

**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

COUNCIL ORDER NO.

**Applicant's Proposed Findings of Fact,
Conclusions of Law, and Order
Recommending Approval of Site
Certification**

NATURE OF PROCEEDING

This matter involves an application to the Washington State Energy Site Evaluation Council (EFSEC or Council) for certification to construct and operate the Wild Horse Wind Power Project ("Project" or "Facility"), a wind energy generation facility located in Kittitas County, Washington.

PROCEDURAL SETTING AND PARTICIPATION

On March 8, 2004, Wind Ridge Power Partners, LLC (the Applicant) applied to the Council for certification to construct and operate the facility in Kittitas County, Washington. EFSEC duly published a notice of the application, and notices of public meetings and hearings, prehearing conferences, land use hearings, DEIS hearings, and the adjudicative hearings regarding Application No. 2004-01. The Council issued a determination of significance and request for comments on the scope of environmental impacts on March 30,

2004. The Council held a hearing on the scope of the Environmental Impact Statement (EIS) in the community of Ellensburg, Kittitas County, Washington on April 22, 2004. The deadline for written comments on the scope of the EIS was April 30, 2001. The Council issued a Draft SEPA Environmental Impact Statement (DEIS) on August 9, 2004. The Council accepted public comments regarding the DEIS through September 10, 2004, and held public hearings regarding the DEIS on August 24, 2004 in the community of Ellensburg, Kittitas County.

Prior to formal adjudicative hearings on the Application, the Council held prehearing conferences on September 30, 2004, November 1, 2004, February 8, 2005, February 22, 2005, February 24, 2005 and March 7, 2005. The Council issued Prehearing Orders Numbers 1 through 7 (Council Orders Nos. 804, 806, 807, 808, 810, 811 and).

The Council held formal adjudicative hearings regarding the Application 2004-01 on March 7th and 8th, 2005 in the city of Ellensburg, Kittitas County, Washington. The Council held a public hearing regarding Application 2004-01 on March 8, 2004, in the city of Ellensburg, Kittitas County, Washington. EFSEC conducted a land use consistency hearing on April 22nd, 2004, and March 7th, 2005 in the city of Ellensburg, Kittitas County, Washington.

Stipulations and settlements between the Applicant and Kittitas County and Washington Department of Fish and Wildlife were approved by the Council on March 7th, 2005, prior to commencement of the adjudicative sessions of hearings, resolving all issues between all those parties. Intervenor Friends of Wildlife and Wind Power withdrew as a party prior to the commencement of the adjudicative session of the hearings. Intervenor F. Steve Lathrop also withdrew his participation in the above entitled matter prior to the commencement of the adjudicative sessions of the hearings.

The members of the Council for Application 2004-01 were Council Chair, Jim Luce and Council members Hedia Adelsman (Department of Ecology), Chris Towne (Department of Fish and Wildlife), Dick Fryhling (Department of Community Trade and Economic Development), Patti Johnson (Kittitas County) Tony Ifie (Department of Natural Resources), Tim Sweeny (Washington Utilities and Transportation Commission), and the Administrative Law Judge, Adam Torem.

Appearances: The parties were represented in the various hearings as follows:

Applicant, Wind Ridge Power Partners, LLC: Darrel L. Peeples, Attorney at Law, Olympia, WA; Timothy L. McMahan, Attorney at Law, Stoel Rives, LLP, Portland Oregon; and Erin L. Anderson, Attorney at Law, Cone Gilreath Law Offices, Ellensburg, Washington.

Counsel for the Environment: John Lane, Assistant Attorney General, Office of the Attorney General, Olympia, Washington.

Kittitas County: James Hurson, Deputy Prosecuting Attorney, Kittitas County Prosecuting Attorney Office, Ellensburg, Washington.

Friends of Wildlife and Wind Power. David Bricklin, Attorney at Law, Bricklin, Newman & Dodd, LLP, Seattle, Washington.

F. Steven Lathrop: Jeff Slothower, Attorney at Law, Ellensburg, Washington.

Washington State Department of Community, Trade and Economic Development: Tony Usibelli, Assistant Director, Energy Policy Division, Olympia, Washington.

Economic Development Group of Kittitas County: Debbie Strand, Executive Director, Ellensburg, Washington.

FINDINGS OF FACT

The Application, the Applicant, the State Environmental Policy Act (SEPA) Process and the Adjudicative Hearing Process

1. Wind Ridge Power Partners is a Delaware Limited Liability Company formed to develop, permit, finance, construct, own and operate the Project. Wind Ridge Power Partners LLC is owned by one or more “parent” companies which are considered to be Site Certificate Holders, as defined in the Site Certificate. It is anticipated that ownership of the Project will be transferred to Puget Sound Energy as stated in more detail in Finding of Fact 33.
2. The Applicant requested that EFSEC conduct a Potential Site Study on July 2, 2003
3. On November 18, 2003, EFSEC issued a Potential Site Study report.
4. On March 8, 2004, the Applicant applied to the Council for certification to construct and operate the Project in Kittitas County, Washington.
5. Application No. 2004-01 sought a Site Certification Agreement to construct and operate a wind electrical generating facility of up to 312 MW.
6. EFSEC duly published notice of the application, public meetings and hearings, prehearing conferences, land use hearings, DEIS hearings, and the adjudicative hearings regarding Application No. 2004-01.
7. EFSEC is the lead agency for environmental review under the SEPA, RCW Chapter 43.21C. As Council Manager, Allen Fiksdal is the SEPA responsible official. WAC 463-47-051.

