BEFORE THE STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

In the matter of: )
Application No. 2004-01 )
) WIND RIDGE POWER PARTNERS, LLC, ) Prehearing Conference
) WILD HORSE WIND POWER PROJECT ) Pages 1 - 35

A prehearing conference in the above matter was held in the presence of a court reporter on February 8, 2005, at 1:35 p.m., at 925 Plum Street, Room 308, in Olympia, Washington, before Energy Facility Site Evaluation Councilmembers.

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The parties were present as follows:


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

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

Reported by:
Shaun Linse, CCR #2029
We will have secondly an update from instructions and deadlines. Order No. 808. That would address any electronic filing Order No. 4 which would tentatively be labeled as Council We're going to discuss a proposed Prehearing commence this prehearing conference as scheduled. We have afternoon on Tuesday the 8th of February 2005. We will JUDGE TOREM: It is now 1:35 in the * * * * * ECONOMIC DEVELOPMENT GROUP OF KITTITAS COUNTY, Debbie Strand, Executive Director, 1000 Prospect Street, P.O. Box 598, Ellensburg, Washington 98926. JUDGE TOREM: It is now 1:35 in the afternoon on Tuesday the 8th of February 2005. We will commence this prehearing conference as scheduled. We have three items to take care of today. We’re going to discuss a proposed Prehearing Order No. 4 which would tentatively be labeled as Council Order No. 808. That would address any electronic filing instructions and deadlines. We will have secondly an update from

Mr. Peeples on the Applicant's intentions to establish land use consistency for this project and hear hopefully from Mr. Hurson as well. Finally, we'll schedule a status conference to determine if the hearing itself scheduled for next month will be a go or not. That will be a time to be chosen on February 22, 2005 unless folks have an objection to that date. Let’s establish who’s here. We already know that the entire Council from the previous roll call is here, but because that's not part of the record let's establish that again. Mr. Mills, could you just establish who is representing the Council today. MR. MILLS: Chair? CHAIR LUCE: The Chair is present. MR. MILLS: Community Trade and Economic Development? MR. FRYHLING: Richard Fryhling. MR. MILLS: Department of Ecology? MS. ADELSMAN: Hedia Adelsman. MR. MILLS: Department of Fish and Wildlife? MS. TOWNE: Chris Towne. MR. MILLS: Department of Natural Resources? MR. IFIE: Tony Ifie.
JUDGE TOREM: Ms. Makarow, do you want to address that?

MS. MAKAROW: Yes, staff did have input in developing this draft, so we are comfortable with what is laid out in it.

JUDGE TOREM: Any other members of the Council wish to comment on the proposed draft?

Ms. Towne.

MS. TOWNE: Just a quick one. The last item scheduled for status conference, again, in the interest of efficiency and cost savings why not schedule it for the 23rd when we will be gathering to head to Montesano? We could do it in the afternoon.

JUDGE TOREM: Ms. Makarow, do you want to address that?

MS. MAKAROW: This is Irina Makarow, EFSEC Staff. I would just like to make one comment with respect to what Jim Hurson just stated that the County would not be involved. There would probably have to be a resumption of the land use hearing for the Council to hear any new evidence or receive any additional documents from the County and the Applicant on that issue.

JUDGE TOREM: I think if the hearing goes forward on March 7, it could occur at that time and prior to the rest of the adjudication occurring.

MS. MAKAROW: Correct. Yes.

JUDGE TOREM: As that occurs then we'll have a motion from the County and the Applicant on that issue.

MS. MAKAROW: Unfortunately the 22nd is our deadline to be able to cancel room reservations for the hearings.

JUDGE TOREM: Mr. Peeples, did you have any input on this particular draft?

MR. PEEPLES: It's fine. We're basically doing it anyway. Everybody is filing electronically anyway, so it's fine.

JUDGE TOREM: The distinction here, of course, would be this would actually count for service and replace the hard copies.

MR. PEEPLES: Right.

JUDGE TOREM: Mr. Lane, any input?

MR. LANE: No objections.

JUDGE TOREM: Mr. Slothower?

MR. SLOTHOWER: That's fine to us.

JUDGE TOREM: It's fine with you?

MR. SLOTHOWER: Yes.

JUDGE TOREM: Mr. Hurson?

