

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the matter of: )  
Application No. 2003-01 )  
SAGEBRUSH POWER PARTNERS, LLC, ) Prehearing Conference  
KITTITAS VALLEY WIND POWER PROJECT ) Pages 1 - 46

A prehearing conference in the above matter was held in the presence of a court reporter on June 26, 2003, at 1:00 p.m., at the Kittitas County Fairgrounds, in Ellensburg, Washington, before Energy Facility Site Evaluation Council Members.

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The parties were present as follows:

SAGEBRUSH POWER PARTNERS, LLC, Darrel Peebles, Attorney at Law; 325 Washington Street N.E., Suite 440, Olympia, Washington 98501.

COUNSEL FOR THE ENVIRONMENT, Michael Lufkin, Assistant Attorney General; 1125 Washington Street S.E., P.O. Box 40100, Olympia, Washington 98504-0100

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, Mark Anderson, Senior Energy Policy Specialist, P.O. Box 43173, Olympia, Washington 98504-3173.

KITTITAS COUNTY, James L. Hurson, Kittitas County Prosecutor, Kittitas County Courthouse, Room 213, Ellensburg, Washington 98926.

Reported by:

Shaun Linse, CCR

1 Appearances (cont'd):

2 RENEWABLE NORTHWEST PROJECT, Susan Elizabeth  
3 Drummond, Foster Pepper & Shefelman, PLLC, 1111 Third  
4 Avenue, Suite 3400, Seattle, Washington 98101-3299.

5 PHOENIX ECONOMIC DEVELOPMENT GROUP, Debbie  
6 Strand, Executive Director, 1000 Prospect Street, P.O. Box  
7 598, Ellensburg, Washington 98926.

8 RESIDENTS OPPOSED TO KITTITAS TURBINES (ROKT),  
9 James C. Carmody, Velikanje, Moore & Shore, P.S., 405 East  
10 Lincoln Avenue, P.O. Box 22550, Yakima, Washington 98907.

11 F. STEVEN LATHROP, F. Steven Lathrop, Attorney at  
12 Law; and Jeff Slothower, Attorney at Law; Lathrop, Winbauer,  
13 Harrel, Slothower & Denison, LLP, 1572 Robinson Canyon Road,  
14 P.O. Box 1088, Ellensburg, Washington, 98926.

15 CHRIS HALL, Chris Hall, Pro Se, 106 East 10th  
16 Avenue, Ellensburg, Washington 98926.

17 \* \* \* \* \*

18 JUDGE DEWELL: Good afternoon. My name is  
19 Julian Dewell, and I'm the Administrative Law Judge in  
20 connection with these proceedings, and my position in  
21 these proceedings is that of essentially facilitator to  
22 try to get the proceedings to move along.

23 The purpose of the proceedings today is to  
24 deal with petitions for intervention as well as some  
25 prehearing matters which are set forth in the notice of

1 this proceeding. This is not a public meeting from the  
2 standpoint of members of the public will be allowed to  
3 testify or to make comments with regard to this matter.  
4 This is a meeting to deal with the petitions for  
5 intervention and the lawyers and representatives of the  
6 petitioners for intervention. I would like for the  
7 Council Members sitting here at the table to introduce  
8 themselves and indicate that body of government for which  
9 they have been appointed.

10 Patti.

11 MS. JOHNSON: Patti Johnson, Kittitas  
12 County.

13 MR. FRYHLING: Dick Fryhling. I represent  
14 the Department of Community, Trade, and Economic  
15 Development.

16 MR. CARELLI: Charles Carelli with the  
17 Department of Ecology.

18 CHAIR LUCE: Jim Luce. I'm the Chair. I'm  
19 appointed by Governor Locke.

20 MR. SWEENEY: I'm Tim Sweeney with the  
21 Utilities and Transportation Commission.

22 MR. IFIE: I'm Tony Ifie, Department of  
23 Natural Resources.

24 MS. PATNUDE: Sue Patnude, Department of  
25 Fish and Wildlife.

1                   JUDGE DEWELL: I would like for the Counsel  
2 for the Environment to please introduce himself to the  
3 public that's present here.

4                   MR. LUFKIN: Thank you, Judge. My name is  
5 Michael Lufkin. I'm with the Attorney General's Office  
6 and serve as Counsel for the Environment in this matter.

7                   JUDGE DEWELL: I wonder if Mr. Peeples would  
8 introduce himself and his client.

9                   MR. PEEPLES: Darrel Peeples. I represent  
10 Zilkha and with me here from Sagebrush Power, LLC, is  
11 Chris Taylor representing the company.

12                   JUDGE DEWELL: There are a number of parties  
13 or potential parties who have petitioned the Council to be  
14 admitted as intervenors in these proceedings or have a  
15 right to intervene by virtue of statute. The first is the  
16 Department of Community, Trade, and Economic Development.  
17 Do we have a representative here?

18                   MR. ANDERSON: Mark Anderson. I'm with the  
19 Energy Policy Division of the Department of Community,  
20 Trade, and Economic Development.

21                   JUDGE DEWELL: Thank you.  
22                   Kittitas County, Mr. Hurson. Just identify  
23 yourself.

24                   MR. HURSON: Jim Hurson, Kittitas County  
25 Deputy Prosecutor.

1 JUDGE DEWELL: And Renewable Northwest  
2 Project, are you represented here today?

3 MS. DRUMMOND: Yes, Susan Drummond.

4 JUDGE DEWELL: Okay.  
5 Phoenix Economic Development Group.

6 MS. STRAND: Yes, Debbie Strand.

7 JUDGE DEWELL: And the Sierra Club Cascade  
8 is there a representative here today?

9 Residents Opposed to Kittitas Turbines,  
10 (ROKT), is there a representative here today?

11 MR. CARMODY: There is. My name is James  
12 Carmody. I represent the group, and there are members of  
13 the group here as well.

14 JUDGE DEWELL: F. Steven Lathrop.

15 MR. LATHROP: Steve Lathrop. I'm here  
16 individually, and through my attorney, Jeff Slothower.

17 JUDGE DEWELL: Thank you.

18 And Chris Hall.

19 MS. HALL: Chris Hall, representing myself  
20 and my husband.

21 JUDGE DEWELL: The next order of business is  
22 the adoption of the proposed agenda. Has the Council had  
23 an opportunity to review the agenda?

24 Are there any comments or additions that the  
25 Council wishes to make? Are there any comments on the

1 agenda from anybody in the public?

