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BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application No. 2004-01:
WIND RIDGE POWER PARTNERS, LLC;
WILD HORSE WIND POWER PROJECT

APPLICANT'S OBJECTIONS AND MOTION TO
STRIKE PREFILED TESTIMONY

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THIS IS A MOTION made by the Applicant herein to strike portions of certain pre-filed testimony submitted by F. Steven Lathrop. In making this Motion to Strike, the Applicant intends to make a record of its objections to ensure that the record is clear for potential future judicial review. However, the Applicant understands that in the context of an administrative proceeding, the Council may choose to deny motions to strike, and consider the applicability of certain objections in according weight to the testimonial evidence.

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The Applicant hereby objects to and moves to strike portions of the Exhibit 60 (DT-L), Intervenor F. Steven Lathrop's Prefiled Direct Testimony as follows:

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a. The following language located on page 4, lines 1-4:

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“There is simply no way to even approximately evaluate the impact of the Wild Horse Project on any specific piece of real estate, let alone my own, without something other than a general overview.”

1 The Applicant moves to strike on the basis that this testimony is in
2 violation of Council Order No.804, Prehearing Order No. 1, which
3 specifically denied F. Steven Lathrop intervention status regarding
4 *Generalized Economic Impacts on County Land Values* (page 11),
5 *Generalized Development in the County Above and Beyond Mr. Lathrop's*
6 *Own Property Interests* (page 11), *Precedent* (page 11), *Visual Impacts*
7 (visual quality issues that are indistinguishable from those of the general
8 public) (page 12) and *Impacts on Mr. Lathrop's Agricultural Property*
9 (page 13). The Order limited Mr. Lathrop's intervention to that area set
10 forth on page 13, stated as follows: "Therefore, although he will only be
11 representing himself and not any similarly situated landowners, the
12 Council is granting Mr. Lathrop intervenor status, limited to issues
13 concerning the direct economic impact of the Project on his 40-acre
14 parcel. This may include any impacts of the Project on his view but only
15 insofar as such visual impacts directly affect the economic value of his
16 property." This testimony is an attempt to ignore Council Order 804, and
17 go beyond the limits of Mr. Lathrop's intervention.
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21 b. The following language located on page 4, lines 8-9:

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23 "There is simply no other way to approach the question and I doubt that
24 either of these two gentlemen disagree."
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1 The basis for the objection is speculation on behalf of the witness in violation
2 of Washington State Rules of Evidence, specifically ER 403.

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4 c. The following language located on page 4, lines 9-12:

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6 “Accordingly, my comments about the impact the Wild Horse Project will
7 have on the County generally and specific parcel, including my own, is the
8 most appropriate way to gain any degree of valid registration on impacts.”
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10 The Applicant moves to strike on the basis that this testimony is in
11 violation Council Order No.804, Prehearing Order No. 1, as set forth in
12 paragraph a. above. This testimony is an attempt to ignore Council Order
13 804, and go beyond the limits of Mr. Lathrop’s intervention.
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17 d. The following language located on page 5, lines 26 through page 6, line 1:

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19 “First, Mr. Priestly estimated approximately 30 turbines will be visible
20 from the community of Kittitas.”
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22 The Applicant moves to strike on the basis that this testimony is in
23 violation Council Order No.804, Prehearing Order No. 1, as set forth in
24
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1 paragraph a. above. This testimony is an attempt to ignore Council Order
2 804, and go beyond the limits of Mr. Lathrop's intervention.

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4 e. All of the language located on page 6, line 24 through page 10, line 17
5 (which will not be quoted directly in this Motion for the sake of brevity),
6 on the basis that this testimony is in violation Council Order No.804,
7 Prehearing Order No. 1, as set forth in paragraph a. above. This testimony
8 is an attempt to ignore Council Order 804, and go beyond the limits of Mr.
9 Lathrop's intervention.
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12 Further this testimony is speculative and argumentative, in violation of
13 Washington State Rules of Evidence, specifically ER 403 and ER 602.

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15 f. The following language located on page 11, lines 4-5:

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17 "I do not question Mr. DeLacy's credentials and believe he has used to
18 maximum advantage the materials with which he had to "dress this pig"."

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20 The basis for the objection is that this statement is speculation and
21 argumentative, in violation of Washington State Rules of Evidence,
22 specifically ER 602.