MR. HURSON: Frankly I haven't reviewed it.

JUDGE TOREM: I'm assuming if we have consistency, the County wouldn't be involved in the hearing anyway.
Wallowa project. We had the land use hearing, and then we went immediately to the other hearing.

JUDGE TOREM: So long as we have sufficient notice to provide to the county residents, so that they can participate as needed and as to their desires that should be sufficient.

Ms. Towne.

MS. TOWNE: You seem to infer in your comments a minute ago that the e-service would replace the hard copy service, and yet both for parties and EFSEC hard copy service is also required subsequent to.

JUDGE TOREM: Correct. For clarification, what I mean is as to the date of service that it may not be received to the hard copy; that the electronic receipt would be sufficient. As you will note there will be at least one original copy mailed to EFSEC, so the signatures could be there and distributed.

MS. TOWNE: Yes, thank you.

JUDGE TOREM: All right. Any other comments from the parties or other observers today on this proposed order? All right. Hearing none, let me ask the Council if there's a motion to approve this as written?

MR. IFIE: So move.

MS. TOWNE: Second.

JUDGE TOREM: It's been moved by I believe Mr. Ifie and seconded by Ms. Towne. Any further discussion, Councilmembers?

Mr. Chair, would you like to call for the question then.

CHAIR LUCE: Question is called for. All in favor say aye.

COUNCILMEMBERS: Aye.

CHAIR LUCE: All opposed?

Hearing none opposed, the motion is passed unanimously.

JUDGE TOREM: All right. So you can expect to see, parties, a draft order issued hopefully early next week electronically probably itself, and then you will get the hard copies containing this provision.

Let's move onto the Applicant's update on land use consistency. Mr. Peeples, if you will come up to the table.

MR. PEEPLES: Just briefly if Council wants to have any other questions, Tim McMahan is here who has been directly involved much more than I have in the local land use process, and Jim Hurson is on the phone. I think it's fair to say that we believe we will have land use consistency. We believe we will know for sure by the 22nd.

Tim, why don't you come up and go over what progress has been made, and Jim, once he gets done why don't you pipe in if you have anything in addition.

MR. McMAHAN: Tim McMahan here, Stoel Rives Law Firm on behalf of the Applicant. The County did convene a joint and consolidated hearing with the Planning Commission, Board of County Commissioners on the 25th and the 26th of January. There have been several continued hearings since then. Last night the Planning Commission did in fact move forward to the Board of County Commissioner's recommendation to approve the Wild Horse Project under the County's wind farm ordinance. I would say that we've had very good and timely support from County staff in moving the project along,

Embedded with the recommendation approval are definitely some concerns that we need to work out with staff and with the Board of Commissioners, but we believe we're very productively engaged with the County, and the hearing will commence with the Board of County Commissioners on the 16th of February and then continue on probably to the 17th of February.

One question I guess I would have for Jim Hurson is one concern we have is assuming we get through that hearing process if the Board of Commissioners would expect to take additional testimony at a later hearing date for the development agreement that sort of comes through with some amendments? Because that's the only concern that I really have on the schedule that interfaces with the EFSEC process. I'm sure that Jim has been doing some thinking about that, and you might want to find out from him his perspective on that element. That's one thing that I think could really throw off the schedule.

JUDGE TOREM: All right. Mr. Hurson.

MR. HURSON: The Planning Commission they did get their recommendation to the Board for approval. There are various conditions. They're set to go on the 16th. I don't know until they have the hearing how long it's going to take for testimony, one night or two nights. As far as whether the Board would make the record open or not for further comment, it's unclear. I am assuming that the Applicant and the County staff will be discussing issues that the Planning Commission raised to see if there's some language suggestions that can come up to help streamline the process for when it gets before the Board.

So that's kind of our intent over the next week is to try to work in that direction to see if we can narrow the focus of the issues and try to resolve issues.

MR. PEEPLES: We will know by the 22nd, don't you think, Jim?
MR. HURSON: The 22nd we will probably have an idea where they are. I doubt that we will get the final documents done by then. The day before is a legal holiday, so the courthouse is closed. So I think we're starting on a Wednesday, and if it went Wednesday night and Thursday night, we have Friday, Monday is a holiday, and then that Tuesday would be the 22nd. We may be getting some indication from the Board on the 17th or they may set it over to like the 22nd for further discussion.