2 MR. PEEPLES: Mr. Examiner, with regard to  
3 the Sierra Club, I talked to their attorney and their  
4 representative. I know she was coming. I don't know what  
5 happened. I mean she was on her way. I don't know if she  
6 got delayed or what.

7 JUDGE DEWELL: Is there a motion to adopt  
8 the agenda?

9 MR. CARELLI: So move.

10 JUDGE DEWELL: And is there a second?

11 MR. FRYHLING: Second.

12 JUDGE DEWELL: Anybody opposed?

13 The agenda is adopted.

14 The first item on the agenda as approved was  
15 a verification of petition for intervention of Chris Hall.  
16 Ms. Hall filed a verification with EFSEC, and it will be  
17 placed in the file. Anything else on that?

18 MS. MAKAROW: No.

19 JUDGE DEWELL: The next item is ex-parte  
20 disclosures from the Council. Ex-parte disclosures are  
21 disclosures by members of the Council which deal with any  
22 dealings that they had with any of the parties in these  
23 proceedings, and I would ask that perhaps Ann Essko who is  
24 the lawyer for the Council would follow up on that and the  
25 status of their client.

1 MS. ESSKO: All right.

2 I'll start with Sue Patnude with the  
3 Department of Fish and Wildlife. Do you have any ex-parte  
4 disclosures you would like to put on the record today?

5 MS. PATNUDE: No.

6 MS. ESSKO: Tony Ifie with the Department of  
7 Natural Resources, do you have any ex-parte disclosures to  
8 put on the record today?

9 MR. IFIE: No.

10 MS. ESSKO: Tim Sweeney from the Utilities  
11 and Transportation Commission, do you have any ex-parte  
12 matters to put on the record today?

13 MR. SWEENEY: No.

14 MS. ESSKO: Jim Luce, Chair of the Council,  
15 do you have any ex-parte disclosures to put on the record  
16 today?

17 CHAIR LUCE: No.

18 MS. ESSKO: Chuck Carelli from the  
19 Department of Ecology, do you have any ex-parte  
20 disclosures to put on the record today?

21 MR. CARELLI: No.

22 MS. ESSKO: Dick Fryhling from Community,  
23 Trade, and Economic Development, do you have any ex-parte  
24 disclosures to put on the record today?

25 MR. FRYHLING: No.

1 MS. ESSKO: Patti Johnson, Kittitas County,  
2 do you have any ex-parte disclosures to put on the record  
3 today?

4 MS. JOHNSON: Yes. I just want it to be  
5 known that I do work with Jim Hurson and Clay White at the  
6 County, and Jim is my representative for my department,  
7 but we have not discussed this topic.

8 MS. ESSKO: Thank you, Patti.

9 JUDGE DEWELL: Although I'm not a decision  
10 maker in connection with this proceeding, the Council  
11 itself makes all the decisions. All I do in effect is  
12 facilitate the matter. I have paid dues to the Sierra  
13 Club for several years, and I just wanted to disclose that  
14 to make sure it gets on the record.

15 MR. SLOTHOWER: Excuse me, Judge Dewell. At  
16 what point would be appropriate to raise issues that we  
17 have with members of the EFSEC commission and their  
18 related agencies and conflicts?

19 JUDGE DEWELL: Well, if you have something  
20 that would require an ex-parte disclosure from a member of  
21 the Council, probably now would be the appropriate time to  
22 do that.

23 MR. SLOTHOWER: Well, it's not in the nature  
24 of an ex-parte conflict or disclosure, but we want to  
25 raise what we believe are actual conflicts of interest.



1 There are actually two of them. The DNR is a proposed  
2 tenant or landowner of the Zilkha project. In a recent  
3 submission to Kittitas County there is an April 28, 2003  
4 letter from Milt Johnson, the Assistant Regional Manager  
5 for the Southeast Division of the Department of Natural  
6 Resources, in which they acknowledge payment of their  
7 initial rent payment of \$28,000 or \$28,261.88. We believe  
8 that that not only violates the Appearance of Fairness  
9 Doctrine but is also an actual conflict of interest in  
10 that the Department of Natural Resources has a member or  
11 an employee who is a member of the EFSEC board. We would  
12 ask that the Department of Natural Resources  
13 representative on the EFSEC board not participate in this  
14 process or render any decisions on this process as the  
15 Department of Natural Resources has a pecuniary interest  
16 in the outcome of this process.

17 Secondly, I note that CTED is a requested  
18 intervenor. CTED also has a representative on the EFSEC  
19 board, and we believe that that violates the Appearance of  
20 Fairness Doctrine and also constitutes a conflict of  
21 interest, and we wish the record to be clear without  
22 waiving these issues we would ask the board to deal with  
23 them at this time.

24 JUDGE DEWELL: Are you going to be filing  
25 any paper in connection with that?

1 MR. SLOTHOWER: I can if it's so required,  
2 but I had not intended to.

3 JUDGE DEWELL: I would think that there  
4 should be something to follow up what you just disclosed.  
5 Do you want to respond to what was just  
6 said?

7 MS. ESSKO: No, I would just suggest that  
8 any documentation or motion that you file specifically  
9 deal with the statutory regime for the Council which make  
10 both CTED and DNR statutory members of the Council.

11 JUDGE DEWELL: Thank you.

12 MR. SLOTHOWER: Thank you.

13 JUDGE DEWELL: Is there anything else  
14 dealing with ex-parte disclosures?

15 The next item of business on the agenda  
16 deals with intervention, and I would first go to the  
17 Applicant and Mr. Peeples and ask if there are any  
18 objections or any comments with regard to the petitions  
19 for intervention?

20 MR. PEEPLES: Are we talking about all of  
21 them, Your Honor?

22 JUDGE DEWELL: Yes.

23 MR. PEEPLES: Generally, we are not going to  
24 object to the intervention of any of the parties. I think  
25 historically the Council has granted intervention

1 liberally. We would only request that the Council limit  
2 the intervention to the areas of interest as shown by the  
3 parties.

4 I have one comment with regard to the  
5 intervention of the Residents Opposed to Kittitas  
6 Turbines. We're not objecting to the intervention, but we  
7 believe there has been some misstatements in their  
8 petition. They have in Paragraph 1.2 --

9 JUDGE DEWELL: Which petition was that?

10 MR. PEEPLES: That is ROKT, R-O-K-T. In  
11 Paragraph 1.2, they basically list several members and  
12 refer to them as owning property adjacent. It is our  
13 understanding that Hal and Gloria Lindstrom does not own  
14 property adjacent but is some miles away. That I don't  
15 think should have any direct effect upon their  
16 intervention, but we wanted to point out that  
17 inconsistency there.