8. EFSEC determined that the proposal would have a probable significant adverse effect on the environment, that a determination of significance (DS) would be issued, and that an environmental impact statement (EIS) was required pursuant to the State Environmental Policy Act (SEPA). EFSEC issued a determination of significance and scoping notice for the proposal on March 30, 2004. EFSEC issued notice of the DS to local and regional newspapers and radio stations, and published the notice in the State SEPA Register. EFSEC held informational and scoping meetings in Ellensburg on April 22, 2004 to facilitate public input from agencies and interested citizens. The meeting was advertised through newspaper notice and through mailing of individual notices to individuals and organizations on the EFSEC mailing list. Based on public and agency input received through April 30, 2004 (the deadline for receiving scoping comments), EFSEC identified the scope of the EIS to be prepared on the proposed action.

9. EFSEC published a Draft EIS for the Project on August 4, 2004. A 37-day written comment period, extending through September 10, 2004 was provided to allow public and agency review of the Draft EIS. EFSEC held a public meeting on the Draft EIS in Ellensburg on August 24, 2004 to facilitate the review process. Seventeen (17) speakers provided verbal testimony concerning the Draft EIS at the public meeting. A written transcript of testimony at the meeting was prepared for EFSEC. EFSEC also received 32 items with written comment input on the Draft EIS; these are also documented in the EFSEC files.

10. Prior to formal adjudicative hearings on the Application, the Council held prehearing conferences on September 30, 2004, November 1, 2004, February 8, 2005, February 22, 2005, February 24, 2005 and March 7, 2005. The Council issued Prehearing Orders Numbers 1 through 7 (Council Orders Nos. 804, 806, 807, 808, 810, 811 and).

11. Stipulations and settlements between the Applicant and Kittitas County and Washington Department of Fish and Wildlife were approved by the Council on March 7th, 2005, prior to commencement of the adjudicative sessions of hearings, resolving all issues between all those parties. Intervenor Friends of Wildlife and Wind Power withdrew as a party prior to the commencement of the adjudicative session of the hearings. Intervenor F. Steve Lathrop also withdrew his participation in the above entitled matter prior to the commencement of the adjudicative sessions of the hearings. As discussed further below, Kittitas County's settlement with accompanying Certificate of Land Use Compliance, provides prima facie proof of compliance with all local land use plans and ordinances.
12. The Council held formal adjudicative hearings regarding the Application 2004-01 on March 7th and 8th, 2005, in the city of Ellensburg, Kittitas, County, Washington, and recessed the proceeding for submission of Proposed Findings of Fact, Conclusions of Law and Order and Proposed Site Certification Agreement by the remaining parties.
13. The Council held public hearings regarding Application 2004-01 on March 8th, 2005, in the city of Ellensburg, Kittitas County, Washington.
14. EFSEC conducted land use consistency hearings on April 22, 2004 and March 7, 2005, in the city of Ellensburg, Kittitas County, Washington.
15. The Applicant was given an opportunity to submit a Proposed Findings of Fact, Conclusion of Laws and Order and Proposed Site Certification Agreement, which were submitted to EFSEC on .
16. On _____, the Council adopted the Final Environmental Impact Statement (FEIS).

17. On _____ 2005, the Council acted to recommend approval of the Project to the Governor of Washington State, and issued Council Order No. _____, Findings of Fact, Conclusions of Law, and Order Recommending Approval of Site Certification on Condition.

Stipulations and Settlements

18. As stated above, the Applicant entered into the settlement agreements and stipulations between the Applicant and Kittitas County and Washington Department of Fish and Wildlife which were approved by the Council on March 7th, 2005, prior to commencement of the adjudicative sessions of hearings, resolving all issues between all those parties. Intervenor Friends of Wildlife and Wind Power withdrew as a party prior to the commencement of the adjudicative session of the hearings. Intervenor F. Steve Lathrop also withdrew his participation in the above entitled matter prior to the commencement of the adjudicative sessions of the hearings.

Project Description

19. The Wild Horse Wind Power Project is a wind powered electrical generation facility in Kittitas County, Washington. The Project would consist of between 104 and 158 wind turbine generators with a total nameplate capacity of between 158 and 312 megawatts (MW).

The Project will entail the construction of between 104 and 158 wind turbine generators with a total nameplate capacity of between 158 and 312 MW and associated components. The final selection of the exact type and size of wind turbine to be used for the Project depends on a number of factors including equipment availability at the time of construction. The number of turbines and the resulting nameplate capacity of the Project will depend on the make and model of turbine used. Therefore, to capture a “reasonable range” of potential Project

impacts, the following three Project scenarios have been analyzed. The certificate holder shall select a single Project configuration within the range of the turbine scenarios that follow: (1) Lower End Scenario: The lower end scenario represents the Project configuration with the lowest number of turbines erected. For turbines with a nameplate capacity of approximately 3 MW each, up to 104 turbines would be used for a total nameplate capacity of approximately 312 MW. (2) Middle Scenario: The middle scenario represents the Project configuration that would be chosen based on current pricing and performance for wind turbine technology currently on the market. For turbines with a nameplate capacity of approximately 1.5 MW each, 136 turbines would be used for a total nameplate capacity of approximately 204 MW. (3) Upper End Scenario: The upper end scenario represents the Project configuration with the highest number of turbines erected. For turbines with a nameplate capacity of 1 MW each, up to 158 turbines would be used for a total nameplate capacity of 158.

