

BEFORE THE STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of:

APPLICATION NO. 2003-01

SAGEBRUSH POWER PARTNERS, LLC

KITTITAS VALLEY WIND POWER
PROJECT

COUNCIL ORDER No. 826

**Findings of Fact, Conclusions of Law,
and Order Recommending Approval
of Site Certification on Condition**

Executive Summary: The Energy Facility Site Evaluation Council (EFSEC or Council) is the state agency charged with making a recommendation to the Governor as to whether a new major energy facility should be sited in the state of Washington. Chapter 80.50 Revised Code of Washington (RCW). The Council is aware of the region's need for energy and electrical generation capacity. The Council is equally mindful of its duty to protect the environment and the public interest.

This matter involves an Application for certification of a proposed rural site in Kittitas County, approximately 12 miles northwest of the city of Ellensburg, Washington, for the construction and operation of the Kittitas Valley Wind Power Project (Project or KVVPP), a wind-powered energy production facility consisting of a series of "strings" of turbines as well as associated electric transmission lines and other supporting infrastructure. Approximately 6,000 acres of land are associated with the Project. Up to 371 acres would be temporarily disturbed by construction activities; 118 acres would be permanently developed for placement of the turbine towers, access roads, substations, underground and overhead transmission lines, and an operations and maintenance facility. Sagebrush Power Partners, LLC, (Sagebrush or Applicant) seeks a Site Certification Agreement (SCA) to construct and operate up to 65 wind turbines that would generate between 100 and 180 megawatts (MW) of wind power, dependent on the type of turbines selected by the Applicant.

The Council has reviewed Sagebrush's Application for Site Certification (Application), No. 2003-01; conducted public and adjudicative hearings; and by this Order recommends to the Governor of the state of Washington preemption of local land use plans and zoning regulations as well as approval of the Application.

The Applicant requested that EFSEC preempt Kittitas County's local land use plans and zoning regulations. After review of the Kittitas County Comprehensive Plan and supporting zoning code, the Council finds that the Project is consistent with all of the local government's plans and regulations except (1) the 35-foot height restriction in the Forest & Range (FR20) zone and (2) the Wind Farm Overlay Ordinance, Kittitas County Code Chapter 17.61A, which prohibits all wind farms until the Board of County Commissioners takes action to approve and permit a project. Therefore, determining that the County's siting ordinance duplicates EFSEC's site evaluation process and usurps this Council's statutory authority, the Council recommends preemption of Kittitas County's Wind Farm Overlay Ordinance as well as the height restriction.

The Applicant entered into an on-the-record stipulation with Counsel for the Environment during the adjudicative hearing agreeing to independent environmental monitoring of the Project's construction. In addition, the Applicant agreed during the adjudicative hearing to eliminate any demonstrated "shadow flicker" impacts in the area within ½ mile of the Project. Furthermore, pursuant to the requirements of the above-noted stipulation, agreement, and the evidence presented during the hearing, the Applicant will provide mitigation measures such that the planned Project is expected to produce minimal adverse impacts on the environment, the ecology of the land and its wildlife, and the ecology of the state's waters and their aquatic life.

Upon careful consideration of the state's need for energy at a reasonable cost and the need to minimize environmental impacts, the Council determined that this facility is consistent with local land use plans and zoning regulations (as explained in Appendix A) and, with the proposed mitigation measures and with the agreed upon requirements of the previously referenced stipulation and agreement, will provide the region with significant energy benefits while not resulting in unmitigated, significant adverse environmental impacts. Thus, ***the proposed Project with its mitigation measures as set forth in this document, in the Final Environmental Impact Statement, and as required in the settlement agreements meets the requirements of applicable law and comports with the policy and intent of Chapter 80.50 RCW.***

The Council recommends PREEMPTION of Kittitas County's local Wind Farm Overlay Ordinance as well as the local height restriction and further recommends that the Governor APPROVE the siting of this Project, as described in this Order and the accompanying draft Site Certification Agreement.

March 27, 2007