankly doesn't make a  
2 lot of sense until we know whether the project in  
3 and of itself survives.

4 CHAIRMAN BOWEN: The 15 to 20 turbines  
5 you're referring to, is that in the 64-turbine  
6 proposal?

7 MR. TIM McMAHON: That's correct.

8 CHAIRMAN BOWEN: If we -- you do have an  
9 80-turbine proposal that's been before us and  
10 been commented on by everybody, and some of those  
11 turbines were pulled from areas we're indicating  
12 would be okay. Do we have an idea how many  
13 turbines that ends up?

14 MR. TIM McMAHON: Well, proportionately it's  
15 the same kind of reduction. That's my belief.  
16 And I'll clarify here: I'm acting as legal  
17 counsel; I'm not a very good fact witness on  
18 these points.

19 But it is my belief that, you know, by going  
20 from 80 to 65, what the company did was limited  
21 its option to purchase equipment. And so it  
22 limited the option to purchase equipment to get  
23 the similar number of megawatts for 65 that might  
24 have been there for -- I mean, there is some  
25 reductions, definitely reduction from the 80 to

1           65, but it's still, you know, relatively --  
2           believed to be relatively viable.

3           But again, you need to assume that it's a  
4           reduction proportionately for that -- from the 80  
5           as well.

6           CHAIRMAN BOWEN: Okay.

7           MR. TIM McMAHON: So what I'm saying is  
8           there is a loss of generation from 80 to 64. And  
9           if you went to the 80-megawatt proposal, the  
10          basic string layout is still same with the  
11          80-turbine proposal. So moving from property  
12          lines the 2000 feet, there is a similar reduction  
13          in the number of turbines. That is my belief as  
14          the attorney for Horizon and not as a guy with  
15          great factual information standing here on that  
16          one.

17          CHAIRMAN BOWEN: I understand.

18          MR. TIM McMAHON: Just to keep the  
19          direction -- the dialogue moving; that's all I'm  
20          trying to do.

21          CHAIRMAN BOWEN: Certainly. I guess I was  
22          referring to the -- some of the towers that were  
23          removed out of the, quote, central area of the  
24          project to get down to the 64, if we put some of  
25          those -- or all of those back that are outside of

1 the setback area, I'm guessing we probably gain 7  
2 to 10 more. But that's -- like you, I'm not the  
3 technical guy, and that's my guess.

4 MR. TIM McMAHON: And I will warn you again,  
5 without being a technical guy, that there are  
6 some wake effect issues with that middle string  
7 and there's kind of a trade-off in the equipment  
8 size and placement and topography; and again, a  
9 non-technical guy telling you that.

10 CHAIRMAN BOWEN: Okay, thank you. Any  
11 questions?

12 MR. TIM McMAHON: Thank you.

13 CHAIRMAN BOWEN: Thanks. Well, that -- do  
14 we want to finish the discussion, then, on  
15 setbacks, or do we want to go through this draft  
16 resolution and think on the setback issue a  
17 little bit longer?

18 COMMISSIONER HUSTON: I don't know what the  
19 discussion would be. The setbacks that I've  
20 suggested -- and it sounds like at least some  
21 level of consensus with the Board -- are in the  
22 record, and it still leaves impacts to be  
23 mitigated, but they go from high to moderate.  
24 And I guess if you want to use the word  
25 "concession," I think the concession of going

1 from high to moderate impacts is a relatively  
2 significant one.

3 I can't speak to the economic viability of  
4 the project, nor has anyone else until recent  
5 history. So I don't know. I'm not a technical  
6 guy nor, frankly, have I made any effort to go  
7 through and determine how many towers could be  
8 set. That's not my thing. Someone else needs to  
9 do that. Or not. And again, that's up to the  
10 applicant at this point.

11 What I would suggest, Mr. Chairman -- and I  
12 hesitate to use the word "impasse," but if  
13 we're -- if we are at that point where they're  
14 not prepared to discuss increasing the setbacks,  
15 I'm not prepared to discuss decreasing them at  
16 this point in absence of any compelling  
17 information.

18 And at this point I don't know what that  
19 information would be. I think the record's very  
20 clear. We're still leaving impacts behind. But  
21 at this point I guess I'm prepared to  
22 characterize them as acceptable impacts. We're  
23 not mitigating impacts; we're just making them  
24 acceptable at this point, and I think that's a  
25 significant concession.

