

## **Deposition of Clay White, Planner II, Kittitas County Community Development Services**

(edited for length)

### **Q. Please describe the main focus of your testimony.**

A. Inability to resolve non-compliance. Pre-emption and what the applicant must prove in order to be granted preemption over local land use.

### **Q. What must the applicant prove in order for the EFSEC Council to grant pre-emption over the local land use process?**

A. WAC 463-28-040 provides that the applicant must prove the following:

- 1) That the applicant has demonstrated a good faith effort to resolve noncompliance issues.
- 2) That the applicant and local authorities are unable to reach an agreement that will resolve the issues.
- 3) That alternate locations which are within the same county and city have been reviewed and have been found unacceptable.
- 4) Interests of the state as delineated in RCW 80.50.010.

### **Q. Has the applicant demonstrated a good faith effort to resolve noncompliance issues?**

A. The brief answer is no. When Zilkha Renewable Energy applied to EFSEC for permits in January 2003 they made no attempt at that time to apply to Kittitas County in a timely manner in order to resolve non-compliance issues. It took the applicant five months to complete a short application. The (initial) applications to the County were not complete. They had major flaws like the application not being signed, not providing a list of property owners within 300' of the project site, not providing the signatures of the landowners within the project area, and stating that they were only applying for certain permits from the County but not those required (to achieve compliance). The major flaws within each submittal were the most basic elements of the application and listed on the front page of the application. In all the years I have been a Land Use Planner I have never had an applicant provide an application with so many fundamental flaws so many times. I cannot help but think that this was a strategy of Zilkha's all along. This issue was even brought up to the applicant when they continually delayed submitting a complete application to the County. When a complete application was finally received I sent out the Notice of Application within one week. This was the first and only action that the County had control over and it was completed in a timely manner. Zilkha Renewable Energy knew that we were relying on the DEIS to be published which is why we could not give them a conclusive date when the County would hold hearings. On numerous occasions between June and October 2003 we let Zilkha know how much time it would take the County to process their application once an adequate DEIS was complete and the process was in our hands. When the DEIS completion date was pushed back so was our timeframe.

**Q. Have the applicant and you been unable to reach an agreement that will resolve the issues?**

A. I believed that there was an agreement reached on how the consistency issue would be resolved. The process agreed to was that Zilkha would pursue a change in land use and zoning designation like anyone else. Zilkha simply unilaterally withdrew their application with the County. In December 2003 the EFSEC Council asked Kittitas County to provide them with a timeline based upon the DEIS issuance in December which we did in January 2004. The time frames in that chart for when the County would project its work to be completed were the same as those disclosed to Zilkha on several occasions. The time variable that impacted the County's ability to process the application was the issuance of the DEIS over which the County had no control. Zilkha Renewable Energy then filed for preemption without ever discussing the issues with us.

**Q. Have alternate locations within Kittitas County been reviewed and been found unacceptable?**

A. No, at this time there are currently two other wind power project applications that have been applied for within Kittitas County. Both the Desert Claim Wind Power project and the Wild Horse Wind power project are located within Kittitas County. Both of these projects are in the review stage and neither of them has been found to be unacceptable at this time.

**Q. What about interests of the state as delineated in RCW 80.50.010?**

A. Kittitas County has an adopted Comprehensive Plan created under the guidelines of the Growth Management Act. We are required to plan under the provisions of the GMA. Kittitas County has been proactive in implementing development regulations that outline a clear process for developing wind farms within the County. Our Comprehensive Plan has been found to be in compliance with those goals by the State of Washington. When Zilkha Renewable Energy withdrew their application from the County they were deciding not to meet the EFSEC and GMA goals and policies. I believe that approving this project contrary to the requirements of EFSEC and the Growth Management Act is not in the best interest to the State of Washington. With tax subsidies currently unavailable I do not believe that this project will provide an abundant amount of energy at a reasonable cost. Further, I do not believe that the project will even be built if those government subsidies are not available. Seeking pre-emption of the local land use process that is established and works under the GMA certainly cannot be of interest to the State of Washington.