But I think we will have a good sense for it.

If the Council wants to have a follow up on the 22nd to see where we are, I think that could make sense; although, I doubt it will be a matter of we have the final document prepared. At best we can give you a sense of where it is as far as your scheduling, and we'll probably have to have another follow up, you know, a few days after that for final decisions.

JUDGE TOREM: Mr. Hurson, I think that it's not the purpose of the Council to hold this follow up on the 22nd, so we know that the County Commissioners have a final document but simply to know whether any party needs a continuance of the hearing. As Ms. Makarow stated, there are financial incentives to aid Council and therefore the Applicant for continuing the hearing on that date if we need to because there would be a motion to file for preemption or some other such extension of the time necessary to avoid that.

So if you're going to indicate obviously that the Board of County Commissioners has intention to approve the project and you're able to hammer out the details prior to the March 7th beginning of the hearing, that's what we need to know on the 22nd. If it blows up from either side along the way, and it's not foreseeable, well, so be it. This has happened with EFSEC proceedings before. We understand those are hard to control.

But if the Board of County Commissioners is in your opinion -- I'm not asking you actually for a prediction, but in your opinion that they are going to vote to approve it, then it doesn't have to be done by the 22nd. If it's very clear to County staff that the Commissioners' vote is going to go against what the Planning Commission gave, it might be helpful to know that on the 22nd, so we can continue the hearing accordingly and allow for the motions and filing for preemption to come up; that the Applicant would have the opportunity to do that. Sound fair, Mr. Hurson?

MR. HURSON: We can get the input we can, but I'm obviously not a mind reader. So I assume that the Zilkha folks and the County staff can all discuss and see if we are getting the same impressions or direction.

JUDGE TOREM: I do recognize that you have two newly elected Board of County Commissioner representatives, so the degree of predictability there is not much of a track record to go on, and I recognize the limitations on their ability to state otherwise prior to an actual vote. So with all that in mind anything you can give us as predictions or indications on the 22nd would help the staff, and we'll go forward from there.

But it appears that everything is headed toward a final resolution favorable to this project from the County's perspective to allow EFSEC to evaluate the project for siting without consideration of preemption. So, again, I think on behalf of the entire Council for giving us that project to review as opposed to one with preemption for the first time in 30 years we thank you in advance.

MR. HURSON: We're working on it.

JUDGE TOREM: Right. Mr. Hurson, anything further on this?

MR. HURSON: I don't believe so unless you have any other questions.

JUDGE TOREM: All right. Mr. Peeples.

MR. PEEPLES: Just Jim and I had one conversation last week I think you hit on. I think we'll know, have a pretty good idea by the 22nd for any reason if we're not going to go. I think that's a pretty fair statement. The other thing is I think perhaps we ought to start thinking right now about filing a notice for land use hearing, and if we don't use it, we don't use it. But I think we need to file a notice for the land use hearing and plan to have it on the morning that we start the hearing which is March 7th.

MR. HURSON: I have no objection to that.

MR. PEEPLES: And if we don't, we don't go.

JUDGE TOREM: All right. Very well. Council, any questions regarding this update on efforts to obtain land use consistency?

MS. ADELSMAN: It looks good.

MS. TOWNE: Wouldn't it be prudent because of the scheduling, financial impacts to abandon the 7th as the logical date and move it out a week or two at this point, given that we're not going to know until the 27th, and you probably aren't going to wait that long to reserve rooms?

JUDGE TOREM: We have the reservations from my understanding. Ms. Towne, so the only advantage we might gain by delaying the hearing a day is that gives us another day on the cancellation. We might start on the
8th and run for four days. That may be possible, but I will leave that up to Ms. Makarow if we think that we need to move things to the 23rd, if that gives us any further indication. But it sounds as though we will know on the 22nd if we need to continue this one way or the other. If it's going to be a negative implication that's predicted for the Board of County Commissioners, they're going to be making a motion to continue it. If we're together at the status coverage on the 22nd, we can set a time for a prehearing conference with that in mind, go ahead, and probably nix the reservations in advance.

CHAIR LUCE: Let's hold them for the time being.

JUDGE TOREM: Ms. Makarow, any input on that?

