



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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STAFF REPORT

TO: Kittitas County Board of Commissioners
Kittitas County Planning Commission

CC: Julie Kjorsvik, Clerk of the Board
Lindsay Watkins, Clerk of the Planning Commission

FROM: Joanna Valencia, Staff Planner

DATE: March 12, 2008 Joint Public Hearing

SUBJECT: Vantage Wind Power Project (WSA-07-01)

I. GENERAL INFORMATION

A. Subject Application:

The applicant, Invenergy Wind North America LLC (IWNA), is requesting approval to develop a proposed wind farm pursuant to the Kittitas County Comprehensive Plan and Zoning Code. The application was received on October 17, 2007 and on November 2, 2007 was deemed complete by Kittitas County Community Development Services.

The application is for a wind farm consisting of a maximum of 69 wind turbines located on approximately 4,750 acres with a maximum height of 389 feet (Ground to Blade Tip). A permanent footprint of approximately 325 acres of land area will accommodate the proposed turbines and related support facilities. Land use in the project area consists primarily of privately-owned open space and livestock grazing land and State-owned land administered by the Department of Natural Resources. Turbines will be located on open rangeland in areas that are currently zoned Forest & Range.

The application is for a Development Agreement/Development Permit pursuant to Kittitas County Code 17.61A.035: Pre-Identified Areas for Siting of wind farms. Wind farms proposed to be sited in the pre-identified areas are subject to a process separate from the requirement for a wind farm resource overlay zone as identified in Kittitas County Code 17.61A.40.

B. Location:

The project site is located north of I-90 and south of Vantage Highway between Kittitas and Vantage and is approximately 7 miles west of the Columbia River and approximately 3 miles southeast of the Wild Horse Wind Power Project and is within Sections 9, 13, 15, 20, 21, 22, 23 and 24 of T17N, R21E, and Sections 14, 19, 20, 22 of T17N, R22E WM in Kittitas County.

DARRYL PIERCY, DIRECTOR

ALLISON KIMBALL, ASSISTANT DIRECTOR

COMMUNITY PLANNING • BUILDING INSPECTION • PLAN REVIEW • ADMINISTRATION • PERMIT SERVICES • CODE ENFORCEMENT • FIRE INVESTIGATION

C. Description of Proposal:

The proposal involves construction and operation of a utility-scale wind energy facility. The Wind turbine generators of the proposal are summarized below. A complete description of the proposal may be found in the project application to Kittitas County.

Wind turbine generators - a maximum of 69 General Electric (GE) 1.5 SLE wind turbines are proposed. Each turbine has a rated output of 1.5 MW. The total height of each turbine from ground to tip when the tip blade is pointing straight up will be 389 feet, with a hub height of 262 feet and a 253 foot rotor diameter.

Permanent project facilities would comprise approximately 325 acres within the approximate 4750 acre project area, representing approximately 6.8 percent of the overall project area.

A Development Agreement between Kittitas County and Invenergy Wind North America LLC (IWNA) will set forth the specific process for implementing final design and construction for the approved project plan. A draft Development Agreement was submitted by Invenergy Wind North America LLC (IWNA) with the project application.

D. Environmental Review:

State Environmental Policy Act

Based on the review of the submitted application materials, including an environmental checklist, correspondence received during the comment period, review of a previously completed SEPA Environmental Impact Statement (EIS) for the Wild Horse Wind Power Project, and other information on file with CDS, a SEPA Mitigated Determination of Nonsignificance was issued by Kittitas County Community Development Services on February 26, 2008. The MDNS with mitigations are included in the record.

E. Development Agreement:

State law permits counties to enter into Development Agreements with project applicants (RCW 36.70B.170). Consistent with state statutes, Kittitas County has adopted provisions for entering Development Agreements with private landowners (KCC 16A.111). Such agreements must be adopted by ordinance or resolution after a public hearing. Development Agreements may set forth the process and development standards applicable to a particular property or use and govern project development during the term of the agreement. Standards must be consistent with applicable development regulations and may address topics such as permitted uses, densities, building size, development timing, landscaping and design, impact fees, mitigation measures imposed pursuant to SEPA, drainage and water quality measures, requirements for providing or funding services and facilities, and review procedures for implementing decisions.