1           In terms of the proposed Findings and  
2           Conclusions, I think staff's done a good job in  
3           terms of taking us through the record, if you  
4           will, that has got us to this point. We arguably  
5           specifically put in No. 40 of the proposed  
6           Findings; it speaks to a minimum one-half mile  
7           separation, arguably we arrived at 2500 feet,  
8           certainly in terms of a proposed amendment.

9           In terms of the rest, I think a significant  
10          point that the narrative reveals is that we are  
11          in fact dealing with impacts that have been  
12          identified and in fact acknowledged by the  
13          applicant in the Environmental Impact Statement.  
14          It's not "maybe," "what if," "God, this could  
15          possibly happen." They are identified impacts  
16          and they're very clearly stated.

17          And the setbacks that we have proposed -- I  
18          proposed, we sort of agreed to, however you want  
19          to characterize that -- again, take them from  
20          high impacts to moderate impact. That again is  
21          in the Environmental Impact Statement. That's  
22          not my best guess; that's in the documents. And  
23          I think that's clear in terms of the narration  
24          staff has provided.

25          We're literally at the point in terms of

1 going through our, our documents before us, and I  
2 don't necessarily need to pass them tonight if we  
3 need some time to further reflect on the  
4 information that's been now added to the record  
5 by way of our deliberations. But I think it's  
6 clear what we're talking about.

7 And I think staff's done a good job of  
8 capturing that in the draft before us. We are  
9 dealing with identified impacts, which everyone  
10 has acknowledged. It's clearly and heavily  
11 substantiated in the record. Some would argue  
12 that there's still high impacts, others would  
13 argue they're not; fair enough. But I think the  
14 document's relatively clear.

15 And we're at the point now where -- where  
16 we're dealing with a site where based on the  
17 Development Agreement and the elements that we're  
18 trying to get into it still leaves impacts on the  
19 table. And I think that's significant.

20 We may at some point have to accept the fact  
21 that this isn't a viable site. Not all are.  
22 Obviously we can't site everything anywhere. Or  
23 these meetings would be considerably shorter.

24 We have to deal with the impacts. And I  
25 guess I'd ask the applicant to take note of that

1 and help us to do that. Or we both agree that  
2 the site's just not viable and I guess we find  
3 somewhere else.

4 CHAIRMAN BOWEN: Okay. Well, the draft in  
5 front of us obviously isn't complete for  
6 consideration tonight, because we've just  
7 finished some of our discussion that would help  
8 them hammer out some of the details.

9 I think we heard pretty clearly from the  
10 applicant that the 2000 feet from the property  
11 line won't work. And there was at least two of  
12 us up here that seemed to think that was  
13 important. I'm not sure if Commissioner  
14 Crankovich has been convinced otherwise at this  
15 point or not --

16 COMMISSIONER CRANKOVICH: I'm still on the  
17 fence on that one.

18 CHAIRMAN BOWEN: All right. So I guess at  
19 this point we can either just direct staff to  
20 continue working on the resolution as it's  
21 presented to us. If we have comments tonight of  
22 obvious things that need to be done, we can. I  
23 don't know, I'm kind of looking to my seatmates  
24 to see how they'd like to proceed or if staff has  
25 enough information to move forward.

1           COMMISSIONER CRANKOVICH: I guess my  
2 question to the applicant would be the 2500 foot  
3 from existing residences, I mean, is that -- that  
4 seemed to be the real slam-the-door the last  
5 time, so I'm just kind of wondering where they're  
6 at now.

7           CHAIRMAN BOWEN: The applicant -- if we went  
8 to what Commissioner Crankovich is saying and  
9 just 2500 feet from existing residences, do you  
10 have information with you today that could help  
11 us to see if that's viable or not?

12           MR. TIM McMAHON: I was afraid you were  
13 going to ask me that question. All I can tell  
14 you is the information we provided you in the  
15 correspondence is that a half-mile setback  
16 reduces the project in half and doesn't leave a  
17 sufficiently viable project. That's the  
18 information I have back from my client.

19           CHAIRMAN BOWEN: Okay. Thank you.

20           COMMISSIONER HUSTON: In terms of our draft  
21 before us, Mr. Chairman, I think that the one  
22 thing that I would suggest that staff do is --  
23 we're down to the point literally where we're  
24 gathering our conclusions from the record. I  
25 would suggest that we go through and maybe pull

1           some better citation in terms of where these are  
2           located in the Environmental Impact Statement,  
3           maybe even make specific reference to the site  
4           visits that we conducted independently yet came  
5           back and arrived at essentially the same  
6           conclusions.