MS. MAKAROW: We can certainly contact the fairgrounds to see just how much we can stretch that 22nd, but that was already a case-by-case negotiated agreement that we have with them. They actually gave us an extra week to be able to cancel the reservation without any penalty.

JUDGE TOREM: Right. Any other parties, observers, have any questions about the land use consistency?

Hearing none, let's move onto the last item.

The status conference for February 22 we have been discussing as part of the item. We can do this by phone. We need not get together in person for folks that need to travel to be here. What time of the day is -- Mr. Hurson, maybe you could tell us is there any time of the day that would be better for a feeling as to a prediction, or is lunch time, one o'clock, two o'clock is that a better time for anyone as far as Kittitas County's perspective?

MR. HURSON: I don't know if I have any particular preference. I guess if you did it later like mid afternoon at least then if the Board wanted to schedule a meeting or a hearing earlier in the day or early afternoon, there would be a little more time to sort things out. I just don't know what the time is going to be on the schedule of the Board right now.

JUDGE TOREM: Ms. Makarow, what's your promise as to what time you contact the fairgrounds on the 22nd?

MS. MAKAROW: I believe their offices close at 4:30, so before 4:30.

JUDGE TOREM: Would three o'clock in the afternoon then be sufficient, Ms. Makarow, from your perspective if we have a half-hour or 40 minutes of discussion?

MS. MAKAROW: I think so.
is acceptable or not. If the Department of Fish and Wildlife decides to intervene that would come from another group of Fish and Wildlife staff who are not associated with these contractors, and the understanding I have is that decision has not been made. That's up to the Department of Fish and wildlife.

JUDGE TOREM: Just so the folks know who the letter came from, it's from Mr. Ted Clausing signed as a Regional Habitat Program Manager. So anyone that wants a copy of this Ms. Makarow I believe should be able to probably put it on the website.

MS. MAKAROW: It has been emailed to all the parties, and as soon as I receive the original through the mail, I'll be serving it in copy. But certainly we can mail it earlier if they want.

The Councilmembers will be receiving a copy of the letter also.

MS. ADELSMAN: Is it clear? Am I to understand that the letter deals with the substance of the mitigation and so on, not procedure? It has nothing to do with any procedure stuff we're discussing; is that correct?

MS. MAKAROW: Correct.

JUDGE TOREM: Sorry for the confusion. I've been involved in a side conversation as to making sure that those procedural Chinese walls, if you will, were in place, and I just presumed that might be what the substance of the letter was, but bad guess.

Any other business on the Wild Horse matter?

MS. TOWNE: Mr. Torem, for the record, two weeks ago I guess I was sent an email by a Department of Fish and Wildlife employee attaching a proposal for mitigation. Simultaneous with my receipt of that email which I hadn't even opened, both Ms. Makarow and Ms. Essko communicated to me a stop, go no further, do not look at the document because it should have been available to me only in an adjudicative setting. I therefore emailed back to the Department of Fish and Wildlife informing them of that wise counsel and deleted the email from my machine.

JUDGE TOREM: And you avoided the ex parte contact.

MS. TOWNE: That is correct. So I just wanted everybody to know they may wonder why I don't know what's going on at Fish and Wildlife since I purportedly represent them, but that is why.

JUDGE TOREM: At least in this matter you have a good excuse.

MS. TOWNE: That's right.

JUDGE TOREM: All right. Anything else on Wild Horse?

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MR. BRICKLIN: Yes, Mr. Torem. This is Dave Bricklin.

JUDGE TOREM: Yes, sir.

MR. BRICKLIN: With regard to that letter from Fish and Wildlife staff who are under contract to EFSEC, my understanding is that they were on the EFSEC side of that fire wall, so that they were supposed to be off limits from the parties to the proceeding. But in that letter that I read briefly, -- I received it today.

-- they make clear that they have in fact had communication with one of the parties to this proceeding, that is the Applicant, and apparently very excessively.

We had attempted on behalf of my client to be in touch with those same individuals, and we were told to lay off. You may not talk with them. They are on the EFSEC side of the fire wall. So we didn't pursue that.

Now in this letter it turns out that the whole time we were following the rules and making sure we didn't communicate with them that the Applicant was.

