

1 Mr. Spadaro, would you please state your name for
2 the record.

3 THE WITNESS: Jason Spadaro.

4 JUDGE WALLIS: I'm sorry. I didn't notice your
5 sudden appearance at the witness stand so I'm going to ask
6 the witness to raise his right hand, please.

7 JASON SPADARO,
8 having been first duly sworn on oath,
9 testified as follows:

10

11 DIRECT EXAMINATION

12 BY MR. McMAHAN:

13 Q. Your name for the record?

14 A. Jason Spadaro.

15 JUDGE WALLIS: Mr. Spadaro, could you rearrange
16 the microphone so that you're speaking directly into it,
17 perhaps pull it closer and a little bit to your left.

18 BY MR. McMAHAN:

19 Q. Mr. Spadaro, what's your address?

20 A. My private residence is 8 Acorn Lane, White Salmon,
21 Washington. My business address 123 Industrial Way, Bingen,
22 Washington.

23 Q. Mr. Spadaro, do you have in front of you what's
24 been marked as Exhibit No. 1.00?

25 A. Yes, I do.

1 Q. Is that testimony your complete nonrebuttal
2 testimony offered in these proceedings?

3 A. Yes, it is.

4 Q. Is there anything about that testimony that you
5 would change today?

6 A. No.

7 Q. Do you swear and affirm that that testimony is your
8 testimony and is complete for these proceedings?

9 A. Yes.

10 MR. McMAHAN: Your Honor, I believe I have nothing
11 further.

12 JUDGE WALLIS: Very well. You are moving the
13 admission as well as of Exhibits 101r?

14 MR. McMAHAN: Yes, I forgot that part. Thank you.
15 We move for admission of Exhibits -- 1.01r I think is
16 intended to be taken up later with the wildlife testimony.
17 We can move it now if you wish.

18 JUDGE WALLIS: Let's move it now, and then it will
19 still be available.

20 MR. McMAHAN: Okay. Great.

21 BY MR. McMAHAN:

22 Q. Mr. Spadaro, do you also have in front of you
23 Exhibit No. 1.01r?

24 A. Yes, I do.

25 Q. That is your rebuttal testimony; is that correct?

1 A. Yes, it is.

2 Q. Is there anything that you would change about that
3 testimony today?

4 A. No.

5 Q. Is that testimony correct and accurate testimony?

6 A. Yes.

7 Q. Do you swear and affirm that it is truthful?

8 A. Yes.

9 MR. McMAHAN: We move to admit that testimony with
10 the attachments with one stipulation, Your Honor, and that
11 is the portion of the testimony that relates to rebuttal of
12 the tribal witness should be considered stricken in
13 accordance with our understanding with the tribe.

14 (Exhibits 1.00, 1.01r through 1.05 offered.)

15 JUDGE WALLIS: Yes, and that is the document
16 marked 106r.

17 MR. McMAHAN: Correct. So the latter part of it
18 has to do with the tribal rebuttal.

19 JUDGE WALLIS: Very well. So are you planning on
20 using 106r for any purpose, any portion of it?

21 MR. McMAHAN: Yes, the first part of the testimony
22 relates to habitat mitigation, 101r. I'm sorry. I said
23 106r. Should it be that?

24 Okay. All right. Now I need to go back to this
25 list. We talked earlier about that being stricken when we

1 went through the exhibit list this morning.

2 JUDGE WALLIS: Yes.

3 MR. McMAHAN: So we are not intending to offer
4 that today. We are not intending to offer that as a
5 rebuttal exhibit for Mr. Spadaro's testimony.

6 JUDGE WALLIS: So 106r is withdrawn from all
7 purposes?

8 MR. McMAHAN: For testimonial purposes. It is in
9 the record for other portions of the proceedings. It was
10 sent in as a SEPA comment letter, as I understand a
11 SEPA/NEPA comment letter. So we have nothing to do with
12 that. It has other purposes which may or may not be
13 relevant, but certainly not for this testimony.

14 JUDGE WALLIS: Very well. I trust that the
15 discussion make things crystal clear for the record.

16 MR. McMAHAN: I have nothing further of
17 Mr. Spadaro, Your Honor.

18 JUDGE WALLIS: Cross-examination.

19 CROSS-EXAMINATION

20 BY MR. ARAMBURU:

21 Q. Mr. Spadaro, I'm Richard Aramburu representing
22 SOSA. I have some questions for you regarding your
23 testimony.

24 MR. ARAMBURU: How am I coming through over there?
25 Good? Okay. Very good.

1 BY MR. ARAMBURU:

2 Q. I have some questions regarding your testimony and
3 about those portions of the application or what I'll just
4 refer to as the ASC in these proceedings.

5 First of all, you indicate at pages 2 and 3 of
6 your testimony that you're sponsoring certain sections of
7 the application. Does that indicate that you actually wrote
8 those or you're sponsoring them?

9 A. I am sponsoring them and I contributed. I did not
10 actually write the words.

11 Q. Who did write the words?

12 A. Katy Chaney who is the project consultant.

13 Q. So I can ask her questions about these as well?

14 A. You'll have to ask her.

15 Q. Let me understand what Whistling Ridge Energy is.
16 What kind of an organization is that?

17 A. Whistling Ridge Energy is a special purpose LLC for
18 the purposes of this energy project.

19 Q. Who are the equity owners of Whistling Ridge
20 Energy?

21 A. As the application states Whistling Ridge Energy,
22 LLC, is a wholly owned of the SDS Co. LLC who is the
23 landowner, one of the landowners.

24 Q. SDS and Broughton Timber are the landowners; is
25 that correct?

1 A. Broughton Lumber Company.

2 Q. What has been your responsibilities with respect to
3 this application?

4 A. I'm the prime applicant. I'm the applicant and the
5 prime sponsor of significant portions of it, and I
6 contributed significantly to its outcome.

7 Q. Up on the board in the distance here is a drawing
8 which has been I believe admitted or identified as
9 Exhibit 1.11c.

10 MR. ARAMBURU: I am not one wrong about that?

11 JUDGE WALLIS: Yes, the documents that have been
12 offered in support of Mr. Spadaro's testimony have been
13 received in evidence.

14 BY MR. ARAMBURU:

15 Q. Is Exhibit 1.11c, and again I'm referring to the
16 material on the board, does that depict the proposal of
17 Whistling Ridge Energy for this project?

18 A. Not exactly, and I will reiterate what my counsel
19 described to the Siting Council; that we are not seeking to
20 permit turbine locations. This was a hypothetical layout in
21 a worst-case scenario which is 50 turbines totalling
22 75 megawatts. We're seeking to permit corridors, and I think
23 this may be a very appropriate time for me to make a comment
24 to the Council and Your Honor regarding the number of
25 turbines and location of those turbines.

1 Q. That's beyond my question but go ahead.

2 A. Okay. Members of the Council, we at SDS Lumber
3 Company we're also a resident of the Gorge. We've been here
4 for a long, long time. We live here. We own land here, and
5 we appreciate this landscape as well. This project though
6 that you see in its worst case would have 50, 1.5-megawatt
7 turbines totalling 75 megawatts. Seventy-five megawatts is
8 the smallest wind energy project proposed in the state of
9 Washington other than the Community Wind Project on the Coast
10 which has only a few turbines. This project is small, but it
11 is very important to Skamania County. It's very important to
12 our company, and it's very important to our community. We
13 don't have flexibility to move it north. We don't have the
14 flexibility to move it south, east, or west.

15 When we proposed and prepared the application
16 1.5-megawatt turbines were commonplace in wind energy
17 development. Turbines range from 1.5 to 2.5 today. 1.5 and
18 1.8 are still common. They're becoming less common. Two
19 megawatt and larger machines are becoming more common.

20 I would stipulate at this point before this
21 Council that 2-megawatt machines or larger would be used for
22 this project. I think that's an important consideration to
23 show that we are aware. We've heard comments from Seattle
24 Audubon. We've heard comments from the Counsel for the
25 Environment. We've heard comments from the Yakama Nation.

1 We want to remain cooperative with all parties. We want to
2 do what we can to minimize the visual impact, but we must
3 maintain a viable project.

4 By going with 2-megawatt or larger machines we now
5 have the option of going fewer turbines with a maximum of 38
6 instead 50. The tradeoffs with fewer larger turbines they
7 have larger wake effect. There are a couple of rows that
8 are shown here, the E-row and the F-row, are only viable if
9 there are smaller turbines being used. Those two at
10 2-megawatt machines, those two rows can be dropped out, and
11 then the 38 turbines would be scattered among the remaining
12 corridors that we're seeking permitting for.

13 With regard to the A-string which we will hear a
14 lot about in the next week, week and a half, the main issue
15 here is obviously scenic resources. With regard to the
16 A-string, that reduces the number from seven 1.5 machines to
17 five machines by going to a 2-megawatt or larger machines.
18 Any further downsizing though of the project we still need
19 in order to get 38 machines, we still need to have the same
20 start point and the same end point along these ridges and
21 along the turbine corridors. Dropping or starting the start
22 point farther north or pushing the end point farther south
23 reduces the total size of the project, and we cannot accept
24 that; otherwise, it kills the project. That's the end of my
25 remarks.

1 Q. Well, let me ask you a couple questions about that.
2 When did you come up with this change in the number of
3 turbines? I came in here this morning and it was 50. So
4 when did this happen?

5 A. We have always looked at the depiction in the
6 visual simulations of the ASC as a worst-case scenario. We
7 have used 50 turbine locations. That's what's depicted on
8 this map. That is not exactly as SOSA and Friends have
9 portrayed it as my counsel said. Most of the point where we
10 have visual simulations were a worst-case scenario of 50
11 locations, also doing a worst-case scenario of the largest
12 possible machine. So it's the greatest density with the
13 largest possible machine using 2.5-megawatt machines for the
14 visual simulation. So it was a worst-case scenario.

15 We've always stated that there could be a range of
16 turbines. The application states from 1.2 to 2.5 megawatts
17 per machine. We've never been rigid as in we've not been
18 able to enter into a contract as of yet for turbine supply.
19 So we need to maintain the flexibility of having a range of
20 machines.

21 When we stipulate to 2-megawatt or larger machines
22 does drop out a number of the turbines that have a
23 significant commercial effect on the project because it
24 reduces the competitive environment of bidders on this
25 project. We're willing to do that and show a good faith

1 toward minimizing visual impacts of this project.

2 Q. So do you have, Mr. Spadaro, a drawing that would
3 show how many turbines would be in each of your strings A, B,
4 C, D, and E?

5 A. We do not.

6 Q. Again, the question I ask is when you came up with
7 this change? Was that last night? Was that a week ago?
8 When was it?

9 A. This is the first opportunity I've had to speak
10 with the Council. We have always said there could be a range
11 from 1.2 to 2.5. There was no specific moment in time, late
12 last week or any point in time that I recall where we've come
13 up with this.

14 Q. Would it be possible in these arrangements to go
15 with a turbine that would be greater than two megawatts?

16 A. That as I mentioned earlier there are commercial
17 effects to the project of limiting the turbine supply to
18 specific type of turbine, and we cannot accept that kind of
19 limitation on the commercial viability of the project.

20 Q. And why is that?

21 A. There are only a few turbine supply vendors who
22 offer 2.5 megawatt machines. We need the flexibility to have
23 a commercially viable and competitive site. We are willing
24 to offer and accept two megawatt and larger machines, but we
25 cannot accept any great restrictions beyond that.

1 Q. When you can't take any restrictions beyond that is
2 that a financial decision you're making?

3 A. Yes.

4 Q. So what's the difference between a two-megawatt
5 turbine, what's the difference in price between a 2-megawatt
6 and a 2.5-megawatt turbine?

7 A. It varies by vendor. We have not sought quotes yet
8 on turbines that are 2.5 megawatts in size nor have we sought
9 quotes yet on machines that are smaller than that.

10 Q. You're aware that -- you follow winds farm projects
11 sort of regularly?

12 A. Yes.

13 Q. Are you aware that the Windy Point, Windy Flats
14 project that has just been recently put on line used
15 2.3-megawatt turbines?

16 A. I am not aware of that.

17 Q. But as to the turbine size I understand your
18 response about finances. Is there any reason why a
19 2.5-megawatt turbine or a 3-megawatt turbine could not be
20 located on this site physically?

21 A. Yes, there could be. Depending upon the turbine
22 design specifications there could be limitations that prevent
23 larger machines from being offered by a particular vendor
24 being suitable for our site.

25 Q. What would those limitations be?

1 A. First is as you go with larger turbine output you
2 typically increase the turbine height and the blade diameter,
3 and we are under our application we are limited with 426-foot
4 tip height.

5 Q. What's the hub height and maximum height of the
6 turbine blades on the 2-megawatt turbine?

7 A. You can get 2-megawatt turbines with varying hub
8 heights and blade diameters.

9 Q. So what would that maximum height be?

10 A. The maximum height we are seeking permitting for is
11 426 feet, a tip which would be approximately 80-meter hub
12 height and 100-meter rotor diameter.

13 Q. Are there designs for 2.5-megawatt turbines that
14 have approximately that same hub height and tip of the blade?

15 A. Typically the larger machines have a higher, are
16 going more to a 100-meter hub height and the larger rotor
17 diameter.

18 Q. Have you specifically gone out and shopped these
19 around and looked at what is available in the marketplace?

20 A. As I stated earlier, no, we have not sought turbine
21 supply quotes yet.

22 Q. I'm not asking about quotes. I'm asking have you
23 gone out to look at the physical sizes of the various turbine
24 sizes, say 2, 2.3, 2.5?

25 A. Please clarify. You asked if we've shopped around

1 for larger size turbines. You're me asking what again?

2 Q. You're right. Let me change the question. Have
3 you examined in your review of available turbine sizes, the
4 size of the turbine's hub height, the maximum tip at the end
5 of the blade? Have you reviewed the various sizes that would
6 be required for those turbines?

7 A. No. We have not tried to micro-site -- if I'm
8 understanding your question, we have not tried to micro-site
9 our project and determine the most suitable wind turbine. It
10 all depends, is dependent upon what we are able to get
11 approved. So we have not attempted to micro-site, to narrow
12 down to a smaller range of turbines and hub heights and blade
13 diameters yet.

14 Q. You testified that the 75 megawatts is the minimum
15 size or the minimum total amount of nameplate rating for
16 turbines that would be appropriate here; is that correct?

17 A. That is correct.

18 Q. What goes into making that determination?

19 A. There are a number of factors that go into the
20 economic viability of a wind turbine project. I don't know
21 that the economic - I'm not sure how that relates to my
22 testimony, but I will still state that we have a 230 kV
23 interconnection with Bonneville Power. That substation cost
24 is one component. Turbine supply pricing is another
25 component. There are a number of components that go into

1 making the viability of a project, and in today's market
2 environment 75 megawatts is very, very small.

3 Q. Let me ask you this question. What's the
4 difference in construction cost of a substation between a
5 50-megawatt project and a 75-megawatt project?

6 A. The substation size is not the largest driver of
7 cost. It's the voltage that you're transforming to.
8 Transforming from 34 kV to 230 kV, whether it's 10 megawatts
9 or 100 megawatts, is not a tremendously significant
10 difference. It is a significant difference. I don't mean to
11 understate that, but the largest driver is the voltage that
12 you're transforming to.

13 Q. So you're going from 34 to 230; is that correct?

14 A. That's correct.

15 Q. But my question to you was what's the difference in
16 price between those two?

17 A. I do not know.

18 Q. Have you investigated that at all?

19 A. We have an estimate from Bonneville Power for the
20 substation design and procurement of construction cost based
21 upon the size of the project that we've submitted for and had
22 review of our interconnection and been approved for
23 interconnection.

24 Q. So they've given you an estimate of the cost?

25 A. Yes.

1 Q. What is that?

2 A. The components of our cost are proprietary to our
3 project. I do not wish to release any information about,
4 specific information about the cost of our project, the
5 capacity factor of our project, or any other specific details
6 of that nature.

7 Q. Mr. Spadaro, this is your testimony. You said you
8 can't get by with anything less than 75. You just testified
9 to that. Now I want to know what goes into that decision
10 beginning with what's the cost of building that substation
11 for your 75-megawatt project.

12 MR. McMAHAN: I'm going to object to that. We've
13 been through this with the Siting Council at length during
14 the discovery process. The information that Mr. Aramburu is
15 seeking to request has been determined to be confidential
16 and proprietary data.

17 MR. ARAMBURU: Well, hold it. This witness got up
18 here and he wanted to make a statement, and I understand
19 what the Council's ruling was. But he wanted to make a
20 statement apparently to have this Council believe that there
21 is nothing less than 75 megawatts that can be permitted for
22 this project. Now I'm prepared if he wants to make this an
23 issue, which he just has through his voluntary statement, to
24 make inquiry into the background of that statement.

25 JUDGE WALLIS: This is the very same question in a

1 practical setting that was presented earlier and the
2 Council's ruling would be the same.

3 MR. ARAMBURU: It's not the same question because
4 this witness -- that was when we were asking for this
5 information. Now this witness has decided he's going to get
6 up here and make a statement about this and saying to the
7 Council that there's no other way that we can do this other
8 than the 75 megawatts, and he says that volunteering to get
9 up here. I didn't ask him any questions about that. He
10 volunteered this information, and he presumably wants you to
11 make a finding that 75 megawatts is the minimum size that
12 can be permitted here. If he wants to make that statement,
13 then we're entitled to ask him how he got there. This is
14 his testimony. He wanted get up here and make these
15 statements. I asked him a simple question about what his
16 name was or something. I forget what the question was. But
17 he wanted to shoot off and talk about these things. We're
18 entitled if he wants to make this a big deal, then we're
19 entitled to ask him these questions, what goes into this.