**Q. Can you please explain why your testimony is focused on the pre-emption issue and not siting issues?**

A. After reviewing the information in the preemption request and the prefiled testimony, the criteria to override local land use through preemption clearly have not been met as defined in WAC 463-28-040. Since the EFSEC council cannot recommend approval of the project without finding for preemption, it seems unnecessary to discuss the other issues.

**Q. When did Zilkha Renewable Energy approach Kittitas County about siting a Wind Farm in Kittitas County?**

A. March 14th, 2002. In March 2002 the process for siting a Wind Farm in Kittitas County was through a conditional use permit. I met with their staff numerous times between March and May 2002. At these meetings we discussed everything from process to application format.

**Q. Did the applicant ever discuss when they planned to submit an application for a Conditional Use Permit to Kittitas County?**

A. Yes, in both April and May 2002 Chris Taylor let me know that they were preparing an application that would be submitted within weeks.

**Q. Did Zilkha Renewable Energy ever submit an application to Kittitas County for a conditional use permit?**

A. No

**Q. Did the method of processing a Windfarm application with Kittitas County change?**

A. Yes. It changed in late 2002. Basically, it shifted the decision making process from the part time appointed Board of Adjustment to the full time elected Board of County Commissioners. This process was modeled after the Master Planned Resort process that the County had adopted several years ago. It provides for a single consolidated process that addresses all issues involving the placement of a windfarm in Kittitas County.

**Q. When this revised process was adopted by the Kittitas County BOCC, did Zilkha Renewable Energy appeal the BOCC decision as allowed under law?**

A. No.

**Q. After the process was adopted and prior to the application being submitted to EFSEC in January 2003 did Zilkha Renewable Energy staff ever contact you regarding the new application process?**

A. No.

**Q. When did Zilkha Renewable Energy submit their application to EFSEC?**

A. January 13th, 2003.

**Q. Did Zilkha Renewable Energy staff understand that they had a consistency issue when they submitted their application to EFSEC?**

A. Yes.

**Q. Did Zilkha submit an application to the County concurrent with the EFSEC application?**

A. No.

**Q. Did Kittitas County follow up with correspondence on the consistency issue?**

A. Yes, the County sent a letter February 5, 2003. Mr. Hurson stated that Zilkha was inconsistent with local land use and needed to apply to the County to get the consistency issue moving forward.

**Q. Did Kittitas County continue to follow up with Zilkha?**

A. Yes. The County sent an e-mail on February 10th, 2003 to follow up in the letter from February 5h. The County stated that an application needed to be submitted if Zilkha wanted to take care of the consistency issue.

**Q. Did Zilkha respond?**

A. Yes. (Zilkha's attorney) sent the County an e-mail on February 12th, 2003 stating that he looked forward to working with us but was considering the options Zilkha had.

**Q. Did Kittitas County again remind Zilkha that they had a consistency issue that needed to be taken care of if time was an issue for them?**

A. Yes, the County sent Zilkha another e-mail on February 14th, 2003 letting them know that everyday that an application is not submitted, a further delay occurs. A meeting was set up for March 25th, 2003 between County staff and Zilkha.

**Q. What was discussed at that meeting?**

A. David Taylor, James Hurson, and I met with Chris Taylor from Zilkha Renewable Energy. We discussed the permit process but stressed to Chris Taylor that the process will largely depend on the type of application they file with the County. Zilkha would have had the option to request an approval that required EFSEC approval or they could have submitted an application that would have given the right to develop even without EFSEC approval. We told them that it was up to them which type they filed.

**Q. Did Chris Taylor send you his personal version of meeting minutes from February 25, 2003?**

A. Yes.

**Q. Were those "minutes" an accurate rendition of what occurred at that meeting?**

A. No. In fact his "minutes" in several respects reflected the complete opposite of the conversation that actually occurred. We eventually had to ask Mr. Taylor to stop sending us his meeting minutes because they were unreliable given the many inconsistencies between them and what took place in our actual meetings.