The Applicant's review and analysis of the impacts covers the range of impacts across each of the three scenarios: The Applicant has asked and the Council grants permission to construct and install turbines within this defined range.

Site Characteristics

20. The Project will be located two miles north of the Vantage Highway at Whiskey Dick Mountain, roughly 11 miles east of the City of Kittitas. The Project will be constructed across a land area of approximately 8,600 acres in Kittitas County, although the actual permanent facility footprint would comprise about 165 acres of land. The majority of the Wild Horse Wind Power Project site and the proposed electric transmission interconnect points lie on privately owned lands. Parts of the Project site are owned by the Washington DNR, upon which the Applicant has secured a long term lease. A portion of the Project site is owned by WDFW and is currently under review for possible lease to the Applicant. The Applicant has

obtained an option to purchase the privately held portion of the Project site and options for easements and/or purchase from the landowners necessary for installation and operation of the transmission feeder line and PSE interconnect substation.

21. The legal description of the Project property site is contained in Section 4.3 of the Application.
22. The proposed site is located within Forest and Range and Commercial Agriculture land use zone designations in Kittitas County subject to a Wind Farm Overlay Zone approved by Kittitas County.
23. The site has historically been used as grazing land.

Land Use Consistency

24. While Chapter 80.50 operates as a state preemption of all matters related to energy facility sites, the Council is required to hold a public hearing to determine whether the proposed use of the site is consistent with county or regional land use plans or zoning ordinances at the time of the application. WAC 463-14-030. The Council held a land use consistency hearing on April 22, 2004, in Ellensburg, Washington. As a result of this hearing the Council pursuant to Council Order 791 issued June 8, 2005, found that the use of the site was not consistent with local land use plans and zoning ordinances. Council Order 791 gave the Applicant until August 30, 2005 to resolve the inconsistency, ask for preemption or request an extension of the time period for requesting preemption pursuant to WAC 463-28-040. The Applicant and the County requested that EFSEC mutually agree to extend the date for filing a request for preemption pursuant to WAC 463-28-040 prior to August 30, 2004. The Council as a result extended the time until November 14, 2004. The Applicant

requested a second extension of the time pursuant to WAC 463-28-040 prior to November 14, 2005 and the Council extended the time until April 1, 2005

25. The Applicant requested approval from the County to develop the Wild Horse Wind Power Project (“Project”) pursuant to the Kittitas County Comprehensive Plan and Zoning Code. A complete consolidated Development Activities Application was filed with Kittitas County on June 25, 2004. The County conducted public hearings before the Planning Commission and the Board of County Commissioners and approved the Consolidated Development Activities Application on March 4th, 2005. The Board of County Commissioners adopted Ordinances No. 2005-08, 2005-09, 2005-10 and 2005-11, documenting consistency with all local land use plans and ordinances. The Council then held a second land use consistency hearing on March 7th, 2005.

26. During the March 7th, 2005 hearing, the Council received a certificate from Kittitas County indicating that the Project is consistent with local land use plans and zoning ordinances. Representatives from Kittitas County also testified that the Project complied with Kittitas County land use plans and zoning ordinances. No testimony or evidence contradicted the certificate. In the absence of contradictory testimony, the certificate provides prima facie proof of consistency and compliance with such zoning ordinances or land use plans. WAC 463-26-090. In accordance with its authority under RCW 80.50.110 and .120, the Council finds that the proposed use is consistent and in compliance with the land use plans and zoning ordinances of Kittitas County, including without limitation those adopted in accordance with Chapter 36.70A RCW. Kittitas County Ordinance No. 2005-08 includes Findings of Fact and Conclusions of Law, attached to the Ordinance. These Findings of Fact and Conclusions of Law are hereby adopted by the Council as Findings and Conclusions of the Council, and are incorporated herein by this reference.

Need and Consistency

27. There is a need for new electrical energy and capacity to meet state and regional demands.
28. The purpose of the Wild Horse Wind Power Project is to construct and operate a new electrical generation resource using wind energy that will meet a portion of the projected growing regional demands for electricity produced from renewable resources. Recent national and regional forecasts predict increasing consumption of electrical energy will continue into the foreseeable future.
29. Many regional utilities are currently seeking to acquire new generating resources to meet their loads. More specifically, several regional utilities, including Avista, Puget Sound Energy (PSE), and PacifiCorp have all completed detailed studies and demand forecasts of their own systems as part of their Integrated Resource Plan (IRP) or Least Cost Plan (LCP) processes with oversight from the Washington Utilities and Transportation Commission (WUTC). As a result of their formal IRP or LCP processes, PSE, PacifiCorp and Avista have issued Requests for Proposals (RFPs) specifically for wind power and/or other renewable resources. The evidence in the record shows that as an outcome of PSE's LCP process, including an "all source" generation review, wind energy, and specifically the Wild Horse Wind Power Project, is considered a "least cost power" resource. There is a regional demand for wind generated energy that greatly exceeds the existing regional supply.
30. Economically viable and developable sites for wind power in Washington State are scarce and finite. Subtle differences in wind speed have a profound effect on the amount of wind energy that can be generated. A difference of a few mph in the average long term wind speed can mean a difference of 30% in wind energy. This difference in wind energy accounts for the difference between a site that is viable versus a site that is not viable for a wind power project. To be feasible, the project

site must be in relatively close proximity to electrical transmission facilities with sufficient capacity to economically deliver power to the electrical grid. This confluence of factors is similar to the factors influencing the selection and approval of scarce and finite sites for other forms of electric power generation, such as hydroelectric facilities, making the siting of wind energy facilities a matter of major statewide interest and concern.