18 The other statement is made in 3.1,  
19 Paragraph 3.1, where it makes a statement that the  
20 Applicant attempted to change Kittitas County law in order  
21 to gain approval and site the project as referenced by  
22 local law. That is not true. Again, I don't think that  
23 has any direct bearing on the intervention, but there were  
24 two statements that my client wished to have clarified.

25 Other than that, we have no objection to the

1 intervention and ask Council to limit the intervention as  
2 appropriately as they have done in the past.

3 JUDGE DEWELL: Mr. Carmody, do you wish to  
4 respond?

5 MR. CARMODY: No, not in particular. I  
6 think all the comments were simply notations of  
7 observations that they have. Mr. Lindstrom does not live  
8 adjacent to the property. He has been an active  
9 participant throughout this process before Kittitas  
10 County, has testified literally at every hearing, and has  
11 spoken on behalf of the local Audubon Society. So he has  
12 been an active participant and is within the sphere of  
13 interest I believe. He is a part of the group, and we  
14 would like to have that name reflected. I should note too  
15 that the names that we have included are representatives  
16 of the group and certainly don't represent the full extent  
17 of the group but represent people with interest in order  
18 to support the intervention.

19 JUDGE DEWELL: There is one concern that has  
20 been brought up dealing with your petition, and that's  
21 whether or not the issues that you're relying upon were  
22 adequately set forth in that petition. And I will be  
23 addressing the issues of the various petitioners for  
24 intervention later on in this hearing today, but you might  
25 wish to address yourself to that question.

1 MR. CARMODY: Would you like me to do that  
2 now or at a later point?

3 JUDGE DEWELL: That's one of the  
4 requirements that we have is issues be set forth in the  
5 petition.

6 Any response?

7 MR. PEEPLES: No, I think we've addressed  
8 them.

9 JUDGE DEWELL: Well, the Council will be  
10 considering the petition for intervention today and  
11 hopefully will be able to make a decision with regard to  
12 the petitions for intervention sometime during this  
13 hearing procedure today and hopefully will be able to  
14 indicate what that position is.

15 The next item on the agenda is stipulations  
16 and settlement agreements, and I would address Mr. Peeples  
17 again and ask if there has been any activity in connection  
18 with attempting to reach any stipulation or settlement  
19 with any of the parties, potential parties?

20 MR. PEEPLES: No, there hasn't, at least in  
21 the context of the people here. There have been  
22 discussions with various agencies on different issues, but  
23 specifically with regard to stipulations, settlement  
24 agreements, no. I think we're starting that process  
25 probably upon intervention.

1                   JUDGE DEWELL: Other than I take it with the  
2 County, has there been some activity with the County since  
3 the last meeting that we had?

4                   MR. PEEPLES: Correct, there has. Just  
5 addressing that, Mr. Hurson and I and Clay White and my  
6 client will be getting together after this and work out  
7 the schedule which we'll be bringing back to the Council.

8                   JUDGE DEWELL: Okay.

9                   MR. PEEPLES: Prior I believe we were  
10 suppose to report back in on July 7. We will have  
11 something before then.

12                   JUDGE DEWELL: The Council and the staff and  
13 myself really encourage all the parties to these  
14 proceedings to attempt to enter into settlement agreements  
15 in order to expedite the process, so that we can have  
16 agreements on the evidence, as well as various exhibits.  
17 And I don't want to say it too often, but we really  
18 encourage you to attempt to work together to try to come  
19 up with the points that you agree upon, so that you can  
20 determine which points it is that would be necessary for  
21 issues to be raised and testimony to be brought in by the  
22 parties in these proceedings. It would expedite the  
23 proceeding greatly if settlements and settlement  
24 agreements are entered into between all the parties.

25                   The next item on the agenda is preliminary

1 issues, and, first, what I would like to do is to direct a  
2 question to Mr. Lufkin. With respect to issues and agreed  
3 issues in this proceeding are you willing to work with the  
4 parties who will be admitted as intervenors and with the  
5 Applicant in order to try to come up with a list of agreed  
6 issues, as well as those issues which are not agreed?

7 MR. LUFKIN: Yes, Your Honor. I'm certainly  
8 willing to work diligently toward that effort. Just as  
9 kind of an aside, this proceeding does present some unique  
10 and different challenges for the Counsel for the  
11 Environment from other types of proceedings that the  
12 Council has had before just because of the nature of the  
13 project. So I guess I'm just asking to bear that in mind  
14 as I work with some of the intervenors to try to address  
15 the issues that you asked me to address in coming up with  
16 an issue list, but I certainly will attempt to do such, to  
17 work with all the parties, to work with the Applicant  
18 toward that end.

19 JUDGE DEWELL: Okay. And we'll try to set  
20 some sort of a schedule for that, so that the process  
21 moves along.

22 MR. LUFKIN: Could I ask one other thing?  
23 It's kind of related to Mr. Peeples former comment about  
24 working with the County. You mentioned there was going to  
25 be a schedule provided. I know that many of the issues

1 that at least that I have raised, and I think have and  
2 will be raised by other parties may overlap with the  
3 issues that are of concern to the County, and I guess I'm  
4 just asking that that schedule that is being proposed by  
5 the County that that be distributed to all members and  
6 parties to this proceeding, so that they can follow that  
7 County process simultaneous to this process.

8 JUDGE DEWELL: Okay.

9 MR. PEEPLES: Yes, that will be done, and  
10 also it's very apparent that that schedule can also impact  
11 on the Council's schedule. So when we get that, I think  
12 that will be something at the first prehearing conference,  
13 you know, the regular prehearing conference.

14 JUDGE DEWELL: And we recognize that even  
15 though you do come with an agreed set of issues that those  
16 issues may well change after the draft environmental  
17 impact statement is issued. We certainly expect some  
18 flexibility in that regard, but what we would like to do  
19 is to begin to narrow the issues at this time and if  
20 whoever is going to be admitted as a petitioner will  
21 immediately seek to contact Mr. Lufkin with your issues  
22 and try to reach some agreement.

23 There was a question back there.

24 MR. HURSON: This is Jim Hurson, Deputy  
25 Prosecutor.



1 JUDGE DEWELL: Will you speak into the  
2 microphone, please.

3 MR. HURSON: I think I had it. Is it on?

4 MR. FIKSDAL: You need to be closer.

5 MR. HURSON: It has to be closer. Okay.

6 JUDGE DEWELL: Jim Hurson, Deputy  
7 Prosecutor.

8 MR. HURSON: Just for clarification on this  
9 scheduling, what I don't want is it to carry on some  
10 mystical meaning to it, but what we were trying to talk  
11 about is trying to get the County rezone consistency land  
12 review process and the EFSEC process to try to work at  
13 least from a staff level how we can coordinate the two, so  
14 they're as efficient as possible to get the jobs done, for  
15 both working it and work with the Applicant on time frames  
16 that might work with them too.

