

ENERGY FACILITY SITE EVALUATION COUNCIL

OF WASHINGTON

Wild Horse Wind Power Project Special Meeting

May 25, 2005

512 North Poplar Street

Home Arts Building

Ellensburg, Washington

6:30 p.m.

A: CALL MEETING TO ORDER

JUDGE TOREM: We'll call this meeting to order. It is the appointed time. Good evening. It is Wednesday, May 25,

1 2005, a little after 6:30 in the evening, and I appreciate
2
3 the folks here in Ellensburg providing perfect weather for
4
5 our travel and our meeting tonight. My name is Adam Torem.
6
7 As those of you who have followed the proceeding in this
8
9 case know, I am the Administrative Law Judge assigned to
10
11 preside at the adjudicative proceeding and handle many of
12
13 the procedural issues for the Energy Facility Site
14
15 Evaluation Council.

16
17 I am going to ask Allen Fiksdal, the Council
18
19 Manager, to take the roll of the Councilmembers, and then
20
21 we will get on with our meeting and announce the decision
22
23 of the Council in the Wild Horse Wind Power Project.

24
25 B: ROLL CALL & QUORUM

1

2 EFSEC Chair

Jim Luce

3

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7 Community Trade and Economic Development

Richard Fryhling

8

9 Department of Ecology

Hedia Adelsman

10

11 Department of Fish and Wildlife

Chris Towne

12

13 Department of Natural Resources

Tony Ifie

14

15 Utilities and Transportation

Tim Sweeney

16

17 Kittitas County

Patti Johnson

18

19 MR. FIKSDAL: Thank you. All our present, and there is a

20

21 quorum.

22

23 JUDGE TOREM: Thank you, Mr. Fiksdal.

24

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B: OPENING STATEMENT

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JUDGE TOREM: Good evening, folks. Tonight's proceedings are to announce the results of what the Council is going to recommend to the Governor of the State of Washington, the entity Wild Horse Wind Power Project. That's Application No. 2004-01.

I want to give you a brief opening statement, and then each member of the Council as is the custom in these recommendation announcement meetings will take a different part of the written order and give you a briefing as to the key highlights. The two pieces of paper that will be signed by the Council tonight are actually one will be Wild Horse Order No. 814 and attached to that will be a draft of the

1 Site Certification Agreement being forwarded to the
2
3 Governor. Those documents are near 100 pages in total, so
4
5 we're going to try and go through it in the next hour to 45
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7
8
9
10 minutes or so and tell you what the highlights are and what
11
12 the recommendation is and the reason for this.

13
14 As you know, Wind Ridge Power Partners submitted an
15
16 application in March of 2004 for its site certification for
17
18 the Wild Horse Wind Power Project. You know it's here in
19
20 Kittitas County about 11 miles east of the City of Kittitas
21
22 and 13 miles northeast of where we are here in Ellensburg.
23
24 The project is proposing to build between 104 and 158 wind
25

1 turbines that would generate between 158 and 312 megawatts
2
3 of wind power, again depending on the size of turbines and
4
5 how many of them are actually constructed. The project
6
7 would be the wind turbine generators themselves, the
8
9 foundations necessary to support them, the access roads, and
10
11 the substations to conduct the electricity, both underground
12
13 and overhead transmission lines, and an O & M or an
14
15 operations and maintenance facility. It would construct and
16
17 employ one or two or maybe even both feeder lines to move
18
19 electricity from here to a power grid. The total of those
20
21 feeder lines would be about 13 miles in length and would
22
23 allow interconnection with either Bonneville Power or the
24
25 PSE transmission systems. The total of this has been

1

2 proposed for 8,600 acres. It's undeveloped land, and 401
3
4 acres of that 8,600 acres will be temporarily disturbed for
5
6 construction activities. From our analysis only a total of

7

8 165 acres would be permanently developed for the placement

9

10

11

12

13 of the turbine towers and the roads and other associated

14

15 structures.

16

17 Now, of course, this project had to comply with the State

18

19 Environmental Policy Act, and the Energy Facility Site

20

21 Evaluation Council is charged with the responsibility of

22

23 applying SEPA to this case. In this proceeding the Council

24

25 complied with SEPA by issuing a determination of

1
2 significance, as well as a scoping notice. The Council
3
4 conducted a scoping hearing here in Ellensburg and issued a
5
6 Draft Environmental Impact Statement for public comment last
7
8 year in August. There was a public hearing, and, of course,
9
10 we accepted your written comments on the Draft EIS. Many of
11
12 you are aware we issued a Final EIS on May 16, 2005. There
13
14 were a number of issues as to land use consistency with the
15
16 local comprehensive plans and zoning ordinances, and the
17
18 Council is required by law to determine whether a proposed
19
20 project would be consistent with those local or regional
21
22 land use plans. When it first came to us in March of 2004,
23
24 the project was found to be inconsistent with Kittitas
25

1 County land use plans and zoning ordinances, and we directed
2
3 the Applicant and the County to work together to resolve
4
5 those. After a few extensions of time to allow those
6
7 parties to work together, we were happy to hear at the
8
9 actual hearing a few months ago in March that they have
10
11 reached an agreement, and a Development Agreement had been
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15
16 issued by the Board of County Commissioners. So on March 7,
17
18 2005, this Council accepted the certification from the
19
20 County declaring the project had been made consistent with
21
22 its local land use requirements. The certificate from the
23
24 local land use authority was accepted as prima facie proof
25

1 of that, and if you were at the hearings in March, there was
2
3 some extensive questioning and exploration of the
4
5 development agreement and all of the supporting documents,
6
7 so that this Council could understand that in fact
8
9 consistency had been reached.