**Q. Did EFSEC hold their Scoping hearing on March 12th, 2003?**

A. Yes.

**Q. At that meeting did the consistency issue come up?**

A. Yes.

**Q. Based upon conversations that took place at that meeting was it your expectation that an application would be filed within the next week?**

A. Yes. The application would only need to be a few pages long.

**Q. Was an application submitted to Kittitas County within the next week?**

A. No.

**Q. Was there some sense of urgency on the part of the County to receive a complete application from Zilkha in early 2003?**

A. Yes. EFSEC representatives came to the County shortly after Zilkha submitted the application to EFSEC. During that meeting, EFSEC staff handed out a draft schedule that indicated the DEIS would be issued by June. We wanted an application from Zilkha as soon as possible so that we could get our work done in time to work with the DEIS and have enough information so that we could proceed with our process.

**Q. When was the next time you spoke to the applicant?**

A. I talked to Chris Taylor by phone on March 18<sup>th</sup>, 2003. He let me know that they were still putting together a draft application but that I should get it within the next couple of days.

**Q. When did W. Taylor drop off the draft application?**

A. March 27<sup>th</sup>, 2003.

**Q. Was the draft application complete and ready for formal submission with fees?**

A. No, the application was deficient of even the most basic elements of an application. From reading the cover letter it was not even apparent what they were applying for. The draft application lacked signatures of both the applicant and the landowners as well. A 300' adjoining list was also not provided in the application as required. The items listed above are the basic elements of an application. When reviewing the first draft it was hard to believe that a company that stated how quickly they wanted to resolve consistency would turn in an application so poorly put together. At that point, I wondered how many times they must have had to turn their application into EFSEC considering it was a much larger application.

**Q. After pointing out the deficiencies, how long did it take Chris Taylor to revise the application?**

A. 15 days.

**Q. So, when the application was returned to you was it now complete and ready for formal submission with fees?**

A. No. The only thing that was revised was the cover letter to the application. Nothing within the application was changed including lack of signatures and 300' adjoining list. In fact, Chris Taylor revised the cover letter to state he was now applying for a development agreement and development permit but he did not change the actual application inside.

**Q. Did this surprise you?**

A. Yes, with over two weeks time I had expected Zilkha to return an application that was complete with substantive changes based upon my April 15<sup>th</sup> letter. I could not help but think that he did it on purpose. It took him two weeks to revise a cover letter and not change anything within the application. It just doesn't add up. Requirements like the application being signed and providing a 300' adjoining list are the first requirements on

the first page of our Kittitas County Consolidated Application Packet. I have never had anyone have this much trouble with an application.

**Q. After receiving only a revised cover letter with no application changes, how quickly did you respond to the applicant?**

A. I responded on the same day.

**Q. So, did the applicant revise the application per the April 15th, 2003 letter from you to Chris Taylor?**

A. Yes we received a revised application on May 6th, 2003.

**Q. When did you review the new application?**

A. May 7th, 2003.

**Q. So, was the application complete so you could proceed with the Notice of Application?**

A. No. Among other things, the application still did not have any landowner signatures on the application. It also failed to include the "300 foot adjoiners list (a list of the owners of property within 300 feet of the boundary of the project area. This list is used to send notice to those individual related to the application in accordance with our county and state notice requirements). It was very frustrating that I had told Mr. Taylor over and over that those items were needed and that he continued to omit the information needed to have a complete application.

**Q. So, you responded back to the applicant the next day after receiving their application?**

A. Yes.

**Q. How long did it take Zilkha to send in their next revised application?**

A. Nearly two weeks. They re-submitted the application on May 20th 2003 with some changes.

**Q. Was the application complete this time?**

A. No. This time the statements in the application on page two did not match the exhibits they presented.

**Q. At this point did you feel that Zilkha was making a good faith effort to submit a complete application to the County?**

A. No. At this point I was very frustrated with the tactics Zilkha was taking. They could apparently submit a lengthy and complete application to EFSEC the first time but could not submit a complete, short application to the County the first, second, third, or fourth times. The issues that made their applications incomplete were basic issues like not signing the application and not providing a list of adjoiners within 300' of the project area. Further, their applications were submitted multiple times with these fundamental basic errors. I was never asked to clarify where they needed to sign the application or what an adjoiners list is but apparently it was difficult for their staff to figure out. What

Zilkha staff did and said they were going to do were two completely different things. They stated their project was time sensitive but they made no attempt to solve consistency quickly and efficiently. The only conclusion I can draw is that this was their strategy from day one and they had no intention of going through the County process as prescribed by law. I have processed hundreds of development applications and many of them have been time sensitive projects. In all cases except this project, applicants have worked with me and submitted required materials and applications right away so they could proceed with the application process. To submit incomplete applications over and over and never ask for assistance from County staff leads me to believe that this was not a good faith effort at all.