II. POLICY AND REGULATORY REQUIREMENTS

A. Kittitas County Comprehensive Plan:

In 1996, Kittitas County adopted a Comprehensive Plan consistent with the requirements of the State Growth Management Act and in December 11, 2006, the Kittitas County Board of County Commissioners signed Ordinance 2006-63 adopting the 2006 Amendments to the Kittitas County Comprehensive Plan and 2006 Update to the Kittitas County Comprehensive Plan. The plan contains the County's goals for managing growth and development over a 20-year period. It includes general goals and policy statements for five major elements, including land use, housing, transportation, capital facilities and utilities. The plan also includes a separate chapter addressing goals, policies and objectives for rural lands. The Land Use (including rural

lands) and Utility policies in the Comprehensive Plan are most relevant to the Vantage Wind Power Project proposal and are summarized and discussed below.

The Comprehensive Plan's Land Use Element designates the project area as Rural. Lands that can support residential development, but also farming, mining and forestry generally characterize such areas. Consequently, particular precaution must be taken to minimize conflict between new residential developments and natural resource activities. The economy of our rural community has traditionally been based on natural resource activities and Kittitas County encourages and supports their continuation in Rural Lands.

1. Land Use Policies

The Land Use section of the plan includes designations and policies for guiding land use in the County. Land use designations establish general locations for specific land use and development activities throughout the County. The project area and much of the surrounding area is designated as Rural in the Comprehensive Plan. The Plan identifies the importance of natural resource activities, as they contribute to the County's economic base. The following land use GPOs apply to the development of wind resource farms:

GPO 2.10B The County may develop study areas, either county wide or specific geographic locations for analysis and implementation of a variety of planning techniques and tools including but not limited to subarea plans, zoning designations, design standards and development requirements.

GPO 2.10C Study areas shall be considered for the following issues and areas.

- *All Urban Growth Nodes.*
- *Teanaway Drainage Basin*
- *Rural Transition Zone (both urban-rural interface and rural-resource land interface)*
- *Freeway Interchanges*
- *Yakima River Watershed Planning*
- *Siting of Wind Farms*

2. Utility Policies

The Utilities section of the Comprehensive Plan identifies the general location and capacity of all existing and proposed utilities, including but not limited to, electrical lines, telecommunication lines, and natural gas lines. Generally, the goals, policies, and objectives seek to promote the maintenance of current information on existing and proposed facilities; plan for expansion or improvement of utility systems; encourage coordination between jurisdictions and utility providers; and ensure the proper placement and appropriateness of utility siting:

GPO 6.1 The County should promote the joint use of transportation rights-of-way and other utility corridors consistent with the underlying private property rights and easement limitations.

GPO 6.9 Process permits and approvals for all utility facilities in a fair and timely manner, and in accordance with development regulations that ensure predictability and project concurrency.

GPO 6.10 Community input should be solicited prior to county approval of utility facilities which may significantly impact the surrounding community.

GPO 6.21 Avoid, where possible, routing major electric transmission lines above 55 kV through urban areas.

GPO 6.32 Electric and natural gas transmission and distribution facilities may be sited within and through areas of Kittitas County both inside and outside of municipal boundaries, UGAs, UGNs, Master

Planned Resorts, and Fully Contained Communities, including to and through rural areas of Kittitas County.

The Comprehensive Plan was amended and updated in December 2006 to include a provision specifically for wind farms, as follows for pre-identified siting areas:

GPO 6.34 Wind Farms may only be located in areas designated as Wind Farm Resource overlay districts in the Comprehensive Plan unless they meet the criteria as may be developed under GPO6.35. Such Wind Farm Resource overlay districts need not be designated as Major Industrial Developments under Chapter 2.5 of the Comprehensive Plan.