10

11 The adjudicative proceeding itself started back in August of
12
13 last year, on August 3. There was a Notice of Intent to
14
15 hold the adjudicative proceeding and a notice of opportunity
16
17 and a deadline for folks to file petitions for intervention.

18

19 As you know, the parties to this case were the Applicant

20

21 themselves and Counsel for the Environment who is Assistant

22

23 Attorney General John Lane, the Washington State Department

24

25 of Community Trade and Economic Development, in addition to

1
2 having a representative on the Council, participated by
3
4 filing a notice of intervention. The Council also granted
5
6 party status to the County, to a group called Friends of
7
8 Wildlife and Wind Power, also to the Economic Development
9
10 Group of Kittitas County, and to one individual Mr. F.
11
12 Steven Lathrop. Friends of Wildlife and Wind Power and
13
14 Mr. Lathrop eventually withdrew from the proceedings prior
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16
17
18
19 to them going to hearings, and prior to the adjudicative
20
21 proceeding the Applicant was able to enter settlement
22
23 agreements with the majority of the rest the parties,
24
25 including the Washington State Department of Fish and

1
2 Wildlife, which was not declared a party to the proceeding
3
4 but was interested in some of the mitigation measures being
5
6 proposed for the project. There was also a stipulation of
7
8 settlement agreement with the County which involved much of
9
10 the land use consistency issues that I already mentioned.
11
12 The Council held its formal adjudicative proceeding
13
14 regarding the application on March 7 and March 8 and then
15
16 for closed deliberations. Those occurred in the last couple
17
18 of months, and I can attest to that given the volume of
19
20 paper that we will read publicly tonight you will see that
21
22 the order itself took into consideration a wide variety of
23
24 issues, and the Draft Site Certification Agreement to be
25

1 forwarded to the Governor has incorporated many of those
2
3 issues. If there's a specific issue that you don't hear
4
5 from the Council about tonight, feel free to approach EFSEC
6
7 staff afterward and be directed to where that might be
8
9 addressed in the written documents. Once we've heard from
10
11 each of the areas tonight from the Councilmembers that are
12
13 discussing them, I'll be able to tell you what the next
14
15 steps are for sending this onto the Governor and perhaps
16
17 hearing from other parties who want certain items to be
18
19
20
21
22 considered once they may have read through the
23
24 recommendations and had time to digest it all.
25

1 Let me ask Chairman Luce to pick up from there.

2

3 CHAIR LUCE: Thank you everybody for attending tonight's

4

5 meeting. Many of you that are here this evening have spent

6

7 a great deal of time analyzing the application before us

8

9 this evening, and I want you to know that the comments that

10

11 we have received throughout this process which began in 2003

12

13 with the preliminary site study have been very carefully

14

15 reviewed by the Council as you will see when you review the

16

17 opinions. Many of the comments are captured in fact in the

18

19 conclusions that the Council has drawn, in particular the

20

21 Counsel for the Environment, and I want to recognize our own

22

23 legal counsel, Ann Essko. The parties have provided

24

25 excellent briefs, excellent argument for us, and I think are

1
2 to be commended for their efforts. The way we're going to
3
4 handle this is that each Councilmember will provide a
5
6 summary of issues considered by the Council, especially
7
8 those within which their agency, the agency they represent,
9
10 has particular expertise. Since I am Chairman, I give a
11
12 general overview, since I probably have no expertise, and
13
14 therefore they default to me and let me make these
15
16 preliminary remarks.
17
18 We're required to complete review of applications within a
19
20 year. This has taken somewhat longer than that, and I want
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23
24
25 to just note for the record there were two extensions of

1
2 time required to resolve land use inconsistencies. Those
3
4 extensions were requested by the Applicant, and I think but
5
6 for those extensions we would have been able to complete
7
8 within one year. So we do everything within our power to do
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10 it within a year, but it's not always totally within our
11
12 power to do it. The application on which we're going to act
13
14 tonight requested an 8- to 12-month time frame within which
15
16 the project would be constructed, and that is the time frame
17
18 which we are going to consider, the time frame that was
19
20 requested by the Applicant in its application. The project
21
22 has to meet the strictures of the Washington State Law, and
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24 as you may be aware, it's the policy of the State of
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1 Washington to recognize the pressing need for increased
2
3 energy facilities and to ensure that through available and
4
5 reasonable methods that those projects will produce a
6
7 minimal impact on the environment. In doing so, we also
8
9 take a look, a hard look at the broad interest of the
10
11 public. So basically what we looked at is the statutory
12
13 directive that requires us to consider the need for power,
14
15 protection of the environment, and the public interest.
16
17 Those are sort of the three legs of stool. In here the
18
19 Council does find and will find as you hear later that the
20
21 project does conform to the legislative intent expressed in
22
23 RCW 80.50.010. 850 is our statute. That's the chapter
24
25

1

2

3 within which we must provide review of these projects. The

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5 Council also finds that operational safeguards at least as

6

7 stringent as the criteria established by the federal

8

9 government are going to be undertaken here, and that they

10

11 will in fact be technically sufficient for the welfare and

12

13 protection of the public.