JUDGE TOREM: So that there's not an appearance that there's something that you've been told one thing and the Applicant's been told another, my understanding of the EFSEC statute and the rules that have been implemented strictly allow for this kind of contact, Mr. Bricklin, and I'll defer to Ms. Makarow because she's been dealing with it a lot longer than I have.

But EFSEC contractors that we hire to understand what the Applicant is proposing, maybe it's obvious, would have to communicate with those applicants to determine exactly what the project is and avoid any mistaken presumption as to what exactly they're evaluating. Again, I haven't read the letter, so I'm at a disadvantage to know exactly what sort of communication went on here. But in general that sort of contact is permitted whether it's actually ex parte contact or not, if you want to characterize it as such, but it is strictly permitted under the law.

Ms. Makarow I'd defer to for some additional comments necessary to address Mr. Bricklin's concerns.

MS. MAKAROW: Unfortunately I do not have a copy of our statute before me, and maybe our Assistant Attorney General can correct me. But I believe the cite is to RCW 80.50.085 which clearly allows EFSEC staff and by association of contractors who work for EFSEC on our side of the fire wall to work with the Applicant to resolve issues regarding siting of a project that is before the Council, and it is under this statute that the Fish and Wildlife contractors who are Ted Clausing and Brent Renfrow on our side of the fire wall have been in communication with the Applicant:

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JUDGE TOREM: So, Mr. Bricklin.

MR. BRICKLIN: I certainly don't question that EFSEC can obtain information from the Applicant, but it seems to me that if EFSEC is not just receiving the application and clearly is also in ongoing communications with the Applicant that may be fine too. But if they're doing that, then other parties need to have access to EFSEC staff as well.

In this letter which summarizes some of those conversations that apparently is going on unbeknownst to us, there is information in here not just about what the project is but rather Zilkha's efforts to characterize their project in a way that minimizes the affects on wildlife in explaining why they think the project won't have significant effects attempting to rebut comments that were filed by others that's more than just describing what the project consists of. It's part of a debate.

Again, I don't question their right to provide that kind of analysis and information to EFSEC staff, but if they were allowed to do so, then we should have that ongoing opportunity as well.

JUDGE TOREM: Let me suggest, Mr. Bricklin, in the past there have been suggestions that EFSEC staff or contractors might be called to testify or be deposed, and there is a EFSEC regulation that prohibits that sort of thing. Again, I don't have the citation to that right in front of me. But any evidence that's going to come in before the Council as part of the sworn testimony already is in the prefilled from the Applicant or perhaps from the Counsel for the Environment or from your organization or maybe will come in in the rebuttal testimony that's due to be filed today. Any of those folks can be cross-examined, and if there is any indication from the cross-examination that they're simply restating what they got from contractors behind the EFSEC fire wall, Council would entertain a motion as need to delve further into the original source of the comments and the work and have to evaluate whether it's appropriate under the EFSEC rule to allow that to occur or not.

But, again, keep in mind that the EFSEC rule does prohibit its staff which we've interpreted in the past to include contractors from being called to testify. It is sort of an odd statute that allows the staff to work with one party but not the others. That's easily acknowledged by anyone that's familiar with EFSEC's workings.

But let us know if you feel that it's prejudice, and you're not able to get some information or present your case accordingly. The Council wants to make sure if they're approving or disapproving a siting project based on environmental, whether it be damages or mitigated damages, that they have the whole story. So I appreciate you raising the concern today. I'm not so sure what else we can do. I may have other staff members here that want to offer their counsel.

MR. BRICKLIN: I wasn't necessarily asking EFSEC to do anything today. I just wanted to raise that at the earliest possible moment that I was aware of the issue, and I will evaluate everything that you and Ms. Makarow have stated and other information. I think the burden is on me at this point if I want to pursue this issue to let you know how I want to pursue it but I did want to take this -- and I think we probably will. But I did want to at least -- I'm not asking you to do anything at this moment. I just wanted to make sure you were aware of the issue as soon as I was.

JUDGE TOREM: Let me suggest that if you have questions about it to get those from Ms. Makarow and perhaps to Ms. Essko as the Counsel for EFSEC and see what other questions they might be able to address before you put a whole lot of work into deciding that this is an issue of consequence or if it's simply one of those procedural oddities that go with EFSEC.