7           Which -- forgive my old cop hat, but any  
8           time an independent investigation achieves the  
9           same conclusion, it's generally a relatively  
10          sound process and compelling as such.

11          At the -- I mean, the rest of the draft's  
12          boilerplate; double-check to make sure the dates  
13          and times and whatnot are accurate. I have no  
14          reason to believe they're not. It seems to read  
15          just fine. But I think it's critical that we go  
16          through and pull out more detail, those facts in  
17          the EIS, the declarations we made regarding our  
18          site visit, to build strength into the narrative  
19          that we arrived at these conclusions for a  
20          particular reason.

21          I think the other thing I might suggest is  
22          while we fixated on setbacks, there are other  
23          areas in the Development Agreement that we did  
24          make some specific mention in terms of  
25          weaknesses, and I acknowledge that the applicant

1 has indicated we could probably work those out,  
2 so I'm not going to suggest in any way that they  
3 stated they did not wish to do that.

4 But there are other flaws in the Development  
5 Agreement which, work on or no, I understand the  
6 reluctance to work on something if we can't get  
7 past the major hurdle. But that said, it's still  
8 information that I think should be in the record.

9 Other than that, I don't have a lot of  
10 specific suggestions. I think it reads  
11 reasonably well. Say if we augment that one  
12 specific area, I think the rest of it would pass  
13 muster with me.

14 CHAIRMAN BOWEN: Commissioner Crankovich,  
15 anything else to add?

16 COMMISSIONER CRANKOVICH: Nothing right now.

17 CHAIRMAN BOWEN: Commissioner Huston struck  
18 all of my points.

19 Mr. Piercy, Mr. Hurson, do you have  
20 significant direction to move forward?

21 MR. DARRYL PIERCY: Mr. Chairman, I believe  
22 that we do. And we'll prepare the documents in  
23 accordance with the comments that we've heard  
24 this evening.

25 For the record, Darryl Piercy.

1 I would ask if there is any additional  
2 direction from the Board should the applicant  
3 approach staff in regards to proceeding forward  
4 with additional discussions. And if that were to  
5 be the case, some clarification as to whether or  
6 not there should be a discussion on a variance  
7 process might be appropriate.

8 If you direct us to continue discussions, if  
9 the applicant chooses, I think we would like  
10 additional clarification on whether or not you  
11 would be interested in a variance process.

12 CHAIRMAN BOWEN: As one commissioner, as  
13 long as the 2000 foot from non-participating  
14 landowners' property lines and the 2500 feet from  
15 non-participating residences is the base we start  
16 from, the variance process going no less than the  
17 safety setbacks of 541 feet, I don't have an  
18 issue with that.

19 Other commissioners?

20 COMMISSIONER CRANKOVICH: That's fine with  
21 me as long as we're moving in a direction, not  
22 just treading water one way or the other.

23 CHAIRMAN BOWEN: Commissioner Huston?

24 COMMISSIONER HUSTON: It's consistent with  
25 my observations. If -- I guess that's the

1 definition, if you will, of participating versus  
2 non-participating property owner. If a property  
3 owner is willing to enter into a variance  
4 agreement -- again, providing we don't violate  
5 the safety setback -- then they're participating,  
6 I suppose. Arguably it's not part of the project  
7 footprint, necessarily, but if they've entered  
8 into a variance to allow the setting of turbines  
9 within the project, I suppose in terms of  
10 definition I'm prepared at that point to accept  
11 the fact they're participating property owners.

12 How they get to that -- and Commissioner  
13 Crankovich has mentioned compensation by the  
14 property -- I don't care; that's a business  
15 decision between you all and the property owner.  
16 But again, I want to be clear: I will not accept  
17 any variance process that deletes that safety  
18 setback. Not interested.

19 The rest of it, in terms of process, I  
20 don't -- use the term "process," I'm not sure  
21 exactly what you're getting at. If they are  
22 successful in getting into agreements with  
23 property owners willing to waive, if you will,  
24 that setback, that's a private agreement between  
25 the proponent and the property owner, as long as

1           it's recorded and runs with the title of the  
2           land, needless to say. Can't be a handshake; we  
3           need something perhaps a bit more formal than  
4           that.

5           So in terms of process, I mean, that's --  
6           that's just standard bread-and-butter real  
7           estate. And I don't care, frankly, if it takes  
8           the shape of a CCR on the property or a recorded  
9           document of some sort; that's immaterial to me,  
10          so long as it's trackable and enforceable.