14

15 Just a brief comment about the environmental mitigation

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17 requirements. The Applicant has agreed to provide such

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19 environmental mitigation and as a whole, taken as a whole

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21 the package preserves and protects the quality of the

22

23 environment. Other Councilmembers will get into more

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25 specifics about how that in fact happens. It's important to

1
2 note I think with respect to renewable resources that this
3
4 project is going to produce electrical energy without
5
6 generating any greenhouse gas emissions or other air
7
8 emissions which are harmful to our environment, and for that
9
10 reason the project in the Council's opinion will enhance the
11
12 public's opportunity to enjoy the esthetic and recreational
13
14 benefits of clean air, clean water, and land resources. Of
15
16 course, there's no substantial amount of water utilized in a
17
18 project like this as it would be for other thermal-type
19
20 projects, and conservation of water is an important factor.
21
22 Finally, I would note that the evidence in the record
23
24 supports the conclusion that the region, our region, State
25

1 of Washington and the Northwest, needs to continue to add
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5
6 electrical generation capacity. This project helps
7
8 diversify that base of electrical energy. Of course, we've
9
10 got the hydro facilities, we've got some gas facilities, and
11
12 now with renewables, so you don't want to put all our eggs
13
14 in one basket. This project helps diversify the region's
15
16 electrical capacity and therefore does support also because
17
18 of the costs associated with this that the electricity will
19
20 be provided at a reasonable cost.
21
22 So what I'm going to do now is turn to my fellow
23
24 Councilmembers to explain in more detail specific aspects of
25

1 this project and the findings that we are about to make with

2

3 respect to the Wild Horse Wind Project.

4

5 MS. ADELSMAN: Thank you, Chair Luce. Again, my name is

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7 Hedia Adelsman. I'm going to cover very briefly a couple

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9 issues relating to the project and some of the environmental

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11 issues that we at least analyzed and addressed in the site

12

13 certification.

14

15 The Applicant, Wind Ridge, has requested that latitude or

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17 flexibility in its selection of the turbine manufacturer

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19 prior to construction, and I think regardless of the size of

20

21 the turbine, the turbines themselves would generally be

22

23 installed along the access roadways that have been

24

25 identified in the application. Also the construction

1
2 activities will be occurring along the corridor that are
3
4 identified in the applications. We have reviewed the
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7
8
9 request to have the flexibility of looking at the impacts of
10
11 the project on all the elements of the environment, and we
12
13 looked at various scenarios dealing with different sizes and
14
15 numbers of turbines. It was very clear from the analysis
16
17 performed in the EIS that the impact did not really change
18
19 very much from one scenario to another, and actually none of
20
21 the scenarios resulted in any significant impact. So we
22
23 feel that as a Council it is very appropriate for us to give
24
25 the Applicant the flexibility to at least select what the

1

2 final configuration of the turbine size and numbers are

3

4 going to be.

5

6 In general, I'm going to cover only a few of the

7

8 environmental impacts, and some of the other Councilmembers

9

10 will cover other ones. There were minimal impacts expected

11

12 in several areas for the environment. In the case of the

13

14 air, we expect that most of the construction emissions

15

16 associated with the project will really have no adverse

17

18 impact on the ambient air quality in Kittitas County.

19

20 During the construction any fugitive emissions would be

21

22 mitigated using normal best management practices that would

23

24 happen during construction. We do not see the project as

25

1 emitting any regulated air pollutant, and therefore it does
2
3 not need to conform or at least need to be subject to any
4
5 federal or state regulations.

6
7 We looked at the soil and geology. We talked before about
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11

12 this is an 8,600 acre project size which will remain largely
13
14 intact. Four hundred or 401 acres will be temporarily
15
16 impacted by activities, and 165 acres will be permanently
17
18 altered. I think you're going to hear later on about some
19
20 of the mitigation that are proposed that actually address
21
22 some of these impacts.

23
24 Volcanic activity. 25 years ago, of course, we all know
25

1 there were some ash fallout. It was only last week I think
2
3 the anniversary. So the risk is there. Further, the risk
4
5 from earthquake is very minimal, but regardless the company
6
7 agreed to design and construct the project based on the
8
9 seismic standards and the international or at least the
10
11 state building codes.

12
13 The construction impact and geological resources there's
14
15 temporary rock quarries, a rock crusher, and a concrete
16
17 batch plant. There will not be any resources that would be
18
19 exported off the site, and actually most of the material
20
21 excavated will be used on site as necessary.