20 JUDGE WALLIS: The Council has ruled in this
21 proceeding as it has in at least one prior proceeding that
22 the financial viability, which is the underlying issue to
23 which the witness made reference, is not something that the
24 Council will consider. So the Council is not bound by his
25 testimony, and the Council could approve a facility that

1 provided less capacity, and then it would be up to the
2 Applicant to determine whether or not to proceed. That is
3 my understanding of the Council's ruling, the Supreme Court
4 ruling. That's sustained because of the Council's
5 interpretation and how the Council under those circumstances
6 would address that question.

7 MR. ARAMBURU: And I don't want to engage in
8 argument with you, Mr. Wallis, but I do want to state that
9 this witness brought this up. In the KV case it was being
10 brought up by opponents of the project. This witness got up
11 and first thing wanted to tell us all of this information.
12 I think it's a different set of circumstances. I think we
13 should be entitled to inquire about this if he wants to make
14 these to the Council.

15 I understand what the apparent ruling is going to
16 be here, but I want to make very strong objection to this
17 witness making these statements and not allowing us to
18 pursue this in cross-examination.

19 MR. McMAHAN: And, Your Honor, this is déjà vu.
20 The Kittitas Valley case the Applicant stated in no
21 uncertain terms that in the then existing market conditions
22 120 megawatts was the absolute minimum that that Applicant
23 within its business judgment felt was necessary to achieve
24 economic viability. That issue was as you point out
25 litigated in the Kittitas Valley case. It was in fact the

1 exact same question.

2 JUDGE WALLIS: Very well. The matter is resolved.
3 The objection is sustained, and Mr. Aramburu the point
4 you're raising is noted for the record and let's move on,
5 please.

6 BY MR. ARAMBURU:

7 Q. I just want to make clear that you have talked to
8 BPA about the price to construct a substation; is that right?

9 A. Yes.

10 Q. Have they told you what they think it's going to
11 cost to construct?

12 A. They have provided preliminary estimates.

13 Q. What are those preliminary estimate costs?

14 MR. McMAHAN: Your Honor, same objection.

15 JUDGE WALLIS: Do you have a different
16 justification, Mr. Aramburu?

17 BY MR. ARAMBURU:

18 Q. Now, at the hearing I think we had on Tuesday we --
19 is it Tuesday? My memory is -- we learned for the first time
20 that the opposition of the Yakama Nation had been dropped.
21 Were you aware of that?

22 A. The Yakama Nation is an intervenor and a party to
23 these proceedings. They have withdrawn their testimony. We
24 have withdrawn our testimony related to cultural resources.
25 I don't know what exactly that means in terms of the Yakama

1 Nation's position with regard to the project. What was your
2 question again?

3 Q. My question is did you participate in these
4 negotiations with the Yakama Nation over their withdrawal of
5 opposition to this project?

6 A. We have engaged in a continual cooperative
7 relationship with both members of the Yakama Nation and the
8 Tribal Council Government.

9 Q. What was the nature of your agreement with the
10 Yakama Nation?

11 A. That we have agreed to -- as I stated, we've agreed
12 to withdraw our testimony with regard to cultural resources.
13 The Yakama Nation has agreed to withdraw its testimony with
14 regard to cultural resources. They are remaining an
15 intervenor and a party to these proceedings.

16 Q. Was anything of value or substance provided to the
17 Yakama Nation in return for their withdrawal of opposition?

18 A. No.

19 Q. Did you agree to make any changes in the project?

20 A. No.

21 Q. So the project -- and so as far as you're concerned
22 the Yakama's think this project is fine as it is?

23 A. We will continue, we have agreed to cooperate as we
24 have in the past. We will continue our cooperation and show
25 our respect for the Yakama Nation and involve them in this

1 process as we continue to move forward.

2 Q. We've had a lot of testimony from several people
3 here, including Ms. Chaney who is your land use consultant,
4 regarding the consistency of this project with applicable
5 land use laws in Skamania County. Do you recall that
6 testimony?

7 A. Please state again. The testimony with Ms. Chaney?

8 Q. Ms. Chaney and others have provided testimony in
9 these proceedings that indicates that in opinions of those
10 persons this project is consistent with current land use
11 ordinances in Skamania County. Are you aware of that?

12 JUDGE WALLIS: Mr. Aramburu, could you clarify for
13 me whether you're referring to prefiled testimony in the
14 adjudicative portion of the Council review or in some other
15 aspect of its review?

16 MR. ARAMBURU: In particular Ms. Chaney's Exhibit
17 No. 2.00 I believe it is.

18 A. So if I can be clear, you're asking testimony of me
19 related to Katy Chaney's exhibit?

20 BY MR. ARAMBURU:

21 Q. Is it your understanding that Ms. Katy Chaney and
22 others have taken the position that this project is
23 consistent with the land use ordinances and regulations in
24 Skamania?

25 MR. McMAHAN: Your Honor, I'm going to object to

1 this. The Chaney testimony has not been admitted into
2 evidence. It is not of record until Ms. Chaney testifies.
3 If you wanted to ask a question about what Mr. Spadaro knows
4 or does not know, although he's not a land use expert, about
5 land use consistency, fine. But as to testimony that's not
6 before the Council yet, I don't understand the nature of the
7 question.

8 MR. ARAMBURU: The question is, is he aware of
9 that testimony; nothing more, nothing less.

10 JUDGE WALLIS: The question is allowed. The
11 witness may respond.

12 A. I am aware that Skamania County has certified
13 consistency, and Ms. Chaney has opined on the Skamania County
14 certificate of land use consistency.

15 BY MR. ARAMBURU:

16 Q. Well, I guess my question to you, Mr. Spadaro, is
17 if things are fine in Skamania County, then why are we before
18 EFSEC?

19 A. Members of the Council and Your Honor, this was an
20 enjoyable experience. I don't know if -- I don't know.
21 Strike that.

22 I would have preferred having gone through
23 Skamania County. In fact, as our opening statement, written
24 opening statements describe, we did in fact attempt land use
25 approval for this project through Skamania County. It was

1 at Skamania County's suggestion that we have come to EFSEC.

2 Q. Skamania County is that Mr. Pearce?

3 A. Actually it was one of the county commissioners.
4 It was not Commissioner Paul Pearce.

5 Q. Who was it?

6 A. I believe it was Commissioner Tolfree.

7 Q. Why did she suggest that we end up here in front of
8 all these people instead of staying in Skamania County?

9 A. Well, as you well know, Mr. Aramburu, the
10 proceedings of Skamania County to allow to adopt zoning would
11 have defined the conditions under which wind energy might
12 have been allowed in Skamania County were appealed by your
13 party, you and your party, and the county foresaw that there
14 would be endless appeals. And apparently they have limited
15 resources to proceed with those appeals, and the county
16 suggested that we might consider EFSEC as an alternative.

17 Q. Have you compared the cost of the turbine that
18 would be 2 megawatts in size versus one that would be 2.5
19 megawatts in size?

20 A. I believe I answered that once already. We have
21 not received quotes for turbines for this project yet.

22 Q. Not going out asking for quotes, but were you sort
23 of curious enough about this to go look at published sources
24 to see what the retail list prices of these turbines might
25 be?

1 A. Mr. Aramburu, wind turbine pricing is not something
2 that you can look up on the internet. You ask for quotes.
3 It depends upon typically wind turbines prices are provided
4 installed. You have to ask for a quote, someone has to do an
5 evaluation of your site, and then you receive a quote. We
6 have not yet received quotes for our site and our project.

7 Q. So you can't tell me how much on a percentage basis
8 the 2.5-megawatt turbine would be as opposed to a 2-megawatt
9 turbine?

10 A. No, I cannot.

11 Q. As part of your testimony you indicated there is
12 going to be on-site monitoring of these winds turbines
13 depending on how many there are; is that correct?

14 MR. McMAHAN: Your Honor, I object to the form of
15 the question. It's not clear what on-site monitoring. Is
16 he talking about wildlife? Is he talking about -- please
17 reform the question.

18 MR. ARAMBURU: Fair objection.

19 BY MR. ARAMBURU:

20 Q. As I understand there is to be a maintenance and
21 operations facility on site to monitor and keep track of the
22 operation of the turbines; is that right? Is what you
23 propose?

24 A. Yes. To be more specific, the operations and
25 maintenance facility there are two alternative sites that are

1 proposed, but they're both in the vicinity; one on this
2 project, the other at the bottom of the access road where
3 monitoring of the wind turbines would occur, yes.

4 Q. What are those people going to do?

5 A. There are technicians that monitor the wind turbine
6 output. There are technicians that would be based from that
7 operations and maintenance that would go out to the site and
8 be performing regular maintenance on the wind turbines.

9 Q. Are you aware that a number of turbine
10 manufacturers offer remote monitoring of operations of wind
11 turbines?

12 A. If the maintenance center is at the bottom of the
13 access road that is considered remote monitoring. You could
14 place a maintenance center farther away from the project site
15 if you chose you, but it's convenient to have the operations
16 center in the same place as the maintenance center.

17 Q. Is it not the case that a number of turbine
18 manufacturers are offering monitoring in remote locations
19 like out of state or in Florida or someplace like that?

20 A. I am not aware of that.

21 Q. There's been testimony about the process by which
22 Skamania County went through developing a new draft or an
23 amendment to its zoning ordinance in about 2006 and '07. Do
24 you remember that process?

25 A. I do.

1 Q. Do you recall accurately that SOSA and Friends did
2 appeal the decision of the county not to prepare the
3 environmental impact statement for their proposed new zoning
4 ordinance?

5 A. It has been quite a while ago. I do recall an
6 appeal. I don't remember the specific -- I do recall -- I
7 don't recall the specific arguments of the appeal, but I do
8 know the outcome related to performance of an environmental
9 impact statement for the zoning update.

10 Q. And that one would be required.

11 A. Yes.

12 Q. Now, as I recall you were in attendance at all of
13 those hearings that were held before the Skamania County
14 Hearing Examiner?

15 A. Yes.

16 Q. There was an indication in LeAnna Toweill's
17 decision, T-o-w-e-i-l-l decision, that the owner of the
18 Saddleback Project had participated in preparation or
19 drafting of that proposed draft ordinance, the zoning
20 ordinance. Is that something that SDS was involved in?

21 A. No, I do not recall that. I do not recall -- we
22 commented on the comprehensive plan update and the zoning,
23 the establishment of zoning on previously unzoned lands, but
24 it was a county proposal that we commented on. I don't
25 recall a statement by the Hearings Examiner to the effect of

1 what you stated.

2 Q. We've had a lot of discussion here about
3 Exhibit 107c which is the system impact study that was
4 submitted for the Saddleback Project. Do you recall that
5 request for a system impact study and its review by BPA?

6 A. No, this is a system impact study request for a
7 transmission services request by Puget Sound Energy. I did
8 not initiate this request. I do not know about this request.
9 In fact, it states on the cover e-mail that it is out of date
10 and basically irrelevant.

11 Q. But that is for this project, isn't it?

12 A. Yes, it is.

13 Q. And you mean to tell me that Puget Sound Energy
14 submitted an application for transmission for this project
15 and you didn't know about it?

16 A. We were in negotiations. As my counsel stated
17 there was some tire kicking going on. You know well about
18 this, Mr. Aramburu. Your client sent letters to Steve
19 Reynolds of Puget Sound Energy related to this project.
20 Puget Sound Energy in their tire kicking submitted a
21 transmission request to evaluate the potential moving
22 transmission electricity from the site to another point of
23 delivery. This was a snapshot in time, at that point in time
24 with response by Bonneville Power. It was not initiated by
25 me. I really don't know anything else about it.

1 Q. But how long was Puget Sound Energy interested in
2 this project?

3 A. I'm pausing, Your Honor, Members of the Council,
4 because my discussions with Puget Sound Energy were bound by
5 confidentiality agreements. I prefer not to say anything
6 about the terms of the negotiations other than Puget Sound
7 Energy is not a party at the present time.

8 Q. I am not asking about the terms, Mr. Spadaro. What
9 I'm asking about is how long was Puget Sound Energy
10 interested in this project as a time frame?

11 A. I would consider the duration of the discussions to
12 be part of the terms.

13 Q. Was it more than a year?

14 A. It was until Save our Scenic Area sent nasty
15 letters to the CEO of Puget Sound Energy.

16 Q. Did you see those letters?

17 A. In fact, I have one right here.

18 Q. You brought it with you today?

19 A. I certainly did.

20 Q. Why did you bring it with you? Did you figure you
21 might get asked about it?

22 A. It's very threatening to Puget Sound Energy for
23 their potential evaluation and potential involvement in our
24 project, and I thought it might be relevant for everyone to
25 understand so I did bring it with me.

1 Q. But is it the case then -- well, I think all of us
2 in the room know that Puget Sound Energy is -- is it the
3 case, Mr. Spadaro, that Puget Sound Energy is the largest
4 utility in the state of Washington by customers?

5 A. I believe that is the case.

6 Q. Are you aware that Puget Sound Energy is subject to
7 this state's I-937 RPS requirements?

8 A. Yes.

9 MR. ARAMBURU: I used the word RPS. Does
10 everybody on the Council know what that is?

11 BY MR. ARAMBURU:

12 Q. And so Puget Sound Energy has dropped out of any
13 interest in this project; is that correct?

14 A. Again, I would limit my response to stating what I
15 stated earlier; that at the present time Puget Sound Energy
16 does not have any interest in this project.

17 Q. I want to go back a little bit to the question of
18 this turbine size. You indicated to us today that you're
19 intending now to build turbines on this site at a minimum of
20 two megawatts each. Am I understanding your testimony
21 correctly?

22 A. That is correct.

23 Q. I've had a chance to read Mr. Meier's testimony,
24 the geologist. Do you know Mr. Meier?

25 A. I do not know Mr. Meier. I do know that he is a

1 consultant to the project.

2 Q. Have you looked at his testimony and his geological
3 reports?

4 A. I have scanned them briefly, but I am not a
5 geologist, and I am not really the best to answer questions
6 about his testimony.

7 Q. I will represent to you that Mr. Meier has
8 conducted investigations, geologic investigations on that
9 property using as its model a 1.5-megawatt GE turbine. Do
10 you know that? Is that something you're familiar with?

11 A. Am I familiar that he modeled geologic stability
12 using a 1.5-megawatt turbine? Is that your question?

13 Q. Yes.

14 A. Yes, I saw that in scanning his report. I did see
15 that.

16 Q. Have you told Mr. Meier that you changed turbine
17 size?

18 MR. McMAHAN: Your Honor, I object to that. That
19 is not -- that's a mischaracterization of Mr. Spadaro's
20 testimony. He hasn't changed the turbine size. That
21 question has been asked and answered repeatedly. The
22 application proposes a range and a maximum. It does not --
23 Mr. Spadaro has changed nothing by coming in here today
24 other than stipulating that he won't build a project below
25 2.0 megawatts.

1 BY MR. ARAMBURU:

2 Q. Let me ask the question this way: Have you
3 informed Mr. Meier, the geologist, that his investigations
4 should center upon a 2-megawatt turbine as opposed to a
5 1.5-megawatt turbine?

6 A. We as in all of our studies have attempted to model
7 worst-case scenario. Fewer larger turbines is going to not
8 have as much impact as more numerous smaller turbines. So we
9 have -- I believe Mr. Meier the geologist's evaluation is on
10 a greater number of turbines under a worst-case scenario.

11 Q. Would it be your understanding that a 2-megawatt or
12 larger turbine would require a larger base and be heavier
13 than a 1.5-megawatt turbine?

14 A. I am not the best to answer that.

15 Q. Well, do you know the answer?

16 A. No, I believe it depends on the turbine
17 manufacturer and the specifications required for that wind
18 turbine.

19 Q. Now I had some questions -- so in the application
20 you said that the larger turbine would be 426 tall. Does
21 that still stand?

22 A. That is correct.

23 Q. So if I could find you a 2.5-megawatt turbine that
24 wouldn't be any taller than 426 feet would you put in some
25 2.5-megawatt turbines for me?

1 A. I don't -- I really can't answer that. That
2 depends on -- as I stated before, we need the operational
3 flexibility to choose and decide on final micro-siting the
4 type of turbine that is used that makes the project, allows
5 the project to maintain its economic viability.

6 Q. I guess I don't quite understand that. Is it my
7 understanding that you somehow don't want to be wedded to a
8 bigger turbine because then you're sort of captured by one of
9 these turbine manufacturers? I don't mean to be flip, but
10 I'm just trying to get what you're saying.

11 A. That is one of my many considerations.

12 Q. The others are?

13 A. The physical and operational characteristics of
14 each turbine. There is not, Your Honor, Members of the
15 Council, there is not I believe you all well know there is
16 not a one size fits all. Each site needs wind turbines and
17 wind turbine development. Each turbine needs to be selected
18 based upon how it fits the site characteristics. That
19 includes topography. It includes vegetation types. It
20 includes the wind direction, the average wind speed. There
21 are a number of factors that go into micro-siting a turbine
22 selection. When I speak about the need for flexibility, we
23 need to be able to select a turbine that fits our site and
24 allows it to be economically viable.