11          CHAIRMAN BOWEN: Does that give enough  
12          guidance?

13          COMMISSIONER HUSTON: In terms of the  
14          question "What to do if," obviously we need to do  
15          a little more work on this. That would obviously  
16          indicate we're going to look at it at some  
17          subsequent date.

18          Again, as you framed quite clearly,  
19          Mr. Chairman, the motion at this point is  
20          preliminary denial. We're dealing with the  
21          Findings and Conclusions. Obviously if parts of  
22          the Findings and Conclusions are rendered moot  
23          because the applicant has made an additional  
24          proposal that would seem to be consistent with  
25          the observations of the Board, I think it's

1 simply due diligence to consider that.

2 Staff knows the parameters contained within  
3 our discussion. Certainly feel free to bring  
4 anything forward, but I think you have a pretty  
5 good idea as to what might be, if you will,  
6 something that could get somewhere in terms of  
7 future discussion. I'd be willing to look at  
8 that up to the point where we pass the  
9 resolution. Once passed -- one the resolution is  
10 passed, then we're in the EFSEC process and away  
11 we go from there.

12 But up to the point the resolution is  
13 passed, certainly the applicant has every right  
14 to chat with staff. Staff has, I would think,  
15 relatively clear direction, and I'll look at any  
16 fruits of those discussions that are consistent  
17 with -- with the information we provided tonight.

18 CHAIRMAN BOWEN: I would concur with those  
19 comments.

20 Mr. Crankovich, any comment?

21 COMMISSIONER CRANKOVICH: No.

22 CHAIRMAN BOWEN: Director Piercy? Anything  
23 else?

24 MR. DARRYL PIERCY: No, that's all. Just  
25 wanted to get that onto the record, and I want to

1 thank you for that clarification.

2 CHAIRMAN BOWEN: The next question would be  
3 when would staff be able to have this document  
4 ready for us to consider? And I'd like to keep  
5 in mind timeliness in trying to move this process  
6 along as we do that.

7 MR. DARRYL PIERCY: Commissioners, you have  
8 a regularly scheduled agenda for next Tuesday.  
9 We would be prepared to provide that information  
10 to you for that meeting if that would work in  
11 your schedules.

12 CHAIRMAN BOWEN: Commissioners, do you -- is  
13 our auditorium going to work for that, or do we  
14 want to come back here maybe on Wednesday the  
15 7th?

16 COMMISSIONER HUSTON: I have no objection.  
17 We'll have our regular agenda; I believe we have  
18 some public hearings at 4:00, but we should be  
19 finished -- correct me if I'm wrong, Clerk of the  
20 Board -- by 6:00-ish. No reason to deviate from  
21 what we've done so far. If we come here at 6:00  
22 that evening -- I have no issue with Tuesday, but  
23 if we come in at 6:00 that evening, then that  
24 gives everybody a chance to get off work and come  
25 in and listen.

1                   CHAIRMAN BOWEN: Does that work,  
2 Commissioner?

3                   COMMISSIONER CRANKOVICH: It works for me.

4                   CHAIRMAN BOWEN: I would hear a motion to  
5 continue this hearing to June 6th, 6:00 p.m.,  
6 here in the Home Arts Building.

7                   COMMISSIONER HUSTON: Mr. Chairman, I'll  
8 move to continue this public hearing to June 6,  
9 6:00 p.m., Kittitas County Fairgrounds Home Arts  
10 Building for purposes of reviewing additional  
11 drafts of conclusions and findings.

12                  COMMISSIONER CRANKOVICH: Second.

13                  CHAIRMAN BOWEN: It's been moved and  
14 seconded to continue this public hearing to  
15 June 6th, 6:00 p.m. here in the Home Arts  
16 Building.

17                  Any discussion to that motion?

18                  Hearing none, all in favor indicate by  
19 saying aye.

20                  COMMISSIONER CRANKOVICH: Aye.

21                  COMMISSIONER HUSTON: Aye.

22                  CHAIRMAN BOWEN: I do will vote aye, and the  
23 motion carries. This hearing is continued.  
24 Thank you all.

25                                 (The proceeding was adjourned at

7:02 p.m.)

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C E R T I F I C A T E

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  
Notary Public in and for the  
State of Washington, residing at  
Yakima. My commission expires  
July 19, 2007.