17 I don't think there's any belief from any of  
18 us that we're going to be creating a schedule that's going  
19 to be one that's bound on EFSEC or even really my client.  
20 We're just trying to get the discussions going to try to  
21 work out an appropriate time frame because we have to  
22 integrate the Council's EIS process with our land use  
23 review process, and we need our hearing process to sort of  
24 coordinate or work with the EFSEC process.

25 So this is just kind of the first step now

1 that we have a complete application to see if there's a  
2 way we can work that through in the time frame. And then  
3 if we come up with something, we will, of course, be  
4 sharing with all the people that are involved, so they can  
5 help us try and refine that.

6 JUDGE DEWELL: What we attempted to do was  
7 with regard to issues is each one of the petitions set  
8 forth some issues, and I'm going to ask each one of the  
9 petitioners that I address these issues to comment whether  
10 you agree with it or not because I think that's going to  
11 go into part of the decision that this Council has to make  
12 with regard to the petitions for intervention.

13 The first is Renewable Northwest Project.  
14 The issues that I perceive from your petition is, one,  
15 proper siting; two, economic and environmental benefits of  
16 wind energy project; three, the importance of resource  
17 diversity and rate stability; four, adverse impacts of  
18 solely relying on fossil fuel for electric generation to  
19 meet load growth; five, the environment protection,  
20 including wildlife and habitat; lab and six, the  
21 regulatory framework needed to ensure appropriate  
22 investments in new renewable resources.

23 Do you have any comment?

24 MS. DRUMMOND: That's correct. That's a  
25 good summary of what we set forth, and we'll work with the

1 Attorney General to define those, to make them less  
2 general.

3 JUDGE DEWELL: All right.

4 And then, Steve Lathrop. The interests  
5 appear to be agricultural interests, local property  
6 values, local concerns and attitudes, and potential impact  
7 of project on the area.

8 MR. LATHROP: Yes, that would be correct. I  
9 would add there would be an aesthetic element to that as  
10 well.

11 JUDGE DEWELL: Can you be more explicit?

12 MR. LATHROP: Well, the general siting of  
13 the proposed project has aesthetic ramifications in an  
14 area that is a very small valley topographically, and the  
15 distances to more intensive development, residences and  
16 ag, is such that not only going hand and hand with the  
17 agricultural impacts and property value impacts, you've  
18 got the general aesthetics of it.

19 JUDGE DEWELL: Okay. The next is ROKT,  
20 Kittitas Residents Opposed, and I essentially raised the  
21 question earlier about whether or not your petition set  
22 forth issues explicitly. But in going through it, it  
23 appears that the two issues that you may have raised are  
24 proper location for wind farm and alternate locations.

25 MR. CARMODY: Each of those -- our intention

1 maybe it's a bit of my unfamiliarity with your procedures  
2 than what I'm used to in terms of intervention. We are  
3 interested in issues with respect to the specific siting.  
4 We are interested in issues with respect to alternative  
5 siting. There are a number of other proposals. We are  
6 interested in addressing issues with respect to  
7 environmental impacts and mitigation that may arise from  
8 the environmental impact statement. We would wish to  
9 address, if it's presented, local land use compliance and  
10 procedures for local land use compliance and matters that  
11 would arise in that context. And we would be interested  
12 in addressing the economic issues that were raised by  
13 Renewable Northwest.

14 JUDGE DEWELL: Okay.

15 Phoenix Economic Development Group.

16 MS. STRAND: Yes.

17 JUDGE DEWELL: Economic impacts on Kittitas  
18 County, future growth and development of the county and  
19 business development expansion and retention activities  
20 that diversify economy and create family wage jobs.

21 MS. STRAND: Yes.

22 JUDGE DEWELL: Chris Hall. Siting the wind  
23 farm, and you raised specifically these questions about  
24 the cellular phones, highway safety, noise, wildlife,  
25 aesthetics, earthquake, ground water, and cradle-to-grave

1 control, which essentially means at the conclusion of this  
2 is there going to be enough control to make sure that the  
3 wind up is adequately taken care of, if I understand it  
4 correctly. Is that essentially it when you're talking  
5 about cradle to grave?

6 MS. HALL: The issue of cradle to grave is  
7 an issue of if this project is sold to another party that  
8 all the stipulations that EFSEC has on this party would be  
9 passed on to any subsequent party.

10 JUDGE DEWELL: Okay.

11 Community, Trade, and Economic Development  
12 essentially indicates it supports the Sagebrush  
13 application as consistent with Washington Energy Policy to  
14 encourage renewable energy resources.

15 MR. ANDERSON: That's true.

16 JUDGE DEWELL: The Sierra Club, have they  
17 arrived?

18 Okay. I take it there's no one here to  
19 comment on that.

20 Kittitas County. Land use and zoning,  
21 protection of the lands, water, and environment.  
22 Protection of the general health and welfare of the  
23 inhabitants. The plan is inconsistent with Kittitas land  
24 use and zoning. Applicants should comply with state law  
25 and local law, including the Growth Management Act and

1 comprehensive plan and zoning ordinances. Impacts on  
2 urban growth, sprawl, transportation, housing, economic  
3 development, property rights, natural resources, open  
4 space, recreation, environment, public facilities, public  
5 services, and historical preservation.

6 MR. HURSON: I believe that's fairly  
7 accurate, and just in listening to all the other  
8 intervenors' issues, I think it's fair to say the other  
9 intervenors' issues sort of fit into the County's  
10 requirement of the law as far as implementing local land  
11 use. Those are issues we would need to consider in making  
12 our land use decisions too, so it may be fair to  
13 characterize that the other intervenors' issues are also  
14 integrated into the County's issues.

15 JUDGE DEWELL: Essentially the position of  
16 the County though is that it deals with local county.

17 MR. HURSON: It isn't just local county, but  
18 in the Growth Management Act we have all these different  
19 conflicting priorities and goals, so it's balancing all of  
20 those factors. And I'm hearing intervenors that are for  
21 and against the project they're raising essentially  
22 different sides of that balance. So I think those are  
23 fair to characterize as also being issues that relate to  
24 County involvement at this time.

