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BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application No. 2006-02
Desert Claim Wind Power Project

EXHIBIT 12
PREFILED DIRECT TESTIMONY
RICHARD WEINMAN

Q. Please state your name and business address.

A. My name is Richard Weinman, and my business is located at 9350 SE 68th Street,
Mercer Island, WA 98040.

Q. What is your occupation?

A. I work as a land use and environmental consultant.

Q. What topics will you address in your prefiled testimony?

A. My testimony addresses the relationship of the Desert Claim Wind Power proposal
to Kittitas County land use policies and zoning regulations, and to surrounding land
uses.

Background

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3 **Q. Please describe your educational background.**

4 A. I hold a J.D. degree from Seattle University School of Law, an M.A from Brandeis
5 University, and a B.A. from New York University.
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10 **Q. Please briefly describe your professional background and experience.**

11 A. I am a licensed attorney, but my professional experience has focused on land use and
12 environmental consulting in the State of Washington for 30 years. My areas of
13 specialization include preparing environmental impact statements (EISs) and other
14 documents to comply with the State Environmental Policy Act (SEPA) and the
15 National Environmental Policy Act (NEPA); conducting land use evaluations;
16 drafting Growth Management Act plans and regulations; and helping clients identify
17 regulatory and permitting requirements. Throughout my career, my projects have
18 been fairly evenly balanced between private clients and government agencies.
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30 A copy of my resume is attached as **Exhibit 12.1**.
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34 **Q. Have you served as an expert witness before?**

35 A. Yes I have. I have testified on many occasions in administrative proceedings before
36 state agencies and local jurisdictions regarding projects that I have been directly
37 involved in.
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Project and Project Area

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3 **Q. Can you briefly describe the Desert Claim Project and what's referred to as the**
4 **Project Area?**
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7 A. Yes. As it is currently proposed, the Desert Claim Project is a 190 megawatt wind
8 power project proposed for Kittitas County. The Project consists of 95 – 2 megawatt
9 wind turbines and other related facilities. These turbines are arranged on the Project
10 Area, which consists of approximately 5,200 acres, and is located about 8 miles
11 northwest of Ellensburg.
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19 **Q. Have you visited the Project Area?**

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21 A. Yes, I have visited the Project Area on numerous occasions.
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25 **Q. What is the zoning designation of the Project Area?**

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27 A. Most of the land within the Project Area is zoned Agricultural-20, with the
28 remaining land zoned Forest and Range.
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33 **Q. What is the Comprehensive Plan designation of the Project Area?**

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35 A. The Project Area is designated Rural in the Kittitas County Comprehensive Plan.
36 This designation permits a wide range of uses – including agriculture and residences
37 at low densities of development.
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43 **Q. How is the Project Area currently used?**

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45 A. The private property in the Project Area is currently used primarily for cattle grazing
46 and feed crop production. The DNR land within the Project Area is used primarily
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1 for cattle grazing pursuant to leases held by local ranchers. A gravel pit also
2 operates on part of the DNR property. Several transmission lines, owned by
3 Bonneville Power Administration and Puget Sound Energy, cross the Project Area.
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9 **Q. What sort of land uses are found in the vicinity of the Project Area?**

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11 A. The property surrounding the Project Area is rural in character. It is a gently sloping
12 landscape, gradually increasing in elevation from the south to the north. To the north
13 are the foothills of the Wenatchee Mountains. U.S. Highway 97 and State Route 10
14 are found to the west; rural residential and rangeland areas are found to the east. To
15 the south, the City of Ellensburg is approximately 8 miles away. In general, forested
16 areas are located to the north, while agricultural and rural residential uses
17 predominate in the immediate area of the proposed site.
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27 **Zoning Code, Comprehensive Plan and Land Use Regulations**

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29 **Q. Are you familiar with the zoning provisions of the Kittitas County Code?**

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31 A. Yes I am.
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35 **Q. Are you familiar with the Kittitas County Comprehensive Plan?**

36
37 A. Yes.
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41 **Q. What sort of land uses are permitted in the Project Area?**

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43 A. Just over 1,500 acres of the Project Area is owned by the Washington Department of
44 Natural Resources. DNR manages this land for the common schools. It is zoned
45 Agriculture (20 acres) and is currently used primarily for grazing.
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Approximately 3,700 acres of the Project Area is private land that is zoned either Agricultural-20 or Forest and Range. According to the Kittitas County Code, the Ag-20 zone "is an area wherein farming, ranching and rural life styles are dominant characteristics." In the Ag-20 zone, permitted uses include agriculture, airports, forestry, and gas and oil exploration and construction. Conditional uses include feedmills, agricultural processing plants, sand and gravel excavation, log sorting yards, feedlots, and public utility substations. In the Agricultural-20 zone, two dwelling units are permitted per 20-acre parcel. A copy of the zoning provisions regarding Ag-20 land is provided as **Exhibit 12.2**.