25 Q. So Mr. Nierenberg testified here. He's a wind

1 expert. Has he told you that you could put in a 2.5 or
2 3-megawatt turbine?

3 A. No, he has not.

4 Q. Did you ask him?

5 A. Yes, I have.

6 Q. What did he say?

7 MR. McMAHAN: Your Honor, I object to that on
8 grounds of confidentiality and we have discussed that
9 previously.

10 MR. ARAMBURU: I don't think that's a confidential
11 question at all. I'm asking whether the site is suitable
12 for a larger turbine. We're apparently in the business,
13 although we didn't start out this way, of talking about
14 reducing turbines. They have agreed to do so. I want to
15 see if there's some more room that we could reduce some more
16 turbines. And if we have a witness who says, yes, we can
17 have larger turbines on that site and reduce the number, I
18 think that's a fair question, and I don't think it has
19 anything to do with the confidentiality or anything else.

20 JUDGE WALLIS: I am going to sustain the
21 objection.

22 BY MR. ARAMBURU:

23 Q. Now, in your sort of opening statement here this
24 morning or this afternoon you describe the change from 1.5
25 to a 2-megawatt turbine and an apparent stipulation that

1 you'd only put in 38 turbines. I'm just trying to understand
2 your testimony. If I've got it wrong, tell me.

3 A. Your understanding is correct.

4 Q. Now, how far apart do those turbines to the new
5 turbines have to be in comparison to the turbines that are
6 modeled on Exhibit 1.11, the drawing on the board?

7 A. Again, this is somewhat mischaracterizing what is
8 shown in it says Figure 2.1, it's the foam board on the wall
9 there. That was a hypothetical number of turbines for a
10 visual simulation. To state that that is the distance apart
11 between turbines that would based on a 1.5-megawatt layout or
12 just for me to state, for me to be able to state that using a
13 2-megawatt layout would be Y instead of X, I cannot do that.
14 Final micro-siting of wind turbines is based -- I'll state it
15 again. It's based on a great number of factors. I cannot
16 say exactly how that visual simulation would hypothetically
17 change.

18 Q. But my question to you is how much more room is
19 required between turbines as between one -- forget the
20 drawing -- as between 1.5-megawatt turbines and 2-megawatt
21 turbines? What's that difference going to be?

22 A. Your Honor, Members of the Council, the turbine
23 spacing within a row is largely a function of rotor diameter
24 and avoidance of wake effect between turbines. So larger
25 output wind turbines if they have the same rotor diameter as

1 a smaller output turbine the distance apart within the row is
2 not going to change. It's a function of the blade diameter
3 and the wake effect and how those blades disrupt the wind
4 flow.

5 So I really cannot -- that's how you determine
6 spacing within rows and then spacing between rows going in
7 the upwind and downwind direction. I can't really state
8 what change would occur by going to 2.0 and larger megawatt
9 wind turbines.

10 Q. But, Mr. Spadaro, in your statement you made to the
11 Council you indicated that we're still going to need to have
12 these same arrays or corridors of turbines. You said we're
13 going to need the A-array up to I think it's 15 -- I'm having
14 trouble seeing the B-array. We're still going to need those
15 corridors. Right?

16 A. That's correct.

17 Q. So how did you figure out that we can go from seven
18 to five in what's shown in this area here? I recall your
19 testimony that that currently is scheduled for seven turbines
20 which are 1.5 megawatts, leaving aside where specifically
21 they're going to be. So you say that if we do the 2-megawatt
22 turbines we can only put five in there; is that right?

23 A. That is correct.

24 Q. So what's the basis for that?

25 A. Larger rotor diameter turbines.

1 Q. What's the difference in rotor diameter?

2 A. If we went -- we're still staying with 426 feet tip
3 height. So at 100-meter rotor diameter instead of whatever
4 layout worst-case hypothetical layout that's shown there
5 would be five turbines in the A-string.

6 Q. So what's the turbine diameter for the 1.5-megawatt
7 turbine?

8 A. 100-meter rotor diameter.

9 Q. For the two?

10 A. 100 meter -- oh, I'm sorry. For the 1.5 the
11 worst-case -- we modeled the worst-case for the visual
12 simulations so I believe it was that density was based upon a
13 77 meter rotor diameter.

14 Q. So the minimum rotor diameter for a 2-megawatt
15 turbine would be 100 meters?

16 A. No. There isn't any -- I'll state this again. You
17 can have larger output turbines with smaller rotor diameters,
18 shorter hub heights, larger hub heights. They come in all
19 configurations. You decide that based upon what best fits
20 your site and produces the greatest amount of energy.

21 Q. So it would be possible to have a 2-megawatt
22 turbine that wouldn't require any distance, any additional
23 distance between them than the 1.5-megawatt turbines?

24 A. No, I don't believe you can get a 2-megawatt
25 turbine with a 77-meter rotor diameter.

1 Q. How do you know that?

2 A. That's my opinion. I don't know that for a fact,
3 but that's my belief and opinion.

4 Q. So have you looked at the turbine brochures that
5 turbine manufacturers put out?

6 A. No, I rely on consultants to provide advice as to
7 what turbines might be the best suited for our project.

8 Q. Please tell me whose those consultants are.

9 A. Ron Nierenberg who is a witness to the hearings.

10 Q. So I can ask him about those things?

11 A. Yes.

12 Q. Have you told Mr. Nierenberg you're going to go
13 with the 2-megawatt turbines?

14 A. I've asked Mr. Nierenberg to evaluate alternative
15 turbines, and again we have not made a final determination
16 that we will go to two or any specific size of turbine, but
17 it is much more commonplace to have 2-megawatt or larger
18 machines.

19 Q. That wasn't my question to you, Mr. Spadaro. My
20 question to you was have you told Mr. Nierenberg, your wind
21 consultant, that you decided to go and stipulate to
22 2-megawatt turbines?

23 A. No.

24 JUDGE WALLIS: Mr. Aramburu, is this an
25 appropriate break for a recess?

1 MR. ARAMBURU: This would be just fine. Thank
2 you.

3 JUDGE WALLIS: Very well. Let's take 15 minutes
4 and be back here promptly at a quarter of 4:00 by this clock
5 which limits us to 13 minutes. Let's go for it.

6 (Recess taken from 3:32 p.m. to 3:45 p.m.)

7 JUDGE WALLIS: Let's be back on the record,
8 please.

9 Mr. Aramburu.

10 MR. ARAMBURU: Okay. I will keep my voice up.

11 BY MR. ARAMBURU:

12 Q. I'd like you to look in the application,
13 Mr. Spadaro, at page 2.1-6.

14 MR. SUTHERLAND: Say again, please.

15 MR. ARAMBURU: For Council Members the application
16 page 2.1-6 which says in sort of the lower part the land use
17 plans and zoning ordinances, 2.1-6.

18 BY MR. ARAMBURU:

19 Q. Mr. Spadaro, I want you to look at the portion of
20 that page that begins with wind power and wind speed maps.
21 Do you see that?

22 A. I do.

23 Q. I understand that this was a portion of the
24 testimony or the application that you were responsible for?

25 A. That is correct.

1 Q. This indicates that there was a review of maps done
2 by the Department of Energy National Renewable Energy
3 Laboratory. Is that right? Is that something you reviewed?

4 A. Yes, in a very general sense, yes.

5 Q. Now, and you seem to be relying here on models that
6 describe the conditions at this site and you site to the
7 Northwest Seed 2002a?

8 A. Yes.

9 Q. We're going to get that up on the screen here. For
10 Council Members there's three exhibits here, 1.08, 1.09, and
11 1.11.

12 MR. McMAHAN: I think you meant 1.10.

13 MR. ARAMBURU: 1.10, thank you.

14 BY MR. ARAMBURU:

15 Q. I see that you have those maps in front of you; is
16 that correct, Mr. Spadaro?

17 A. I do.

18 Q. Did you consult those maps in preparing that
19 testimony or this portion of the application?

20 A. Again, these maps are very general in their data,
21 their content, and their application.

22 Q. But I just want to be able to identify for the
23 Council which maps you were looking at. Have you had a
24 chance to look at our Exhibits 1.07, 1.08, 1.09, and 1.10?

25 A. Yes, I have had a chance to look at them. I

1 believe you were asking did I consult or rely on these
2 specific? I don't know the exact date of these. I have seen
3 something like this in the past.

4 Q. Okay. Now, you go on in your testimony to say that
5 the wind speeds rate this area as wind potential of good to
6 outstanding and then one concentrated area within the project
7 area was identified as outstanding Class 6 wind power
8 potential with maximum wind speeds of 17.9 to 19.7 miles per
9 hour. Can you identify where that class 6 wind is?

10 JUDGE WALLIS: My understanding is that there is a
11 problem because of the sound system that people in the back
12 of the room are having difficulty hearing so let's project.

13 MR. ARAMBURU: Okay. Here comes our foreman who
14 is going to ride the game for us.

15 Okay. So we're using electricity now.

16 BY MR. ARAMBURU:

17 Q. So my question -- I hope I can be heard now.

18 MR. ARAMBURU: How are we doing? Okay?

19 BY MR. ARAMBURU:

20 Q. Could you tell us where the area of this
21 outstanding Class 6 wind is, and you could do that either by
22 references to the various turbine lines or I have a pointer
23 or you can do it any way you like. Would it help if I
24 brought the map over to you?

25 A. No, this is fine. Again, these are very

1 generalized based on computer modeling trying to predict
2 average wind speeds. Their usefulness is very limited. In
3 looking at what we have referenced in the application there
4 are portions shown here. The project area starts somewhere
5 in this vicinity and follows up this ridge to the county
6 line.

7 JUDGE WALLIS: Mr. Spadaro, people reading the
8 record are going to have a challenge in identifying the
9 marks that you're leaving with the laser pointer. So if you
10 can be more specific in describing it that would be very
11 helpful.

12 THE WITNESS: Yes, Your Honor.

13 A. So the colored portions of the map that is colored
14 in sort of a lavender color and yellowish color, orange
15 color, different shades of color, those correspond with the
16 location of the project. The legend on these maps shows that
17 the computer model predicts average wind speeds ranging from
18 15.7 to 16.8 miles per hour or it looks to me based on the
19 way I see the colors and the legend it ranges up to 19 to
20 20.1 miles per hour.

21 BY MR. ARAMBURU:

22 Q. But my question to you, Mr. Spadaro, was where is
23 the Class 6? You're saying there is an area that has
24 outstanding Class 6 wind power potential, and I would like
25 you to tell me where that is. And it would be helpful I

1 think to the Council and to the lawyers here today if you
2 could make that in reference to our Exhibit 1.11 which is the
3 map showing the turbine corridors. Can you do that?

4 A. Your Honor, Members of the Council, I really can't.
5 These maps are as you can see -- I don't know if you have
6 them in front of you -- they are very general in nature.
7 There are as we have stated in our application there are some
8 portions that by the model are predicted to have 17.9 to
9 19.7 miles per hour of average wind speed. Where exactly
10 that is on that map and where does that overlay onto the
11 project map it is too granular for me to be able to pinpoint
12 for the record or for you as a Council.

13 This data really is again in a very general sense.
14 There is much more specific data that we relied on for
15 evaluation of our site than that computer model.

16 Q. But, Mr. Spadaro, help me out here. You're
17 responsible for this section in the application. You say
18 there is one area that's outstanding, and I just want to know
19 where that outstanding area is. You must have been meaning
20 some specific area when you said that.

21 MR. McMAHAN: Your Honor, I think this is asked
22 and answered already. This map is granular in scale. One
23 could look on the map and guess I guess. I don't know.
24 Maybe I could guess it's in a particular location, but
25 Mr. Spadaro has been very clear about the limitations of

1 this map and his inability to assign a particular wind speed
2 to any particular portion of this project based upon maps
3 generated by the Northwest Seed and not him.

4 JUDGE WALLIS: Mr. Aramburu, are you talking in
5 reference to Exhibit, what is it, 1.10?

6 MR. BAKER: It's 1.09c.

7 JUDGE WALLIS: 1.09c on the screen or the other
8 exhibit which is -- help me with the number?

9 MR. ARAMBURU: 1.11.

10 JUDGE WALLIS: 1.11. So which are you talking
11 about, either or both? What is your specific question?

12 MR. ARAMBURU: He indicates in his testimony that
13 there is a concentrated area within the project area that
14 was identified as having outstanding wind.

15 JUDGE WALLIS: So you're asking him with reference
16 to 1.11?

17 MR. ARAMBURU: I am, yes. I would like him to
18 point out where that area is on 1.11 because he says it's
19 within the project area. I think that's fair.

20 JUDGE WALLIS: Mr. McMahan, was that your
21 understanding of the question?

22 MR. McMAHAN: That is my understanding of the
23 question, but Mr. Spadaro is saying he can't do that because
24 this is granular in nature, and one can go and kind of
25 compare I think it looks like it might be here. Anybody

1 could do that. But Mr. Spadaro has stated that it's
2 granular and it wouldn't make any particular difference.

3 JUDGE WALLIS: Mr. Spadaro, was that in fact your
4 response?

5 THE WITNESS: Yes.

6 JUDGE WALLIS: Very well.

7 MR. ARAMBURU: Then I'm going to move to strike
8 for consideration by this Council that last sentence that
9 says "one concentrated area within the project site is
10 identified as having outstanding wind power" because there
11 has been no one to tell us where that area is, and therefore
12 it should be stricken from these proceedings.

13 MR. McMAHAN: Your Honor, there's nothing
14 inaccurate about that statement in the ASC. It sites the
15 Northwest Seed map. It indicates there is a concentrated
16 area within project area as identified as having outstanding
17 Class C wind potential with sustained speeds, etc. I don't
18 understand how anything that's occurred here today that
19 would in any way justify striking something from the
20 application for site certification.

21 JUDGE WALLIS: I believe that the witness has
22 explained his response to the question, and I also see no
23 reason in light of that response to strike the statement.

24 MR. KAHN: Could I ask a question, Your Honor?
25 Perhaps I'm missing this. As I understand it,

1 Mr. Spadaro in the application you said there's a spot
2 within the project that has Class 6 winds. We're asking him
3 where they are and now he's saying he can't tell us. If
4 that's correct, then how can you allow the statement in the
5 ASC to stand?

6 He says there's a spot. Now he tells us he
7 doesn't know where it is. Something's wrong with that.

8 JUDGE WALLIS: That does not by itself alone
9 indicate a lack of truth or a lack of knowledge about the
10 statement.

11 MR. KAHN: And I'm not suggesting it does, but
12 he's telling us that there's a spot within the project area
13 that has Class 6 winds. We certainly have a right to figure
14 out, find out where he's talking about. If we were to ask
15 him where the Class 4 or 5 winds are, and he gives us the
16 same answer, we have no idea of the basis for his statements
17 in the application. He sponsored those sections. He
18 indicated that he sponsored those sections, and now he can't
19 confirm what he was talking about.

20 MR. McMAHAN: Your Honor, I have a hard time
21 understanding how material this is. I think Mr. Kahn could
22 himself get up with a big red pen and guess from the
23 Northwest Seed map and layout map where it looks like there
24 might be Class 6 winds.

25 MR. KAHN: I'm not referring to that map. I'm

1 referring to a statement that says there are Class 6 winds
2 within the project area. We have a map of the project area,
3 and we're asking him to tell us where those are.

4 JUDGE WALLIS: And I do not see that that
5 necessarily implies that the statement is without support.

6 MR. KAHN: I'm not suggesting it does, but if he
7 can't tell us where they are what would be the support of
8 his statement? He's the one that sponsored this section of
9 the application.

10 All I'm trying to do is we're trying to ask him
11 about the statements in the application. That's what we're
12 doing. If he can't justify a statement in the application
13 how can it stand?

14 MR. McMAHAN: Your Honor, his answer is it's a
15 truth statement in the application. He answered it.

16 JUDGE WALLIS: The question is asked and answered,
17 and the answer does not indicate a lack of knowledge or an
18 untruth so that the question and the answer will stand.

19 BY MR. ARAMBURU:

20 Q. So, Mr. Spadaro, can you point out where the Class
21 4 and Class 5 winds are?

22 MR. McMAHAN: Same objection, Your Honor.

23 MR. KAHN: He hasn't answered the question yet.

24 JUDGE WALLIS: Mr. Spadaro, the ball is in your
25 court at this moment.

1 A. Let me see if I can help. Again, this is granular
2 data from computer modeling. There's a legend that shows red
3 colors, magenta colors, various colors that coincide with
4 shaded areas on the map, the map to the left of there. How
5 to exactly pinpoint -- they are somewhere in the vicinity of
6 the project. I cannot say whether the red area, given the
7 granularity of that map, whether that red area overlies on
8 top of the A-string or the B-string or the C-string or the
9 D-string. The same with any of the other colors. Those
10 range from what appears to be as 19 or 20 plus miles per hour
11 at average wind speed down to the yellow shade which is 15.8
12 to 17.9 miles per hour average wind speed. That is the best
13 that I can do. That was the basis of the statement that we
14 made in the ASC.