**Q. Was there another application filed with the County at that time that Chris Taylor could have used as a template if they were confused about the county process?**

A. Yes. The Desert Claim wind power project is located directly to the east (starts about two miles to the east) of the Kittitas Valley project and is asking for a similar amount of wind towers and the project area is similar in size. The applicants for the Desert Claim project submitted a complete application with their first submittal on January 28th, 2003. The Desert Claim application was available as a template to the project proponents of the Kittitas Valley project but they choose not to use it. I let Chris Taylor know that they could basically copy their application for form and function and just put in their information.

**Q. Has Desert Claim expressed any difficulties in understanding or working through the Kittitas County land use process?**

A. No. Their first submittal to the County was a complete application. If the Desert Claim staff ever needs information they contact me directly. They have never expressed displeasure with our procedures for processing a Windfarm application. They have also never expressed that our process is confusing. They have never indicated any problem in understanding the steps. They are moving through our process and public hearings will be taking place this fall.

**Q. Did the Kittitas Valley application, when submitted and found complete, differ from the Desert Claim project application?**

A. Yes, it was shorter. Since the applicant decided to file their application to the EFSEC process, all they had to do was fill out the correct application(s) and submit it. Having the Desert Claim application to refer to should have been a bonus to them if they had questions, but apparently they decided not to use it as a reference tool.

**Q. When did the applicant finally get the County a complete application?**

A. Zilkha submitted their final version on June 16th, 2003 and it was deemed a complete application the same day.

**Q. So, it took the applicant five months to give the County a complete application?**

A. Yes.

**Q. When was the next time you met with Zilkha staff?**

A. June 26th, 2003.

**Q. What did you discuss?**

A. (EFSEC) let me know that day that the DEIS was going to be issued in late August/early September. In the meeting with Zilkha we discussed the timeliness again. I let them know that if an adequate DEIS was issued we would probably be able to complete our hearings by mid-January 2004.

**Q. Had you discussed timelines before?**

A. At every meeting we discussed timelines. The problem was that except for issuing the Notice of Application, the County had no control over the DEIS issuance or its completeness. I was always happy to discuss timelines with the applicant but always cautioned them that the timeline will change based upon when an adequate DEIS is issued.

**Q. When was the DEIS issued by EFSEC?**

A. December 15th, 2003.

**Q. Based upon your review, were there deficiencies in the document that would need clarification prior to you deeming the information suitable for proceeding?**

A. Yes

**Q. Could you please highlight for me some of the more glaring deficiencies in the DEIS?**

A. Yes.

1. One of the basic issues when looking at a development application is how large the property within the project proposal is. In the December 15th, 2003 DEIS the property within the project area is shown as approximately 7,000 acres. Within the ASC filed with EFSEC on January 13, 2003 the applicant specifies that the project area is approximately 5,000 acres. In the June 16th, 2003 application submitted to Kittitas County they state that the project area is approximately 5,900 acres. It seems as if the project has changed a substantial amount within the last year. The applicant never amended their Kittitas County application to show that the rezone and comprehensive plan change they were requesting had changed from an area of 5,900 acres to 7,000 acres. That is a tremendous change.
2. Light and Glare - Light - In the first paragraph the DEIS refers to a letter from the FAA stating this project will not interfere with aviation operations. After reviewing that letter it clearly states that the information they are giving is based off of towers with a maximum height of 350 feet above ground. Since the turbines may extend up to 410 feet above ground the letter from the FAA to Zilkha Renewable Energy isn't valid and more information should be obtained. The letter states "This information is based, in part, on the specific heights. Any changes in heights will void this determination." In the DEIS, Zilkha discusses three different

