

**BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of:
Application No. 2003-01

SAGEBRUSH POWER PARTNERS, L.L.C.

KITTITAS VALLEY
WIND POWER PROJECT

PREHEARING ORDER NO. 24

COUNCIL ORDER NO. 821

PREHEARING CONFERENCE ORDER
REGARDING STATUS OF PREHEARING
MATTERS.

Nature of the Proceeding: This matter involves an Application from Sagebrush Power Partners, LLC (the Applicant), to the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) for certification to construct and operate the Kittitas Valley Wind Power Project (Project), an approximately 182-megawatt wind turbine electrical generation facility. The proposed Project would be located within Kittitas County, on the ridges on either side of Highway 97, roughly 12 miles northwest of the city of Ellensburg. An adjudicative hearing on this matter is scheduled to commence in September, 2006, in Ellensburg, Washington.

Procedural Setting: The Council convened a prehearing conference on Wednesday July 12, 2006, at approximately 4:10 p.m., in Ellensburg, Washington, pursuant to due and proper notice. The prehearing conference was held before Council Chair James Luce and Councilmembers Richard Fryhling (Department of Community, Trade, and Economic Development), Chris Towne (Department of Fish and Wildlife), Judy Wilson (Department of Natural Resources), and Patti Johnson (Kittitas County). Councilmembers Tim Sweeney (Utilities and Transportation Commission) and Hedia Adelman (Department of Ecology) were excused. Administrative Law Judge Adam Torem conducted the hearing.

The purpose of the prehearing conference was to receive a status report from the Applicant and parties regarding upcoming prehearing filings, and other procedural matters.

Participants: The Parties were present as follows:

The Applicant, Sagebrush Power Partners, LLC: Darrel Peeples, Attorney at Law, Olympia, Washington; Timothy McMahan, Attorney at Law, Vancouver, Washington; Erin Anderson, Attorney at Law, Ellensburg, Washington; Chris Taylor, Horizon Wind, Portland Oregon; and Dana Peck, Horizon Wind, Portland, Oregon.

Counsel for the Environment (CFE): Michael S. Tribble, Assistant Attorney General, (AAG), Olympia, Washington (by phone).

Kittitas County: James Hurson, Deputy Prosecuting Attorney, Ellensburg, Washington; and Darryl Piercy, Director, Kittitas County Community Development Services, Ellensburg, Washington.

Residents Opposed to Kittitas Turbines (ROKT): Ed Garrett, Lay Representative, Snohomish, Washington.

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

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

Ex-Parte Disclosures

Judge Adam Torem Reported on the record that the Councilmembers present at today's conference also all attended today's dedication of the Wild Horse Wind Power Project. As part of this event, the Councilmembers also participated in a site tour of the Wild Horse Project.

Councilmember Patti Johnson reported on the record that she has been contacted by another wind power developer regarding siting a wind project on Kittitas County land that she supervises and manages as interim Solid Waste Director for the County. This project has no connections to the Kittitas Valley Project. Adam Torem further explained that this new developer has not submitted an application to EFSEC nor to Kittitas County at this point in time. Darryl Piercy confirmed that other County personnel have had several contacts with the developer about this new project.

Schedule for Prehearing Filings

Judge Torem reviewed the dates for submittals agreed to in Prehearing Order No. 23 (Council Order No. 820). Darrel Peeples confirmed that the Applicant was on track with its submittal of supplemental testimony scheduled for July 18, 2006.

Deputy Prosecuting Attorney Hurson informed Judge Torem and the Council that he had submitted an informal discovery request to the Applicant but has yet to receive a response. Mr. Hurson indicated that he was considering submitting a formal discovery request to the Council by Monday July 17th, following the process set out in Council Order No. 790. Mr. Hurson explained that the County can not meet its August 15th filing date with discovery on-going. Mr. Hurson clarified that his request addressed the following issues: whether all other viable project locations have been investigated, and the exact description of the project for which preemption is being sought. Mr. Hurson indicated that he also wanted to raise the reasonableness of the hearing schedule set in this matter.

Mr. Peeples responded that the Applicant received the request the prior Thursday, and would be preparing a response. Mr. McMahan clarified that he expected the Applicant's prefiled testimony

(due on July 18th) would address much of the discovery request. A response to the request would be submitted to the Applicant next Monday or Tuesday.

Judge Torem suggested that the County wait until the Applicant submitted its supplemental prefiled testimony on the 18th, and that time for a telephonic discussion be reserved on Thursday or Friday of next week to determine if any issues regarding discovery remained unresolved. At that time the procedure in Council Order No. 790 could be implemented to resolve remaining disputes.

Judge Torem asked parties present if any other issues required discussion. Mr. Lathrop responded that he shared the County's concerns regarding the timeframe leading up to the adjudicative hearings, and the lack of consistency between the project that was reviewed by the County, and the proposal that is now before the Council.

Concluding this discussion, Judge Torem set the submittal of rebuttals to supplemental prefiled testimony on Thursday August 31st, with all parties filing concurrently.

Witness Schedules

Mr. Peeples proposed that the witness schedules be set using the process that had been initiated earlier in this matter. However, he felt that parties would only be ready to set witness cross examination times once all of the prefiled testimony and rebuttals have been submitted. At that time he would circulate a matrix to the parties so that each could evaluate the cross-examination time needed for each witness. Judge Torem requested that the Counsel for the Environment participate in the witness scheduling process, to ensure that the schedule that is set is fair to all parties. Mr. Tribble accepted.

Other Procedural Matters

Mr. Hurson reiterated the reasons he had for requesting that Council member Johnson disclose discussions she has had with the developer of another wind project.

After brief discussion amongst the parties and EFSEC staff, it was decided that the public testimony sessions would be scheduled for the Wednesday and Thursday of the first week of hearings, September 20 and 21.

No other business was brought before the Council.

Next Prehearing Conference

Scheduling of the next prehearing conference was postponed pending the outcome of the discovery issues.

The prehearing conference was adjourned at 4:55 p.m.

Notice to Parties: Unless modified, this prehearing conference order shall control all further proceedings in this matter. In accordance with WAC 463-30-270(3), any objections to this order must be stated within ten days after the date of mailing of this order.

DATED and effective at Olympia, Washington, the 31st day of August, 2006.

Adam Torem, Administrative Law Judge