15 BY MR. ARAMBURU:

16 Q. Let me ask you in reference to exhibit --

17 MR. ARAMBURU: What's the one up there?

18 MR. BAKER: 1.09c.

19 BY MR. ARAMBURU:

20 Q. -- 1.09c. As I understand it, if we look at the
21 drawing here the very northwest corner of the site in this
22 location is right at the corner of Skamania County and
23 Klickitat County. Is that your understanding about the
24 ownership of the project, Mr. Spadaro? The point here is
25 right at the edge at the point between Klickitat and Skamania

1 County; is that right?

2 A. Yes, that's correct.

3 Q. So that we can use that as a point of reference to
4 see where this dark magenta color is in reference to the
5 project, can we not?

6 MR. McMAHAN: Your Honor, I'm going to object. I
7 honestly don't understand what we're doing here. This has
8 been asked and answered. I don't understand the materiality
9 of the issue, the relevance of it, other than maybe to do a
10 gotcha on Mr. Spadaro's statement in the application which
11 in and of itself speaks for itself. It's a general
12 statement about the fact that, well, this is a windy site
13 based upon these maps. This is not a project that will be
14 financed based upon Northwest Seed maps I would guess, but
15 this is it's immaterial. I don't understand. It's been
16 asked and answered.

17 MR. ARAMBURU: I'm trying to figure out where this
18 area is that he says is the area of outstanding wind in
19 relation to the project. That's all I'm trying to do.
20 These are their representations about the value of this
21 site. They are saying that there's outstanding wind at this
22 site, and I know that the Council will be interested in a
23 conclusion regarding that. So I think it's an area in which
24 it's fair to ask questions because this is in their
25 application.

1 JUDGE WALLIS: The question has been asked and has
2 been answered numerous times. We know the extent of the
3 witness's specific knowledge, and I think that it might be
4 appropriate to move on to another topic.

5 BY MR. ARAMBURU:

6 Q. As I understand the lay of the land in this part of
7 Skamania County, there are two lines, there are two
8 transmission lines that traverse your project. Am I right
9 about that?

10 A. That's correct.

11 Q. The southerly of those two lines is which line?

12 JUDGE WALLIS: Again, Mr. Aramburu, can you
13 describe that for the record so that when we read it we will
14 know what you're referring to.

15 MR. ARAMBURU: Thank you, Mr. Wallis.

16 BY MR. ARAMBURU:

17 Q. Looking at Exhibit 1.11 there are two straight
18 lines on that exhibit. One runs generally from left to right
19 going generally northeast. Do you see that line?

20 A. Yes, I do.

21 Q. Then above that there is another line that runs
22 this time a little bit more southeast that's plainly shown on
23 Exhibit 1.11. Do you see that?

24 A. Yes, I do.

25 Q. So to help us out here the lower line is which

1 line?

2 A. They are actually pairs of regional transmission
3 line. Each of those corridors has two distinct and separate
4 transmission lines within the Bonneville System. The
5 southern pair one of which is called -- the name escapes me
6 at the moment. One is energized at 115,000 volts. The
7 second one, the southern pair, is energized at 230,000 volts.
8 The northern pair of lines one is energized at 230,000 volts
9 and the other at 500,000 volts.

10 Q. Do you recall that the southerly line is called the
11 North Bonneville Midway Line?

12 A. That is correct.

13 Q. And do you remember the name of the other one?

14 A. One is McNary-Ross I believe; the other is
15 Hanford-Ostrander.

16 Q. Now, in looking at the layout of the corridors here
17 is it not the case that -- how many of the turbines in your
18 diagram are located north of the northerly BPA line? We'll
19 call that the Ostrander line. Is that good?

20 A. That's fine for a nomenclature.

21 Q. Okay. How many turbines would be north of that?

22 A. Again, turbines in this depiction are hypothetical.
23 I would say to attempt to answer your question I would say
24 roughly 60 percent of the project area is in the corridors
25 where we are seeking to site wind turbines. Sixty percent of

1 the area is north of that line and 40 percent south.

2 Q. Would it be possible if we used 2.5-megawatt
3 turbines to meet your criteria of 75 megawatts if we put
4 those turbines into the area north of the Ostrander line?

5 A. No.

6 Q. Why is that?

7 A. You cannot densely pack wind turbines in that small
8 of an area.

9 Q. That would be dependent on turbine size, wake,
10 those kind of things which I understand you have not studied?

11 A. There are some basic -- we have not micro-sited --
12 you mischaracterized what I have said. We have not
13 micro-sited our project to determine the exact spacing for
14 different turbine models. There are some general rules that
15 all wind development follows regarding turbine spacing within
16 rows. There's no way that we can get to an economically
17 sized project in our -- and again in our business judgment
18 75 megawatts is the smallest that is possible. There's no
19 way we can get to that number by staying north of that line,
20 that northern most pair of Bonneville lines.

21 Q. You know that because of your research?

22 A. No, because of the advice of our consultant Ron
23 Nierenberg.

24 Q. So Nierenberg has told you that you can't put
25 2.5-megawatt turbines up there and make up your 75 megawatts

1 that you require?

2 A. Mr. Nierenberg has not stated it as specifically as
3 that because he has not been asked that specifically. He has
4 using his professional judgment and expertise given us some
5 alternatives for turbine layouts. Like I had stated earlier,
6 I've asked him to look at alternative turbine layouts, and
7 all of them in order to get to a 75-megawatt size project
8 have required the use of the entire site.

9 Q. But Mr. Nierenberg's review of these alternative
10 turbine sites and locations and sizes is not a part of the
11 record here, is it?

12 A. No, it's not.

13 Q. When did you ask him to do this?

14 A. We have continually throughout our process, but
15 that is again our proprietary information. When we are
16 looking at alternative turbine layouts and how to micro-site
17 and use our site what turbine suppliers might be available to
18 us that is all our confidential and proprietary data.

19 Q. I'm going to ask you again, Mr. Spadaro. Would you
20 provide us that information? What has Mr. Nierenberg said
21 about this?

22 MR. McMAHAN: Your Honor, I object for the reasons
23 I did previously about this information is proprietary on
24 this project. We've already adjudicated this up. Wind data
25 is proprietary information.

1 MR. ARAMBURU: I guess there's nothing off limits
2 that can't be kept from the Council and us according to the
3 Applicant. So they don't want to provide any information
4 helpful to this Council or to the public or to the Governor
5 or anything else about these alternative size configurations
6 except what they're spoon feeding us. I think that's
7 completely unfair and well in excess of what this Council's
8 responsibilities are.

9 JUDGE WALLIS: My understanding of the witness's
10 response to your question are that he has answered in
11 general terms the question that you asked, and I believe
12 that more specific information begins to intrude upon the
13 area of confidentiality that has been consistent that he
14 described.

15 MR. ARAMBURU: Well, our objection is on the
16 record.

17 BY MR. ARAMBURU:

18 Q. Let me ask this question. You have located the
19 site for the substation adjacent to the southerly of the two
20 transmission lines, the North Bonneville Midway Line; is that
21 correct?

22 A. That is correct.

23 Q. And is that the place that you plan to take your
24 tap into the BPA system?

25 A. That is correct.

1 Q. Is there any reason why you could not take the tap
2 to the BPA system off the northerly transmission line,
3 Ostrander line as we've been calling it, approximately the
4 location I show here, and tap into that 230 kV line?

5 A. We explored alternative options with Bonneville
6 Power for interconnection from the project. Our original
7 application was on the 115 kV line which is one of the
8 southern pair. But we looked at interconnection on all of
9 them, but the capacity for interconnection is available on
10 the 230 kV line; that is one of the two southern pair. That
11 is the only one Bonneville has evaluated and authorized us
12 for interconnection to.

13 Q. Who is the individual that has advised you of this
14 at Bonneville?

15 A. There are a number of engineers that have evaluated
16 our interconnection request with Bonneville. We have had
17 numerous meetings with numerous individuals at Bonneville. I
18 can't say there is one person who has authorized that.

19 Q. Give us the names of several of the people you
20 talked to. I mean we would like to check this out.

21 A. Our account executive at Bonneville Power Angela
22 DeClerck, and she can give you names of the engineers within
23 Bonneville, within Bonneville Power who have been involved in
24 the evaluation of our interconnection requests.

25 Q. Thank you. Now the site application of the ASC has

1 some statements about the intention of this project. One of
2 those is that's intended to provide a new source of
3 nonpolluting renewable energy in the state of Washington. Is
4 it the case, Mr. Spadaro, that you would commit to sell this
5 power to Washington utilities and not others?

6 MR. McMAHAN: Your Honor, I think to point to the
7 specific language that's being asked about so that
8 Mr. Spadaro can read it and understand what it's asking, I
9 think it would be helpful to all of us. I would like to
10 know at this point.

11 MR. ARAMBURU: Look at page I-1 one of
12 application.

13 MR. McMAHAN: The introduction section?

14 MR. ARAMBURU: Yes.

15 MR. McMAHAN: Specifically where are you talking
16 about, Mr. Aramburu?

17 MR. ARAMBURU: Second paragraph under project
18 summary.

19 A. Second paragraph under project summary. What
20 portion of that paragraph, please?

21 BY MR. ARAMBURU:

22 Q. The first sentence of the second paragraph.

23 A. The Whistling Ridge Energy Project is designed to
24 provide low cost renewable electric energy to meet the
25 growing needs of the Pacific Northwest.

1 Q. Do you have that in mind?

2 A. What is your question?

3 Q. My question is will you commit the power of this
4 project will indeed be sold only to utilities within the
5 Pacific Northwest?

6 A. That is not what that statement says nor will we
7 indicate where we intend to or commit to any particular
8 market as to where we intend to deliver the power.

9 Q. So the statements in the application that refer to,
10 for example, in your testimony at page 8, if you would like
11 to refer to that. This is your testimony now. There we go.
12 Page 8, Mr. Spadaro.

13 A. What portion of that, please?

14 Q. The first bullet point. I want to make sure all
15 the Council Members have it. I'll read it. It says, "The
16 site is situated in proximity to the Vancouver/Portland
17 metropolitan area and can provide a source of new clean
18 energy to these markets." Do you see that?

19 A. Yes.

20 Q. So this project may not provide clean energy to the
21 Portland/Vancouver markets or any other markets in the state
22 of Washington; is that correct?

23 A. The statement is accurate. It says that it can
24 provide a source of new clean energy to those markets and it
25 certainly can.

1 Q. So is it fair to say that this project would be
2 sold to the highest bidder?

3 A. It's fair -- Your Honor, Members of the Council,
4 again we have not entered into contracts for the delivery of
5 power. We have not got to the point of securing turbines and
6 even discussing some of those arrangements. There are a
7 number of factors that go into the economic viability of a
8 project. The off-taking agreements and a price for power is
9 a compete consideration. We haven't determined where that
10 best market is. We have yet to do that so I cannot say where
11 it will go.

12 To answer your question will it go to the highest
13 available market, I think that certainly would be one of the
14 considerations. It would all depend. The highest market
15 may also be a greater distance away from the project so the
16 net available price after transmission costs also factors
17 into it. So we will seek to make an economically viable
18 project and I will end it there.

19 Q. And to maximize your investment.

20 A. We wouldn't be doing this if we were not in it to
21 maximize our investment.

22 Q. Look over please to page I-2. I am going down to
23 the fourth paragraph there that begins the site on Whistling
24 Ridge located north of the Columbia River Gorge Scenic Area.
25 Do you see that?

1 A. I'm sorry. What part of this page again?

2 Q. I-2.

3 A. I-2.

4 Q. Then it looks like the fourth paragraph on the
5 page that begins with the site on Whistling Ridge.

6 A. Yes, I see it. Thank you.

7 Q. Could you just read for us the first sentence?

8 A. The site on Whistling Ridge, located north of the
9 Columbia River Gorge National Scenic Area and
10 high above the Columbia Gorge, enjoys the same winds that
11 have made the Gorge area a national center of wind power
12 development.

13 Q. Is it your testimony that the wind speeds and wind
14 regime that occurs at the area of the river are the same as
15 they are at your site?

16 A. No.

17 Q. They're not the same?

18 A. No, that is not what that statement says.

19 Q. It says enjoys the same winds that make the gorge
20 area a national center of wind power development.

21 A. Are there any wind turbines developed down at the
22 river level, Mr. Aramburu?

23 Q. Not that I know of.

24 A. There are none.

25 Q. Is it the intention of Whistling Ridge Energy to

1 apply for an investment tax credit if this project is built?

2 A. Sorry. I thought that you were conferring with
3 your partner.

4 Q. I guess it didn't sound much like a question.

5 A. Is it the intention for us to apply for investment
6 tax credits? If investment tax credits are available for the
7 project that certainly is something that helps with the
8 economics of wind energy and we intend to apply.

9 Q. As I understand that as it currently exists would
10 be a 30 percent essentially rebate of the construction cost
11 back to the owner or developer?

12 A. There are different forms of investment tax credits
13 offered by the federal government. A grant in lieu of a tax
14 credit is one option that is currently available. It may not
15 be available by the time that we develop this project.

16 Q. Congressional authorization for that investment tax
17 credit has just been extended a year. Do I understand that
18 correctly?

19 A. No, that is not the case. Your Honor, Members of
20 the Council, it's been the placed into service date in order
21 to qualify for the investment tax credits. It did sunset in
22 December of this past year. It now has been extended for one
23 year. So the date for the product to be placed in service,
24 but the eligibility for the investment tax credits or the
25 cash grants have not been extended beyond 2012.

1 Q. Okay. Thank you, Mr. Spadaro. Those are all the
2 questions I have.

3 JUDGE WALLIS: Are there other questions for
4 Mr. Spadaro?

5 MR. KAHN: I have some questions for Mr. Spadaro.
6 Do you want me to go next?

7 CROSS-EXAMINATION

8 BY MR. KAHN:

9 Q. Mr. Spadaro, you said on several occasions today
10 that these specific locations for turbines have not been
11 selected; is that correct?

12 A. That's correct.

13 Q. If you don't know where the turbines are located is
14 it possible to evaluate how many of them might be visible
15 from various viewpoints if we don't know where they're going
16 to be?

17 A. As I stated earlier, we have assumed a worst-case,
18 worst-case scenario with the maximum density of the turbines
19 and the maximum height of turbines. That is how we have
20 arrived at the hypothetical turbine locations that we've used
21 in the simulations and are shown on that exhibit.

22 Q. With what you're calling the worst-case scenario
23 and maximum density that would be 50. Correct?

24 A. Correct.

25 Q. Was the evaluation of the scenic impacts performed

1 by your consultant as part of this application based on
2 specific locations for those 50 turbines?

3 A. Yes.

4 Q. But you don't know where those locations will be?

5 A. They are assumed based on the professional judgment
6 of our meteorologist who has as I stated earlier has used the
7 general rule of spacing in between turbines and fitting them
8 within the corridors that we're seeking permit.

9 Q. Would that be more or less what's depicted on
10 Exhibit 1.10?

11 A. Yes.

12 Q. I have to admit I'm a little bit confused by some
13 of your testimony. Near the beginning of your testimony in
14 response to Mr. Aramburu's questions you indicated that
15 Whistling Ridge will commit to a minimum of 2-megawatt
16 turbines. Did I get that correct?

17 A. Yes.

18 Q. I thought you later said that there had been no
19 formal determination as to that. Did I misunderstand that?
20 I thought I heard you later say in response to another
21 question from Mr. Aramburu that you had not made the final
22 determination as to size of the turbines; that they possibly
23 could be go below two megawatts. Did I misunderstand that?

24 A. Yes, you misunderstood that. The statement was we
25 are committing to, willing to commit to 2-megawatt or larger.

1 Whether they are 2-megawatt or 2.3-megawatt or some other
2 size larger than two megawatts has not yet been determined.

3 Q. But nothing will go lower than two megawatts; is
4 that correct?

5 A. That's what we are willing to commit to.

6 Q. So that would mean if they all are two megawatts
7 you would have a maximum 38 turbines to meet your 75
8 megawatts?

9 A. Yes.

10 Q. You indicated that the E and F arrays would go
11 away. Did I understand that correctly?

12 A. Yes.

13 Q. You indicated that two of the A-1 through A-7 array
14 would go away. Did I understand than correctly?

15 A. Again, we would need to do micro-siting to
16 determine where exactly those two megawatts or larger
17 machines would be located. Based on the general rule we are
18 willing to state that there would be no more than five in the
19 A-string. In the A-1 through A-7, sorry.

20 Q. So if you have no more than five and there's seven
21 out of there of 50, that's two from there. If you remove the
22 two turbines as I can see from here to the E-array and three
23 from the F-array, that's seven. Where might the other five
24 be taken away if you're going to end up with 38 if they're
25 two megawatts?

1 A. I can't answer that. I think I was asked that
2 earlier. I still I cannot answer that. We have not
3 micro-sited the project based on a two-megawatt or larger
4 size. What we are able and willing to commit to this Council
5 and Your Honor is that in an effort to minimize the visual
6 impacts we will stipulate to 2-megawatt or larger machines
7 and no more than five in that southern portion of the
8 A-string.

9 Q. You also testified, if I understood it correctly,
10 that despite reducing the project by at least a quarter the
11 number of turbines, 12 out of 50, roughly a quarter, you
12 would still need to use the same southern most starting point
13 and the same northern most starting point. Did I get that
14 correct?

15 A. Yes, the northern most ending point.

16 Q. Ending points. It depends on which way you start
17 from I guess. If you're reducing up to one quarter or at one
18 quarter turbines, can you tell me why you can't shrink the
19 project area? You can't move the southern most point north
20 or the northern most point south?