- possible turbine scenarios. What we were looking for was a revised letter addressing the current project proposal as the letter in the DEIS was invalid.
3. On page ii EFSEC states that they are the only non-federal agency authorized to permit the proposed project. This is not true, as Kittitas County is also a non-federal agency authorized to permit this project. At this time the Desert Claim Wind Power project submitted by enXco, Inc. is being processed by Kittitas County.
  4. Radio interference - In the second paragraph of the section it says "To date, information regarding the frequency spectrum of electrical noise generated by the wind turbine generators at locations surrounding the generator has been requested from the Applicant, but has not yet been provided."
  5. Meteorological Towers - Specific number of towers and locations are needed in order to assess if these will have an impact on the environment. How can they be looked at if the DEIS stipulates that the applicant has no idea where they will go. This project is a huge zoning and land use issue for Kittitas County. How could Kittitas County make a land use decision on a 5,900-7,000 acre rezone and a 5,900 - 7,000 acre comprehensive plan amendment when we do not even know where the meteorological towers are going to be placed? If I accepted this information I would be asking my Board of County Commissioners to make a decision without the adequate environmental information. This would have been an easy issue to solve but the applicant withdrew their application before the issue was even discussed.
  6. On page i of the fact sheet the DEIS describes three different proposals for the KV Wind Power Project. In both the original application to EFSEC and subsequent application to Kittitas County the applicant indicated that they only proposed one project with a maximum of 121 turbines with a maximum height of 410 feet. While changes from micro siting are inevitable, all project scenarios should have been discussed in the original applications submitted to both the State and County. If the applicant intends to proceed with 3 different scenarios then environmental studies should be detailed for all 3 in every aspect that SEPA requires. In reviewing the DEIS it shows that the applicant is now looking at three scenarios and may put up as many as 150 turbines. The application to Kittitas County states that there will be a maximum of 121 turbines. This is an issue that needs to be discussed, as the applicant never amended their County application. Even the EFSEC website for the Kittitas Valley project shows that the application is for a maximum of 121 turbines.

Attached is a copy of my January 15th, 2004 comments which outlines the issues that Kittitas County needed to discuss with EFSEC and Zilkha so we could move forward with our hearing process. The fact that Zilkha withdrew their application before my DEIS comments could even be discussed leads me to believe that Zilkha had always planned to file for preemption. How could they have known how long the response to comments

would take to be prepared by EFSEC if they did not sit down and discuss the issues? Many of the issues could have been taken care of if the applicant had communicated with either EFSEC or the County.

**Q. How is this project an important zoning issue rather than just a siting issue?**

A. The Kittitas County zoning code is set up to regulate such things as minimum lot sizes, permitted uses, conditional uses, building restrictions and setbacks within each zoning district. For instance, in the Forest and Range zone (KCC 17.56), the maximum structure height is two and one-half stories or 35 feet Exhibit 50-40 (CW-40). Proposing structures with a maximum height of 410 feet is a zoning issue, not a siting issue. Structural setbacks would be another example of a zoning issue. Both the Ag-20 zone (KCC 17.29) and Forest and Range zone (KCC 17.56) regulate minimum structural setbacks. The placement of a windfarm in Kittitas County would be another example of an issue that is more of a zoning issue rather than a siting issue. The placement of a windfarm in Kittitas County is not permitted in either the Forest and Range zone or Ag-20 zone without receiving the required permits as shown in KCC 17.61A. That is a zoning issue, not a siting issue.

**Q. So how is the Kittitas County zoning code set up for evaluating windfarm proposals?**

A. Our zoning code is set up so that we can evaluate proposed windfarm proposals by the following zoning standards

1. The proposal is essential and desirable to the public convenience;
2. The proposal is not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood; and
3. The proposed use at the proposed locations) will not be unreasonably detrimental to the economic welfare of the county and it will not create excessive public cost for facilities and service.

As Kittitas County certainly has the capacity to do, we decided through public process that windfarms would only be allowed in Kittitas County if they received the necessary permits. The Board set up a consolidated hearing process that has been used before and works well.