If it proves to be only that, and if it's not consequential, I appreciate again you raising it. But if it is consequential, bring it to us in an appropriate fashion and let us deal with it to be sure that neither your organization that you're representing or any other party is prejudiced by this particular information coming out in the way it has.

MR. BRICKLIN: Okay.

JUDGE TOREM: Ms. Essko, anything you need to add?

MS. ESSKO: I was just going to point out that all the parties would have an opportunity to respond to that letter. I have not read it either. It just came out I think today, but every party will have an opportunity to respond to that. I just want to reiterate what Irina said about the statutory requirements of RCW 80.50.085 in which the legislature requires Council staff. It doesn't just permit Council staff, but it requires Council staff to assist applicants in identifying issues presented by the application and requires that Council staff review all information submitted and recommend resolution to issues in dispute that would allow site approval. So as you think about this letter and what it may or may not mean that's the legislative mandate on which the Council is operating.

JUDGE TOREM: Mr. Bricklin, just let us know.
Chair Luce, that if the impacts of this letter are such that it can only be remedied by that type of a request, then a request can be entertained.

Chair Luce, We haven't read the letter, and so therefore we're all speculating on something that no one understands what it is yet.

JUDGE TOREM: Correct. So, Mr. Peeples, I don't mean to alarm your client that all of a sudden there could be another bulk of prefilled testimony requested or required. But if the request comes in from another party, we will evaluate it and hear from the Applicant and other parties that are concerned and set appropriate limitations. The goal is simply to get the Council all the information it needs to make a full and accurate determination.

Chair Luce, I view this just as an extension of the EIS process basically.

JUDGE TOREM: Quite probably it will be, but it may be that Mr. Bricklin feels otherwise once he's had a chance to go fully through the letter. If he wishes to make a request for some sort of --

Chair Luce, Sometimes counsel from all facets and representing all sorts of different parties feel differently about all sorts of different things, and they have to act accordingly.

JUDGE TOREM: All I want to make clear is that if anyone feels that his letter is some sort of bombshell at the last minute, tell us. Let us evaluate the request, and we'll try to do justice and allow everybody to get the information they need for the first week of March. That's all.

Mr. Bricklin, anything else?

MR. BRICKLIN: That's fine. Thank you.

JUDGE TOREM: All right. Thanks.

Anything else on the Wild Horse project as proposed?

All right. The last thing that I want to note for everyone else here is that the next meeting of EFSEC is scheduled I believe for a month from today on March 8. If the Council goes forward on the week of March 7th through 11th for the hearing on Wild Horse, one of two things will occur. Either that meeting will be rescheduled or on the afternoon of Tuesday the 8th the Wild Horse proceedings will cease for some period of time, and we will hold that meeting for those that want to attend in person in Ellensburg at the fairgrounds, and we will have a call-in number if the telephone technology can be obtained for the rest of the folks there. I'll leave that up to staff. But we'll know on the 22nd whether...

Chair Luce, I want to just interject here.

This is Chair Luce. If I recall correctly from previous cases that we've had, and Sumas comes to mind, and I'm not sure it was Sumas. Council has in the past treated contractors as an extension of staff, and it has not, if I recall correctly, had either staff or contractors generally called as witnesses.

JUDGE TOREM: Correct.

Chair Luce, What we have in situations like this permitted was when a letter such as this came in as Ms. Essko said the letter is a matter of public record, and then parties who wanted to comment on whatever was contained in that letter could offer comments as they wanted, and that would seem to be an appropriate thing to do. However, I don't think we've ever characterized it as filing a brief or filing a motion or anything like that.
we're still going to Ellensburg for that week, and, if so,
what's going to happen with the actual regular EFSEC
meeting: whether it will be accommodating within the
hearing schedule or moved to another date.

MR. FIKSDAL: Judge Torem, this is Allen
Fiksdal. That was going to be an item that I was going to
bring up under the other agenda items in this agenda that
we're at today.

JUDGE TOREM: All right. So more to follow.

If there is nothing further, then this prehearing
conference is adjourned, and we will go to back to the
regular EFSEC meeting at 2:12 in the afternoon.

* * * *

(Whereupon, the prehearing conference was
adjourned at 2:12 p.m.)

AFFIDAVIT

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 February 8, 2005,
in Olympia, Washington.

__________________________
Shaun Linse, CCR
CCR NO. 2029