21 A. The wind that is available on the site follows on
22 the ridge lines. We need to be able to use -- and spacing
23 those turbines need to be able to use the same start point
24 and the same end point and space them along that ridge line,
25 the same ridge lines of the corridors that we are seeking

1 permitting.

2 Q. Mr. Aramburu asked you several questions regarding
3 Mr. Meier's testimony about the geology, and he asked you
4 specifically -- or Mr. Meier evaluated the geologic impacts
5 based on 1.5-megawatt turbines; is that correct?

6 A. Yes.

7 Q. Is it your understanding that a significant aspect
8 of what will happen geologically depends on the weight of
9 what you're adding to the land?

10 A. I'm not a geologist. You would need to ask the
11 geologist that question.

12 Q. Okay. I imagine I'm going to get an objection to
13 this question, but I'm going to ask it anyway. You said that
14 you can't specify the area where you stated in the
15 application that Class 6 winds were. You don't know where it
16 is on that map; is that correct?

17 A. That's not correct.

18 Q. Tell me what you said then.

19 A. I know where it is on -- I can see it on the
20 Northwest Seed maps. Where exactly that overlays onto the
21 proposed project map is difficult to determine. If you look
22 at the pixel sizes on the Northwest Seed map, each pixel is
23 approximately 40 acres. Trying to determine where exactly
24 that fits on the project map is impossible for anyone to do.
25 It's in the vicinity of the project area, and that's what

1 I've stated. That's what I've stated in the application and
2 that's what I testified to and that's what I remain.

3 Q. You're saying the vicinity of the project area.
4 Would that include land outside of the project area?

5 MR. McMAHAN: Your Honor, I think this has been
6 asked and answered.

7 MR. KAHN: No, Your Honor, it has not been asked
8 and answered. I'm asking him now, my line of questioning is
9 aimed at trying to determine whether his statements actually
10 apply to the project area, to the south of the Scenic area,
11 the area to the north on DNR land, or east and west of the
12 project area. It's a very legitimate question.

13 A. Again, the granularity of the data in the Northwest
14 Seed maps cannot be overlaid onto our project map. I can
15 tell you that the entire project area looks to be within the
16 area of the high wind potential but so does -- it's too
17 granular to tell. It's like drawing with a big wide tipped
18 felt marker and circling the area trying to determine what's
19 within that boundary.

20 BY MR. KAHN:

21 Q. In responses to a question from Mr. Aramburu you
22 said that you cannot say whether the Class 6 winds overlaps
23 the A, B, C, D, E, or F array. Do you recall that answer?

24 A. Yes.

25 Q. What is the distance from the bottom of the A-array

1 to the top of the B-array, the length of the project?

2 A. That's roughly three miles. I think two to three
3 miles.

4 Q. So you're saying at the very least you can't tell
5 within three miles where the Class 6 lands are because you
6 don't know if it's in the A-array or all the way up to the
7 B-array; is that correct? So you can't pinpoint the area of
8 the Class 6 winds to any closer than three miles?

9 A. Excuse me for a minute. Let me go to the exhibit.
10 If you look at this exhibit map.

11 Q. Yes.

12 A. This is exhibit I believe this is 1.08c; is that
13 correct?

14 MR. BAKER: 1.09c.

15 A. There is a large area covered by a number of
16 different colors. Each of those shades could cover three
17 square miles, five square miles. It's impossible given the
18 granularity of this data for me to state where exactly that
19 line is on our project map.

20 BY MR. KAHN:

21 Q. Therefore my question is, isn't it just as possible
22 that the area that you can't tell where it is, within three
23 miles or five miles, that the area is east, south, north or
24 west of the project site and does not include the project
25 site?

1 A. Your Honor, Members of the Council, I'm kind of
2 confused as to what the question is.

3 Q. Then let me ask it again.

4 A. I have stated, I have stated in our application let
5 me go to it and read it. I believe it's page -- what was it
6 again?

7 Q. I don't remember. 2.1-6.

8 A. Wind power and wind speed maps published by the
9 Northwestern U.S. Wind Mapping Project verified by the U.S.
10 Department of Energy National Renewable Energy Lab identified
11 the ridge line, the ridge line where Whistling Ridge Energy
12 Project will be constructed as a viable wind energy resource.
13 The models indicate that winds passing 50 meters above the
14 ground surface in the vicinity reached sustained speeds of
15 15.7 to 17.9 miles per hour depending upon location,
16 referenced site Northwest Seed 2002. Such wind speeds rate
17 this area as a power potential of good to outstanding, siting
18 reference again Northwest Seed 2002(b). One concentrated
19 area within that project area is identified as having
20 outstanding Class 6 wind power potential with sustained winds
21 speed of 17.9 to 19.7.

22 Q. And my question is if you cannot pinpoint, if you
23 cannot translate from the National Renewable Energy
24 Laboratory Maps to this map within the three to five miles, I
25 think was the answer you gave, how do you know that the Class

1 6 winds are in this project area as opposed to outside of the
2 project area boundaries?

3 A. 17.9 to 19.0 miles per hour is a salmon color shade
4 on the exhibit map.

5 Q. But you have testified that you can't translate
6 that salmon color to the project map because it's granular
7 and the distances are off. So again I'm asking you isn't it
8 just as possible that the Class 6 winds that you say are in
9 the project area, are in part within the project, are not
10 within the project because you can't specify the location
11 within three to five miles?

12 A. Mr. Kahn, I believe that's mischaracterizing what
13 my testimony was.

14 Q. Then tell me what you said.

15 MR. McMAHAN: Your Honor -- let him answer.
16 Beyond that this has been asked and answered to death.

17 JUDGE WALLIS: This area has been inquired into
18 extensively by both counsel. We will ask the witness to
19 respond to this question.

20 MR. KAHN: That's all I'm asking.

21 BY MR. KAHN:

22 Q. Let me ask it again.

23 JUDGE WALLIS: No, let's not ask it again. Let's
24 let the witness respond.

25 A. My testimony is that I can see that the high wind

1 speed area overlap with a great degree of granularity the
2 maps overlap the project area. As I stated earlier, I cannot
3 specifically say where given the granularity of that data
4 specifically say what part of the project area or what
5 strings of turbines that that high wind speed overlaps.

6 BY MR. KAHN:

7 Q. Mr. Spadaro, are you saying then on Exhibit 1.09c
8 that the lavender covered area occupies only your project
9 area?

10 JUDGE WALLIS: I think, Mr. Kahn, that the
11 witness's testimony on this topic is extensive, and I
12 believe his prior answers respond to the question that
13 you've asked.

14 MR. KAHN: Your Honor, I must respectfully
15 disagree. This is a different question and it's a
16 completely different approach. Neither Mr. Aramburu nor I
17 have got a straight answer out of him about this question.

18 JUDGE WALLIS: I think that the witness has
19 continued and I do believe that he has successfully
20 responded to your questions, to the questions that both of
21 you have asked with enough information that your questions
22 are answered.

23 MR. KAHN: No one has asked him this question. He
24 has referred to the lavender area as being overlapping the
25 project area. My last question was asking whether the

1 lavender area is completely contiguous or overlaps
2 completely the project area or extends north, south, east,
3 or west.

4 JUDGE WALLIS: The witness has in his prior
5 answers described the granularity of the map and its
6 application to the project.

7 MR. KAHN: And he said that area covers the
8 project, and I've asked him whether it's possible that area
9 extends beyond the project. He has not answered that.

10 JUDGE WALLIS: I believe that it is implicit in
11 his responses that description includes, is sufficient to
12 respond to your question.

13 MR. KAHN: Well, with all due respect I would
14 rather have something explicit than implicit if we're making
15 a record here. I'd like him to answer that question,
16 whether it's possible this lavender area goes beyond the
17 project boundaries. It's a straightforward question.

18 JUDGE WALLIS: I think the answer is contained in
19 his answers to your prior questions.

20 MR. KAHN: Well, I don't know what that was.

21 MR. McMAHAN: Your Honor, beyond that he's asking
22 the Applicant to speculate about a map that the Applicant
23 didn't author, speculate about where these colors may or may
24 not extend; meaning that the colors -- it's been asked and
25 answered, and, you know, this is going to be a really long

1 week and a half if counsel is going to argue back and forth
2 with the Hearings Officer on objections.

3 JUDGE WALLIS: So my ruling is that your question
4 is inadmissible.

5 MR. KAHN: One last comment, Your Honor. He's
6 speculating. As Mr. McMahan says I'm asking him to
7 speculate where the area of high winds are, then I'm going
8 to assume that everything in this paragraph in which he
9 talked about Class 4, 5, and 6 winds from that map must be
10 speculation as well.

11 JUDGE WALLIS: The witness has responded to your
12 question.

13 BY MR. KAHN:

14 Q. Mr. Spadaro, how many acres within the project site
15 have been clearcut in the last six years?

16 A. I do not know that number off the top of my head.

17 Q. Do you know how many forest practice applications
18 have been submitted in the last six years for harvesting in
19 this area?

20 A. I do not know that number off the top of my head.

21 Q. Have any of those forest practice applications --
22 well, let me ask this. Have there been forest practice
23 applications in this area in the last six years?

24 A. Yes, I believe so.

25 Q. More than one?

1 A. Yes, I believe so.

2 Q. Have any of those forest practice applications
3 included information indicating that there would be
4 conversion to nonforestry uses?

5 A. I do not recall.

6 MR. KAHN: Your Honor, I don't know how we're
7 working this. I want to refer him to one of our
8 cross-rebuttal exhibits that you have before but aren't
9 tagged. Can I just identify where it is and have the
10 Council look at it while I ask him questions?

11 JUDGE WALLIS: Very well.

12 BY MR. KAHN:

13 Q. Mr. Spadaro, you have -- does he have these? This
14 would be what we called item T, 1.16c. Do you have that in
15 front of you?

16 MR. MOSS: Your Honor, I wonder if Mr. Kahn can be
17 asked to describe the exhibits so the Council would have the
18 benefit of being able to identify it.

19 MR. KAHN: Fair question. It's a July 19, 2010
20 letter from Washington DNR to Mr. Posner.

21 MR. MOSS: It is a single page, nine pages?

22 MR. KAHN: It's three page. It's probably about
23 80 percent toward the end.

24 JUDGE WALLIS: How would you describe that
25 document, please?

1 MR. KAHN: It's a July 19, 2010 letter from DNR to
2 Mr. Posner at EFSEC.

3 MR. SUTHERLAND: This is the letter DNR comments
4 on Whistling Ridge EIS?

5 MR. KAHN: Yes, sir.

6 BY MR. KAHN:

7 Q. Did you have that, Mr. Spadaro?

8 A. I do.

9 Q. Could I call your attention to page 5, please.

10 A. Yes.

11 Q. The paragraph after the words 3-28, can you read
12 starting at the second sentence.

13 A. All of the forest practice applications that were
14 applied for in an area indicated the site would be counted
15 forestry, not converted to a nonforestry use.

16 Q. Keep going, please.

17 A. This appears to be in violation of the forest
18 practices rules.

19 Q. One more sentence.

20 A. Potential conversion impacts were not considered.

21 Q. Did your company take any action in response to
22 this letter?

23 A. When you have an intent to convert forestland, you
24 disclose upon a forest practice application and then the
25 application goes through a SEPA review with the local county

1 as the lead agency. We did not disclose our intent to
2 convert because some of these harvests occurred prior to our
3 knowing that we had an intention to convert to wind energy or
4 industrial use with certainty. We are now going through the
5 SEPA process for the evaluation of the impacts that would
6 occur as a result of the conversion. That's what the SEPA
7 EIS is about. One of the components of it is evaluating
8 conversion of forestland to an industrial use. So we did not
9 do anything nor did we need to do anything to address this.

10 Q. When was the first work of any type, whether it be
11 surveys or wildlife or whatever, done in connection with this
12 project?

13 A. 2002.

14 Q. Are you saying that between 2002 and 2010 that all
15 of these forest practice applications were prior to 2002
16 because you didn't know that you were going to be using the
17 project for wind?

18 A. No, I'm not saying that. We have a normal harvest
19 plan for our working forestlands, and while we have been
20 considering going forward with a wind energy project we have
21 gone about our normal business of conducting forest practices
22 and harvesting our trees. We did intend to convert land. We
23 will seek to have -- if there is any moratorium on it by the
24 county, we will to seek to have that moratorium lifted, and
25 we have to go to through the SEPA process which is what the

1 EIS process is evaluating.

2 Q. So you disagree with the DNR statement here that
3 this appears to be a violation of the forest practices rules?

4 A. It's accurate, but I disagree. I do disagree with
5 it because if we had intended to convert, we intended to
6 convert without going through the SEPA process, then you were
7 in violation of forest practices rule. If we did not know
8 the intent to convert at the time or if it's not known with
9 certainty, we went about our normal business of conducting
10 forestry and we're going through the SEPA process now as a
11 result of the application. So while the -- it may -- we're
12 going through the same process just through a different
13 vehicle so I do disagree.

14 Q. Okay. How many acres -- would you agree that this
15 project will cause a conversion of some acreage from forestry
16 to nonforestry use?

17 A. Yes.

18 Q. About how many acres?

19 A. I believe our application and the calculation is
20 about 55 acres that will be permanently converted.

21 Q. How did you arrive at that figure?

22 A. That was based on turbine footprints and cleared
23 area around each turbine. I believe it included the
24 substation and roads, new roads that would be constructed
25 minus the existing roads that would be reclaimed and restored

1 to forest.

2 Q. You said the first part of your answer there was
3 that it's dependent upon the size of the footprint of the
4 turbine; is that correct?

5 A. Yes.

6 Q. If you go to 2-megawatt turbines would they need
7 bigger footprints than 1.5-megawatt turbines?

8 A. No.

9 Q. The footprint of the turbine is the same no matter
10 what the size?

11 A. The calculation, Mr. Kahn, was based upon a 50-foot
12 cleared area around each turbine, 50-foot clear around the
13 base. So depending upon the turbine final turbine model,
14 Your Honor, that would fit within that 50-foot corridor,
15 50-foot radius area around the base of the turbine, and that
16 was the basis of the calculation for the permanent converted
17 area.

18 Q. You mentioned in answer to a previous question you
19 referred to a Skamania County moratorium, didn't you?

20 A. No, I was referring in the Forest Practices Act
21 there is mention of a moratoriums on forest conversion.
22 That's a different matter all together.

23 Q. I know what you're talking about. That's not what
24 I'm asking about. Are you familiar or are you aware that
25 recently I believe within the last week or two Skamania

1 County continued through Ordinance 2010-10 a moratorium on
2 the acceptance in processing a SEPA checklist related to
3 forest practice conversions for parcels located within
4 unincorporated Skamania County that are not currently located
5 within the zoning classifications? And I'm referring
6 specifically to Exhibit S, to 1.15c.

7 MR. KAHN: Which would be the document immediately
8 prior to the one that you were just looking at, Council
9 Members.

10 A. Okay. Your question was?

11 BY MR. KAHN:

12 Q. Are you familiar with this ordinance?

13 A. Not specifically, no. I have heard of a moratorium
14 on forestland conversion to residential use driven largely by
15 the conversion of large forestland to 20-acre parcels in the
16 Swift Reservoir area, and I think that's what this is.

17 Q. Okay. Can you look at the very last paragraph, the
18 actual resolution. Do you have that in front of you?

19 A. Yes.

20 Q. Can you read that to yourself first, and then I'll
21 ask you a question or two.

22 A. Okay.

23 MR. KAHN: Do the Council Members have it?

24 MR. SUTHERLAND: I'm still looking.

25 MR. KAHN: Okay. I'll give you a moment then.

1 Again, it's probably about 70 percent of the way through.
2 It's a two-page document. It's immediately before the DNR
3 letter that we were looking at a few minutes ago. Across
4 the top it says Ordinance 2010-10.

5 BY MR. KAHN:

6 Q. Mr. Spadaro, have you had a chance to read it?

7 A. Yes, I have.

8 Q. Wouldn't that apply to your application for a
9 forest conversion here?

10 A. I think you need to ask Commissioner Pearce that
11 question or somebody else on the land use, but I would
12 disagree that it would because the whereas at the bottom of
13 the first page states as I stated earlier since January 1,
14 2006 over 230 new parcels 20 acres or larger have been
15 created through the deed process exempt. It goes on with
16 again another whereas referencing this activity occurring in
17 the Swift Reservoir area, and that's what led to this
18 moratorium on the division of large forestland parcels in the
19 Swift area to 20-acre lots.

20 Q. Can you ignore the whereas's and look to the actual
21 resolution adopted by the Commission. Does it limit it to
22 any kind of residential use or to the Swift subarea?

23 A. Well, in the last sentence it says where the area
24 generally known as the Swift subarea of Skamania County.

25 Q. Let me read the pertinent portions. Now,

1 therefore, be it ordained and established by this Board of
2 County Commissioners as follows: The Board of County
3 Commissioners hereby adopts Ordinance 2010-10 to extend for
4 six months -- and I'm going to skip some things here -- the
5 moratorium on the acceptance and processing of SEPA checklist
6 related to forest practice conversions for any parcel located
7 within unincorporated Skamania County that is not currently
8 located within the zoning classification or the area
9 generally known as the Swift subarea of Skamania County.

