

**WILDLIFE MITIGATION AGREEMENT for THE WIND TURBINE COMPANY  
PROJECT AT ROOSEVELT REGIONAL LANDFILL**

**Between the**

**Washington Department of Fish & Wildlife and**

**The Wind Turbine Company**

WHEREAS, The Wind Turbine Company (the Company) has proposed to develop a wind farm and associated electrical and road access systems within portions of the southern and western buffer areas of Rabanco Regional Disposal Company's Roosevelt Regional Landfill, east of Roosevelt Grade Road, Roosevelt, WA, (the "Project") (application to Klickitat County dated November 1, 2001);

WHEREAS, Washington Department of Fish & Wildlife (WDFW) acknowledges that there is a need for and public benefits from the use of wind generated power, but nonetheless believes that the potential impacts to wildlife from the Project warrant additional monitoring and specified mitigation;

WHEREAS, WDFW and the Company now wish to resolve this matter without appeals;

NOW, THEREFORE, WDFW and the Company (together, the "Parties"), in consideration of the mutual promises made herein, agree as follows:

**I. COMMITMENTS OF WDFW**

WDFW shall not file any appeals of Klickitat County's issuance of the Mitigated Determination of Non-significance (MDNS) issued by the County on November 21, 2001, (copy attached) or a Conditional Use Permit issued by Klickitat County for the Project as it is described in the November 1, 2001, Conditional Use Permit application and modified by the MDNS or conditional use permit process consistent with this agreement.

**II. COMMITMENTS OF THE WIND TURBINE COMPANY**

The Company shall modify its conditional use permit application for the Project, or otherwise cause to be incorporated as binding conditions in any conditional use permit issued for the Project, the Survey, Monitoring and Mitigation provisions set forth below in Paragraph III of this agreement during the planning, construction and operation of the Project.

**III. SURVEY, MONITORING AND MITIGATION PROVISIONS**

A. A Plant and Wildlife Technical Advisory Committee (TAC) will be established. The TAC will at a minimum consist of a representative of the applicant, WDFW, and the

Klickitat County Planning Department. The applicant will invite the participation of the U.S. Fish and Wildlife Service, and others by mutual agreement of the members of the TAC. The purpose of the TAC will be to provide review, consultation, and advice on plans and field protocols (except as otherwise specified). The TAC shall serve in an advisory capacity to the Klickitat County Planning Department, which shall retain its jurisdiction to approve plans and field protocols. State-of-the-art field protocols similar to those employed at the Stateline wind farm in Walla Walla County and Nine Mile Canyon wind farm in Benton County will be used.

B. Maps will be prepared by the applicant to show:

- 1) priority habitats (e.g. shrub steppe) that will be impacted by the construction of turbines, roads, and other infrastructure.
- 2) raptor nest sites (including burrowing owl nest sites) within ½ mile in all directions of the proposed turbine locations.

These maps will be presented to the TAC for review and comment, together with mitigation plans for avoiding impacts to those sites or replacement of those priority habitats.

C. The applicant has proposed that this project consisting of 30 turbines of new design be considered a pilot project to demonstrate the operating characteristics of the new turbine. To determine avian impacts, two phases of avian surveys will be conducted. One phase will be during project construction and a second phase during operation. The construction phase survey will take place during construction seasons. Operation phase surveys will take place during the spring, fall, and winter seasons. Surveys will consist of observations from established survey points. Qualified individuals must conduct the surveys. The location and number of stations will depend on topography and acreage, but should provide representative coverage of the entire wind farm site. Each station would be visited four times during each day (e.g. two surveys in AM, two in PM) to capture daily variations. Surveys will occur on three to five days during each season. Information collected would include species identification, location, movement patterns, flight paths, reaction to turbines, etc. Prior to implementation, survey protocols shall be developed by the applicant based on the above and presented to the TAC for review and comment prior to approval by the Klickitat County Planning Department.

D. The applicant will consult with the TAC prior to finalizing the project layout, including the locations of turbine strings, roads, power lines and other project facilities so as to reduce potential wildlife impacts.

E. An avian and bat monitoring plan will be developed by the applicant, consisting of, at a minimum, fatality monitoring involving standardized carcass searches, and scavenging and searcher efficiency trials. This plan will provide for a minimum of one year of carcass searches and will be presented to the TAC for review and to the Klickitat County Planning Department for approval prior to its implementation. Results from the monitoring will be provided to the TAC as quarterly interim reports and an annual report.