31. It is the policy of the state of Washington to support the development of wind energy facilities. Guiding Principle #2 of the State Energy Strategy is to “Encourage the development of a balanced, cost-effective and environmentally sound resource portfolio that includes conservation, renewables (e.g., wind, geothermal, hydro, biomass, and solar technologies), and least-cost conventional resources.” The Wild Horse Wind Power Project is consistent with and helps to implement this policy.
32. The Wild Horse Wind Power Project will be a reliable, cost-effective, environmentally sound energy resource and is presently one of few viable wind energy resources sites available in the State of Washington.
33. In September 2004 Applicant signed a Letter of Intent (LOI) with Puget Sound Energy (PSE) to purchase the Wild Horse Wind Power Project and associated facilities from the Applicant to serve PSE’s customers’ growing demand for power in both Kittitas County and other parts of PSE’s service territory. The Project would thus provide needed electricity for local PSE customers, including those located in Kittitas County.
34. The project will benefit the state of Washington and the region by providing energy at reasonable low cost, tax revenues over the life of the Project, jobs and a program of environmental enhancements. The Applicant’s Project will minimize

environmental impacts and will provide enhancements that benefit the environment in excess of the impacts of the Project and/or existing conditions on the Project Site.

35. The project will benefit the state of Washington and the region by providing electricity at a reasonable cost, through using wind energy resources. The Project will contribute to the diversification and reliability of the state's electrical generation capacity.
36. The Project will help to minimize environmental impacts caused by fossil fuel generation by generating electricity efficiently without greenhouse gas emissions.

Air Quality

37. Operation of the Project will not result in any direct air emissions. The Project will result in positive indirect impacts on regional air quality to the extent that the power generated from the Project displaces power which would otherwise be generated by the combustion of fossil fuels.
38. During construction, the types of direct impacts to air quality would be typical of those associated with any large construction project. Indirect impacts in the immediate vicinity are not anticipated because the Project is not expected to substantially induce regional growth to the extent that would result in significant changes to offsite air quality.
39. The primary type of air pollution generated during Project construction would be emissions from vehicle and equipment exhaust, and fugitive dust particles from travel on paved and unpaved surfaces. The fugitive dust particles occur when disturbed soils become airborne. Exhaust emissions and fugitive air emissions from construction sites are exempt from air emission permitting requirements. The proposed mitigation measures are adequate to minimize fugitive dust impacts.

Water Resources

40. No water is used in the electrical generation process with a wind energy facility. Therefore there will be no operational use or discharge of water from the Project. Water will be supplied and trucked to the site for domestic type of uses by operation and maintenance facility from an offsite source with a proper water right. A septic system will be installed at the operation and maintenance facility site in compliance with Kittitas County septic system requirements to treat the domestic type sanitary water waste from the facility.
41. Precipitation could result in surface runoff from Project facilities during Project construction and operation. However, the Project site grading plan and roadway design will incorporate measures in line with the Storm Water Pollution Prevention Plan (SWPPP) and Best Management Practices (BMPs) to ensure that surface runoff will infiltrate directly into the surface soils surrounding Project facilities. The EFSEC DEIS has found there would not be significant adverse impacts to water quality from the Project.

Wetlands, Vegetation and Wildlife

42. Overall, impacts on wildlife and habitat, associated with the construction of the Project are expected to be small and are unlikely to result in significant adverse impacts with the implementation of the mitigation measures proposed by the Applicant.
43. There are a few Class 3 wetlands in the form of seeps and springs within the Project area, however, all Project facilities will be located a considerable distance from them to prevent any impacts to these wetlands. The Project will not disturb any wetland systems at the Project site. There will be no turbines placed within 150

meters of any wetlands which significantly exceeds the most stringent wetland setback for Class 1 wetlands in the State of Washington.

44. No federal or state listed threatened or endangered plants were identified at the Project site
45. Implementation of the proposed Project would result in some loss of vegetation through clearing and ground disturbance. This includes permanent removal of approximately 165 acres of shrub-steppe vegetation, and temporary disturbance of up to 401 acres. Shrub-steppe habitat impacts will be fully mitigated, in accordance with Wind Project Habitat Mitigation Guidance Document (WDFW 2003a), by the acquisition, enhancement and protection for at least the life of the Project of over 600 acres of suitable, on-site habitat.
46. The Applicant will fence the mitigation parcel to eliminate livestock grazing, assuming the land ownership and grazing practices of adjacent properties at the time the Project goes into operation requires fencing to remove livestock from this parcel. In addition, the Applicant shall fence several springs within the Project area to eliminate livestock degradation. Fencing used for the mitigation parcel and the springs will be designed to keep livestock out but allow game species to cross. The Applicant will coordinate with Washington Department of Fish and Wildlife (WDFW) regarding fence specifications.
47. The only unique species or rare plant that may be impacted by the Project is hedgehog cactus, a Washington State Review list species. Access to the site will be controlled during both construction and operations, which should provide greater protection than is currently afforded to this species. As a further preventive measure, the Applicant will post a sign at the visitors' kiosk indicating that collection of any plants in the Project area is prohibited.