25 JUDGE DEWELL: With regard to an agreed

1 issue list, the Counsel for the Environment has filed as a  
2 part of its filing papers in these proceedings a list of  
3 some 21 issues, and I would commend those issues to all  
4 the people who are allowed to intervene in these  
5 proceedings when you discuss the issues with Counsel for  
6 the Environment you should go through his issues first to  
7 see if there are things that you agree are your issues, so  
8 it will take less time from the Counsel for the  
9 Environment.

10 Any questions about it, the issues?

11 MR. PEEPLES: I would just like to request  
12 that the intervention on the issues be limited to what was  
13 stated in their applications. That's what I did not  
14 object to based on those issues stated within the four  
15 corners of their application. I think EFSEC should stay  
16 to those issues stated in their application for  
17 intervention.

18 MR. SLOTHOWER: Excuse me, Judge Dewell.  
19 One issue in response to that is that the EIS will be  
20 coming out, and that may raise additional issues. And  
21 from an intervenor's standpoint we don't want to be  
22 foreclosed from being able to address those issues that  
23 are raised by the EIS that are not foreseeable now.

24 JUDGE DEWELL: I made a statement earlier  
25 that we recognize that there are additional issues raised

1 in the DEIS or issues to be eliminated potentially by the  
2 DEIS. That consideration will be given to that at a later  
3 date. I can't say what consideration because the decision  
4 is that of the Council and not mine.

5 MR. SLOTHOWER: No, I understand that. I  
6 just wanted to address that.

7 JUDGE DEWELL: There are various procedural  
8 matters, which although we're probably not going to be  
9 setting a hearing date today, there are various procedural  
10 matters that should be considered by the parties; that is,  
11 the Applicant and the Counsel for the Environment and  
12 County and those persons who are admitted as intervenors  
13 together with CTED.

14 The first of these is we want to encourage  
15 this, the simplification of the scope of the issues of  
16 this proceeding. Since I understand from Mr. Peeples that  
17 nothing has begun with regard to issues, I take it that in  
18 settlements that issue has not cropped up yet. But we  
19 want to encourage all the parties to bring that issue up  
20 in your discussions and attempt to resolve the  
21 simplification of the scope and the issues in this  
22 proceeding, and we want to also encourage all the parties  
23 to contact the Applicant and Counsel for the Environment  
24 too in an attempt to reach agreements with regard to these  
25 proceedings because in many of these proceedings much



1 of the testimony is eliminated by agreement which have to  
2 come then to the Council for either approval or rejection.  
3 But it can simplify these proceedings a great deal and not  
4 have a two-week hearing but maybe just have a hearing of a  
5 matter of a couple of days. Are there any amendments to  
6 any of the pleadings of Mr. Peeples?

7 MR. PEEPLES: No.

8 JUDGE DEWELL: How about Counsel for the  
9 Environment?

10 MR. LUFKIN: No, Your Honor.

11 JUDGE DEWELL: And we want to also encourage  
12 all of the parties to attempt to enter into agreements for  
13 admissions of fact and genuineness of documents, so they  
14 won't get into a fight about whether or not these are  
15 genuine documents at all.

16 We're going to talk about in just a moment  
17 some of the procedural matters which are going to relate  
18 to the hearing, and as exhibits come in if they can be  
19 agreed to before the hearing, it will simplify the matter  
20 a great deal. Then the Council may also make a limitation  
21 upon the number of witnesses and the number of exhibits  
22 potentially that can come in with regard to a particular  
23 issue, and there may be questions about whether there  
24 should be consolidation between the various applicants for  
25 intervention. And in going through the issues it appears

1 that some of the applicants for intervention have the same  
2 issues, and that it would be productive to expediting the  
3 proceedings here if parties could agree that one party or  
4 another would present the certain particular issues to the  
5 Council rather than two parties trying to do the same  
6 thing. And the Council has the power to require that, and  
7 even if the Council doesn't require it, then we certainly  
8 encourage the parties to attempt to get together and  
9 present a joint front with regard to the presentation of  
10 evidence and exhibits.

11 There are certain procedural matters that we  
12 set forth in the notice of these proceedings today, and  
13 the first of these and we delivered to all the people who  
14 had petition for intervention a copy of the Draft Hearing  
15 Guidelines, and I am taking this out of order a little bit  
16 from the agenda. But it is a procedural matter, but I  
17 would ask at this time whether or not any of the potential  
18 parties, that is the petitioners for intervention, the  
19 Applicant, Counsel for the Environment, Kittitas County,  
20 or CTED have any objections or any questions with regard  
21 to the Draft Hearing Guidelines?

22 Now you understand that if these guidelines  
23 are adopted by the Council that those guidelines will be  
24 essentially binding upon all the parties to these  
25 proceedings. The Council reserves the right to modify

1 those guidelines, but there's an expectation that they  
2 will be followed in order to have an orderly proceeding.

3 Another issue which should be considered by  
4 all the parties who are admitted to these proceedings is  
5 one of discovery and scheduling issues. Discovery can  
6 either be formal or informal, and we ask that the parties  
7 attempt to resolve their discovery problems on an informal  
8 basis rather than requiring them to be brought to the  
9 Council for disposition of whether or not the discovery  
10 will be carried out on a more formal basis. So I think  
11 that we encourage informal discovery between the parties,  
12 and if you can't do it, then we will have to make a  
13 decision on it.

14 We are not, as I understand it, going to set  
15 an evidentiary date today; that is, for the adjudicatory  
16 proceeding, which may take place sometime in the fall.  
17 But we are not setting a date for it today.

18 Another question then is whether or not  
19 evidence should be prefiled, and our normal procedure is  
20 that evidence is prefiled. In these proceedings it's  
21 exchanged between the various parties, and we also  
22 generally have a public hearing, as well as a full  
23 adjudicatory proceeding.

24 Any questions about the hearing being  
25 segregated or segmented? Any party wishes to raise any

1 question with respect to that?

2 Yes, sir.

3 MR. HURSON: Jim Hurson, Deputy Prosecutor.

4 In going through the proposed order or the guidelines, I  
5 can see given certain time frames this will work and given  
6 other time frames as far when the hearings will occur, it  
7 won't work. And that's where I have some difficulty with  
8 it.

9 From the County's perspective, for instance,  
10 the problem remains here is whether there's consistency or  
11 not, and that could very well resolve everything is this  
12 approval. If the County doesn't approve the rezone and  
13 comprehensive plan, then the Applicant would have to ask  
14 for an override of local land use consistency, and that  
15 would be incorporated into the adjudicatory process. If  
16 that happens, what would be the time frames for the  
17 discovery on those sorts of things?

