

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of )  
Application No. 2006-02 )  
DESERT CLAIM WIND POWER, LLC ) Adjudicative Hearing  
DESERT CLAIM WIND POWER PROJECT ) Pages 1 - 14  
\_\_\_\_\_)

An Adjudicative Hearing in the above matter was held on Monday, July 13, 2009, at the Hal Homes Community Center, 209 North Ruby Street, in Ellensburg, Washington at 10:00 a.m., before the Energy Facility Site Evaluation Council members.

\* \* \* \* \*

DESERT CLAIM WIND POWER, Karen McGaffey, Attorney at Law; and Kelly Moser, Attorney at Law Perkins Coie, LLP, 1201 Third Avenue, Suite 4800, Seattle, Washington 98101.

COUNSEL FOR THE ENVIRONMENT, H. Bruce Marvin, Assistant Attorney General, Office of the Attorney General, P.O. Box 40100, Olympia, Washington 98504-0100.

KITTITAS COUNTY, Neil Caulkins, Deputy Prosecuting Attorney, 205 West 5th Avenue, Suite 213, Ellensburg, Washington 98926-2887.

Reported by:

SHAUN LINSE, CCR

CCR NO. 2029

1 APPEARANCES (Cont'd):

2 ECONOMIC DEVELOPMENT GROUP, Ron Criddlebaugh,  
3 Executive Director, P.O. Box 598, Ellensburg, Washington  
4 98926-0598.

5 \* \* \* \* \*

6 JUDGE WALLIS: This hearing will please come to  
7 order. Good morning, Ladies and Gentleman. This is the  
8 adjudicative hearing in Council Matter 2006-02, an  
9 application to Desert Claim Wind Power, LLC, for  
10 certification for the site and construction of a wind power  
11 electric generation facility in Kittitas County, Washington.  
12 This is an adjudicative hearing. It is required by law to  
13 receive evidence about the proposal. This hearing is being  
14 held according to due and proper notice on July 13, 2009 at  
15 the Hal Holmes Community Center in Ellensburg, Washington.

16 My name is Robert Wallis. I am the Council's  
17 Administrative Law Judge for this proceeding and for  
18 purposes of the record would like to identify Council  
19 Members at this time who are present today. To my immediate  
20 right is Council Chair Jim Luce.

21 Other Council Members are and I'd like you to  
22 raise your hand when I identify you. Hedia Adelsman from  
23 the Department of Ecology; Dick Byers for the Utilities and  
24 Transportation Commission; Ian Elliot, Kittitas County; Dick  
25 Fryhling, Community Trade and Economic Development; Mary

1 McDonald, Department of Natural Resources; and Jeff Tayer of  
2 the Washington Department of Fish and Wildlife.

3 There are other persons from EFSEC in the room  
4 today. The EFSEC counsel which is Assistant Attorney  
5 General Kyle crews is present on my immediate left, and  
6 EFSEC staff includes Allen Fiksdal, Stephen Posner, Jim La  
7 Spina, and Tammy Talburt.

8 Now let's take appearances from the parties'  
9 representatives who are here this morning, and I'm going to  
10 ask you for the record to state your name, your title, and  
11 name of the client that you represent beginning with the  
12 applicant.

13 MS. McGAFFEY: Karen McGaffey and Kelly Moser from  
14 Perkins Coie representing Desert Claim.

15 JUDGE WALLIS: Counsel for the Environment.

16 MR. MARVIN: H. Bruce Marvin, Assistant Attorney  
17 General, Counsel for the Environment.

18 JUDGE WALLIS: Community Trade and Economic  
19 Development. I note that Ms. Blado is not present this  
20 morning.

21 Economic Development Group of Kittitas County.

22 MR. CRIDLEBAUGH: Ron Cridlebaugh, Executive  
23 Director for the Economic Development Group.

24 JUDGE WALLIS: And Kittitas County.

25 MR. CAULKINS: Good morning, Your Honor. Neil

1 Caulkins, Deputy Prosecuting Attorney representing Kittitas  
2 County.

3 JUDGE WALLIS: Thank you. Let's begin this  
4 morning by discussing the process for today's hearing  
5 session. At the prehearing conference on July 8 the parties  
6 indicated that they would present no cross-examination of  
7 any of the testimony that has been prefiled and that they  
8 would present no rebuttal evidence. No witnesses are  
9 present here this morning, although we do have a  
10 telecommunication link by which it would be possible we  
11 understand to direct questions to them, but I'm wondering if  
12 the parties are willing to offer the prefiled evidence by  
13 stipulation this morning.

14 MS. MCGAFFEY: Yes, Your Honor.

15 MR. MARVIN: Yes, Your Honor.

16 MR. CRIDLEBAUGH: Yes, Your Honor.

17 JUDGE WALLIS: Mr. Caulkins?

18 MR. CAULKINS: Yes, Your Honor. We have not  
19 prefiled any testimony.

20 JUDGE WALLIS: Very well. Do we have individual  
21 motions for evidence from the parties or will this  
22 acknowledgment satisfy you for purposes of the record?