48. The Applicant commissioned extensive studies by qualified biologists of wildlife at the Project site to avoid impacts to sensitive populations. The results and recommendations of these studies have been incorporated into the proposed design, construction, operation and mitigation for the Project. The proposed design of the Project incorporates numerous features to avoid and/or minimize impacts to plants and wildlife. These features are based on site surveys, experience at other wind power projects, and recommendations from consultants performing studies at the site, the public, WDFW and the EFSEC Independent Consultant. Features of the Project that are designed to avoid or minimize impacts to wildlife include the following: Avoidance of construction in sensitive areas such as streams, riparian zones, wetlands, forested areas; Avoidance of placing wind turbines in prominent saddles along the main Whiskey Dick Ridge to minimize potential impacts to raptors; Minimization of new road construction by improving and using existing roads and trails instead of constructing new roads; Choice of underground (vs. overhead) electrical collection lines wherever feasible to minimize perching locations and electrocution hazards to birds; Choice of turbines with low RPM and use of tubular towers to minimize risk of bird collision with turbine blades and towers; Use of unguyed permanent meteorological towers to minimize potential for avian collisions with guy wires; Equipping all overhead power lines with raptor perch guards to minimize risks to raptors; and Spacing of all overhead power line conductors to minimize potential for raptor electrocution
49. Temporarily disturbed areas that have been cleared of vegetation will be reseeded with an appropriate mix of native plant after construction is completed when optimal germination and establishment conditions are present, and not necessarily immediately following disruption, to accelerate the revegetation of these areas and to the prevent spread of noxious weeds. The Applicant will consult with Washington Department of Fish and Wildlife regarding the appropriate seed mixes

for the Project area. The Certificate Holder will cover temporarily disturbed areas with appropriate erosion control measure as required by this Agreement.

50. The project will result in no significant unavoidable adverse impacts to wildlife. The Applicant has mitigated several potentially significant adverse impacts associated with the proposed action during the preliminary design phase of the proposed WHWPP. Further the Applicant has entered into a stipulation with WDFW above which provided for additional mitigation measures.
51. Sage grouse impacts have been fully analyzed. The impacts of the Project on future breeding and nesting in the Project area is uncertain, but based on available evidence it does not appear to present a significant threat due to a number of factors. At this time, there are no documented active leks within 5 miles of the project area, but infrequent observations of broods suggest nesting may have occurred near the Project site, and a few small, undocumented leks may have existed in the past. However, it is highly uncertain whether a viable breeding population could be established in this area due to other factors (e.g., failure of previous translocations, topography, future land use, no known leks), even without the Project.
52. The Applicant shall develop a post construction monitoring plan for the Project to quantify impacts to avian species and to assess the adequacy of mitigation measures implemented. The monitoring plan will include the following components: 1) fatality monitoring involving standardized carcass searches, scavenger removal trials, searcher efficiency trials, and reporting of incidental fatalities by maintenance personnel and others; and 2) a minimum of one breeding season raptor nest survey of the study area and a 1 mile buffer to locate and monitoring active raptor nests potentially affected by the construction and operation of the Project. The protocol for the fatality monitoring study will be similar to protocols used at the Vansycle

Wind Plant in northeastern Oregon and the Stateline Wind Plant in Washington and Oregon.

53. EFSEC shall create a Technical Advisory Committee (TAC) to evaluate the mitigation and monitoring program and determine the need for further studies or mitigation measures. The role of the TAC will be to review results of monitoring studies to evaluate impacts to wildlife and habitat, and address issues that arise regarding wildlife impacts during operation of the Project and make recommendations to EFSEC. The post-construction monitoring plan will be developed in coordination with the TAC. The TAC will monitor all mitigation measures and efforts and examine information relevant to assessing project impacts to habitat, avian, bat species, and other wildlife. The TAC will determine whether further mitigation measures would be appropriate, considering factors such as the species involved, the nature of the impact, monitoring trends, and new scientific findings regionally or at a nearby wind power facility. If appropriate in the TAC's judgment with respect to the biological significance of the impact identified, the TAC shall recommend mitigation measures. The ultimate authority to implement additional mitigation measures, including any recommended by the project TAC, will reside with EFSEC. The TAC's participation is intended to ensure that monitoring data is considered in a forum in which independent and informed parties can collaborate with the owner to develop appropriate responses.
54. No impacts on fish habitat or fish species associated with construction and operation of the Wild Horse Wind Power Project are anticipated.

Climate Change – Greenhouse Gases

55. There is a consensus in the international scientific community that various byproducts of human activity, including CO₂ and other gaseous emission produced by the combustion of fossil fuels, contribute to global atmospheric warming through the so-called “greenhouse effect.” Although there remains uncertainty with regard to the precise impacts and speed of onset, it is well understood that global warming has potentially profound consequences for all people, including citizens of Washington State.
56. There is also a consensus that, one of the cost-effective ways to reduce greenhouse gas emissions is to increase the use of non polluting renewable energy facilities such as the Wild Horse Wind Power Project. In order to reduce and mitigate greenhouse gas emissions, and given the scarcity and finite number of viable wind energy resource sites, the siting of wind energy facilities is of paramount importance to the state of Washington and to the nation.