22
23 For the local soils there's potential for runoff, especially
24
25 depending on the slope. The Applicant is going to be

1
2 required to follow a detailed Stormwater Pollution
3
4 Prevention Plan and will have some appropriate best
5
6 management practices to reduce impacts.
7
8 Stormwater control permits will be required for the
9
10 construction activities and also for the operation of the
11
12
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14
15 temporary rock crusher and concrete batch. Also there will
16
17 be landscaping, grass, and vegetative covers to minimize
18
19 ongoing erosion and sedimentation.
20
21 The implementation we believe a lot of the mitigations will
22
23 actually make sure that no significant and avoidable adverse
24
25 impact will result from the project. We do not also expect

1
2 any impact in water resources given the best management
3
4 practices that will be implemented to protect surface and
5
6 ground waters, and that the water for the construction and
7
8 sanitary use will be imported from off site. However, we
9
10 want to make sure that Wind Ridge will provide us with a
11
12 proof of contract when it comes to the water supply that's
13
14 going to be needed for the construction. During
15
16 construction the project is not going to produce any
17
18 industrial waste water, and, again, we talked about the
19
20 sanitary waste water produced will be discharged to an
21
22 on-site septic system.
23
24 There is really a lack of potential for fish and wildlife
25

1 habitat. We do not see that happening, especially since
2
3 there are no federal or state protected status of fish that
4
5 require federal state protected status on the project.

6
7 Again, I think some of the mitigation dealing with storm
8
9 water and some of the others will mitigate if there is any
10
11 impact.

12
13 I believe one of our other members is going to now talk
14
15
16
17
18 about some of the other impacts and how they are going to be
19
20 mitigated. I think is that Tim?

21
22 MR. IFIE: Thank you, Councilmember Adelsman. I thank you
23
24 everyone for being here as well. During adjudicative
25

1 hearings held for considering this project the Council
2
3 approved a settlement agreement between Kittitas County and
4
5 the Applicant. I was pleased to see an agreement. The
6
7 agreement indicates that the application is consistent with
8
9 Kittitas County's applicable land use laws. Further, the
10
11 agreement is supported by the Development Agreement that
12
13 sets forth the minimum requirements and project development
14
15 conditions that the Applicant and Kittitas County have
16
17 agreed should be included in any Site Certification
18
19 Agreement issued by EFSEC for the project.

20
21 The following examples of requirements and conditions that
22
23 address and resolve several of the issues of concern:

24
25 The first one is Health and Safety - Fire. The Applicant

1

2 agreed to enter into a Fire Protection Services Agreement

3

4 with Kittitas County Fire District No. 2.

5

6 With regards to the noise, shadow flicker, and turbine

7

8 failures and ice throw, those were addressed through setting

9

10 a setback of 541 feet from any residence.

11

12 With regard to traffic concerns, those were addressed by the

13

14 Applicant's agreement to prepare and follow a Traffic

15

16 Management Plan. Landowners adjacent to transportation

17

18

19

20

21 routes will be notified prior to construction activities.

22

23 Warning signs and flaggers will be employed to minimize the

24

25 risk of accidents when large equipment is entering or

1
2 exiting a public road. Pavement conditions will be
3
4 documented before construction begins, allowing Kittitas
5
6 County and the City of Kittitas to monitor any road
7
8 deterioration associated with the project. The Applicant
9
10 will repair any such road damage.

11
12 Now I refer to the next Councilmember. Thank you.

13
14 MS. JOHNSON: Thank you. At this time I will talk about the
15
16 decommissioning, site restoration, and bonding issues
17
18 addressed.

19
20 The Development Agreement addresses the very important issue
21
22 of site restoration and defines the timing, scope, and
23
24 funding of decommissioning of site restoration activities.

25

1 These conditions have been incorporated into the Council's
2
3 Site Certification Agreement.

4
5 The project would be decommissioned within 12 months
6
7 following the earlier of the date of termination of the
8
9 County Development Agreement or at the written request of
10
11 the County and EFSEC, when the certificate holder
12
13 demonstrates that the energy generated by the project for
14
15 the past 12-month period is less than ten percent of the
16
17 historical energy production defined in the County
18
19 Development Agreement.

20
21
22
23
24 The Applicant has committed to posting funds sufficient for
25

1 decommissioning in the form of a guaranteed bond or letter
2
3 of credit prior to the end of the first year after
4
5 construction begins.

6
7 An additional condition of the Development Agreement with
8
9 Kittitas County allows for the decommissioning finding
10
11 security requirements to lapse in the event that the owner
12
13 of the project is an entity which is an investor-owned
14
15 electrical utility, such as Puget Sound Energy, in which
16
17 case the obligation to fully decommission the project when
18
19 due becomes a general obligation of the investor-owned
20
21 electrical utility owner.

22
23 The Council has considered this condition carefully and has
24
25 concluded that the transfer of ownership to another entity

1
2 cannot be considered in this proceeding. As a result the
3
4 Council cannot make any conclusions regarding a future
5
6 owner's capability to guarantee the availability of funds
7
8 for site restoration to occur. Therefore, the Council has
9
10 not included such lapse language in its Site Certification
11
12 Agreement.