18 Basically the worst case scenario is sort of  
19 talk here that it's difficult for me to say, yes, this  
20 works; no, it doesn't, without knowing the time frames.  
21 And so I don't know where to put that because some of  
22 these there's some specific, you know, you have 7 days to  
23 do this, 30 days to do that. Which if you've got a  
24 hearing date 40 days down the line, it really isn't enough  
25 time to get things put together. And so I guess from the

1 County's perspective it would be much more helpful if we  
2 could defer maybe some of the detailed guidelines on how  
3 the adjudication itself will proceed until we have a  
4 better feel for the timing of the process and the issues  
5 that will be involved. Because I see my job right now is  
6 to focus my energy on the land use consistency issue  
7 Zilkha is filing through the County rather than dealing  
8 with preparing for an adjudicatory hearing because that  
9 may be unnecessary from the County's perspective.

10 So that's my concern. I don't see a problem  
11 with the schedule, assuming we get -- with the order  
12 assuming time frames are what I'm hoping they are. But if  
13 the time frames are different, I could see the schedule  
14 not working or these guidelines not working.

15 JUDGE DEWELL: In some of these proceedings  
16 we hold a second prehearing conference and the chances of  
17 that taking place are probably reasonably good depending  
18 on what questions come up and what issues might be raised.  
19 And if that's true, then at that second prehearing  
20 conference there's a chance that the hearing date will  
21 also be set at that time. So I think that what we're  
22 trying to encourage is limitation of the issues and some  
23 agreement between those persons or parties who are allowed  
24 to intervene in these proceedings, and then we can have a  
25 better look at when we ought to or if we ought to schedule

1 a prehearing conference.

2 I recognize that the DEIS is not out yet,  
3 and that certainly issues might go away or be amplified by  
4 that.

5 MR. HURSON: Because I was involved in the  
6 Olympic process, and I mean I will say I think prefilng  
7 testimony if you're asking people about that, I thought it  
8 was good idea. I thought that it was very helpful to the  
9 parties to all have prefled because people could quickly  
10 do it and get to cross-examination in a timely fashion.

11 But the one problem we did run into in the  
12 Olympic process was that the Applicant's case in chief was  
13 very small, and then their rebuttal was ten times as much  
14 information and volume as their case in chief. And, of  
15 course, we didn't get to the rebuttal until just weeks  
16 before the hearing, so there was no ability for people to  
17 do discovery in advance of the adjudicatory hearing. And  
18 what happened in that one was that the parties that had  
19 the resources to do it were in EFSEC hearings three days a  
20 week; the other two days a week discovery depositions were  
21 occurring simultaneously. The County obviously wasn't  
22 able to do it because I'm the whole civil commission.

23 I'm sure that isn't going to happen in this  
24 situation, but that's another one of those concerns about  
25 timing and prefled testimony and enough discovery time.

1 That's my only source of reference. And I've talked to  
2 the Applicant in this case, and they've made it quite  
3 clear that isn't going to happen here. But that's my  
4 concern with the timing issues and the scheduling.

5 JUDGE DEWELL: Any other comments on that?

6 MR. PEEPLES: I just think that the  
7 guidelines have been used before for many hearings.  
8 Mr. Hurson's comments are valid, but I think they more  
9 relate to schedule than I think the guidelines.

10 JUDGE DEWELL: And they cover much of what  
11 I'm talking about right here. The other item is potential  
12 location of hearings, and many times the hearings are  
13 bifurcated, that is divided up, and one hearing takes  
14 place at the locality here or another part of the hearing  
15 takes place someplace else for the convenience of  
16 witnesses or experts or whatever. And if you have any  
17 input that you want to put in on the location of the  
18 hearings, you can either do it now or certainly you can  
19 supply it to the EFSEC staff and let them know about your  
20 expectations with regard to the hearing location. Any  
21 comments with regard to that?

22 Identify yourself, please.

23 MS. HALL: I'm Chris Hall. As a resident of  
24 Kittitas Valley, I would definitely prefer all hearings to  
25 be done in this valley.

1                   JUDGE DEWELL: Okay. Any comments with  
2 regard to the distribution of written testimony or  
3 exhibits?

4                   You mentioned some before. It's more normal  
5 practice that they will be distributed ahead of the  
6 hearing to the various parties in the proceeding, and you  
7 would be expected to have your exhibits and written  
8 testimony prepared ahead of time, so that essentially the  
9 procedure is that the written testimony comes in, that  
10 witness is given a few preliminary questions, and then  
11 cross-examination takes place. So if you're an  
12 intervenor, you should be fully aware of that, and I  
13 recommend a complete reading of the guidelines because  
14 you're going to be bound by them in these proceedings.

15                  I mentioned that there will probably be a  
16 second prehearing conference. That's not set yet, but if  
17 there are questions that you would like to have raised at  
18 the second prehearing conference that you don't feel were  
19 raised today, then you should contact the staff of EFSEC  
20 and let them know that if there is a second prehearing  
21 conference that you would like to see these matters  
22 brought forward at that time.

23                  Any questions?

24                  I'd ask Irina then to talk to us about the  
25 certificate of service and the service list.



1 MS. MAKAROW: At the table beside the door  
2 there are samples of the certificate of service on an  
3 ivory colored sheet, and I'd invite those groups who do  
4 get admitted as parties to the proceeding to abide by the  
5 requirements of our administrative code which there are  
6 also samples in front, and you can either provide the  
7 certificate service on a separate sheet with a list of  
8 those people that you sent it to or you can include a  
9 little inset on whatever documents you're serving to the  
10 Council and other parties.

11 With regards to the service list, again, on  
12 the table on a yellow colored sheet is an updated service  
13 list. For those of you who have other representatives in  
14 your groups or attorneys representing you that would like  
15 to receive copies of all documents, please contact me, so  
16 I can get you on the service list, as anybody who is on  
17 that service list will be getting copies of all documents.  
18 And you can include your mail address. Typically we do a  
19 courtesy e-mail, and we ask that other parties amongst  
20 themselves do courtesy e-mails of documents also.

21 One comment regarding service of electronic  
22 documents. I bring your attention to there being two  
23 e-mails, two EFSEC e-mails to which we ask you to send  
24 courtesy copies of your documents, which is that of  
25 Mr. Fiksdal and mine.