Noise

57. The Project shall be designed and operated to comply with applicable Washington State Environmental Noise Levels of WAC Chapter 173-60.

Geological Hazards

58. The EFSEC DEIS found no significant impacts on soil, topography, and geology resulting from construction of the Project. The risks associated with ground movements due to landslides, subsidence, expansive soils etc., were determined to be minimal and no special design or construction considerations were recommended.
59. The probability that the crustal faults in the region are active is relatively low, based on the low level of historical seismicity. The faults in the Project vicinity are likely inactive or else active but typically produce events with magnitude less than 3.0.

Therefore, the potential for fault offsets during a large earthquake also appears to be low. Based on this information, local faults are not considered to pose a significant hazard to the proposed Project. The UBC and IBC standards require that under the design earthquake the factors of safety, or resistance factors, are used in the design to exceed certain values. This factor of safety is introduced to account for uncertainties in the design process and to ensure that performance is acceptable. Application of these codes in the Project design will provide adequate protection for the Project facilities and ensure protection measures for human safety, particularly given the relatively low level of earthquake risk for the site. Project buildings, structures, and associated systems shall be designed and constructed consistent with requirements including seismic standards of the Uniform Building code (UBC) or the International Building Code (IBC), but no less stringent than those found in the Uniform Building Code of 1997 (UBC-97).

60. The Project site is on or near ridgelines located above 3,000 feet elevation and far above any floodplain. Therefore no hazard exists with regard to flooding

Traffic and Transportation

61. No adverse impacts to transportation have been identified that cannot be mitigated by the mitigation measures set out in the EFSEC FEIS and set forth in the Development Agreement with Kittitas County. The Applicant has consulted extensively with both Washington State Department of Transportation and Kittitas County Public Works Department to develop adequate transportation mitigation plans.

Cultural and Archeological Resources

62. Based on the evidence and the appropriate laws and regulations, the Certificate Holder shall in consultation with the Office of Archeology and Historic Preservation, develop a cultural resources monitoring plan for monitoring construction activities and responding to the discovery of archeological artifacts or buried human remains. The Certificate Holder shall submit the plan to EFSEC for review. The Certificate Holder shall not begin site preparation prior to obtaining approval of the Plan from the Council. The Plan shall be implemented prior to the start of site preparation.

Visual Resources/Light and Glare

63. The Applicant hired qualified experts to carry out an extensive visual and aesthetic impact analysis. This impact analysis was appropriately based primarily on the FHWA methodology for determining visual resource change and assessing viewer response to that change (U.S. Department of Transportation 1988), as well as other state-of-the-art modeling protocols and methodologies having wide acceptance in the industry and with public agencies. The analysis is focused on evaluating impacts and recommending measures to minimize adverse visual effects. Central to this assessment is an evaluation of representative public viewpoints from which the project would be most visible. To document the visual changes that would occur, visual simulations show the proposed project from six viewpoints selected to be representative of views toward the project from a range of locations. The visual simulations were presented as *before* and *after* images from each of these simulation viewpoints (SVs). They are presented as photos of existing conditions together with the companion simulation images. This provides a clear image of the existing character and quality of the views from each of the SVs, as well as the scale and visual appearance of the changes that would result from the construction of the proposed project.

64. The Photomontage module of the WindPro software program was appropriately used to perform the computer modeling and rendering required to produce the images of the project facilities; these images were superimposed on the photographs to create the simulations. Existing topographic and site data provided the basis for developing an initial digital model. The Applicant provided site plans and digital data for the proposed wind turbines. These datasets were used to create three-dimensional digital models of these facilities. The models were combined with the digital site model to produce a complete computer model of the wind farm. For each viewpoint, viewer location was digitized from topographic maps, using 5 feet as the assumed eye level. The WindPro program overlaid computer “wire frame” perspective plots on the photographs of the views from the SVs to verify scale and viewpoint location. Digital visual simulation images were produced using computer renderings of the three-dimensional model combined with high-resolution digital base photographs.

65. The visual impact assessment was based on evaluation of the changes to the existing visual resources that would result from construction, operation, and decommissioning of the project. These changes were assessed by comparing the conditions under the simulated views with the conditions of the existing visual environment. Consideration was given to factors in determining the extent and implications of the visual changes.

66. Levels of impact were appropriately classified as *high*, *moderate*, and *low*. In general, high levels of aesthetic impacts were assigned in situations in which turbines would be highly visible from sensitive viewpoints and would alter levels of landscape vividness, unity, and intactness to the extent that there would be a substantial decrease in the existing level of visual quality. Moderate levels of aesthetic impact were assigned in situations in which turbines would be visible in

areas with high levels of visual sensitivity and would alter levels of landscape vividness, unity, and intactness to the extent that there would be a moderate change in existing visual quality. Moderate levels of visual impact were also assigned in situations in which the presence of turbines in the view would lead to more substantial changes in visual quality, but where levels of visual sensitivity were moderate to low. Low levels of visual impact were assigned in situations where the project would have relatively small effects on overall levels of landscape vividness, unity, and intactness and/or where existing levels of landscape aesthetic quality are low or where there are low levels of visual sensitivity.