23 MS. MCGAFFEY: It satisfies us, Your Honor.

24 JUDGE WALLIS: Very well. We have distributed an  
25 exhibit list dated July 13 which contains a list of the

1 prefiled evidence. I noted that Exhibit 20 has been  
2 reserved for an agreement between the Applicant and the  
3 Washington Department of Fish and Wildlife, and it's my  
4 understanding that that document is not available for  
5 presentation this morning. With that exception, the parties  
6 have stipulated to receipt in evidence all the documents  
7 listed in this list, and I propose that we mark this list  
8 itself as Exhibit 6 for identification and include it in the  
9 record for purposes of clear identification of the documents  
10 that are received. Is that acceptable to the parties?

11 MR. MARVIN: Yes, Your Honor.

12 MR. CAULKINS: Yes, Your Honor.

13 MR. CRIDLEBAUGH: Yes, Your Honor.

14 MS. MCGAFFEY: Yes, Your Honor.

15 JUDGE WALLIS: Very well. With that, the exhibit  
16 list including Exhibit 6, the list itself, and excluding  
17 Exhibit No. 20, which is reserved, the documents are  
18 received in evidence.

19 (Exhibit No. 6 marked for identification and  
20 admitted into evidence.)

21 JUDGE WALLIS: With regard to Exhibit 20,  
22 Ms. McGaffey, could you state for the record the status of  
23 that document and your proposal for presenting it to the  
24 Council.

25 MS. MCGAFFEY: Exhibit 20 is the number that's

1 been reserved for an agreement between the Applicant and the  
2 Department of Fish and Wildlife. It is still in the process  
3 of being negotiated. We had hoped that we would have had  
4 that completed by this morning, but unfortunately we don't.

5 My proposal is that as soon as we are able to  
6 provide -- as soon as an agreement gets signed, we will  
7 provide copies to the Council and we would be happy at any  
8 point that's mutually convenient for the parties and the  
9 Council to make somebody available to answer questions, if  
10 there are questions either in an in-person meeting session,  
11 hearing session such as this, or by conference call,  
12 whatever is convenient for the parties and the Council.

13 JUDGE WALLIS: Very well. Do any of the parties  
14 have any comments on this?

15 MR. MARVIN: No, Your Honor.

16 JUDGE WALLIS: Very well. My proposal is that in  
17 light of your indication that it could be available today to  
18 reserve decision on that until the evening session. At the  
19 conclusion of that session we will handle this as an  
20 administrative matter, and if it is available it may be  
21 possible during that evening session to have Mr. Steeb  
22 respond to any questions. I do note that the Council  
23 Members are interested in this document and they have  
24 questions about it, particularly since it has not been  
25 available to the Council Members for identification, and

1 there may be questions and would ask that if the document is  
2 available it would be provided as early as possible so that  
3 the Council Members can examine it.

4 MS. MCGAFFEY: Yes, Your Honor, I will do that.

5 JUDGE WALLIS: We have alluded to the public  
6 comment hearing this evening which will begin at 7:00 p.m.  
7 in this room. Following that there will be a further public  
8 comment hearing on July 21, 2009 in Seattle. That also may  
9 afford an opportunity for Council Member questions on  
10 Exhibit No. 20.

11 Is there anything further that the parties or the  
12 Council would like to do at this time?

13 Mr. Byers, I understand that you have a question  
14 for Mr. Steeb. Would it be acceptable to the Council and to  
15 the parties if we undertake that question right now?

16 It appears that that is the case.

17 Mr. Steeb, would you raise your right hand.

18 (David Steeb sworn on oath.)

19 JUDGE WALLIS: Ms. McGaffey, could you identify  
20 and qualify the witness, please.

21

22 DAVID STEEB,

23 having been first duly sworn on oath,

24 testified as follows:

25 ///

1 DIRECT EXAMINATION

2 BY MS. MCGAFFEY:

3 Q. Could you please state your name for the record.

4 A. David Steeb.

5 Q. Your business address, please.

6 A. It's 430 Pearl Street here in Ellensburg.

7 Q. Can you explain what your title position with  
8 respect to the project is.

9 A. I am the project director for Desert Claim.

10 Q. You have previously filed prefiled testimony in  
11 this matter. Correct?

12 A. That's correct.

13 Q. Is the written testimony that you filed in this  
14 matter does it contain the same answers that you would give  
15 today under oath if you were asked the same questions?

16 A. Yes, it does.

17 MS. MCGAFFEY: Your Honor, if that's sufficient,  
18 Mr. Steeb is available.

19 JUDGE WALLIS: Mr. Byers.

20 MR. BYERS: I just have one question. Mr. Steeb,  
21 referring to your Exhibit No. 11, which is your direct  
22 testimony, do you have that?

23 THE WITNESS: Yes, I have it with me.

24 MR. BYERS: Page No. 19 beginning on Line 20 or  
25 thereabouts it has to do with the agreement of the fire



1 district.