1           Judge Dewell, the other two bullets are  
2 yours, but I do have some other items to address.

3           Okay. Among the other items I have to  
4 address, staff would like to inform the Council that we  
5 have been attempting to contact representatives of the  
6 Yakama Nation to determine and coordinate how they could  
7 participate within EFSEC's review, and staff has spoken to  
8 both Johnson Meninick and Carroll Palmer who are on staff  
9 with the Yakama Nation. Yesterday I was copied on a  
10 letter that the Yakama Nation sent to BPA requesting that  
11 BPA begin coordination of meetings with both state and  
12 federal agencies that would address the cumulative impacts  
13 of all of the wind proposals that are being proposed  
14 around the lands of the Yakama Nation. And you've been  
15 provided a copy of this letter, and additional copies are  
16 also on the table up front for any of the other potential  
17 intervenors.

18           And I believe that is all the other items  
19 that I have to address.

20           JUDGE DEWELL: Okay. There is one further  
21 thing that I would like to bring to your attention, and  
22 this is set forth in as the last item under other on the  
23 agenda, and this relates to taking official notice. And  
24 official notice is essentially that the Council can take  
25 official notice of certain things that are essentially

1 undisputed or perhaps found in a government book or facts  
2 that everybody agrees to, and those are the kinds of  
3 things that if you want the Council to take official  
4 notice of any facts or documents, then there is a statute  
5 and a Washington Administrative Code provision which  
6 relate to these. And you should bring that to the  
7 attention of the Council in accordance with that statute  
8 and the WAC. And that's set forth in your agenda as the  
9 last item under Paragraph 11. If you intend to ask that  
10 the Council take official notice of any facts or  
11 documents, then you have to follow the procedure that is  
12 set forth in the statute and the Washington Administrative  
13 Code in order for the Council to do so, and that also  
14 requires you to give notice to the other parties that  
15 you're doing so.

16 Now, is there anything else to come before  
17 the proceeding here today?

18 The Council has to make a decision with  
19 regard to the question of intervention, and if the Council  
20 can do it today, I'm sure the Council will. I believe  
21 that can be done in a nonopen proceeding because this is  
22 an adjudicative proceeding, and it's not subject to the  
23 Open Meeting Act. Now if the Council wants to go into  
24 nonpublic session in order to consider the petitions for  
25 intervention, it can do so.

1           And I would ask what is the position of the  
2 Council? Do you want to consider petitions at this time?

3           All right. From the nods I guess we will go  
4 into a nonpublic session for the discussion of the  
5 petitions for intervention by the EFSEC Council. If you  
6 want to remain around, this may take a while or it may not  
7 take very long, so I suggest that you remain available.

8           All right. Why don't you come back at 2:30.

9           (Recess taken from 1:53 p.m. to 2:30 p.m.)

10          JUDGE DEWELL: At this time the meeting will  
11 come to order to go back in session.

12          I'll indicate to you the decisions that the  
13 Council has made on the various questions which will be  
14 subject of an order to be issued by me.

15          The first is that Mr. Lathrop's lawyer  
16 should file a written notice of appearance in connection  
17 with these proceedings because as it stands right now  
18 you're not on the record.

19          MR. SLOTHOWER: I will do so.

20          JUDGE DEWELL: Okay. The second is with  
21 regard to the issues list. We would like to see that 30  
22 days from the date that the written order is issued, which  
23 will probably be sometime next week. Is that enough time?

24          MR. LUFKIN: Judge, could I ask about kind  
25 of a more general question about the timing of the DEIS

1 because I think that does bear into this. And I know  
2 there's been some discussion on, you know, the ability to  
3 raise issues after that, and I guess my question is just  
4 if that's going to be coming back down the pike very soon  
5 here, would it make more sense to wait for that draft  
6 prior to setting a deadline for a more detailed issue  
7 list?

8 JUDGE DEWELL: Does staff have any comment  
9 on that?

10 MS. MAKAROW: At this point in time we  
11 expect the Draft EIS to be available sometime in early  
12 September, no earlier than that.

13 JUDGE DEWELL: I think we would like to try  
14 to pare the issues down before then. One of the actions  
15 that the Council did take was to provide that the parties,  
16 that is the parties who have been admitted either because  
17 of the statute or because they're admitted as intervenors,  
18 will be able to raise additional issues which they didn't  
19 anticipate which are raised in the Draft Environmental  
20 Impact Statement, so that would be one specific provision  
21 of this order. So is 30 days enough or do you need more  
22 time?

23 MR. LUFKIN: I would prefer 45 days, if that  
24 would be possible.

25 JUDGE DEWELL: Okay. Council?

1 All right. 45 days.

2 The Council has adopted the guidelines, and  
3 with regard to the guidelines the parties will be expected  
4 to follow those guidelines. If you're able to show good  
5 cause at some time why a guideline either ought to be  
6 amended or shouldn't be applicable to a particular  
7 situation, you will have to address that question to the  
8 Council for its determination, and the determination will  
9 be based on whether or not you can show good cause for the  
10 change in that.

11 One thing we would like to stress is that  
12 these are essentially legal proceedings, and there will be  
13 the Administrative Procedure Act which applies to our  
14 adjudicative proceedings, and if you don't have a copy of  
15 the administrative law, the Administrative Procedure Act,  
16 you should contact staff at EFSEC, and they will be a  
17 happy to provide you with a copy of the Washington  
18 Administrative Procedure Act. There were copies of the  
19 laws relating to EFSEC, both the regulation and the  
20 statutes originally, but it looks like they have all been  
21 taken. If you don't have a copy of those, then here again  
22 you can contact EFSEC staff, and they will provide you  
23 with a copy of those.

24 The next item was a question was raised with  
25 regard to a conflict of interest with respect to the

1 Department of Natural Resource and CTED, and there has  
2 been a determination made that any motion with regard to  
3 that has got to be filed within one week from today at  
4 EFSEC, and the two members from those departments who sit  
5 on this board will continue to sit, but they will abstain  
6 from any voting until the resolution of any motion has  
7 been filed attempting to exclude them from the Council.  
8 That will be part of the order.

9 With regard to the intervention, all the  
10 intervenors will be allowed to participate. They will be  
11 limited to the issues raised in their written petitions  
12 for intervention and subject to raising additional issues  
13 at the time that the DEIS is filed in accordance with  
14 whether or not that issue could have been anticipated.

15 We will also provide in the order that at  
16 the second prehearing conference consideration will be  
17 given to requiring joint participation on like issues by  
18 the intervenors. That means if two intervenors have  
19 raised the same issue that we may require them to  
20 participate together through one lawyer or one presenter  
21 in connection with the exhibits and testimony, so that we  
22 don't have a lot of duplication. And that will be  
23 considered at the second prehearing conference, and you  
24 should be prepared for it at that time.

