

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

In the Matter of:  
Application No. 2003-01

SAGEBRUSH POWER PARTNERS, L.L.C.

KITTITAS VALLEY  
WIND POWER PROJECT

PREHEARING ORDER NO. 21

COUNCIL ORDER NO. 818

PREHEARING CONFERENCE ORDER  
REGARDING PROJECT STATUS AND  
SCHEDULING OF ADJUDICATIVE  
HEARINGS.

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

**Procedural Setting:** The Council convened a prehearing conference on Monday April 24, 2006, at approximately 1:00 p.m., in Olympia, Washington, pursuant to due and proper notice. The prehearing conference was held before Councilmember Richard Fryhling (Department of Community, Trade, and Economic Development); Councilmembers Tim Sweeney (Utilities and Transportation Commission), Hedia Adelsman (Department of Ecology), and Patti Johnson (Kittitas County) participated by phone. Adam E. Torem, Administrative Law Judge (ALJ), presided over the prehearing conference.

The purpose of the prehearing conference was to receive an update regarding the status of the Applicant's on-going application before Kittitas County to resolve the land-use inconsistency issue, and the scheduling of the adjudicative hearings in this matter.

**Participants:** The Parties were present as follows:

The Applicant, Sagebrush Power Partners, LLC: Darrel Peeples, Attorney at Law, Olympia, Washington; Dana Peck, Horizon Wind Energy, Portland Oregon; Timothy McMahan, Attorney at Law, Vancouver, Washington; Joy Potter, Horizon Wind Energy, Portland, Oregon; and Chris Taylor, Horizon Wind Energy, Portland, Oregon (by phone).

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

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

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

F. Steven Lathrop: Jeff Slothower, Attorney at Law, Ellensburg, Washington (by phone).

Economic Development Group of Kittitas County: Debbie Strand, Executive Director, Ellensburg, Washington (by phone).

### **Land-Use Consistency Status**

Mr. McMahan and Mr. Hurson summarized the status of the review of the Kittitas Valley Wind Power Project Application for a development agreement pending before the Kittitas Board of County Commissioners (BOCC). Since the last status report to the Council, the County Planning Commission made a recommendation to the BOCC that the development agreement application be denied. The BOCC has conducted hearings, but has not yet made a decision regarding the application. The BOCC is expected to meet again on Thursday April 27<sup>th</sup> to receive additional information from the Applicant. Mr. McMahan reported that the BOCC requested additional information about project setbacks and potential project re-configuration to address proximity to existing residences.

Both Mr. McMahan and Mr. Hurson reported that they could not commit to a specific timeline for the BOCC to make their decision. Mr. Hurson did not expect the BOCC to make a decision on this coming Thursday. Even if they did, several weeks would be required to finalize a written document, regardless of whether the BOCC approved or denied the application.

### **Schedule for Adjudicative Hearings**

With the status report completed, councilmember Fryhling asked what would happen with the adjudicative hearings scheduled for August 2006. Judge Torem recommended that the Council strike the August dates, and set new dates when the County has a more concrete feel for the conclusion of its review.

With no additional questions from Councilmembers, Judge Torem asked attending parties regarding their position on canceling the August hearings.

Mr. Garrett asked whether the Applicant would pursue further review of the project by EFSEC if denied by the County. Mr. Peeples responded that the applicant's intent is to still pursue EFSEC review if County review results in denial and land-use inconsistency is not resolved. However, he clarified that the Applicant is trying to do all it can to get County agreement with the project, and are still working towards resolving the issues.

Mr. Slothower sought clarification that the August dates would be struck and re-set at a later date; Mr. Tribble asked clarification that hearings would be re-scheduled after August, and not earlier, and agreed with the change in schedule.

Mr. Hurson agreed that it was appropriate to strike the August dates, and reset new dates once the outcome of the County process was known.

Mr. Garrett added that the overall process surrounding this project has been long, with more people moving into the potentially affected area. He was hopeful that the Council would allow parties to update the record on this issue.

Mr. Slothower and Ms. Strand had no comments.

On Judge Torem's recommendation, Councilmember Fryhling moved that the Council strike the hearing dates set for the weeks of August 14 and 21, 2006, and set another prehearing conference in late May. Councilmember Adelman seconded the motion, and all Councilmembers voted in favor of the motion.

#### **Next Prehearing Conference**

The next prehearing conference will be scheduled in late May, with May 30<sup>th</sup> being given priority as a possible date. Parties are requested to communicate with EFSEC staff regarding their availability. The Applicant and Mr. Hurson were requested to e-mail all parties with an update if the status of the County review changes in a significant way.

No other items being brought before the Council, the prehearing conference was adjourned at 1:25 p.m.

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

DATED and effective at Olympia, Washington, the 9th day of May, 2006.

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Adam E. Torem, Administrative Law Judge