

MINUTES

STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

April 10, 2000 – Regular Meeting

Rowe Six Conference Center – Building 1
4224 6th Avenue SE
Lacey, Washington

Item 1: Call to Order

The meeting was called to order at 1:30 p.m. by Chair Deborah Ross. A quorum was present.

Item 2: Roll Call

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| Chair | Deborah Ross |
| Department of Agriculture | Daniel Jemelka |
| Department of Community, Trade, and Economic Development | Heather Ballash |
| Department of Ecology | Charles Carelli |
| Department of Health | Ellen Haars |
| Military Department | Diane Offord |
| Department of Natural Resources | Gayle Rothrock |
| Department of Transportation | Gary Ray |
| Port of Bellingham | Bob Hilpert (via phone) |

Others in Attendance

EFSEC Staff
Allen Fiksdal
Mike Mills
Irina Makarow
Diane Burnett

Counsel for the Environment (Sumas 2)
Mary Barrett

Counsel for the Environment (Chehalis)
Melissa Burke-Cain

Assistant Attorney General
Richard Heath

Guests
Mary McCrea, Asst. Attorney General
Jackie Brown-Miller, Asst. Attorney General
Cindy Custer, Bonneville Power Admin.
Mike Elmer, Northwest Power Enterprises
Rose Spogen, Critical Issues Council
Paul Margaritis, Chehalis Power (via phone)
Karen McGaffey, Perkins Coie LLP
Bill Kiel, Energy Northwest

Item 3: Approval of Minutes – January 10, 2000

The draft minutes from the March 13, 2000 Council meeting were approved, with two corrections.

Item 4: Adoption of Proposed Agenda

The proposed agenda was adopted.

Item 5: Sumas 2 Generation Facility, Application No. 99-1

DEIS/Public Comment Meetings

(Allen Fiksdal reporting)

Mr. Fiskdal reported on the two public meetings held in Bellingham on April 3, and in Sumas on April 4, 2000. Approximately 180 people attended the Bellingham meeting, and 150 were present in Sumas. About half the attendees were from the Abbotsford area and expressed concerns regarding the 230 kV power line that would go north into Canada. Other comments included the possible health affects of transmission lines, visibility impacts, other safety issues regarding transmission lines. Approximately 30 people spoke in Bellingham and about the same in Sumas. A court reporter was present at both meetings to prepare transcripts.

A question was raised regarding whether Bellingham had specific ordinances on utility line extensions and if this proposal would mesh with those adopted plans. Mr. Fiksdal responded in the affirmative and indicated that there is also a county ordinance that prohibits transmission lines over 115 kV for new transmission lines, and that transmission lines should be built in existing corridors.

Mr. Fiksdal informed the Council that comments to the Draft DEIS will be reviewed by EFSEC's consultant, Jones and Stokes Associates, and issues raised will be answered in the Final EIS.

In addition, many commentors requested that an extension to the comment period for the draft EIS be granted. Mr. Fiksdal referred to a letter in the meeting packets which extends the comment period of the draft EIS to May 2, 2000, consistent with SEPA regulations. Comments will be due by the end of business, or at least postmarked May 2, 2000. All comments will be addressed when the final EIS is issued.

Chair Ross asked if the extension of the DEIS comment period had an impact on the adjudicatory hearing schedule. Mr. Fiksdal indicated there would be no impact.

Mr. Fiksdal reminded the Council of the April 24th Pre-Hearing Conference for the Sumas Proceedings, and encouraged all members to attend. Items to be considered include the petitions for intervention, and the tentative conference schedule calls for making an expeditious ruling on those petitions.

Ms. Irina Makarow informed the Council that an errata package was received from Sumas Energy II that contains some changes regarding typographical errors, and an additional appendix to be inserted in their revised application. The errata package is included in the Council packets.

Council members not attending will receive their copy in the mail as well as anyone who has received the revised application.

Council member Gayle Rothrock commented that EFSEC staff worked extremely hard for those two days, and wanted to commend them on the remarkable hard work that went into coordinating the two comment meetings.

Adjudication/Intervention

(Allen Fiksdal reporting)

Mr. Fiksdal stated that he heard from several Canadian entities interested in intervention. EFSEC has started working with its assistant attorney general to determine the status of Canadian intervention. The deadline for the interventions, is 5:00 P.M. on April 17, 2000.