According to the County Code, the purpose and intent of the Forest and Range zone "is to provide areas of Kittitas County wherein natural resource management is the highest priority and where the subdivision and development of lands for uses and activities incompatible with resource management are discouraged." In the Forest and Range zone, permitted uses included forestry, agriculture, livestock, poultry and hog raising, and mining. Conditional uses include airports, sawmills, feed mills, agricultural processing plants, log sorting yards, public sanitary landfills, public utility substations, and transmission towers. In the Forest and Range designation, one dwelling unit per 20 acres is permitted. A copy of the zoning provisions regarding Forest and Range land is provided as **Exhibit 12.3**.

1 **Q. Are wind power projects a permitted use in the Project Area?**

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3 A. The Kittitas County Code, Chapter 17.61 (**Exhibit 12.4**), allows the location of
4 several types of energy facilities – including “major thermal power plant facilities” –
5 outright or as conditional uses in several zoning districts, including Ag-20 and Forest
6 and Range. However, major wind power projects such as Desert Claim are not
7 permitted either outright or conditionally anywhere in Kittitas County unless the
8 developer obtains the following: (1) a site-specific amendment of the comprehensive
9 plan land use designation map to wind farm resource overlay district, (2) a site-
10 specific rezone of the county zoning map to wind farm resource overlay zoning
11 district, and (3) a development permit accompanied by a development agreement, all
12 of which must be approved by the Board of County Commissioners (KCC chapter
13 17.61A – **Exhibit 12.5**). With these approvals, wind power projects can be
14 permitted on Ag-20 land or Forestry & Range; the Project Area is designated for
15 these land uses.
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30 **Q. Are you aware that Desert Claim Wind Power applied for the County approvals**
31 **necessary to construct and operate a wind project, and the Kittitas County**
32 **Board of County Commissioners denied those approvals in 2004?**
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36 A. Yes.
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40 **Q. In your opinion, does the current Desert Claim project proposal satisfy the**
41 **criteria for approval found in of Kittitas County Code chapter 17.61A?**
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1 A. Yes it does, in my opinion. The County Code authorizes the Board of County
2 Commissioners to grant approval of a proposal that satisfies three criteria, which are
3 indicated in italics:
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9 (a) *The proposal is essential or desirable to the public convenience.*

10 Adequate power is essential to sustaining economic growth and our quality of
11 life. Wind power is generally considered to be a sustainable, alternative
12 approach to generating electricity, one that is being actively encouraged by
13 state laws and federal incentives. The recent enactment of Initiative 937
14 reflects the public consensus that it is desirable to have more renewable
15 energy, and indeed, increased renewable energy such as wind power is
16 required by I-937. At the local level, the Desert Claim Project will also result
17 in significant economic benefits, which I believe are being addressed by other
18 witnesses.
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30 (b) *The proposal is not detrimental or injurious to the public health, peace, or*
31 *safety or to the character of the surrounding neighborhood;*
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33 The FEIS and SEIS for the Desert Claim proposal identify a range of actions
34 – either elements that have been incorporated into the design of the proposal,
35 or actions identified as mitigation measures – that would prevent detriment or
36 injury to health, peace or safety. These include but are not limited to meeting
37 applicable noise standards, and incorporating safety setbacks from roads and
38 structures. Use of the Project Area for wind turbines would not displace or
39 interfere with existing or planned rural uses and agricultural activities on the
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1 site or nearby. While wind turbines are larger in scale than nearby structures,
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3 siting of wind facilities in this area would generally be compatible with the
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5 existing and planned rural uses of surrounding lands.
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9 (c) *The proposed use at the proposed location(s) will not be unreasonably*
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11 *detrimental to the economic welfare of the county and it will not create excessive*
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13 *public cost for facilities and service.*
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15 As others will address in more detail, the proposed use would benefit the
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17 local economy by creating jobs during construction and operation of the
18
19 project; it would benefit the County and State by generating tax revenues
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21 during construction and throughout the life of the Project; and it would
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23 benefit lessors of land, including the DNR/Common Schools and private land
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25 owners. The proposal would not generate a need for extending public
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27 facilities and would not create significant demand for services, and would
28
29 therefore not generate public costs.
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33 **Q. In your opinion, is the current Desert Claim project proposal consistent with**
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35 **other requirements of the Kittitas County Zoning Code?**
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37 **A.** The proposal is consistent with existing zoning requirements in almost all respects.
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39 Most of the Project Area is zoned A-20 -Agriculture (KCC ch.17.2). The intent of
40
41 the zone is to preserve farmland from encroachment, and it is applied to areas where
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43 farming, ranching and rural lifestyles predominate. The Project allows existing
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45 agricultural uses to continue in the Project Area. In addition, by providing another
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47 source of income to these farmers and ranchers, it helps them continue their