GPO 6.35 As allowed in GPO 2.10b and GPO 2.10c, develop a study area encompassing the entire county to establish criteria and design standards for the siting of wind farms outside the process outlined in GPO 6.34. Criteria should include but not be limited to:

- *Location relative to residential development*
- *Location relative to visual impacts*
- *Location relative to audible impacts*
- *Issues pertaining habitat and avian impacts*

The Comprehensive Plan also articulates the County's policies for addressing regional energy demands and energy production goals, including the following:

GPO 6.7 Decisions made by Kittitas County regarding utility facilities will be made in a manner consistent with and complementary to regional demands and resources.

GPO 6.8 Additions to and improvements of utilities facilities will be allowed to occur at a time and in a manner sufficient to serve growth.

GPO 6.13 The County should coordinate with utility providers.

GPO 6.18 Decisions made regarding utilities facilities should be consistent with and complementary to regional demand and resources and should reinforce an interconnected regional distribution network.

3. Rural Lands Policies

Kittitas County's rural land use designation consists of a balance of differing natural features, landscape types and land uses. Rural land uses consist of both dispersed and clustered residential developments, farms, ranches, wooded lots, and small scale commercial and industrial uses that serve rural residents as their primary customer. Rural landscapes encompass the full range of natural features including wide open agriculture and range land, forested expanses, rolling meadows, ridge lines and valley walls, distant vistas, streams and rivers, shorelines and other sensitive areas. The following GPOs apply to the development of wind resource farms:

GPO 8.5 Kittitas County recognizes and agrees with the need for continued diversity in densities and uses on Rural Lands.

GPO 8.7 Private owners should not be expected to provide public benefits without just compensation. If the citizens desire open space, or habitat, or scenic vistas that would require a sacrifice by the landowner or homeowner, all citizens should be prepared to shoulder their share in the sacrifice.

GPO 8.9 Projects or developments which result in the significant conservation of rural lands or rural

character will be encouraged.

GPO 8.11 Existing and traditional uses should be protected and supported while allowing as much as possible for diversity, progress, experimentation, development and choice in keeping with the retention of Rural Lands.

GPO 8.24 Resource activities performed in accordance with county, state and federal laws should not be subject to legal actions as public nuisances.

GPO 8.42 The development of resource based industries and processing should be encouraged.

B. Zoning Code

The Zoning Code implements the Comprehensive Plan and regulates the use and development of all property within the unincorporated area. The site is located within Kittitas County's designated Rural Area. Wind farms are permitted within Kittitas County through two processes as identified in Kittitas County Code Chapter 17.61A. One process as outlined in KCC 17.61A.040, which includes application of the County's Wind Farm Resource Overlay Zone, modification of the Comprehensive Plan Land Use map, and execution of a Development Agreement (KCC, Chapter 17.61A). The overlay zone permits wind energy resources in addition to all uses permitted in the underlying zoning classification; it does not change the underlying land use.

The other process as outlined in 17.61A.035 allows for a separate and different process to be undertaken from the process identified in KCC 17.61A.040. The purpose of this code is to identify areas where environmental review and public process has already occurred, expediting the siting of proposed wind farm facilities. The intent of this code is to streamline the development process for such applications, separate from the process already allowed in 17.61A.40. A map of the pre-identified areas identifies the following Townships and Ranges open to this process. This includes T.15N., Ranges 19E., 20E., 21E., 22E., 23E., T.16N., Ranges 21E., 22E., 23E., T.17N., Ranges 21E., 22E., 23E., T.18N., Ranges 21E., 22E., 23E., T.19N., Ranges 21E., 22E., 23E., T.20N., Ranges 21E., 22E., 23E. WM in Kittitas County. The following siting standards are established for these areas: a minimum 1/2 mile setback from existing structures at the time of application shall apply. If not attainable, additional analysis shall be included to support the application. Further, analysis shall also include, but is not limited to, the following as part of the application: wildlife impact analysis, noise impact analysis, visual impact analysis, and traffic impact analysis. A wind farm may be authorized by the county in these pre-identified areas only through approval of a site plan and development agreement by the board of county commissioners. The development agreement shall be consistent as authorized in Kittitas County Code 15A.11, Development Agreements.

The intent of the code's provisions are to provide for the recognition and designation of properties located in areas suitable for wind energy production, while protecting the welfare of the public and ensuring compatibility between nearby land uses.