Administrative Law Judge Contract

(Allen Fiksdal reporting)

Mr. Fiksdal reported that EFSEC has asked the Office of Administrative Hearings (OAH) to find an administrative law judge (ALJ) for the Sumas hearings. Art Wang, OAH Director, has recommended Nan Thomas, an ALJ with OAH, be appointed to work with the Council.

Mr. Fiksdal requested the Council authorize Chair Ross to sign an Agreement with OAH to hire Nan Thomas at eighty-dollars per hour, and related staff support time. Council member Haars asked if there would be a maximum limit for contract expenditures. Mr. Fiksdal responded that there would be no limit, and that EFSEC would be as efficient as possible in running the hearings. The contract completion date is December 2000.

Motion: It was moved and seconded to give authorization to the Council Chair to execute a contract with OAH to retain the services of Nan Thomas, ALJ, for the Sumas hearings.

Action: The motion passed unanimously.

Item 6: Chehalis Generation Facility

Site Certification Agreement Amendment

(Allen Fiksdal reporting)

Mr. Fiksdal reported that an initial prehearing conference was held on March 27. The Council will reconvene at the second prehearing conference on April 14, 2000, 9:00 A.M. at the UTC Conference room, and talk about the issues list and scheduling.

The Pre-Hearing Order for the March 27 conference has been sent out. One error is noted; staff will consult with EFSEC's assistant attorney general on how to correct the order number to No. 741 (from No. 738).

Mr. Fiksdal requested an update from Mr. Paul Margaritis who was on the telephone. Mr. Margaritis stated that Chehalis Power and their counsel conducted workshops last week, to disseminate information to other intervenors and are in the process of responding to the questions raised at the workshops. Mr. Fiksdal thanked Mr. Margaritis.

Item 7: Energy Northwest Nuclear Projects (WNP-2 and 1/4) and Satsop Combustion Turbine (CT) Project

WNP-2 Operations

(Bill Kiel reporting)

Mr. Bill Kiel, of Energy Northwest, reported that there were no shutdowns during the last month at WNP-2. March was another month of record generation and low radiation exposure at the plant. At the request of BPA, the plant was brought down to 80% on March 31st, and was again reduced to 60% this last weekend. As of early this morning, they were returning to full power.

Public tours of the plant were conducted on March 24 with about 199 people touring the turbine deck, control room, refueling deck and the control room simulator. These tours are scheduled twice a year.

The five-year National Pollutant Discharge Elimination System (NPDES) Wastewater Permit for Plant 2 expires in October of this year; and rules require renewal applications be filed 180 days prior to the expiration date. Mr. Kiel reported that two copies of the renewal application were submitted to EFSEC staff this morning.

Energy Northwest is working on preparing an application that would amend the Site Certification Agreement to allow for the storage of WNP-2 spent nuclear fuel in an on-site dry-cask storage system. They expect to submit the application in the next month and have been meeting with EFSEC and Department of Health staff to discuss the review process. After the application is submitted, meetings will be held to familiarize interested persons with the details of the dry cask storage proposal.

Mr. Kiel reported that plant engineering personnel are evaluating the possibility of increasing the power output of Plant 2 from 1230 to 1374 gross megawatts. This increase is primarily based on the extra capacity that the reactor steam supply system has. They are currently working through a cost benefit analysis.

The plant name is expected to be changed within the next month.

Mr. Kiel indicated that the U.S. Department of Energy (USDOE) is still analyzing sample results associated with the discovery of tritium at the waste burial ground, just west of the WNP-2 site. USDOE is continuing to evaluate the data. Mr. Kiel also reported that WNP-1 personnel discovered some contaminated radiography equipment, which was left behind by one of the construction contractors. The material was in a locked block building that served to store this type of material. The building has not been used since the early 1980's. Energy Northwest contacted the State Department of Health when the material was found and have been talking with Environmental and Materials section staff (Lynn Albin and Arden Scroggs) on how to best dispose of the material. While they attempt to find the owner, the material will remain locked in the building.