13
14 MS. TOWNE: Thank you. My topic is habitat, vegetation,
15
16 wetlands, and birds except for sage grouse. The fish and
17
18 wildlife issues, including habitat, vegetation, and
19
20 wetlands, are governed by or guided by the Wind Power
21
22 Guidelines of the Department of Fish and Wildlife, which
23
24
25

1
2 were completed in 2003 after extensive negotiations amongst
3
4 all interested parties, stakeholders in these issues. So
5
6 that was our bench mark for determining which impact should
7
8 be looked at, the significance of those impacts, and the
9
10 appropriate mitigation.

11
12 As to the vegetation communities, as Ms. Adelman has
13
14 earlier described, will be about 400 acres impacted
15
16 temporarily, and of that about 165 acres will be permanently
17
18 impacted because they'll have turbines or met towers or
19
20 other facilities for the project sitting on them. So we're
21
22 talking about a maximum universe of about 400 acres. Of
23
24 that 85 to 90 percent is shrub-steppe habitat. The
25

1 shrub-steppe habitat is a specialized vegetative community
2
3 which is absolutely essential to those species which are
4
5 dependent upon it such as sage grouse. It is also a habitat
6
7 that is difficult to replace. So the question was: What
8
9 would be appropriate mitigation? Applying the Fish and
10
11 Wildlife Guidelines, the Applicant determined that setting
12
13 aside a mitigation parcel of 600 acres within the 8,600 acre
14
15 project area would be appropriate. The Council agreed with
16
17 that recommendation. That mitigation meets or exceeds the
18
19 required habitat replacement ratios provided by the
20
21 Department of Fish and Wildlife in the Wind Power
22
23 Guidelines.
24
25 The parcel will be fenced to exclude grazing, if grazing

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continues on the larger 8,600 acre project site after
construction and when operation commences. The parcel also
includes a very specialized and valuable piece of habitat;
namely, one mile segment of Whiskey Dick Creek, including
the headwaters. So water quality, wildlife, and species
diversity benefits improve from the inclusion of that creek.
Turbines will be set back from the forest at the north end
of the project site with benefit to habitat.
The Applicant has committed to best management practices to
minimize weeds or to eradicate weeds where they occur, to
implement a noxious weed control program in conjunction with

1

2 the County, and do post-construction restoration on those

3

4 acres which were temporarily impacted but will not be

5

6 constrained by the operation of the facility, and that will

7

8 include habitat reseeding.

9

10 Several of the springs within the larger project area will

11

12 be fenced, again, to keep out the livestock which have

13

14 degraded that habitat. So it is our expectation that the

15

16 wetlands habitat will see a substantial improvement.

17

18 Fencing will be wildlife friendly by the way.

19

20 In short, the Council found that the mitigation proposed in

21

22 the application, discussed in the Draft and Final EIS, and

23

24 measured against the DFW Wind Power Guidelines resulted in

25

1 no significant adverse impacts to habitat as mitigated.

2

3 The next topic is birds, and these are flying birds as

4

5

6

7

8 opposed to grouse which are more ground loving birds, and

9

10 the unique circumstances of wind power projects and

11

12 potential impacts on birds. The question was initially:

13

14 How long did the bird population at the project site have to

15

16 be monitored in order to provide the information necessary

17

18 to determine appropriate mitigation? The wind power

19

20 guidelines, again, were our bench mark, and the one-year

21

22 scope of that monitoring was deemed by the Council to be

23

24 acceptable. Substantial baseline data developed by the

25

1 Applicant and its consultants through on-site surveys,
2
3 flyovers, nest counts, other methods of determining what
4
5 birds are on or through or over the site were conducted.

6
7 The Applicant included several mitigation measures to
8
9 reduce, mitigate, ameliorate potential mortality to birds.

10

11 Where birds are known to occur in larger than usual numbers,

12

13 the siting of the turbines was directed away from those

14

15 sites. For instance, the saddles along the main Whiskey

16

17 Disk Ridge avoid putting turbines there because that's where

18

19 the birds go. Having large turbines with low rotational

20

21 speed and use of tubular towers rather than latticed towers

22

23 also minimizes the risk of bird collision. The

24

25 meteorological towers, rather than the guyed which creates

1
2 more area for the birds to come in conflict with, are going
3
4 to be unguyed. Overhead power lines will have raptor perch
5
6 guards and spacing power line conductors to minimize raptor
7
8
9
10
11 electrocution. By the way, there are a minimal number of
12
13 raptors. I believe one eagle was seen, bald eagle was seen
14
15 during the entire course of the site monitoring. Gold
16
17 eagles are somewhat more prolific, but the mortality is
18
19 expected to be rather low. The argument was made by the
20
21 Audubon Society and others in the course of our hearings
22
23 that we did not have before us significant evidence to
24
25 indicate that the mortality rates estimated in the

1
2 application were in fact accurate. So the question was:
3
4 How could the council structure its order and site
5
6 certification agreement to deal with any unexpected
7
8 consequences of development of the project? The Council
9
10 determined that implementation of a Post-Construction Avian
11
12 Monitoring Plan was the appropriate way to assess the
13
14 accuracy of the mortality estimates and to then take
15
16 appropriate action. So the plan incorporates one breeding
17
18 season's raptor nest survey of the study area. As to the
19
20 baseline monitoring in itself, the Council defers to the
21
22 Department of Fish and Wildlife Wind Power Guidelines, and
23
24 the SCA and order provides for a Technical Advisory
25

1 Committee, which will look at whether avian mortality
2
3 exceeds the estimated values and what appropriate measures
4
5 can and should be taken by the Council to address the
6
7 situation. Based on that set of measures, it is the
8
9 Council's determination that no significant adverse effects
10
11
12
13
14 in the area of avian species will occur as a result of the
15
16 construction and operation of the project. Thank you.