2 THE WITNESS: That's correct.

3 MR. BYERS: I was wondering if you could advise us  
4 about the status of the discussion with Fire District R and  
5 just elaborate a bit there on if this is a commitment that  
6 the Applicant is making with respect to its agreement or  
7 just what the status is.

8 THE WITNESS: Yes, I would be glad to. I'd like  
9 to back up a little bit and talk about where the project is  
10 located. As you see about half the project is already  
11 located in this fire district; therefore, it would be  
12 covered as if there was a house or any other structure. The  
13 other half of the project outside of the fire district is  
14 outside of this fire district and outside of other fire  
15 districts; therefore, it would not at this current time is  
16 not covered along with anything else that's located out  
17 there.

18 Part of our statements here and part of our  
19 long-term plan to have fire service include the whole  
20 project. Both part of it that's within the fire district,  
21 the Kittitas Valley Fire Rescue and also the better word  
22 unincorporated area, and that will be done under contract.  
23 We've had a contract with them in the past, but due to the  
24 new layout, due to wanting to see where we end up finally  
25 with our agreements we will be entering into a contract with

1 them. We've started negotiations with them, but we will be  
2 entering the contract with them in agreement with them to  
3 provide fire services across the entire project.

4 MR. BYERS: So I could take that it would be on  
5 the part of the Applicant.

6 THE WITNESS: This project will have a fire  
7 service provider across the whole project, whether it's  
8 within the boundaries of the fire service or taking that  
9 outside the fire service area.

10 MR. BYERS: Okay. Thank you, Mr. Steeb.

11 THE WITNESS: You're welcome.

12 JUDGE WALLIS: Is there anything further of the  
13 witness?

14 Let the record show that there is not so, Mr.  
15 Steeb, you are --

16 MR. ELLIOT: I have a question.

17 JUDGE WALLIS: Mr. Elliot.

18 MR. ELLIOT: Sorry. I will speak loudly. I'm new  
19 to this process so I'm not sure when I can ask questions and  
20 when I can't ask questions. But I noticed in the testimony  
21 it talked about the road system, and my question is the  
22 roads that are internal and the ones that are external to  
23 the project leading up to the project are those going to  
24 meet the county road standards that's currently approved by  
25 Kittitas County?

1 THE WITNESS: Member Elliot's question was on the  
2 road systems. I'd like to address that in two parts. As  
3 you see in our map there are county roads that go through  
4 the project, for example, the Reecer Creek Road. That is a  
5 county road. That road we will follow the procedures that  
6 this Council has established in other projects in both  
7 monitoring the road, taking photographs, seeing where the  
8 condition is, and in all cases probably upgrading some of it  
9 because of the heavier traffic that's normally not there,  
10 and then roads will be brought back to county standards. So  
11 that portion, the portion of the public roads that are out  
12 there will remain public and at the end of the project be  
13 brought back to the county standards.

14 Within the project itself those roads will not be  
15 county standard, but they will be our standards which are  
16 fairly high for gravel roads because, again, of the traffic,  
17 the weight of the trucks, things like that.

18 MR. ELLIOT: The county does have a minimum  
19 private road standard also as well as public road standards.  
20 That was the reason I asked that. So your standard is not  
21 necessarily the county private road standards.

22 THE WITNESS: The only thing I'm aware of on the  
23 county road standards is of the entrances and the egress  
24 areas of that.

25 MR. ELLIOT: Okay.

1 THE WITNESS: I would very much like to see what  
2 the county road standards are. I believe their standards is  
3 what we would put on as private roads, gravel roads as they  
4 are.

5 MR. ELLIOT: What is the mitigation?

6 THE WITNESS: What was the question?

7 MR. ELLIOT: The private road standard I believe  
8 is a 19-foot road and the present road is 15 feet and I was  
9 just concerned about that.

10 THE WITNESS: Part of that gets back to the  
11 balancing issue that we have in dealing with Fish and  
12 Wildlife guidelines dictating parcels, etc. --

13 MR. ELLIOT: Okay.

14 THE WITNESS: -- and how the Council would like to  
15 address that. I think they've addressed it in past  
16 certifications with both of the other projects that we are  
17 very amenable to do the same with our roads with the project  
18 within this county.

19 MR. ELLIOT: Okay.

20 JUDGE WALLIS: Is there anything further?

21 Let the record show that there is no response and  
22 consequently this hearing is in recess until 7:00 p.m. this  
23 evening in this room. Thank you all very much.

24 \* \* \* \* \*

25 (Adjudicative hearing adjourned at 10:18 a.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

WITNESS	EXAMINATION	PAGE
DAVID STEEB	Direct by Ms. McGaffey	8

E X H I B I T S

NO.	DESCRIPTION	ID	AD	REJ
6	Exhibit List of July 8, 2009	5	5	

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

In re: Desert Claim Wind Power Project

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 July 13, 2009, in Ellensburg, Washington.

---

Shaun Linse, CCR 2029