1 agricultural operations in challenging economic times. The A-20 zone permits a
2 wide range of uses, including agricultural, rural residential, public uses, energy and
3 natural resource-related activities, among others. The Project is not substantially
4 different in kind from many of the other sorts of land uses that are permitted in this
5 zone, such as major thermal electrical generation facilities, utility substations, and
6 sand and gravel excavation. As noted previously, wind farms are not permitted
7 outright or conditionally in any zoning districts. However, the Project would meet
8 all development standards that generally apply in the A-20 zone. For example, it
9 would comply with the A-20 zone standards for minimum lot size (20 acres), yard
10 size (25 foot front and rear yards, 5 foot side yards) and access. There is no height
11 limit for structures in the A-20 zone.
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25 A small amount of the northern and western portion of the Project Area is zoned
26 Forest & Range (KCC ch.17.56). This zone is applied to areas where natural
27 resource management is the highest priority. Harnessing the high winds naturally
28 available in this area to generate electricity is just the kind of natural resource use
29 that would seem appropriate in this zone. Similar to A-20, the Forest & Range zone
30 permits a wide range of uses including agricultural, rural residential, public uses,
31 energy and natural resource-related activities, which are not significantly different in
32 kind from a wind project. As noted, wind farms are not permitted without the Board
33 of County Commissioner approvals described above, but in my opinion, the Project
34 meets all of the development standards that otherwise apply in the Forest and Range
35 zone except for the height limitation. Minimum lot size is 20 acres. The code also
36 contains standards for setbacks (100 feet from waterways) and yard size (25-foot
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1 front yard, and 10-foot side and back yards). With the exception of agricultural
2 buildings, however, structure height is limited to 2 ½ stories or 35 feet (KCC
3 17.56.070).
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9 **Q. In your opinion, is the current Desert Claim project proposal consistent with**
10 **the Kittitas County Comprehensive Plan?**
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12 A. Yes it is, in my opinion. I have prepared an evaluation of the Comprehensive Plan
13 goals, policies and objectives that appear most relevant to the proposed Project,
14 which is provided as **Exhibit 12.6**. In general, the proposal would be consistent with
15 land use goals and policies which call for maintaining rural areas while allowing a
16 diversity of uses; and would help conserve rural lands and existing agricultural
17 activities. The proposal would also be consistent with utility policies, which call for
18 siting facilities throughout the County, and supporting regional demand. As noted in
19 my response to a previous question, however, the proposal would not be consistent
20 with a policy that limits wind farms to locations approved by the Board of County
21 Commissioners.
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35 **Q. Please review Exhibit 12.7. Are you familiar with this document?**

36 A. Yes. This document, which is labeled "Appendix A" on the top, was prepared by the
37 Washington Energy Facility Site Evaluation Council as part of its decision regarding
38 the Kittitas Valley Wind Power Project, Council Order No. 826. In this document,
39 the Council explains its conclusion that the Kittitas Valley Project is consistent with
40 the General Planning Goals, Objectives and Policies of the Kittitas County
41 Comprehensive Plan.
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Q. Do you have an opinion about whether the Council's analysis in this document is applicable to the Desert Claim project?

A. Yes. I believe the Council's analysis of the Kittitas County Comprehensive Plan is equally applicable to the Desert Claim project. The analysis contained in the Desert Claim EIS land use section, and **Exhibit 12.6** to my testimony, reach the same conclusions.

Q. Does that conclude your testimony at this time?

A. Yes.