10 So let me ask you this. You've indicated that
11 there's going to be a conversion here. You've indicated
12 that to do so you have to submit a SEPA application; is that
13 correct?

14 A. Yes.

15 Q. Is the parcel that you would be submitting a SEPA
16 application on located within unincorporated Skamania County?

17 A. Yes.

18 Q. And not currently located within the zoning
19 classification?

20 A. Correct.

21 Q. So how does it not fit within this?

22 A. It's not a land division.

23 Q. The acceptance processing of the State
24 Environmental Policy Act (SEPA) --

25 A. You just skipped an entire sentence that says

1 crossing of land divisions, subdivisions, and short
2 subdivisions.

3 Q. And the acceptance and processing of SEPA checklist
4 related forest practice conversions. Those were multiple
5 things that they have declared a moratorium on. One is land
6 divisions. One is application for forest practices. Do you
7 agree?

8 A. I would suggest that Skamania County officials may
9 be better answering the intent and effect of this than I
10 would.

11 MR. KAHN: I have no further questions. Thank
12 you.

13 JUDGE WALLIS: Very well. Are there further
14 questions of this witness on cross?

15 MR. MARVIN: Yes.

16 JUDGE WALLIS: Mr. Marvin, could you estimate the
17 time that you expect you might be spending on cross?

18 MR. MARVIN: I'm hoping it would be less than
19 15 minutes.

20 JUDGE WALLIS: Are there further questions of the
21 witness and about how much time are you anticipating?

22 MR. CANTRELL: Less than SOSA. Sorry. My only
23 joke made me cough. I said less than SOSA, but it will be
24 probably five or ten minutes I would think.

25 JUDGE WALLIS: Very well. Let's be off the

1 record.

2 (Discussion off the record.)

3 JUDGE WALLIS: Let's be back on the record,
4 please.

5 Mr. Marvin, please continue.

6 MR. MARVIN: Yes.

7 CROSS-EXAMINATION

8 BY MR. MARVIN:

9 Q. Mr. Spadaro, throughout the testimony you
10 particularly referred to use of micro-siting for the final
11 determination as to location of various turbines within these
12 corridors. Can you describe the micro-siting process for the
13 Council.

14 A. Certainly. Members of the Council, micro-siting
15 involves a turbine supplier evaluating with the project
16 proponent and meteorologist evaluating the best location of
17 wind turbines and best application of wind turbine technology
18 for your site.

19 Q. What types of values are plugged into that
20 equation? I think it's a given that obviously we're looking
21 for efficiency, correct, in terms of the ability to generate
22 electricity?

23 A. That's the general intent, but there are a number
24 of variables, including topography, average wind speed, wind
25 direction, the capability of the particular turbine to handle

1 the changing wind directions and the average wind speed and
2 the topography of the ground, any vegetative wind
3 interference, a whole range of factors.

4 Q. Am I to understand that within the micro-siting
5 it's not only looking on the ground circumstances, but it's
6 also addressing the type of equipment that's going to be
7 installed or is that a different process?

8 A. That's what I would consider micro-siting.

9 Q. In your judgment are environmental issues
10 appropriately addressed during the micro-siting process?

11 A. Would you please give me an example of what you
12 mean.

13 Q. Well, I think an easy example which isn't
14 applicable here, but if there were wetlands, for instance,
15 micro-siting might be used to minimize the impacts by
16 locating the turbine location where wetlands aren't located.
17 And theoretically that could result in perhaps a lowering of
18 the efficiency, lowering the return on the project; is that
19 accurate?

20 A. Yes, if there are areas of sensitivity that needs
21 to be avoided in micro-siting, we'd attempt to try to do
22 that.

23 Q. From your perspective, from the Applicant's
24 perspective does micro-siting have a role to play in regard
25 to mitigating potential environmental impacts of the project?

1 A. Yes, I believe so.

2 Q. How would you describe that?

3 A. To the extent that there are sensitive resources
4 needed to be avoided and micro-siting could address that
5 without it compromising the economic, overall economic
6 viability of the project, you would seek to try to avoid
7 those sensitive resources.

8 Q. Have you in discussions with your consultants have
9 you discussed micro-siting and environmental impacts? For
10 instance, let's focus on the visual impacts in this case.
11 Have you had a discussion with your consultant regarding
12 visual impacts and how they might be addressed through the
13 micro-siting process?

14 A. Your Honor, Members of Council, I'm pausing because
15 I want to make sure I don't release anything that may be
16 proprietary knowledge related to the project, but I think it
17 benefits the Council and benefits the discussion here. The
18 answer is yes that when I talked earlier about having no
19 greater than five turbines in the southern portion of the
20 A-string that is spacing those turbines a little farther
21 apart than one might normally do to maximize the site and
22 then more densely impact them farther up to ridge line. So
23 we've looked at all of that, and without coming to final
24 micro-siting decisions that was what led me to be able to
25 state to you that we could agree to no more than five in the

1 southern string and we sought to do that.

2 Q. Have you looked at alternatives that would allow
3 for less than five in the southern string, I mean A-1 through
4 7 string?

5 A. We can't do that without going below 75 megawatts.

6 Q. Is there something unique about that area, the A-1
7 through 7, that requires that it be developed?

8 A. It's very windy.

9 Q. Is it windier than other portions of the property?

10 A. Yes.

11 Q. If you would go to 2.5 megawatt what would be the
12 minimum number of turbines or maximum number of turbines in
13 the A-1 through 7 string?

14 A. It would still be five.

15 Q. I'm curious, but I believe you're the sponsor of
16 the analysis of the alternatives section, Section 2.19, in
17 the application?

18 A. That's correct.

19 Q. When did these alternatives with regard to
20 developing the 2-megawatt minimum power, when were those
21 first discussed with your consultants?

22 A. Again, as I had stated earlier, we have always said
23 in the application there would be a range of turbines so I
24 can't pinpoint a specific time when we started having that
25 discussion. The alternatives analysis discusses -- it

1 doesn't talk a lot about alternative turbine sizes because we
2 indicated a range from 1.2 to 2.5. Does that answer your
3 question?

4 Q. Well, yes and no. I guess, you know, I do have
5 some concerns that, you know, we now have a project with an
6 application that has, you know, 50 turbines in a worst-case
7 scenario, and that's basically what everybody has been
8 looking at, and, you know, and guess I have some questions in
9 terms of how do we go forward now that there's really I think
10 a change in circumstances?

11 A. A beneficial change in circumstances.

12 Q. A beneficial change in circumstances perhaps, but I
13 think part of the issue here, and I don't mean to get on this
14 topic here. We're trying to evaluate what the impacts are
15 and know with a clear degree of certainty what we're looking
16 at when going into this development, and I guess I'm just,
17 you know, I have some concerns about when you're talking
18 about alternatives to what degree when you did this section
19 did you think that -- you know, what did you think this
20 section was intended to address with regard to an analysis of
21 alternatives. What was your understanding in terms why this
22 information was required for the application process?

23 A. I mean I don't really think I'm the best to answer
24 why it was required in the application process itself. I
25 don't know if statutorily this is a section that's required

1 in the process. I think we wanted to show that we chose this
2 site by looking for a site that fits certain criteria. Some
3 of those criteria were the least amount of impact to the
4 environment and an industrial site that has Bonneville
5 transition corridors right through the middle of it, Williams
6 Gas Pipeline on the north end, rock pits, and existing roads,
7 harvested timber, fit a lot of the criteria of a previously
8 disturbed site for putting a wind turbine project with
9 minimal additional impact to the environment or less than
10 going into a more pristine site. That's some of what we
11 discussed in the alternatives analysis that we looked at for
12 other areas of our land that might have potential for this.
13 This is the only one that fit all of the criteria that we
14 needed, including some minimizing environmental impact.

15 I would say that this is with almost full
16 confidence this is the only site in Skamania County that can
17 be developed for wind energy. We certainly couldn't go
18 north onto DNR land, although we inquired about that and
19 were shut down pretty quickly partly by the project
20 opponents here now before the Council. So we looked at
21 alternatives, and this is the site that fit best and that is
22 what our effort was and our intention.

23 Q. You don't have any quantified analysis of other
24 sites that might have been considered in this section.
25 Correct?

1 A. As it states on 2.19-2, "While Whistling Ridge
2 Energy, LLC, is not a developer of multiple sites, and only
3 proposes a site described in this application, the selection
4 of this site conforms to accepted site selection criteria,"
5 and that lists a number of criteria. This is the only site
6 that we have to propose. So we're not a developer of
7 multiple sites. We're not seeking sites throughout the state
8 of Washington. This is our only site. That's why this is
9 the alternative that we have. Going onto public land or
10 neighboring lands is not an option for us.

11 Q. It's your testimony there was no alternative site
12 design on the project property that could be implemented?

13 A. Well, I know -- I think that would be, that would
14 be disingenuous for me to say that because I've just offered
15 an alternative site design today, alternative from the 1.2 to
16 2.5-megawatt range that we've put into the application. Now
17 I'm narrowing that. I would like to point out to Your Honor
18 and the Council that I do that with a fair degree of risk.
19 By eliminating 1.5 and 1.8 megawatt turbines from the project
20 those are the most reasonably, affordably available wind
21 turbines in the market today.

22 T. Boone Pickens plan has got a number of stuff
23 available on the market. If we wanted to try to maximize
24 the return of the project, we would try to use 1.5 or
25 1.8-megawatt machines because they are so much less costly

1 than alternatives, and that's not what we're trying to do.

2 MR. ARAMBURU: I do want to raise an objection to
3 once again this witness teeing off on a question to deliver
4 a long statement of his views on this and that. I think
5 it's inappropriate that this witness just wasn't responsive
6 to Mr. Marvin's question.

7 MR. MARVIN: I understand and I think I can handle
8 this.

9 BY MR. MARVIN:

10 Q. In terms of design issues I mean a two megawatt
11 that was always within the realm of possibility with regard
12 to the application. Correct? It could be a 1.2 to 2.5. So
13 two megawatt is really within the range of design that was
14 proposed, but I guess what I'm trying to get at is was there
15 alternative corridors? That's what we've been talking about.
16 I think Tim raised that at the beginning that we're talking
17 about corridors, not turbine locations or any specific
18 turbine. But is there alternative turbine corridors that
19 were considered?

20 A. Yes, we early on in the process we had a met tower
21 to the east of the D-string of turbines. We looked and
22 evaluated the option of going farther east. That was very,
23 very early on. In fact, that was not my doing. That was an
24 earlier partner in this project that's no longer involved
25 with it at all, but we have no flexibility to go to the east.

1 We have no flexibility to go to the north or to the south.
2 So the corridors that we have applied for are the only
3 corridors that are available to us. We can't go west because
4 it goes down the hill out of the wind. We can't go east
5 because there's no wind. We can't go to the north because
6 it's not our property. We can't go south because it's in the
7 National Scenic Area.

8 MR. ARAMBURU: Mr. Chairman, I do understand
9 Mr. Marvin's point, but I renew my objection to this witness
10 providing statements much of what we have heard today is
11 new. We do request the opportunity to cross-examine him on
12 some of these additional statements that he seems to be
13 making whenever he gets the chance. So we think that's
14 inappropriate to tee off on a question and then provide
15 whatever statements you want to make. So I move to strike
16 that testimony.

17 JUDGE WALLIS: Your concern is noted.

18 BY MR. MARVIN:

19 Q. I guess as a final wrap up here -- I'm still within
20 my time -- I understand I heard the colloquy about
21 confidentiality of that information and I appreciate that
22 seems to be convincing to EFSEC. I am left here kind of
23 scratching my head how do we aside from taking your word for
24 it, how do we establish that the information that was set
25 forth in this application with regard to wind speeds and the

1 need for siting of these corridors? How do we verify that?
2 How do we have accountability to the public that is in fact
3 the case? And I'm not saying that there's a smoking gun here
4 or anything like that. I'm just looking at this in terms of,
5 you know, a public process and how do we have a public
6 discussion about this if we don't have the baseline data that
7 is establishing the conditions on the site?

8 And I'll let you answer that, and if you want to
9 wander off a little bit, that's fine too. I'm not going to
10 object because I really want to put that out to you as an
11 honest desire to kind of get to the bottom this because I
12 don't feel like I have that information right now.

13 A. I don't know that I'm capable of answering that.
14 Your Honor, Members of the Council, I think that that
15 question is part of what the appeal in Kittitas Valley and
16 going to the Supreme Court answers; that the decision of this
17 Council is whether this is an appropriate site to place wind
18 turbines. What the economic justification is for the project
19 or getting into the nuts and bolts of the business matter
20 itself and where turbines are sited or not sited was ruled on
21 in Kittitas Valley and was upheld by the Supreme Court.
22 You're the attorney and I am not.

23 Q. I appreciate that, but I guess, you know, setting
24 that aside there are, you know, there are environmental
25 consequences with regard to the actions that we take, and

1 while I understand that there is an economic issue, and, you
2 know, we don't want to go there, we don't want to undermine
3 the proprietary question, but the question still remains, you
4 know, we are looking at environmental cost. And how do we
5 balance? We must be if having this -- we must be going there
6 because there's something of equal value on the other side.
7 You're not just, you know, sacrificing scenic values or
8 biological values simply because we think it's an interesting
9 idea. There must be some kind of counterweight to that. In
10 any event, I think I have your answer, and I would hope that
11 during the proceedings that we can get a little more
12 substance on this issue in front of the Council and have a
13 meaningful discussion about it. Thank you.

14 JUDGE WALLIS: Mr. Cantrell.

15 MR. CANTRELL: Thank you, Your Honor.

16 I guess I would just clarify since I didn't in my
17 opening statement I'm not an attorney. I'm the one person I
18 think sitting at counsel table that's not an attorney so my
19 apologies up front if I break some protocol or do something,
20 and I'm sure that the attorneys can object and correct my
21 ways. But I beg indulgence. I just have a few questions.

22 CROSS-EXAMINATION

23 BY MR. CANTRELL:

24 Q. First, if you could elaborate a bit more on why you
25 can't eliminate the most northerly turbines, the turbines

1 that would be at the end of I guess the B and C strings,
2 recognizing that is some of the best habitat that's on the
3 ground up there. The older stands of trees are plump in
4 those areas, and I guess I just still don't understand why if
5 you're eliminating 12 turbines you can't group some of them
6 further south away from that most critical habitat that's in
7 the closest proximity to the known location of an owl.

8 A. If we move farther from the south or move farther
9 down from the north, we would have to move farther down on
10 the south. Still we need the same start point and end point
11 in order to maintain a certain size of the project. We can't
12 give up on either side and maintain. As to the habitat, I'm
13 not sure you know the current habitat conditions, but I think
14 most of what was in that northern area that when we did our
15 site tour that has been harvested since we did that site
16 tour.

17 Q. Yes, I'm just looking at your stand and that's part
18 of the application and the DEIS, and it has a stand that goes
19 back as far as 1936 as the last harvest right there on the
20 border with the DNR lands and maybe those have been harvested
21 since that was produced.

22 A. Yes.

23 Q. Again, maybe I'm just not getting it but help me.
24 Why can't you? I hear you say if you move to the south away
25 from the DNR lands, you're going to have to go further south

1 and you can't because you run into the scenic area. Why
2 can't you just compress it? I understand that if you use the
3 larger turbines that eliminates F and E strings because of
4 the turbulence or other issues. But why can't you simply
5 start the northern most part, you know, 500 yards further
6 south?

7 A. Again it gets back to the distance required between
8 turbines to avoid wake effect and turbulence so that each
9 turbine is producing energy effectively.

10 Q. On the micro-siting I want to follow up a bit on
11 what Mr. Marvin was asking you about. You talked about the
12 need for some flexibility to deal with on the ground actual
13 situations. I am wondering when you ask for that flexibility
14 of that micro-siting I'm assuming that would be more moving
15 something, you know, two feet, more than two feet I would
16 assume?

17 A. I'm not sure I understand your question. Do we
18 have the capability of moving things to avoid sensitive
19 resources?

20 Q. Right, yes, or to gather better wind resources or
21 whatever. I'm trying to get a sense if it's possible you
22 mean more than two feet, less than two miles? I'm just
23 wondering there how much flexibility you're going to be
24 asking the Council for in the site certification? If you
25 say, well, turbine string A is from this point to that point,

1 but with micro-siting it may be adjusted, you know, 500 feet
2 this way or that, or 200 feet. How much flexibility are you
3 looking for?

4 A. So to be clear we are not seeking for individual
5 turbine locations. We're seeking corridors and if in
6 micro-siting we want to find that ideal spot for a turbine it
7 has to be within those corridors where we have the site
8 certificate approval to do so.

9 Q. So micro-siting would not make any adjustments to
10 the corridor itself?

11 A. No.

12 Q. Just a couple other quick questions. In his
13 opening statement Mr. Andersen who I don't think is in the
14 audience anymore, but he referenced the removal of Condit Dam
15 and the Whistling Ridge Project could provide power in an
16 emergency. Are you aware of any such capability that this
17 project would provide?

18 A. There will be -- I am somewhat aware. That is not
19 my expertise, but there is a witness Bob Wittenberg who is
20 the Skamania County PUD General Manager who I believe is
21 going to testify on that very issue of why this project is
22 important to the citizens of Skamania County and energy
23 reliability.