**Q. So how does this fit into the EFSEC process?**

A. In reviewing the permits that EFSEC has permitted or is currently reviewing, it appears that applicants have typically sought to place projects in areas that are consistent with the zoning code for that particular county or city. In this case, the applicant is attempting to place a windfarm in two zoning districts (Ag-20 and Forest and Range zones), which do not allow windfarms without proper permitting. In order to allow the placement of a windfarm within these areas the applicant is required to make necessary applications to the County as outlined in KCC 17.61A. The applicant has unilaterally withdrawn their application from the County before the Board of County Commissioners could decide if the placement of a windfarm within the requested project area meets the criteria listed in KCC 17.6 1 A. The criteria to either approve or deny a windfarm application was achieved through public process by the citizens of Kittitas County. As a professional planner I cannot see how a windfarm can be placed in Kittitas County when

our codes set up to regulate uses shows that the use is not permitted. For our Board of County Commissions to make a decision on a request for a rezone of over 5,900-7,000 acres, we need an environmental document adequate to make such a decision. We were not given that opportunity.

**Q. So how is the Kittitas County Comprehensive Plan set up for evaluating windfarm proposals?**

A. Kittitas County Comprehensive Plan states - " Wind Farms may only be located in areas designated a Wind Farm Resource overlay districts in the Comprehensive Plan." Without obtaining a comprehensive plan change the placement of a windfarm within Kittitas County is not permitted and would be out of compliance not only with the Kittitas County Comprehensive Plan, but the State of Washington per the Growth Management Act. Zilkha Renewable Energy withdrew their application in which they could have been allowed to place a windfarm in Kittitas County. For our Board of County Commissions to make a decision on a request for a comprehensive plan change for a sub-area plan of over 5,900-7,000 acres, we need an environmental document adequate to make such a decision. We were not given that opportunity as the applicant withdrew their application.

**Q. At the December 15th, 2003 regular EFSEC meeting you were asked to prepare a consistency schedule for EFSEC to review. Is that correct?**

A. Yes.

**Q. Had you completed these in the past?**

A. Yes, many times for Zilkha staff. We drafted out schedules on several occasions based upon assumptions of when the DEIS and response to comments would be prepared.

**Q. Why couldn't you just give them a specific calendar date you would be done?**

A. Because we didn't control when the DEIS would be issued, its completeness, and the time to get a response to comments if needed. We certainly let Zilkha know how long our process would take from the time we could move forward with hearings, we just didn't know when EFSEC would be completed with their portion. When the draft was issued we then knew that we would set hearing once the response to comments was received.

**Q. Did you prepare a flow chart as requested for EFSEC?**

A. Yes.

**Q. At the January 14th, 2004 DEIS comment hearing, did you speak to Zilkha Attorney Darrel Peoples?**

A. Yes.

**Q. What did you discuss?**

A. He stated that he was very pleased with the flow chart and that he or Chris Taylor was going to contact me in the next few days so we could sit down and go over any questions they had. I figured that they wanted to go over my DEIS comments and work out a plan to get us a response to comments as soon as possible.

**Q. Did either of them contact you that week?**

A. No.

**Q. Did either of them or anyone else from Zilkha contact you at all to sit down and discuss any questions or issues that they had prior to them filing the pre-emption request?**

A. No. Neither of them communicated with me directly again prior to filing for preemption with EFSEC. They didn't even contact me to tell me that they were filing for preemption.

**Q. Did Allan Walker from the Ellensburg Chamber of Commerce call you about Zilkha's application?**

A. Yes, Mr. Walker called me and let me know that Chris Taylor had contacted him and Chris wanted to set up a mediation meeting. I let Mr. Walker know that we have been waiting for Zilkha to contact us for weeks and that our doors are always open to meet.

**Q. Did Chris Taylor or anyone else for Zilkha follow up on Alan Walkers e-mail and contact you?**

A. No. I found it very strange that neither Chris nor Darrel contacted me after Darrel stated that he was excited to sit down and talk and that he or Chris would contact me right away. The tactics they took made it very apparent to me that they had never planned to discuss proceeding with the County and had planned to file for preemption all along.

**Q. After Zilkha filed for preemption did they contact you to discuss it?**

A. No. But I contacted Chris Taylor and let him know that if at any time they wish to withdraw their preemption request and resubmit a complete application, we will get their project back on track.