17

18 MR. SWEENEY: Good evening. Chris had a load of Wildlife
19
20 issues, so I volunteered to help her finish the sage grouse
21
22 and game.

23

24 MS. TOWNE: And I am grateful.

25

1 MR. SWEENEY: I wanted to point that out, since the
2
3 Utilities and Transportation Commission has not broadened
4
5 its scope. The interesting part of this job is really the
6
7 interdisciplinary aspects, and we do find ourselves learning
8
9 things that we wouldn't normally in our jobs. I think
10
11 that's part of the beauty of the State Siting Council,
12
13 forcing different minds on these things.
14
15 The project lies within the state sage grouse recovery
16
17 areas, and that's a big deal. As a result we paid a lot of
18
19 attention to that issuing, paying very close attention to
20
21 all the information that you see on the sage grouse. We
22
23 looked at the historic presence of the sage grouse in the
24
25 area, current attempts to reestablish the species in the

1

2 area, and concerns that construction and operation of the

3

4 project would harm the populations and the recovery efforts.

5

6 Based on the available evidence impacts for current sage

7

8 grouse populations at the current site are expected to be

9

10 low, and, frankly, that's because we really haven't seen

11

12 many sage grouse in that area at this time. The last

13

14

15

16

17 recorded observation of it was about seven years ago. So

18

19 really our focus is more in terms of: Are we creating harm

20

21 to in terms of potential recovery of this site?, and a lot

22

23 of our mitigation looked to that.

24

25 The Applicant's measures are to mitigate for vegetation, and

1
2 the habitat loss will directly and indirectly protect the
3
4 sage grouse use of this area by improving grass cover and
5
6 habitat for nesting, rearing, and wintering. If --
7
8 hopefully there will be an if -- active nests are discovered
9
10 in the area in the future, the operation of the facility
11
12 under the Site Certification Agreement will postpone routine
13
14 maintenance until after breeding season. The site is
15
16 populated also with mule deer and elk, particularly in the
17
18 winter months. One of the mitigations there is the heavy
19
20 construction, including road and foundation construction,
21
22 will be limited between April 15 and November 15. The
23
24 Applicant has agreed to work with the Department of Fish and
25

1 Wildlife to establish a hunting plan that will address the

2

3 Department of Wildlife's concerns regarding the elk and the

4

5 mule deer population management as well, and there will be

6

7 close construction monitoring to catch any unexpected shifts

8

9 in the use of the area by mule deer and elk.

10

11 We'll go over to Richard for his part.

12

13 MR. FRYHLING: I also want to thank you for being here

14

15 tonight or this evening. I also want to give you a little

16

17

18

19

20 background on myself. I have been coming to this valley for

21

22 over 50 years now. All during the '90s I worked with the

23

24 local governments in Kittitas County in regard to the Growth

25

1 Management Act, and for the last three years I've lived in
2
3 Walla Walla and traveled back and forth to Olympia to do my
4
5 job as a Council person. So I'm through the valley here and
6
7 into Ellensburg at least once a month or twice a month, and
8
9 I usually stop for gas and coffee and food. So I feel I'm
10
11 somewhat a traveling salesman, but I also have a lot of
12
13 concern for the valley here.
14
15 I'm going to make some comments in regard to visual
16
17 resources and socioeconomics. The Applicant hired qualified
18
19 experts to carry out an extensive visual and esthetic impact
20
21 analysis on this project. Also to minimize visual impacts
22
23 the Applicant wanted to take mitigation measures, such as
24
25 painting the wind turbine towers with low reflective paints

1

2 designed to blend into the background colors. The

3

4 Applicant's analysis and the Council's Final Environmental

5

6 Impact Statement found that the overall visual impact of the

7

8 project would be low to moderate.

9

10 The project is located in remote and rural areas of Kittitas

11

12 County. Given the distances from major highways and

13

14 concentrations of residents, neither glare nor shadow

15

16 flicker post hazards with this project. Further, the

17

18 turbine towers will not add significant ambient light to the

19

20

21

22

23 immediate surroundings; however, they will be marked with

24

25 flashing warning lights that are required by the Federal

1

2 Aviation Administration to alert the aircraft to their

3

4 presence.

5

6 As I said, I travel back and forth from Walla Walla on a

7

8 regular basis, and each time I leave Walla Walla and head

9

10 west I do have the opportunity to drive by the State Line

11

12 Wind Project and to view the wind turbines up on the hill.

13

14 I find them very interesting and visually stimulating, but

15

16 that's me.

17

18 Socioeconomics. Project construction will result in

19

20 increased employment in Kittitas County with about half of

21

22 the direct construction employment impact occurring locally.

23

24 The project's economic impacts are not expected to be

25

1 limited to jobs. Total direct income generated during the
2
3 construction phase of the project is estimated to be \$3.7
4
5 million. The Applicant estimates additional indirect and
6
7 induced impacts to add another million to the regional
8
9 economy.