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24 g. The following language located on page 12, lines 10-19:
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1 “Put up 120 plus towers on the Wild Horse Project, however, and the
2 property is not out of their view and I do not want to bear the risk of being
3 one of the thousands of guinea pigs in this County to suffer the loss. The
4 truth is neither side has a clue as to what the actual result will be until a
5 particular project is constructed. At that point, there is not a need for
6 statistical modeling because subsequent sales will demonstrate the impact.
7 I think one can read the testimony to support any conclusion one wants.
8 Suffice to say that as to what is going to happen to property values with
9 the Wild Horse Project, Mr. DeLacy doesn’t know either.”
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12 The Applicant moves to strike on the basis that this testimony is in
13 violation Council Order No.804, Prehearing Order No. 1, as set forth in
14 paragraph a. above. This testimony is an attempt to ignore Council Order
15 804, and go beyond the limits of Mr. Lathrop’s intervention.
16

17 Further this testimony is speculative and argumentative, in violation of
18 Washington State Rules of Evidence, specifically ER 403 and ER 602.
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20 h. The following language located on page 13, lines 1-12:
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22 “The Takhoma Farm residential development is only 6 miles directly west
23 of the project and consists of very expensive residences on 20 acre or
24 larger parcels in a private gated community. Within a couple of miles of
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1 that, especially north of Kittitas, is a proliferation of large and expensive
2 residential projects indicative of the type of development being
3 experienced throughout the valley, very similar to my property. Yet, Mr.
4 DeLacy makes no mention of this and probably is unaware of their
5 existence. He takes a very short-range view of not only how far the visual
6 impacts extend but also how this valley is likely to develop in the future.
7 His testimony provides no economics upon which to base any opinions in
8 this regard. And failing that, I would suggest is the equivalent to looking
9 at the Kent Valley 25 years ago and saying it is just farm ground and
10 should be treated as such in planning a long-range project.”
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13 The Applicant moves to strike on the basis that this testimony is in
14 violation Council Order No.804, Prehearing Order No. 1, as set forth in
15 paragraph a. above. This testimony is an attempt to ignore Council Order
16 804, and go beyond the limits of Mr. Lathrop’s intervention.
17

18 Further this testimony is speculative and argumentative, in violation of
19 Washington State Rules of Evidence, specifically ER 403 and ER 602.
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22 i. The following language located on page 14 line 3-25:

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24 “However, it possesses some elements and characteristics very different
25 from the other two applications presently pending. This project is in a

1 single block that at least meets the legal definition of a “wind farm” the
2 County’s Zoning Code. It is a single ownership and comprises only a
3 portion of that ownership. It has been represented to me by Puget Sound
4 Energy that it will the own the land and the project once constructed and
5 that is extremely important and different because it is a large Washington
6 public utility, carefully regulated that has demonstrated a history of
7 responsible business operations. Puget Sound Energy’s structure provides
8 as much assurance as can reasonably be expected that it will be around
9 when these turbines turn into the junk they are destined to become. The
10 closest residence is 1.75 miles away and as even the applicant’s direct
11 testimony demonstrates, historic ideas about setbacks are meaningless
12 when dealing with wind power projects. I think the minimum setback from
13 the boundary of the project should be 1.75 miles since the existing
14 property owner owns that land, presumably they will be willing to
15 covenant distance. In any event, setbacks must be the burden of the
16 project, not the neighborhood and the line has to be the boundary of the
17 project. In the case of Wild Horse, I suppose with a friendly
18 landowner/seller, a variance could be granted in this case to encumber the
19 area surrounding the project since the tower locations I have been shown
20 are certainly much closer to the project boundaries. However, for the
21 future 1-1/2 miles is very close to a turbine and a turbine should not be
22 any closer than that to the boundary of the project.”
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1 The Applicant moves to strike on the basis that this testimony is in
2 violation Council Order No.804, Prehearing Order No. 1, as set forth in
3 paragraph a. above. This testimony is an attempt to ignore Council Order
4 804, and go beyond the limits of Mr. Lathrop's intervention.
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6 Further this testimony is speculative and argumentative, in violation of
7 Washington State Rules of Evidence, specifically ER 403 and ER 602.
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10 j. All of the language located on page 15 line 5 through page 17, line 2
11 (which will not be quoted directly in this Motion for the sake of brevity),
12 on the basis that this testimony is in violation Council Order No.804, as
13 set forth in paragraph a. above. This statement is an attempt to ignore
14 Council Order 804, and go beyond the limits of Mr. Lathrop's
15 intervention.
16

17 Further this testimony is speculative and argumentative, in violation of
18 Washington State Rules of Evidence, specifically ER 403 and ER 602.
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21 DATED this 15th day of February 2005
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Darrel L. Peeples, WSBA No. 885
Attorney for Applicant
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STOEL RIVES, LLP

DATED this 15th day of February, 2005

By: Timothy L. McMahan, WSBA No. 16377
Attorneys for Applicant