**Q. Are you familiar with Mr. Chris Taylor's prefiled testimony regarding the preemption issue?**

A. Yes

**Q. In Mr. Taylor's testimony, does he refer to the Wallula project in Walla Walla County?**

A. Yes, in his testimony he compares the Wallula consistency issue to the consistency issue with the Kittitas Valley Wind Power project. He states that Walla Walla County and the Wallula project proponents achieved consistency within almost 60 days of the applicant applying for a text amendment.

**Q. Do you feel that the Wallula project and the Kittitas Valley Wind Power project are a fair comparison when discussing consistency?**

A. No.

**Q. Why?**

A. First off, the Wallula project was an industrial project to be located in an industrial zone. The property they planned on placing their facility was already zoned heavy industrial. A rezone of the property was completed in 1993 so the zoning was already consistent for the Wallula project. Second, the proposed project was already consistent with the Walla Walla County Comprehensive Plan, therefore the applicant did not need a Comprehensive Plan amendment. Under Walla Walla County Code the Wallula project was a Conditional Use Permit. In Kittitas County a Wind Farm is neither a permitted nor a conditional use. It is actually not permitted in any zoning district unless the applicant applies for a zoning change, comprehensive plan change, a development agreement, and a development permit. In Walla Walla County only a conditional use permit was needed.

**Q. So, it was similar to the Conditional Use Permit process Kittitas County had previously?**

A. Yes.

**Q. So, Zilkha Renewable Energy could have applied for a simple text amendment in 2002?**

A. Yes.

**Q. Did they?**

A. No.

**Q. What are some other differences between the Wallula project and the Kittitas Valley Wind Power project?**

A. One is the property size difference between the two projects. The Wallula project is placed on a small industrial piece of property (approximately 150 acres) while the Kittitas Valley Wind Power project is located on over 5,900 to 7,000 acres of property. Changing both the zoning and land use on over 5,900 to 7,000 acres is a huge land use and zoning issue and doesn't compare to the Wallula project where neither the land use nor the heavy industrial zone designation needed change. Changing both the zoning and land use on over 5,900 acres is a huge land use issue and doesn't compare to the Wallula project. The Wallula project is set to produce 1300 MW of power while the Kittitas Valley project is only slated to have a nameplate power of 180MW. *(Note, not in White's testimony: the actual anticipated output of the KVVPP would be less than 60MW – actual efficiency of all windfarms is less than 33% of nameplate power, and may be as low as 20%.)* .

**Q. So the Wallula project was already consistent with the zoning and comprehensive plan, was located in an industrial zone, placed on a much smaller piece of property and could produce six times as much energy as the Kittitas Valley project?**

A. Yes, that is true. *(Note, not in White's testimony: the Wallula project will generate more than 22 times as much power as the KVVPP, but the KVVPP will take up 47 times the area – 7000 acres compared to 150.)*

**Q. Do you see a connection between the two projects with regards to consistency?**

A. No, they are clearly very different from a land use and zoning perspective.

**Q. Is there any another reason that the Wallula consistency issue was taken care of so quickly?**

A. Yes, the project proponents submitted their request for a text amendment to Walla County before they filed an application with EFSEC. The Wallula project application was already consistent with Walla Walla land use and zoning when it filed its application with EFSEC because they had already worked that out before filing with EFSEC.

**Q. Did representatives from Zilkha try this approach? Did they ever make any attempt to seek consistency prior to filing their application with EFSEC?**

A. No, per my earlier testimony, Zilkha Renewable Energy waited until five months after they submitted their EFSEC application before submitting a complete application to Kittitas County.

**Q. So did Zilkha Renewable Energy even ever apply for a text change to the Kittitas County zoning code and comprehensive plan?**

A. No, Chris Taylor keeps bringing up this issue but they never submitted an application for text changes to our zoning code and comprehensive plan. They never requested a text change to our zoning code when the permit process required a conditional use permit in 2002. They also never asked for an EFSEC exception like Wallula when our zoning code and comprehensive plan were changed in 2002, which changed the permit process.

**Q. What are you hoping is the outcome of these adjudicative proceedings?**

A. It is my hope that once EFSEC confirms to the applicant that they have failed to justify preemption, that the applicant will resubmit a complete application in a timely fashion so Kittitas County can move forward with consideration of the zoning and land use changes that are necessary for placing a Windfarm in our County.