The proposed project is located in the Forest and Range Zone and is proposed to be located in a Pre-identified area for siting wind farms as provided for in KCC 17.61A.035. The proposed wind farm is located within Sections 9, 13, 15, 20, 21, 22, 23 and 24 of T17N, R21E, and Sections 14, 19, 20, 22 of T17N, R22E WM in Kittitas County.

C. Critical Areas Ordinance

An administrative site analysis was completed by Community Development Services (CDS) in compliance with Title 17A. The following are the findings of the analysis.

1. Regulated Critical Areas

Frequently Flooded Areas. There are no areas within the project area that meet the CAO definition of frequently flooded areas. The proposed project would be in compliance with this aspect of the CAO.

Aquifer Recharge Areas. No regulated aquifer recharge areas have been identified in Kittitas County; therefore, there are no such areas within the project area. Adherence to existing County regulations adopted to protect aquifer recharge would ensure compliance with this component of the CAO.

Wetlands. Wetlands within the project area are rare and consistent and primarily of ephemeral areas within the riparian zone of ravines. Consequently, mitigation measures to avoid disturbance and construction within and around the wetlands are taken by the Project. Wetlands are addressed in Section 4 of the SEPA MDNS.

Fish and Wildlife Habitat Conservation Areas. Impacts to fish and wildlife habitat are addressed in Section 5 and 6 of the SEPA MDNS. The greatest impacts would occur to existing shrub-steppe habitat and grasslands. A portion of the affected habitat consists of features included within the CAO definition of fish and wildlife habitat conservation areas, primarily big game winter range.

Geologically Hazardous Areas. Information in Sections 1.3, 1.5, and 1.6 of the SEPA MDNS documents potential impacts of the proposed project on geologic hazard areas, and discusses proposed or potential mitigation measures. The critical areas ordinance does not impose restrictions on development within geologic hazard areas.

2. Other Critical Areas Considered in Permit Review

Agriculture. As discussed previously, the project area lies within the Forest & Range and Agriculture-20 zone. Use of the project area for wind energy facilities would not interfere with or require displacement of existing agricultural use (livestock grazing). Based on numerous factors relating to land ownership, management objectives, terrain and agricultural infrastructure, it is unlikely that the State-owned lands within the project area would ever be used for commercial agriculture. Therefore, the project would not adversely affect agricultural resources considered in permit review relative to critical areas.

Erosion Hazard Areas. The project documents analysis of potential project impacts related to erosion hazards, determining that erosion impacts resulting from the proposed action would be insignificant provided best management practices were employed.

Groundwater. The project documents analysis of potential project impacts on groundwater recharge, discharge, quality and supply. The analysis determined that the proposed action would not result in significant adverse impacts to groundwater resources.

Landslide Hazard Areas. The project documents analysis of potential project impacts related to landslide hazards, determining that potential impacts associated with landslide hazards would be insignificant, with site-specific studies and use of appropriate mitigation measures.

40. *Seismic Hazard Areas.* The project documents analysis of potential project impacts related to seismic hazards, noting that the project area is in a region of relatively low seismic risk and that the project facilities would be designed for the applicable local seismic hazard.

Mine Hazard Areas. No mine hazards have been identified in the project area.

D. COMPLIANCE WITH SHORELINE PROGRAMS & POLICIES

The project area does not contain, and is not within 200 feet of, any designated shorelines. The provisions of the SMP are, therefore, not applicable to the proposal.

III. APPLICATION REVIEW PROCESS SUMMARY AND OVERVIEW

The actions pending for decision by Kittitas County relative to the Vantage Wind Power Project application are summarized below. The overall process for Kittitas County's review of wind energy generating facility (commonly referred to as a wind farm) is set forth in the Kittitas County Code (KCC) Chapter 17.61A. This application is specifically submitted under KCC 17.61A.035, which pre-identifies areas for siting wind farms. For proposed wind farms located in the identified areas in Kittitas the actions pending for decision by Kittitas County relative to the Vantage Wind Power Project application are as follows:

1. Wind Farm Site Plan Approval

Proposal: The Vantage Wind Power Project Development Activities Application describes the proposal. The development application contains a proposed layout for the project facilities and narrative information indicating the types and locations of facilities and activities planned for the wind farm.