67. The Applicant's analysis, EFSEC's Independent Consultant and the FEIS concluded that the visual impact of the project would be low to moderate based on the classification system described above and, therefore, the project would not have significant adverse impacts on the visual environment.

Socioeconomics

68. No adverse impacts are expected to housing because surveys have shown there is an adequate local housing supply available to accommodate Project-related demand for temporary rental housing.
69. Project construction would result in increased employment in Kittitas County. It is estimated that about 50% of the direct construction employment impact (125 jobs) would occur within Kittitas and Yakima counties, with the remainder distributed among other local economies in the Northwest.
70. Total direct income generated during the construction phase of the Project is estimated to be \$3,783,000. Total direct income consists of personal income in the form of wages, profits, and other income received by workers and business owners,

plus income from other sources such as royalty payments to land owners who lease land for the turbines. The direct income impact from Project construction would be a temporary but beneficial effect to the Kittitas County economy.

71. While the Project is expected to create construction employment, economic impacts are not limited to those directly created jobs. Direct economic impacts produce a ripple effect through an economy in the form of indirect impacts and induced impacts. Indirect and induced impacts represent the second and third stages of job creation, respectively, as a result of any direct activity. The total direct and indirect income resulting to the County during the construction phase is projected to be \$4,790,000.
72. Based on a conservative estimated total Project cost of \$235 million, it is estimated that the Project will increase the total valuation of real property in Kittitas County by approximately 8%, from \$2.5 billion to \$2.7 billion. It is anticipated that the Project would be the largest single taxpayer in Kittitas County by a factor of six and would have an assessed value greater than that of all ten of the current largest taxpayers in the County combined. It is expected that the Project will result in both increased revenues for state schools and local public services in the area as well as reduced property tax levy rates for local taxpayers. The largest beneficiaries of the added revenue from the Project would be local and state schools, county government, county roads, and other local services.
73. There is no credible evidence that the Project will have a negative affect on the property values in the County. Substantial evidence in the record shows that the location of the Wild Horse Project site is beyond the geographic area where any negative impacts to property values will be experienced. Moreover, even in areas in close proximity to another well known wind power project site in the County, substantial testimony and evidence in the record shows that property sales remain

robust and property values have not been affected by the publicity related to any of the pending wind power projects.

74. Fire risk minimization will be incorporated into Project design, especially with electrical design that complies with the National Electric Code (NEC). The Project site roads will act as firebreaks and also allow for quick access of fire trucks and personnel in the event of a grass fire. The Applicant has entered into a fire protection contract with Ellensburg Rural Fire District #2. EFSEC, as well as Ellensburg Rural Fire District #2 will review and approve all plans developed for the Project before they are implemented. The Fire Protection and Prevention Plan will include specifics regarding range fire prevention and property protection and will be submitted to EFSEC for review and approval prior to commencement of Project construction.

75. EMF is associated with electric transmission and is not specific to wind power projects. Electromagnetic fields are only ever considered a possible safety issue when associated with the siting of high voltage (115kV+) overhead transmission lines in close proximity to residences. EMF is generally not an issue related to wind turbines, which have low voltage drop-cables (575 – 690V) contained within steel towers and have a predominately underground collection system also at a low voltage (34.5 kV). For this Project, potential for EMF exposure is very low because the collector lines pass over and through undeveloped land. The high voltage transmission feeder lines have been sited along a path that does not bring them close to nearby residences or developed areas where people spend time.

76. Petroleum fuels are the only potentially hazardous materials that will be used in any significant quantity during construction of the Project. Fuel and lubricating oils from construction vehicles and equipment and the mineral oil used to fill the substation transformer(s) are the only potential sources for a spill. However, this

type of leak should not create a risk to health and safety or the environment because of the limited quantities of the materials involved. Measures to prevent and contain any accidental spills resulting from this fuel storage and use will be implemented and approved by EFSEC prior to construction. Construction of the Project will not result in the generation of any hazardous wastes in quantities regulated by state or federal law.

77. Operation of the Project will not result in the generation of regulated quantities of hazardous wastes. As no fuel is burned to power the wind turbine generators, there will be no spent fuel, ash, sludge or other process wastes generated.
78. The project is not anticipated to have a significant adverse effect on public services.
79. While more than 55,000 wind turbine generators have been installed worldwide, there has been no reported injury from ice thrown from wind turbines. Evidence has established that tower collapse is extremely rare and highly unlikely. Minimum setbacks incorporated into the proposed project layout would reduce the safety risks associated with ice throw, tower collapse and other safety and nuisance. Evidence submitted by Dr. Daniel Kammen, professor and director of the Renewable and Appropriate Energy Laboratory of the University of California at Berkeley, established that the probability of a member of the public being killed or seriously injured as a result of blade throw, tower collapse or ice throw is less than 1 in 1 billion.

Site Restoration

80. WAC 463-42-655, as in effect the date of the Application, requires an Applicant to provide an initial plan for site restoration in sufficient detail to identify, evaluate and resolve all major environmental and public health and safety issues presently

anticipated. The plan must address funding or bonding arrangements to meet site restoration or management costs.