25 If any of you didn't get the application

1 from Irina, I would like to address you, if you didn't get  
2 copies of the application.

3 Irina.

4 MS. MAKAROW: If any of the petitioners for  
5 intervention need a copy of the application for site  
6 certification we do have some extra at the office, so just  
7 contact me, and we'll arrange transfer of that to you.

8 JUDGE DEWELL: It's one of the requirements  
9 that when you file something with EFSEC that you provide  
10 electronic copies, so that we can distribute them very  
11 quickly, and you also have to provide copies to all the  
12 parties in this proceeding. And there is a list of all  
13 the parties and their addresses, and you need to do that  
14 because that's a legal requirement. And if you don't do  
15 that, you're subject to have whatever paper is filed  
16 stricken upon appropriate motion.

17 There's a question. Go ahead.

18 MR. ANDERSON: Related to getting together  
19 with our groups, if some of us decide ahead of time that  
20 we would like to do that is there a time that you would  
21 like us to notify you of that or shall we just wait for  
22 that second prehearing conference?

23 JUDGE DEWELL: I think there are two ways to  
24 do that potentially. The two ways to do it is the order  
25 will provide what issues it is that the various



1 petitioners for intervention may raise, and you will be  
2 able to see it there. Potentially when you get together  
3 with Counsel for the Environment on this issue list if  
4 you've raised issues that other people have raised, then  
5 he may be able to, you know, tell you who else raised that  
6 issue. I'm not putting that burden on him, but he may be  
7 able to advise you to that. You should be able to see it  
8 in the petitions for intervention, as well as this order  
9 that we're going to issue which is going to be very  
10 explicit.

11 MR. ANDERSON: If we make that decision in  
12 the next week or so, shall we notify the Council of that  
13 or shall we wait until we set the second prehearing  
14 conference?

15 JUDGE DEWELL: Yes. I think that at the  
16 second prehearing conference, we probably ought to be  
17 advised or whether you've entered into any kinds of  
18 agreement like that because potentially we're also going  
19 to talk about any stipulation or agreements that any  
20 parties have entered into with the Applicant.

21 MR. ANDERSON: Okay.

22 JUDGE DEWELL: Yes.

23 MS. HALL: On my name there isn't an e-mail  
24 address, so I would like to present that.  
25 Hall@ellensburg.com.

1                   JUDGE DEWELL: You should confirm it with  
2 the staff. Thank you.

3                   Any other questions?

4                   MR. CARMODY: Your Honor, just so I'm clear  
5 on the issues and the scope of participation by  
6 intervenors, the issue list will be developed by Counsel  
7 for the Environment, and then from that issue list will  
8 there be identification of the role of each intervenor?  
9 Because the list of issues that I've seen don't parallel  
10 to the list of issues that I have heard today various  
11 parties raise. Some of them are broad levels  
12 participation. Is the process that that list of issues  
13 will then be identified and our group will participate in  
14 Items 1, 2, 7, and 12, or how do you marry those  
15 processes?

16                   JUDGE DEWELL: My response to that I guess  
17 is that in presenting the case at the adjudicative  
18 proceeding the intervenors will be limited to the issues  
19 that they brought up, that are put forth in this order.  
20 And even though there are other issues out there, they  
21 will not participate in the presentation of evidence of  
22 witnesses or cross-examination with regard to those  
23 issues, but the ones that are legitimately theirs they can  
24 certainly participate in.

25                   MR. CARMODY: But the issue list prepared

1 that's ultimately adopted that will be the issue list for  
2 the adjudicative process.

3 JUDGE DEWELL: Yes.

4 That's so that it's helpful to the Council  
5 in understanding what the issues are going into the  
6 adjudicative proceeding, so we can narrow it down. I mean  
7 there are some people that are not going to agree that  
8 these are all the issues, and so they will have to fight  
9 those issues by themselves.

10 You had something, Mr. Lufkin.

11 MR. LUFKIN: Well, I was just going to try  
12 to pare down again what I saw my role is, Your Honor, and  
13 that would be working with each of the intervenors at this  
14 stage to more closely identify and narrow the issues that  
15 they've identified within their petitions and create a  
16 master list and then find groups where there's common  
17 ground, other groups that have also identified that same  
18 or similar issue, and that's what would be presented  
19 within 45 days of the issuance of this order.

20 JUDGE DEWELL: And certainly there's nothing  
21 to preclude a party who has information providing it to  
22 one of the parties that is going to present that issue.  
23 You know, that's what we want to try to do is to get you  
24 to work together, so that we can pare this proceeding down  
25 as much as we can.

1                   Any other issues or matters to come before  
2 this hearing?

3                   CHAIR LUCE: I would ask the Council Members  
4 whether they believe it's appropriate, and I guess I think  
5 it might be appropriate to have a Council motion and a  
6 second and a vote on both adopting the guidelines and  
7 approving intervenors. As has been stated here earlier,  
8 it's my understanding that until this issue of  
9 participation of CTED and DNR are resolved, CTED and DNR  
10 will abstain from voting.

11                   Do I have a motion and second to adopt the  
12 guidelines?

13                   MR. CARELLI: So moved.

14                   MS. PATNUDE: Second.

15                   CHAIR LUCE: All in favor say Aye.

16                   COUNCIL MEMBERS: Aye.

17                   CHAIR LUCE: All right. That's adopted.

18 The guidelines are adopted.

19                   Now, with respect to all of the intervenors  
20 do I have motion and second to approve all of the  
21 intervenors being accepted limited to the issues that they  
22 have specifically raised in their pleading as further  
23 identified by Administrative Law Judge Dewell? Do I have  
24 a motion and second?

25                   MR. CARELLI: So moved.

1 MS. PATNUDE: I'll second.

2 CHAIR LUCE: All in favor say Aye.

3 COUNCIL MEMBERS: Aye.

4 CHAIR LUCE: Thank you very much.

5 JUDGE DEWELL: Any other issues to come  
6 before the Council?

7 The meeting is adjourned.

8 \* \* \* \* \*

9 (Prehearing conference adjourned at 2:48  
10 p.m.)

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A F F I D A V I T

I, Shaun Linse, CCR, Certified Court Reporter,  
do hereby certify that the foregoing transcript  
prepared under my direction is a true and accurate  
record of the proceedings taken on June 26, 2003,  
in Ellensburg, Washington.

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Shaun Linse, CCR

CCR NO. LI-NS-ES-M4020H