Issues: Consistency of the proposed project with Growth Management Act criteria for rural lands (RCW 36.70A.360); consistency with KCC 17.61A zoning code requirements, and with other applicable Kittitas County regulations; mitigation of environmental impacts (as identified in the SEPA MDNS).

Decision: Action on the proposed Vantage Wind Power Project Site Plan. Approval of the Site Plan will authorize the types of wind power facilities and activities in the locations shown on the project layout documented in the application. Subject to physical and environmental constraints, the specific location of individual project facilities may be adjusted consistent with the limits prescribed in the SEPA MDNS and the Development Agreement. The process for implementing the proposal is set forth in the Development Agreement.

Relevant Information: Vantage Wind Power Project Development Application, SEPA MDNS and Staff Report.

2. Development Agreement

Proposal: Invenergy Wind North America LLC (IWNA), proposes to execute a Development Agreement with Kittitas County that will govern development of the wind farm and implement the project proposal, if approved by the Board of County Commissioners. The Development Agreement will contain the approved site plan and all conditions adopted by the Board.

Development Agreements are authorized by RCW 36.70B.170-210, and KCC 15A.11.020B. A Development Agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A Development Agreement must also be consistent with applicable development regulations. Development standards addressed in the agreement may include:

- (a) Project elements such as permitted uses, facility densities and numbers, construction practices and facility locations;

- (b) The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;
- (c) Mitigation measures, development conditions, and other requirements under SEPA;
- (d) Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;
- (e) Phasing;
- (f) Review procedures and standards for implementing decisions;
- (g) A build-out or vesting period for applicable standards; and
- (h) Any other appropriate development requirement or procedure.

Development Agreements are recorded with the real property to which they apply and are binding on the parties and their successors. The agreement and any development standards govern during the term of the agreement. They may not be amended by adoption of a new zoning ordinance or development regulations after the date of the agreement.

Issues: Consistency of the Development Agreement with the requirements of RCW 36.70B.170-.210 and KCC 15A.11.020B.

Decision: Recommendation on proposed Development Agreement by the Planning Commission. Adoption of ordinance by the BOCC.

Relevant Information: Proposed Development Agreement, Staff Report, and SEPA MDNS.

IV. ADMINISTRATIVE REVIEW

Notice of Application:

The application was deemed complete on October 17, 2007. A Notice of Application was issued by CDS on November 2, 2007. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners, and other interested parties.

Written Testimony:

Written comments were solicited and the final date to submit written comments was on December 5, 2007, 2007 by 5:00pm. Comments were received and are included in the record.

State Environmental Policy Act

Based on the review of the submitted application materials, including an environmental checklist, correspondence received during the comment period, review of a previously completed SEPA Environmental Impact Statement (EIS) for the Wild Horse Wind Power Project, and other information on file with CDS, a SEPA Mitigated Determination of Nonsignificance was issued by Kittitas County Community Development Services on February 26, 2008. The MDNS with mitigations are included in the record.

V. POTENTIAL CONDITIONS

This staff report provides information that may be considered to form conclusions regarding the consistency of the proposal with applicable Kittitas County policies, regulations and procedures and with the criteria set forth in KCC 17.61A.035 for Pre-identifies areas for siting wind farms. The proposed Development Agreement submitted by Invenergy Wind North America LLC (IWNA), also incorporates measures proposed by the applicant and identified in the SEPA MDNS, to mitigate environmental impacts. This information may be considered in deliberations on the consistency of the Vantage Wind

Power Project proposal with applicable Kittitas County policies and regulations.

The Development Agreement addresses a number of issues of concern to Kittitas County, and which are relevant to the decision on the wind farm application. These issues include, among others: the period of the agreement; what constitutes vesting as to existing laws and regulations; development standards; construction timing; deviations from the approved project layout plan; how proposed future changes to the project could be categorized and who will review and approve such proposals (e.g., major and minor revisions); provision of adequate facilities and services, consistent with County standards; defining what constitutes decommissioning and ensuring adequate security/bonding to finance decommissioning; and criteria and procedures for transfer or assignment of the applicant's interest in the project.