10

11 They also look at there shouldn't be adverse impacts with
12
13 regard to regional or local housing supply from temporarily
14
15 housing construction workers.

16

17 It is estimated that the project will increase total
18
19 valuation of real property in Kittitas County by

20

21 approximately eight percent, from \$2.5 billion to \$2.7

22

23

24

25

1 billion. The project will be the largest single taxpayer in
2
3 Kittitas County contributing revenues for state schools and
4
5 local public services in the area, including county roads
6
7 and county government.

8
9 The issue of the project's potential effect on property
10
11 values in the county was debated during the proceedings.

12
13 Evidence in the record suggests that the relatively remote
14
15 location of the Wild Horse Project Site is beyond the
16
17 geographic area where any potential impacts to residential
18
19 or agricultural property values might be experienced.

20
21 Further evidence was offered to show that the property sales
22
23 in developed and developing portions of the county remain
24
25 robust, and the property values have not been affected by

1

2 the publicity related to either of the other two pending

3

4 wind projects in the area.

5

6 Therefore, the Council believes that for this particular

7

8 application the sum of the evidence demonstrated that the

9

10 project will not have any significant effect on the property

11

12 values in the county.

13

14 MR. SWEENEY: I get to do an encore performance. The secret

15

16 is out. It's obvious that Kittitas is a wonderful place to

17

18 live, and it's also apparently an attractive place for wind

19

20 power development as we are learning. So one of the issues

21

22 we wanted look at as part of this review is cumulative

23

24 impacts of what this wind project along with other wind

25

1
2
3
4 projects that we're aware of to potentially have on the
5
6 county. The Environment Impact Statement goes into quite a
7
8 bit of detail of what those cumulative impacts are. It
9
10 pretty much assumes as we are doing with this one that the
11
12 impacts, the environmental impacts are mitigated to
13
14 nonsignificance. But there is one single cumulative impact
15
16 that while can be mitigated on one level as Councilmember
17
18 Fryhling has talked about there might be not any mitigation
19
20 measures on the grandeur scale. I would rather just read
21
22 what the order says. The impact of repetitive use of
23
24 turbines in the county should all three wind power projects
25

1 be developed for residents and frequent visitors to the
2
3 valley could result in the impression of change in the
4
5 overall visual character of the Kittitas Valley landscape.

6
7 It does not appear that any mitigation measures are
8
9 available to fully address the cumulative impact to visual
10
11 resources.

12
13 MS. JOHNSON: My section is on transfer of ownership, the
14
15 area we looked at. During the adjudicative hearings the
16
17 Applicant made it known to the Council that Puget Sound
18
19 Energy had entered into an agreement with Zilkha Renewable
20
21 Energy to purchase the Wild Horse Wind Power Project, if the
22
23 project was ultimately approved by the Governor.
24
25 Representatives of Puget Sound Energy also presented

1

2 testimony to the Council regarding the potential benefits of

3

4

5

6

7 such transfer of ownership.

8

9 In its final brief to the Council, the Applicant requested

10

11 that the Council include provisions for automatic transfer

12

13 of the project ownership to PSE in the Site Certification

14

15 Agreement. The Council has considered the Applicant's

16

17 request and understands the advantages and efficiency of

18

19 including preapproved transfer of ownership language in the

20

21 Site Certification Agreement but must deny the request at

22

23 this time.

24

25 Council regulations for transfer of site certification have

1
2 not been met. No Site Certification Agreement will actually
3
4 exist until and unless the Governor acts in accordance with
5
6 the Council's recommendation. PSE, the presumed successor
7
8 in interest, has not filed a formal petition to assume
9
10 responsibility for operation and site management. The
11
12 Council has also not provided the notice nor held the public
13
14 informational meeting required by EFSEC regulations.
15
16 EFSEC is not opposed to the transfer of project ownership.
17
18 Even so, EFSEC is bound to follow its own regulations, even
19
20 those that might be seen as mere formality. When the
21
22 Governor takes final action on Council's recommendation
23
24 Application No. 2004-01, Wind Ridge and PSE may then make
25

1 the necessary application and petition to the Council
2
3 seeking necessary amendments to the transfer of the Site
4
5 Certification Agreement.

6
7
8
9

10 D: VOTE ON RECOMMENDATION

11

12 CHAIR LUCE: Thank you. Thank you, Patti. That concludes
13
14 the Councilmembers' individual comments with respect to
15
16 certain areas of which are covered in greater detail within
17
18 our order and within the site certificate, Draft Site
19
20 Certificate Agreement, which we will now consider formally
21
22 by taking a vote of the Council. So I would ask
23
24 Councilmembers is there a motion before us to act on this
25

1 particular order, Order 814? Anybody give me a motion?

2

3 MS. TOWNE: I will move that the Council approve Order No.

4

5 814 recommending approval of the Wild Horse Wind Power

6

7 Project to the Governor of Washington State.

8

9 MR. FRYHLING: I'll second that motion.

10

11 CHAIR LUCE: I have a motion, and I have a second. Is there

12

13 discussion, further discussion among the Councilmembers here

14

15 this evening?