81. The Applicant has outlined an initial site restoration plan in the Application. After the useful life of the facility, it is generally proposed that the equipment would be removed.
82. The Applicant has entered into a settlement agreement with Kittitas County that addresses site restoration. Based on the evidence presented in these proceedings, the Council concludes that the agreed upon provisions appropriately address future site restoration.

Cumulative Impacts

83. The FEIS for the Project, as well as those for the Desert Claim and Kittitas Valley Wind Power Project, evaluated the potential cumulative impacts of all three wind power projects proposed in Kittitas County. These analyses were conducted by three different independent consultants (Shapiro and Associates, Huckell/Weinman Associates, and Jones and Stokes, respectively). The results of these analyses all concluded that, with the implementation of the proposed mitigation measures, no significant adverse cumulative impacts are anticipated to any element of the environment as result of the construction and operation of all three proposed projects.

Term of the Site Certification Agreement

84. The term of the Site Certification Agreement authorizes the Certificate Holder to construct the Project such that Substantial Completion is achieved no later than 5 years from the date that all state and federal permits necessary to construct the

Project are obtained, but in no event later than six (6) years from March 4, 2005, the effective date of the Development Agreement with Kittitas County, provided, however, that such construction is not delayed by a Force Majeure Event¹, and that the Certificate Holder demonstrates its intention and good faith basis to believe, that construction shall be completed within eight to twelve (8-12) months of beginning construction. Due to the unique attributes of wind energy generation facilities, the Wild Horse Wind Power Project may be constructed in phases, with all or some of the wind turbine generator strings becoming fully operational and generating and delivering power to the electric grid prior to build-out of the full Project. The Site Certificate Holder is authorized to construct and operate some but not all wind turbine generator strings prior to completing all turbine strings and other components

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the testimony received and evidence admitted during the adjudicative hearing, the environmental documents and environmental determinations made by the Council, and the record in this matter, the Council makes the following conclusions of law:

1. The Washington State Energy Facility Site Evaluation Council has exclusive jurisdiction over the persons and the subject matter of Application No. 2001-01, pursuant to Chapter 80.50 RCW and Chapter 34.05 RCW. By “opting in” to the EFSEC process, the Project is subject to all aspects of Chapter 80.50 RCW.
2. The Council conducted its review of the Wind Ridge Power Partners Application 2004-01 as adjudicative proceedings pursuant to Chapter 34.05 RCW as required by RCW 80.50.090(3) and Chapter 463-30 WAC.
3. EFSEC is the lead agency for environmental review of the Wild Horse application pursuant to the requirements of Chapter 43.21C RCW. Because the SEPA responsible official determined that the proposed action might have one or more significant adverse environmental impacts, an environmental impact statement (EIS) was legally required. The Council complied with Chapter 43.21C RCW, Chapter 197-11 WAC, and Chapter 463-47 WAC, by issuing a determination of significance and scoping notice, conducting a scoping hearing, issuing a draft environmental impact statement (DEIS) for public comment, conducting a public hearing and accepting written comments on the DEIS, and adopting a final environmental impact statement (FEIS).
4. The Council is required to determine whether a proposed Project site is consistent with county or regional land use plans or zoning ordinances. RCW 80.50.090; WAC

463-14-030. The Council concludes that the proposed use of the site is consistent and in compliance with county land use plans and zoning laws.

5. Legislative guidance on energy policy is provided in RCW 43.21F.015, which provides in relevant part:

It is the policy of the state of Washington that:

- (1) The development and use of a diverse array of energy resources with emphasis on renewable energy resources shall be encouraged;

- (2) The supply of energy shall be sufficient to insure the health and economic welfare of its citizens;

- (3) The development and use of energy resources shall be consistent with the statutory environmental policies of the state;

- (4) Energy conservation and elimination of wasteful and uneconomic uses of energy and materials shall be encouraged, and this conservation should include, but is not limited to, resource recovery and materials recycling.

6. The legislature has recognized that the selection of sites for new large energy facilities will have a significant impact upon the welfare of the population, the location and growth of industry, and the use of the natural resources of the state. It is the policy of the state of Washington to recognize the pressing need for increased energy facilities, and to ensure through available and reasonable methods, that the location and operation of such facilities will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life. RCW 80.50.010.

7. The Council concludes that the certification of the Wind Ridge Power Project, as described in Application 2004-01, would further the legislative intent to provide abundant energy at reasonable cost. At the same time, the mitigation measures and the conditions of the proposed Site Certification Agreement ensure that available and reasonable methods are used to minimize potential adverse effects to the environment.

ORDER AND RECOMMENDATION

Based on the findings of fact and conclusions of law, and the record in this matter, the Council issues the following Order.

1. The Council recommends that the Governor of the State of Washington approve certification for the construction and operation of the Wind Ridge Power Project located in Kittitas County, Washington.
2. The Council orders that its recommendations as embodied in the findings of fact and conclusions of law, together with the Site Certification Agreement appended hereto be reported and forwarded to the Governor of the State of Washington for consideration and action.

SIGNATURES

DATED and effective at Olympia, Washington, this ____ day of _____2005.

NOTICE TO PARTIES: This is a final order of the Council for purposes of RCW 34.05.470 (1). Administrative relief may be available through a petition for reconsideration, filed within ten days of the service of this order, pursuant to RCW 34.05.470 and filed with the Council Manager pursuant to WAC 463-30-335.