F. Procedures for reporting, handling, and rehabilitating injured wildlife will be developed by the applicant and presented to the TAC for review and comment, and to the Klickitat County Planning Department for approval.

G. Avian information developed by Jones and Stokes for the environmental checklist indicates that avian mortality is expected at this site but is projected as being low in nature. The applicant agrees to provide monetary payments each year of \$75 per operating turbine to a fund to be established by the Department of Fish and Wildlife within the Special Wildlife Account. That account is to be used for the improvement of priority avian species and habitats within Klickitat County. The funds may be used for restoration and enhancement of priority habitats, wildlife research of priority habitats or species, or other use as approved by the TAC. Payments will be adjusted annually for inflation based on the consumer price index appropriate for Klickitat County. Payments will be made within 60 days of the date of the start of commercial production and annually thereafter on that date until the project is decommissioned. If the avian fatalities associated with this project are found to be significantly different than currently anticipated, in particular if annual avian mortality exceeds 150 per year, the applicant and the Washington Department of Fish and Wildlife shall agree to re-visit conditions [C] and [G], in consultation with the TAC. Modifications to these conditions may be made through mutual agreement, in writing, of the Washington Department of Fish and Wildlife and the applicant, and submitted to the Klickitat County Planning Department for approval.

H. Conditions [A] through [H] are imposed to implement an agreement between the applicant and the Washington Department of Fish and Wildlife to mitigate the project's plant and wildlife impacts. They do not provide legal relief from the federal Endangered Species Act or any other federal law, or from RCW 77.15.

#### **IV. CONTINGENCY FOR IMPLEMENTATION**

If for any reason Klickitat County's conditional use permit for the Project does not incorporate the conditions in Paragraph III as binding conditions, the Company agrees to execute, before construction of the Project, a supplemental agreement directly with WDFW which implements those conditions. In that event, the Parties shall request the Klickitat County Planning Department ("KCPD") to join the supplemental agreement as a party in order to provide for KCPD's role in implementing the conditions. If KCPD were to decline to do so, the Company commits to modify the conditions for inclusion in the supplemental agreement in such a way as to provide for substantially the same ends but without the KCPD's direct participation, all to the reasonable satisfaction of WDFW.

#### **V. DURATION OF AGREEMENT**

This agreement becomes effective upon execution by WDFW and the Company and shall

remain in effect during the planning, construction, and operation of the Project. In the event of execution of a supplemental agreement as described in Paragraph IV of this agreement, this agreement shall terminate.

**VI. SAVINGS CLAUSE**

Nothing herein shall prevent, waive or diminish the right or authority of WDFW or the Company to use any statutory or other remedy available to enforce the provisions of this agreement. Nothing contained in this agreement is intended to unlawfully limit the authority or responsibility of WDFW to invoke penalties or otherwise fulfill its responsibilities as a public agency.

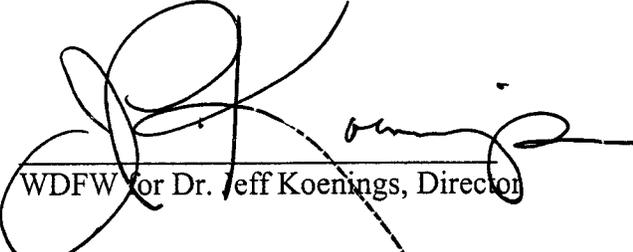
**VII. MODIFICATION OF AGREEMENT.**

This Agreement may be altered or amended only upon written agreement of both Parties.

**VIII. BINDING EFFECT**

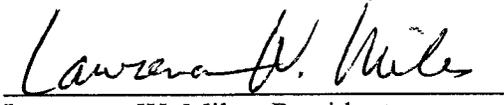
The Parties anticipate and intend that the Company shall be bound to comply with the terms specified in Paragraph III through the incorporation of those terms as binding conditions in the Project conditional use permit. For its part, WDFW agrees to manage the mitigation funds in the public interest for the purposes set forth in Paragraph III above.

For the Washington Department of Fish and Wildlife:

  
WDFW for Dr. Jeff Koenings, Director

Dec 12, 2001  
Date

For The Wind Turbine Company:

  
Lawrence W. Miles, President

December 6, 2001  
Date