24 Q. Then the last question that I have for you is in
25 regard to the distribution of power, and I heard you say that

1 there will be a number of factors as you consider signing
2 contracts with the utility whether it would be local or in
3 California or any other place that you would look at, and I'm
4 wondering if you would be willing to stipulate your company
5 would have a local utility customer preference, at least one
6 of those criteria. You said you wouldn't lock into say we're
7 doing and we're going to a Washington utility come hell or
8 high water. You want the flexibility. But is it even a
9 factor that you will consider that you'll give a preference
10 if Utility A who is in Southern California and you've got
11 Utility B who's in Clark County, and your return for you once
12 you factor in transmission cost and everything is roughly
13 equal, would you give preference to the local utility?

14 A. No, we cannot commit the project in one form or
15 another as to the destination for the power, but in an
16 integrated energized system what's important is that these
17 are electrons going into the grid in the local area, and that
18 is just as important to Washington residents as whatever
19 utility is the ultimate destination of the power. But to
20 answer your question, no, we cannot.

21 Q. Why not?

22 A. It would compromise the project viability to be
23 committed to one destination or another for the power, not
24 only in economic terms but also in marketability terms. And
25 to be honest as I said earlier as soon as we start to narrow

1 down the options, I would expect as they have done in the
2 past for opponents to try to threaten and intimidate
3 Northwest purchasers of the power for their involvement in
4 the project.

5 Q. Again, my question wasn't whether or not you would
6 commit to making a sale to a local utility, but I'm asking
7 you if you would be willing to make a commitment to having it
8 be a consideration, to be one of the factors, and I heard you
9 say, no, and I want to make sure that's really what you're
10 saying that you won't.

11 A. I am really saying no.

12 MR. CANTRELL: Okay. Unfortunate but okay. I
13 guess that's all the questions I have then, Your Honor.

14 JUDGE WALLIS: Very well. Are there any questions
15 on cross-examination from other parties?

16 Let the record show that there is no response.

17 Is there redirect?

18 MR. McMAHAN: There's no redirect, Your Honor.

19 JUDGE WALLIS: Very well. Are there Council
20 questions?

21 Let the record show that there were no questions
22 from Council Members, and Mr. Aramburu you indicated earlier
23 that you thought some of the responses warranted additional
24 cross. Are you still of that mind?

25 MR. ARAMBURU: I am but I think there's a point I

1 want to make clear, and this is further to Mr. Marvin's
2 point. When we came in here today, and we've been working
3 with the testimony for a lengthy period of time, and we come
4 in today with no announcement until the witness gets on the
5 stand there's been a change in the proposal. And then that
6 makes on all of us a lot of difference for questions to be
7 answered to several witnesses, including the geologist,
8 including Mr. Nierenberg who apparently knows something or
9 maybe nothing about this, these issues. I'm not quite sure
10 how to resolve that at this point, but I may ask the Council
11 tomorrow once I think about it for some consideration
12 because this is a complete surprise to us. We didn't have
13 even the courtesy of counsel telling us even in the 10:15 at
14 night e-mail that this individual is going to come in and
15 tell us now they decide to do this change to the project.

16 It makes a whole lot of difference. I think it's
17 unfair to have a project change at this stage of the
18 proceeding when we're all sitting here even indeed after
19 opening statements were made. And blatantly I admit I don't
20 have an answer to that, but I may come back tomorrow morning
21 and request some opportunity, some special consideration
22 from the Council regarding this issue. But it is of concern
23 to me that we're now having to change that very much, and I
24 do want to think about that and would like to ask the
25 Council for the possibility of some cross-examination of

1 this witness tomorrow morning.

2 JUDGE WALLIS: Very well. Because it is somewhat
3 speculative at the moment whether you will decide to pursue
4 this, I don't think we need to take a response and I think
5 we can conclude today's session with the exception of
6 possible recall to the stand in the event that Mr. Aramburu
7 seeks the opportunity for additional examination and in the
8 event the Council approves that, and, Mr. Spadaro, you're
9 excused from the stand.

10 We will be in recess now until 8:30 tomorrow
11 morning, and at that time we will take up again. Depending
12 on possible issues we will take up with Ms. Chaney.

13 * * * * *

14 (Whereupon, the hearing was adjourned at 5:30
15 p.m.)

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In re: Whistling Ridge Energy Project
Application 2009-01

A F F I D A V I T

I, Shaun Linse, CCR, do hereby certify that the foregoing transcript prepared under my direction is a full and complete transcript of proceedings held on January 3, 2011, in Stevenson, Washington.

Shaun Linse, CCR 2029

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the matter of)
Application No. 2009-01) Hearing Volume II
WHISTLING RIDGE ENERGY, LLC.) Pages 167 - 377
WHISTLING RIDGE ENERGY PROJECT)
_____)

A hearing in the above matter was held on Tuesday, January 4, 2011, at the Skamania Lodge, 1131 S.W. Skamania Lodge Way, in Stevenson, Washington at 8:30 a.m., before the Energy Facility Site Evaluation Council with C. Robert Wallis, Administrative Law Judge, presiding.

* * * * *

WHISTLING RIDGE ENERGY, LLC, Tim McMahan, Attorney at Law, Stoel Rives, LLP, 900 S.W. Fifth Avenue, Suite 2600, Portland, Oregon 97204; and Darrel Peeples, Attorney at Law, 325 Washington Street N.E., No. 440, Olympia, Washington 98506.

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REPORTED BY:

SHAUN LINSE, CCR
CCR NO. 2029

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9 SKAMANIA COUNTY and KLICKITAT COUNTY PUBLIC
10 ECONOMIC DEVELOPMENT AUTHORITY, Susan Drummond, Attorney at
11 Law, Law Offices of Susan Elizabeth Drummond, 1200 Fifth
12 Avenue, Suite 1650, Seattle, Washington 98101.

13 * * * * *

14 JUDGE WALLIS: Good morning. This is the January
15 4, 2011 session in the matter of EFSEC Docket No. 2009-01
16 in the matter of the application for Whistling Ridge Energy
17 Project. At the outset we've had an administrative
18 discussion, and in light of the fact that there are no
19 questions to be asked of witness Sarah McDaniel for prefiled
20 exhibits, they will be offered and received in evidence.

21 Mr. McMahan, is that satisfactory to do that now?

22 MR. McMAHAN: We have not prepared her sworn
23 confirmation testimony yet, but we will do that. She's not
24 scheduled to testify until I think Thursday anyhow.

25 JUDGE WALLIS: Very well. Yesterday we had

1 completed the examination of Mr. Spadaro and were in the
2 process of some procedural discussions.

3 Mr. Aramburu, I think you had one or two matters
4 pending.

5 MR. ARAMBURU: Yes, thank you.

6 How are we doing on the sound over there? Good?
7 Thank you.

8 First of all, just as a housekeeping matter, we
9 would move the admission of Exhibits 1.07c, 1.08c, 1.09c,
10 and 1.10c.

11 (Exhibit Nos. 1.07c, 1.08c, 1.09c, and 1.10c
12 offered into evidence.)

13 MR. KAHN: On the same line Exhibits 1.11C, 1.15C,
14 and 1.16C.

15 (Exhibits Nos. 1.11C, 1.15C, and 1.16C offered
16 into evidence.)

17 MR. ARAMBURU: Those matters were exhibits that
18 were referenced in the testimony of Mr. Spadaro yesterday so
19 we would move their admission. I take it that will be
20 necessary for all of the rebuttal exhibits that it will be
21 necessary for us to make a motion to admit those exhibits,
22 Mr. Wallis?

23 JUDGE WALLIS: My preference would be that all
24 exhibits would be moved and appropriately admitted into the
25 record, and that was Exhibits 1.15 and 1.16, is that

1 correct, in addition to the four that are on the December 31
2 exhibit list?

3 MR. ARAMBURU: Yes, that's correct.

4 JUDGE WALLIS: Very well. Is there any objection?

5 MR. McMAHAN: Well, I think I had heard you make a
6 ruling on that, Your Honor. I question whether sufficient
7 foundation was laid for a number of those exhibits, but I
8 heard that it's the Council's intention to admit most
9 exhibits into the record.

10 JUDGE WALLIS: No, I said appropriately admitted.
11 That is after the opportunity for objection and
12 consideration of any objections.

13 MR. McMAHAN: Well, thank you. And, you know, I'm
14 at a loss right now because I don't have my cheat sheet from
15 yesterday where I wrote -- I just found it. 1.11, yes, we
16 stipulated to that.

17 I want to make sure I'm totally understanding
18 what's happening here, Your Honor. I'm sorry. 1.15 is the
19 Skamania County ordinance. I believe that was the next one
20 on the list; is that correct? Yeah, 1.15 no objection, 1.16
21 no objection. Is it just the three?

22 MR. ARAMBURU: The three on our exhibits from
23 yesterday. We had the rebuttal exhibits that we submitted
24 earlier that Mr. Aramburu just spoke about.

25 MR. McMAHAN: So is it my understanding the

1 rebuttal exhibits previously are also admitted into the
2 record from yesterday?

3 JUDGE WALLIS: That's what we're considering right
4 now, yes.

5 MR. McMAHAN: Sorry. I'm still suffering from --

6 JUDGE WALLIS: Let's be off the record for a
7 moment.

8 (Discussion off the record.)

9 JUDGE WALLIS: Would it better to defer this until
10 after the break?

11 MR. McMAHAN: I would appreciate that, Your Honor,
12 yes.

13 JUDGE WALLIS: With that are we ready to proceed
14 with the next witness, Mr. Aramburu?

15 MR. ARAMBURU: Thank you, Mr. Wallis. At the
16 conclusion of yesterday's hearing, we noted that the
17 testimony of Mr. Spadaro included what was in essence
18 supplemental testimony concerning the number and size of
19 turbines which reflected in our view an apparent good faith
20 effort to try to mitigate impacts here; however, we have
21 been proceeding for the last year and a half, including
22 preparation of an environmental impact statement, with plans
23 that showed fifty 1.5-megawatt turbines. The announcement
24 of this change in plan was made after the hearing started,
25 after we all arrived here, after opening statements, and I

1 am disappointed that we were not given notice of this during
2 one of our many and lengthy prehearing conferences so that
3 we might have an opportunity to review and consider the
4 proposals. So that puts us in a bit of a dilemma because
5 the testimony, the change in the number of turbines create a
6 number of issues with respect to a number of witnesses.

7 For example, the size of the turbines now may well
8 have changed. We've done some calculations last night. In
9 fact the area of the turbines, the swept area of the blades
10 now seems to have substantially increased with the proposal
11 going from 77 meters to 100 meters as Mr. Spadaro testified.
12 I think there's going to be impact on noise issues, all of
13 which proceeded ahead on a 1.5-megawatt turbine.

14 The geologic issues proceeded on the basis of the
15 1.5-megawatt turbine, and the application requirements of
16 this Council adopted some time ago require that the
17 Applicant describe the characteristics of the construction
18 to occur at the proposed site, including the type, size, and
19 cost of the facility, and that's in your regulation
20 463-60-145.

21 So this kind of puts us into somewhat of a turmoil
22 with respect to upcoming witnesses. For example,
23 Mr. Smallwood, and I'll let Mr. Kahn discuss this, he has
24 done an analysis based upon 50 turbines with a 77-meter
25 swept area. Now we have a different set of turbines,

1 different areas, different things. More importantly we have
2 apparently a different alignment of turbines related to the
3 visual resources, and while that's principally the Friends'
4 issue I will make note that the Council and particularly the
5 Chair have been very concerned about making sure that when
6 we do have a site visit, we know what the turbines are, what
7 can be seen from where, and that's been a matter of concern
8 to the Council, and yet we have a new proposal that comes in
9 that lack any identification of where these turbines are
10 actually going to be.

11 So we think some consideration is due to
12 intervenors regarding this subject matter, and I have
13 several requests of the Council that I would like to make.
14 Again, this was not of our making. These materials came in
15 yesterday. So we would request a continuance for a
16 reasonable period of time to allow us to consider the
17 effects of this proposal, and that would follow the
18 direction, our requested direction from the Council that the
19 Applicant do indeed prepare a drawing and a diagram similar
20 to Exhibit 1.11c which is on the board which would indicate
21 at one time, one place just where all these things are.
22 This is a wind turbine project, and the most important thing
23 is how many wind turbines and where they are. We don't have
24 any kind of drawings of that.

25 We also request the opportunity to provide some

1 additional exhibits for some of the upcoming witnesses if
2 the continuance is not granted. For example, Mr. Nierenberg
3 who is the noise expert apparently now may be the person to
4 talk about these issues of spacing between the wind turbines
5 and the wake effects that Mr. Spadaro described in his
6 testimony yesterday.

7 So we would have leave of the Council to provide
8 some additional exhibits, but we also would like to have
9 leave of the Council to provide potentially some additional
10 witnesses on these subjects matters. And I'll be up front.
11 It does seem to me the question of this turbine spacing has
12 now been made a pretty major issue in these proceedings, and
13 if we can shrink the distance between the turbines it will
14 allows us to make many changes in this proposal that may
15 have significant effects on principal issues here which
16 concern the number of wind turbines and where they're
17 located.

18 So we make those what I count as four requests to
19 the Council in light of the circumstances here. I also make
20 note that the EIS has gone forward based upon the
21 1.5-megawatt turbines. The noise testimony that presumably
22 we're going to hear yesterday all appears to have been
23 presented based upon a 1.5-megawatt turbine and specific
24 distances from the individual turbines to the individual
25 noise receivers. So, again, we're put into a dilemma and

1 while I don't want to ascribe any ulterior motives to the
2 Applicant coming at the time that it does and impacting the
3 testimony of witnesses who have spent hundreds of hours and
4 thousands of dollars to prepare testimony, it would appear
5 to us to be a somewhat calculated maneuver in these
6 proceedings and I think inappropriate.

7 The Council is charged with making a
8 recommendation to the Governor, what things does the
9 Governor need to know. It seems to me where the turbines
10 are, how many we need, and where they're spaced is a
11 critical question.

12 The other matter that I want to bring up is that I
13 made objections yesterday to the testimony of Mr. Spadaro
14 and his continued reliance on confidential information which
15 is a net that keeps spreading out here to cover other items.
16 But the issues of wind speed and direction is a very
17 important issue here, and we would request the opportunity
18 to review just basic wind speed and direction information
19 which seems to be available to the Applicant to assist us
20 and to assist the Council in reaching a decision regarding
21 these wake effects and the other circumstances. Certainly
22 if this project can be reduced in size, reduced in scope,
23 that is to everyone's benefit.

24 So we make those requests. We do also have a
25 couple of additional questions for Mr. Spadaro. So those

1 would be our requests, Mr. Wallis. Thank you for listening
2 to me.

3 MR. PEEPLES: Are you ready for a response?

4 JUDGE WALLIS: Yes.

5 MR. PEEPLES: First of all, I don't think just
6 about anything counsel said is true. I want you to turn to
7 page 2.3-3 of the application. We have always described
8 this project as up to 50 turbines. We have always noted
9 that it will probably be less; that all the layouts, all
10 information were worst case. This is nothing new at all. I
11 would like to read from the application.

12 The project would consist of up to 50 turbines.
13 Because of the height and activity in the wind energy
14 industry pricing and availability of turbines are highly
15 variable; consequently, specific turbine type and
16 manufacturer has not been selected. However, it is likely
17 that the turbines would be in the range of 1.2 to
18 2.5 megawatts. I misquoted that and the range is in the
19 wrong place. And the range of key parameters such as
20 turbine height and diameter can be anticipated, even though
21 the turbine manufacturer is not yet known.

22 Then it goes on to say that our modeling that went
23 up to 426 feet tall, a 262-foot hub height, 160-foot radius
24 blades measured from the ground to the turbine blade tip.
25 We were putting in 100 meter blades, not 77.

1 You go to noise, the noise modeling that we did
2 was on a 1.8 megawatt. 50 to 60 hertz was the noisiest
3 thing on the market. This is a worst-case situation. There
4 is no surprise. I have personally talked with the Counsel
5 for the Environment, went over what's happened in past cases
6 and pointed out they'll probably be much bigger turbines and
7 less out there. What we were painting was a worst-case
8 situation. There is no change period.

9 And I don't think the questions, you know, and the
10 requests have any legitimacy at all. It is merely an
11 attempt to derail this project and cause time delay and more
12 money.

13 Number two, we tried to mitigate, you guys, and
14 you're seeing what's happened and so that's it. We could
15 make this change with this layout at the time of
16 construction if certified.

17 JUDGE WALLIS: Mr. Marvin, do you have any
18 comments?

19 MR. MARVIN: Well, I believe that there is some
20 interesting issues here, and I have some questions as to
21 whether the -- and I guess I would have to defer to the
22 experts on this as to what the value of the particular rows
23 representations are at this point. My understanding is that
24 they were "worst-case scenario" of fifty, 2.5-megawatt
25 turbines. My understanding is that if that was the case

1 that they would be only thirty 2.5-megawatt turbines. So
2 it's not really a worst-case scenario. It's a scenario
3 that's not even on the, you know, within the realm of
4 possibility with regard to the pictorial issues. And I just
5 offer that as kind of a common sense analysis that they're
6 not going to be building fifty 2.5-megawatt turbines out
7 there. They've agreed to the number 30 if they go ahead
8 with it.