16

17 Hearing no such discussion and recognizing that we've

18

19 covered in some length all of the attended to this

20

21 particular motion, the question is called for. Call for the

22

23 question.

24

25 Allen, would you please call the roll of Councilmembers with

1

2 respect to this motion, pending motion on 814.

3

4 MR. FIKSDAL: Thank you, Mr. Chairman. I will call each of

5

6 the Councilmembers and please signify whether you agree with

7

8 adoption of Order No. 814.

9

10

11

12

13 Department of Community Trade and Economic Development?

14

15 MR. FRYHLING: Yes, I agree with the adoption and approval

16

17 of Order No. 814.

18

19 MR. FIKSDAL: Department of Ecology?

20

21 MS. ADELSMAN: Yes.

22

23 MR. FIKSDAL: Department of Fish and Wildlife?

24

25 MS. TOWNE: Yes.

1

2 MR. FIKSDAL: Department of Natural Resources?

3

4 MR. IFIE: Yes.

5

6 MR. FIKSDAL: Utilities and Transportation Commission?

7

8 MR. SWEENEY: Yes.

9

10 MR. FIKSDAL: Kittitas County?

11

12 MS. JOHNSON: Yes.

13

14 MR. FIKSDAL: Chair?

15

16 CHAIR LUCE: Yes.

17

18 MR. FIKSDAL: Mr. Chairman, it's unanimous in favor of the

19

20 document Order No. 814 recommending approval to the Governor

21

22 of the State of Washington.

23

24 CHAIR LUCE: Thank you. Having considered this matter

25

1 before the Council and having unanimous support by the
2
3 Council for forwarding to the Governor a recommendation of
4
5 siting this facility, I will now proceed to sign the order
6
7 undertaking to do that. Then I will ask other
8
9 Councilmembers to do the same, and I'll pass this.

10

11 That concludes my particular part of this exercise, and

12

13

14

15

16 Judge Torem may have some additional comments at this point.

17

18 E: NEXT STEPS & NOTICE TO PARTIES FOR RECONSIDERATION

19

20 JUDGE TOREM: While the Council is finishing their

21

22 signatures to the original signature page of the order,

23

24 we're going to arrange for that to be photocopied and

25

1 included with what's posted on the website later. Probably
2
3 not tonight but probably first thing tomorrow and get this
4
5 issued or served on parties tomorrow. So the formal date on
6
7 this, although signed today on May 25, will be served on May
8
9 26.

10

11 This is a decision that still is subject to reconsideration
12
13 and some other procedural issues. I want to tell you about
14
15 what happens next. First, any parties that want to file a
16
17 petition for reconsideration once they've had a chance to
18
19 review the meat and details of the order can do so as long
20
21 as that petition for reconsideration is filed within 12 days
22
23 of service of the order, and that has to be filed with
24
25 Mr. Fiksdal, the Council Manager, pursuant to Washington

1
2 Administrative Code Title 463-30, Section 120. So for the
3
4 parties that are here tonight and that will also receive
5
6 this document tomorrow, 12 days from May 26 for filing any
7
8 motions for reconsideration. If there is no such petition
9
10 for reconsideration filed, then the Council will simply send
11
12 this recommendation as it was summarized tonight. They will
13
14 send it in its entirety along with the Draft Site
15
16
17
18
19 Certification agreement to the Governor's office, and the
20
21 Governor will then have 60 days to approve this order, to
22
23 deny it, or to ask the Council to reconsider portions of it.
24
25 So, again, if there is a petition for reconsideration filed,

1

2 the Council won't forward it to the Governor immediately but

3

4 will decide how to act on that petition and then go ahead

5

6 and file with the Governor whatever changes they may or may

7

8 not think to what you've heard tonight.

9

10 Again, Council staff will place this on the website tomorrow

11

12 and serve it on the parties tomorrow morning. If you need a

13

14 copy of this, you can download it or one can be e-mailed to

15

16 you. Staff does have some extra copies of the decision here

17

18 tonight, if you want to take one home with you right away.

19

20 I think that's all we have for business tonight, but, again,

21

22 if you didn't hear the area of interest you came to hear

23

24 about tonight in the discussion from the various

25

1 Councilmembers, or you heard it, but you're not sure exactly
2
3 what you heard, -- because I know this is a tough format to
4
5 sit through as we just turn into talking heads and give you
6
7 the highlights -- take a look at the order, and if you need
8
9 to be directed to a particular portion, see Ms. Makarow,
10
11 Irina Makarow or Allen Fiksdal. They can tell you exactly
12
13 where to find it in the order.

14
15 F: ADJOURN
16

17 JUDGE TOREM: With that, Chair Luce, if you will adjourn the
18
19
20
21
22 meeting.

23
24 CHAIR LUCE: I will do exactly that. There is no further
25

1 business to come before the special meeting of the Energy

2

3 Siting Council, and the meeting stands adjourned.

4

5

* * * * *

6

7

(Whereupon, the special meeting was

8

9

adjourned at 7:20 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 May 25, 2005,
in Ellensburg, Washington.

1



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Shaun Linse, CCR

4

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CCR NO. 2029

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