9 I think that, yes, this strikes me as a good faith
10 attempt to mitigate visual impacts; unfortunately, I think
11 it also now that we have a little narrower focus in terms of
12 what we're looking at. It creates some problems with the
13 information that we have in front of us. Again, I would
14 defer to the expertise of the individuals who will be
15 testifying and to the Council in terms of their comfort with
16 regard to the exhibits that are brought forward on visual
17 impact. I haven't had the opportunity to consult with my
18 expert regarding biological impacts, but I suspect there's
19 probably going to be a change in his analysis.

20 But I do think that it is worth noting that, you
21 know, that it does appear like from before we do not have,
22 we do not have the visual impacts, we do not have materials
23 that represent the project as it is currently proposed.

24 JUDGE WALLIS: Thank you.

25 Ms. Drummond.

1 MS. DRUMMOND: Yes, Susan Drummond for Skamania
2 County and Klickitat County Economic Development Authority.

3 Just a very brief comment, I've been working on
4 wind development for close to a decade and have looked at
5 well over 17 applications for wind projects, and in every
6 project where I've seen a developer move from a lower
7 megawatt size turbine to a higher size megawatt to reduce
8 the total number of turbines in their project, it's always,
9 always been viewed as mitigation. I've actually never once
10 seen an objection to what is in fact a mitigation proposal
11 which produces impacts to the project.

12 Just one other note, you know, the developer never
13 specified the exact turbine size and model that they will
14 use in their application but provides a range as was done
15 here, and the reason for doing that is because what is
16 available on the market changes over time. So from our
17 perspective we definitely view this as mitigation, as a
18 positive, and certainly well within the application as it
19 was proposed. Thank you.

20 JUDGE WALLIS: Thank you.

21 MR. KAHN: Your Honor, if I may comment. We are
22 not objecting to the mitigation. We agree that less is
23 probably better, but we don't know and that's the problem.
24 Mr. Peeples said that it's never been 50. It's always been
25 up to 50. Well, exhibit whatever that is on the board there

1 is the document we got from the Applicant and it shows 50.
2 All of the visual simulations in the application and in the
3 testimony from all the witnesses refer to 50. I will
4 acknowledge that less is probably better, but even yesterday
5 Mr. Spadaro said the location of any turbines at this point
6 is hypothetical. He also said there would be less than 38
7 because they may go larger so we are constantly moving goal
8 posts.

9 Friends and SOSA have spent a considerable amount
10 of money on experts to analyze the application with all the
11 maps and all the visual simulations that showed 50 turbines.
12 We don't know which ones are being removed, where they are,
13 what the scenic impact is, what the impact to wildlife is.
14 As Mr. Aramburu pointed out the blades are bigger. It has a
15 larger swept area which likely has a significant increase on
16 avian and bat mortality. Dr. Smallwood has provided a
17 lengthy analysis based on the representations from the
18 Applicant as to the number and the approximate size of the
19 turbine. Everything has changed.

20 Again, we are not objecting to the mitigation. We
21 welcome it. We want an opportunity to evaluate it and to
22 determine whether it is consistent to enable to provide
23 information to help the Council to determine if it meets the
24 standard of minimizing adverse effects. At this point we
25 don't know what they are, and there's no meaningful

1 analysis, and we believe that a short continuance would be
2 appropriate to give us an opportunity to look at that.
3 There's been no analysis of visual impacts that is
4 apparently now the present proposal, and that's absolutely
5 necessary. We also have an EIS which was largely based upon
6 50 turbines. So you've got information in the EIS that is
7 apparently out of date now. We think a short continuance is
8 appropriate to address this.

9 MR. McMAHAN: Your Honor, if I might make two
10 quick responses here. I promise it will be short.

11 First, you know, Mr. Kahn just verified the
12 concerns that I've had about that map. We gave turbine
13 location data in response to discovery requests; that you
14 will recall they requested UTM data that was used for the
15 visual assessments. We provided that to them. So hence
16 they have overlaid that discovery response onto a map that
17 was never in the public record. That is not in the
18 application materials, and that has never been anything
19 other than a combination of the corridors from -- Mr. Kahn,
20 I'd like to finish.

21 MR. KAHN: I didn't say anything.

22 MR. McMAHAN: Never been a response to -- that has
23 never been submitted. We have never ever represented that
24 those locations will be built, and Mr. Spadaro's testimony
25 is quite clear about the micro-siting considerations for

1 final siting of turbines.

2 The other piece I would like to say is this
3 Council will remember in the Kittitas Valley case where we
4 minimized the impacts of that project by sizing it down. We
5 had the opponents arguing you didn't do visual modeling of
6 that downsized minimized mitigated project. They argued
7 that all the way to the Supreme Court and they lost. The
8 Supreme Court said it was appropriate mitigation. The
9 Council's determination was appropriate. We didn't have to
10 keep modeling and modeling and modeling a smaller and
11 smaller and smaller project because what you have is a
12 visual assessment of something that Mr. Marvin correctly
13 stated is never going to be built and just simply look at
14 the visual simulations if you want and imagine a lot less
15 turbines, and that's sufficient information for
16 consideration of the project.

17 JUDGE WALLIS: Very well. I think we're prepared
18 to rule at this time. I'll take Mr. Aramburu's request and
19 motion for the four items of relief that he requested, and
20 that motion is denied. The proposal appears to the Council
21 to be very consistent with the application. Consistent with
22 the process of developing the application to mitigate
23 matters is consistent as Council notes with prior
24 proceedings in which comparable changes have been suggested,
25 and what we have is a result as Mr. Marvin notes that it is

1 mitigated from the original proposal which all the way
2 through has been up to the stated number of turbines.

3 So I will grant leave to reopen the motion if the
4 witnesses in this proceeding indicate that there would be a
5 substantial adverse effect from this; that is, was not of
6 the sort indicated in the application. Apart from that, the
7 motion is denied.

8 MR. KAHN: One comment, if I may, Your Honor.

9 JUDGE WALLIS: Mr. Kahn.

10 MR. KAHN: You just indicated that you'd grant
11 leave to reopen if the witnesses indicate that there will be
12 adverse effects from the new proposal. We don't know what
13 the new proposal is. Mr. Spadaro yesterday said that any
14 turbine location at this point in terms of size, location,
15 number is hypothetical so how can the witness talk about
16 adverse impacts on something that we don't know what it is?

17 JUDGE WALLIS: The fact is as I believe
18 Mr. McMahan indicated that all wind project proposals are
19 based upon what has been referred to here as a worst-case
20 scenario, and it is only after approval of a project that
21 final locations of turbines and final equipment can be
22 determined. So the review of this application and the
23 environmental review are being based upon this worst-case
24 scenario in which the turbine tower heights are the maximum,
25 the number of turbines is the maximum, and so on. So we

1 find no adverse effect to your clients by reduction in the
2 environmental consequences of the application.

3 So now does the Applicant wish to respond to
4 Mr. Aramburu's objection to the lack of certain information?

5 MR. McMAHAN: At this point I think I have lost
6 track of what that was, and I am wondering if we haven't
7 already addressed it.

8 JUDGE WALLIS: Mr. Aramburu, would you like to
9 restate that.

10 MR. ARAMBURU: Well, there were two requests for
11 information I made. One is that we have in front of us a
12 drawing that shows what the current proposal is so that at
13 least we have that identified.

14 JUDGE WALLIS: Let me clarify. I believe I heard
15 counsel for the Applicant say that this drawing does not
16 represent what the current application is. Did I hear that
17 correct?

18 MR. McMAHAN: That is correct.

19 MR. ARAMBURU: And I understand that, but I think
20 it would be useful for direction to the Applicant to prepare
21 a drawing that will tell us once and for all what the
22 proposal is so we have that in front of us. So that was my
23 first request. My second request --

24 JUDGE WALLIS: Let's stop here and take these
25 items one by one.

1 MR. McMAHAN: Your Honor, this Council will recall
2 in the Kittitas Valley case that the county came in and said
3 where's the final site plan. Those were the words they
4 used, final site plan. We can't manage how to address the
5 impacts of the proposal until a final site plan with final
6 locations is proposed. The same argument is being made
7 here, the same argument's been addressed, the same argument
8 was addressed by the Supreme Court. That is a frivolous
9 argument to make here in these proceedings.

10 MR. ARAMBURU: If we don't know where they are,
11 then I don't know how we can proceed so.

12 JUDGE WALLIS: The information on the precise
13 location is not available at this point in the proceeding,
14 and the application is being processed, the environmental
15 review is being processed on the basis of the approximate
16 locations and the information relating to what has been
17 referred to as a worst-case scenario. So that motion is
18 denied.

19 MR. ARAMBURU: My second motion was to direct the
20 Applicant to make available to us information regarding wind
21 speed and direction for this site. My request in that
22 regard has to do with the testimony from Mr. Spadaro.
23 Mr. Spadaro indicated yesterday that the distance between
24 the individual turbines is a function of wake effect which
25 is directly related to the wind direction and speed. And so

1 that if the wind direction and speed is from a certain
2 direction that affects the distance between the turbines
3 that it may allow the reduction of this distance between the
4 individual turbines. We don't have that information.

5 Mr. Spadaro apparently does, and we would request that wind
6 rose information that identifies the prevailing winds, the
7 percentage of the time those winds passing over the site be
8 made available to us so that we can respond appropriately to
9 the question that is going to be an important question here
10 as to how tightly these individual turbines can be placed
11 together.

12 So we're not asking for any economic information.
13 We are not asking for any proprietary information but
14 information as to wind speed, direction, duration, common
15 wind rose information we think is appropriate to be provided
16 to us.

17 MR. McMAHAN: Two things, Your Honor, two main
18 things. First of all, this Applicant is not going to build
19 a project with turbines that are subject to too much wake
20 effect. Some of that isn't even determined until
21 micro-siting quite frankly. You're aware of that.

22 Secondly, we've been down this road over and over
23 and over again. The opponents litigated, relitigated, asked
24 for reconsideration over and over this issue on confidential
25 data. Wind direction, wind speed, met tower information was

1 all subject to that discovery request, and this Council has
2 already made a ruling on it. That is highly proprietary,
3 trade secret, confidential data which if it's poised in this
4 public arena it becomes available to any, any competitor or
5 any utility to judge the merits of its application to
6 fashion their own response to proposals or requests for
7 proposals accordingly. That is highly inappropriate to be
8 offered into evidence and frankly it is completely
9 irrelevant as we argued before. It is immaterial.

10 Given the fact that we are permitting corridors
11 here that are being considered for environmental review on
12 their own merits, it's irrelevant whether the wind regime is
13 in any particular configuration, in any particular place.
14 You know, frankly SOSA proved yesterday through the
15 Northwest Seed maps this is a really windy site. In terms
16 of where on this site particular class 6, class 4, class 5
17 winds are, you know, that is information to some extent is
18 known, to some extent it isn't. The extent it is, is based
19 upon meteorological data which is confidential and you
20 already ruled accordingly.

21 JUDGE WALLIS: Very well. This request is also
22 denied for the reasons stated by Mr. McMahan. It was
23 subject of a discovery and the discovery disallowed. Much
24 of the information is not available as your
25 cross-examination demonstrated yesterday, and that kind of

1 study is undertaken to engage in what's called the
2 micro-siting and placement of individual turbines once a
3 project is approved. You do, of course, have leave to
4 inquire of experts during their testimony about the general
5 concerns to which counsel and Mr. Spadaro have cited
6 yesterday.

7 MR. ARAMBURU: My motion is denied then.

8 JUDGE WALLIS: You indicated you had questions to
9 ask Mr. Spadaro?

10 MR. ARAMBURU: We have a couple additional
11 questions.

12 MR. McMAHAN: Your Honor, may I just ask a
13 clarifying question here? I believe this is recross, and
14 I'm wondering if they will be held to the scope of prior
15 redirect from other parties?

16 JUDGE WALLIS: Yes.

17 MR. McMAHAN: And the Council which was none. So
18 this is held to the scope of any other cross-examination of
19 other parties?

20 JUDGE WALLIS: Yes.

21

22 JASON SPADARO,
23 having previously been first duly sworn on oath,
24 testified as follows:

25

1 costs and values of the project. Those are not based upon
2 final turbine quotes. As we've stated we do not have final
3 turbines selected and quotations on the cost of those
4 turbines. We have estimates in the model that another party
5 has sponsored that will be appropriate for you to ask that
6 party the question.

7 Q. The question for you: You're project manager here
8 as I understand for this project, and what is this project
9 going to cost with the 38 turbines?

10 A. Again, our cost estimates are within a range. I
11 think the application sponsored this question estimated it's
12 on the order of \$150 million project cost to construct. I
13 believe from memory that that is somewhat accurate, in the
14 ball park.

15 Q. Again, was that for the 50-turbine proposal?

16 A. That's for a 75-megawatt project with a 230 kV
17 interconnection. That is not for a specific layout. Again,
18 our application did not specify a particular layout of
19 turbines or particular number. Our modeling of visual impact
20 and other impacts assumed 50 turbines in a worst-case
21 scenario.

22 Q. Let me ask you this question which is a more simple
23 one I guess. Is there any change in cost from going to 50
24 turbines, to fifty 1.5 megawatt turbines to I think your
25 number was thirty-eight 2-megawatt turbines, more or less or

1 the same?

2 A. Indeterminable. Let me try to answer the question
3 as simply as I can. The turbine, the type of turbine, the
4 size of the turbine is going to vary in cost by the vendor
5 and the supplier of the turbine. Larger turbines may be more
6 expensive at a particular time in the marketplace. Smaller
7 turbines may be less expensive at a particular time in the
8 marketplace. It all depends upon supply and demand which is
9 indeterminable at the present time.

10 The application shows estimated costs and economic
11 benefits to the county based upon some generalized numbers.
12 I cannot answer your question whether going with fewer
13 larger turbines increases the cost or decreases the cost
14 until we have final turbine quotations.

15 Q. But it is the case that you're going to be saving a
16 total of 12 foundations for the turbines no matter what we
17 end up with. Is that not the case?

18 A. Offset by other factors that may increase the cost.

19 Q. Well, such as?

20 A. Transportation of larger turbines have different
21 characteristics. There are a number of variables that go
22 into the turbine cost and cost of construction.

23 JUDGE WALLIS: Mr. Aramburu, this line of
24 questioning appears to go over the same ground that was
25 covered yesterday. I'm wondering if you have specific

1 questions relating to topics that were raised by other
2 counsel on cross; otherwise we can conclude this.

3 MR. ARAMBURU: Okay. That's all the questions
4 that I have.

5 MR. KAHN: Your Honor, I have three brief
6 questions.

7 CROSS-EXAMINATION

8 BY MR. KAHN:

9 Q. Mr. Spadaro, if the project is downsized from 50 to
10 38 or some smaller number the exterior boundaries of the
11 project will not change; is that correct?

12 A. That is correct.

13 Q. You have a laser pointer in front of you there?
14 Could you on the map on the left which is from Figure 2.1.1
15 from the application, can you just with the laser pointer
16 show where Underwood Mountain, if you know where it is on
17 that map.

18 A. For the record the --

19 MR. PEEPLES: Your Honor, I object to this line of
20 questioning. It's going back to the same thing that he did
21 on his direct. This is outside the scope of any of the
22 other cross-examination after he asked his questions. We're
23 going over old things again.

24 MR. KAHN: I would have been done now, been
25 finished. Mr. Marvin asked several questions about the

1 nature of the wind up there and so did Mr. Cantrell about
2 the nature of the wind in various aspects of the project. I
3 have three questions. One of them was asked. I have two
4 brief more on the same subject.

5 JUDGE WALLIS: It does strike me that this is
6 rehashing the material that was covered yesterday, and the
7 nature of the witness's knowledge about the specific winds
8 and specific locations has been explored at length.

9 MR. KAHN: And I'm not asking him about the nature
10 of specific winds, in the specific locations. I'm asking
11 him to point out Underwood Mountain. I did not question
12 about wind speed.

13 JUDGE WALLIS: What is the relevance of that?

14 MR. KAHN: To show it's tied into some of the maps
15 that are in evidence, and it's tied to both Mr. Cantrell's
16 questions about the ability to move some of the turbines
17 because of wind.

18 MR. PEEPLES: Your Honor, nobody mentioned that
19 mountain.

20 MR. KAHN: If I could have been allowed to ask the
21 question we would have been done five minutes ago.

22 JUDGE WALLIS: Very well. I believe that we are
23 getting off into an area here that is not shown to have
24 relevance to the elements of the project that the Council is
25 reviewing, and we'll rule that the question is not

1 appropriate. Does that conclude your examination?

2 MR. KAHN: You just said the questions weren't
3 appropriate so I guess it does.

4 JUDGE WALLIS: Very well. Mr. Spadaro, you are
5 excused from the stand unless the Applicant has further
6 questions.

7 MR. McMAHAN: No, Your Honor.

8 JUDGE WALLIS: Let's be off the record while
9 Ms. Chaney comes forward.

10 (Off the record.)

11 JUDGE WALLIS: Let's be back on the record on the
12 record, please.

13 The Applicant called Ms. Katy Chaney to the stand.
14 In conjunction with Ms. Chaney's appearance the Applicant
15 has submitted four documents: the testimony of Katy Chaney,
16 the resume of Katy Chaney, Certificate of Land Use
17 Consistency 2009-22, and Certificate of Land Use Consistency
18 2009-54 which are numbered Exhibits 2.00, 2.01, 2.02, 2.03
19 respectively.

20

21 KATY CHANEY,

22 having been first duly sworn on oath,

23 testified as follows:

24

25 ///