WNP-1/4 Site Restoration

(Deb Ross reporting)

Chair Ross reviewed the Council's response to the Bonneville Power Administration's (BPA) March 2 letter summarizing their positions and recent actions related to site restoration activities

at WNP-1/4. Chair Ross indicated that the response thanked Bonneville for their ongoing interest and involvement in trying to work with all parties to understand and resolve the issues associated with site restoration for the 1/4 projects. The Council's letter expresses some concern about ensuring that restoration plans address the long-term public health and safety, particularly at WNP-4. At the same time, the Council realizes that Bonneville may have limited options to help Energy Northwest with WNP-4 restoration. The Council remains concerned that it may well take more than a modest level of funding for WNP-4 restoration to adequately provide the necessary health and safety protection to the public.

BPA's letter asked for Council assistance in dealing with several of the restoration issues: asbestos removal and securing water for the site. Chair Ross indicated that the Council's response cited that on-site disposal of asbestos-containing transite material from the 1/4 cooling towers was approved at the March 13 regular meeting. As to water rights, the Council's position is to encourage the local development group and BPA to work with the State Department of Ecology and others to try to secure water within the existing framework for future economic activities at the site. The Chair concluded that the Council is committed to working with all parties in examining options for future activities at the WNP-1/4 site.

Current activities at the site include proceeding with the sale of the over 30 non-reusable buildings and initiating a contract for the environmental survey to be completed.

Mr. Mike Mills, EFSEC staff, reported that the State Fire Marshal's Office had conducted its annual inspection of WNP-2 and 1 facilities on April 5 and 6 and would be submitting a report to the Council in the near future.

WNP-2 Emergency Preparedness

(Mike Mills reporting)

Franklin County Contract Amendment

Mr. Mills reported that staff has been working with Energy Northwest, state Emergency Management, and Franklin County to secure additional Tone Alert Radios as part of the WNP-2 emergency notification system. These radios are placed in individual homes located within the 10-mile emergency planning zone and are activated by radio signals in the event of an emergency at the plant. New radios are being purchased and placed in homes over a 3-4 year period. Staff has reviewed the current budget and determined that monies will be available this fiscal year to purchase additional radios. Staff recommends that the Council approve an amendment to the Military Department contract authorizing an increase in the Franklin County subcontract, not to exceed \$25,000, for the purchase of approximately 100 Tone Alert Radios. Staff indicated that Energy Northwest supports the use of uncommitted funds to purchase the radios. In addition, the emergency broadcast system and sirens are also in place to alert the general public.

Motion: It was moved and seconded that the Council authorize the Chair to sign a contract amendment with the Military Department authorizing additional funding for Franklin County to purchase Tone Alert Radios as part of the emergency notification system for WNP-2.

Action: The motion passed unanimously. As required, the Military Department member abstained from the voting.

Wildlife Forever Lawsuit

(Rich Heath reporting)

Rich Heath, Assistant Attorney General, reported that the hearing on the Wildlife Forever lawsuit on the WNP-3/5 Site Certification Agreement amendment, is scheduled to be held in Thurston County Superior court on Friday, April 21. Mr. Heath will be representing the Council and the Governor's Office at the hearing.

Item 8: Northwest Power Enterprises, Starbuck Power

Potential Study Site

(Mike Mills reporting)

Mr. Mills introduced Mike Elmer, Vice-President for Project Engineering, for Northwest Power Enterprises (NPE), who provided an update on the status of the company's request that the Council conduct a potential site study for the Starbuck Project. Mr. Elmer referred to NPE's March 22 letter that advised the Council they were requesting an approximate sixty (60) day delay in the study. The delay is prompted by NPE's decision to have the ultimate owner/operator of the plant identified and on board before proceeding with the study and the permitting process. Mr. Elmer cited a number of reasons why it would be beneficial to have the long-term owner and operator of the plant participate in the process early on. Those included being able to answer questions and make decisions on plant size and configuration; equipment type; and mitigation strategies. He stated that this would also be helpful in completing the system impact study that BPA is working on. Mr. Elmer indicated that they are continuing discussions with the local community and have a number of other initiatives underway.

Item 9: Legislation

Energy Facility Siting Task Force

(Deb Ross reporting)

Chair Ross reported that there are still uncertainties on funding for the planned EFSEC siting study. The legislative budget may provide \$25,000, but it has not been finalized yet. Even with \$15,000 allocated by the Department of Energy grant, time is running out to be able to complete a study before the end of the year.

The chair is proposing a one day symposium regarding energy facility siting, that would be used as a starting point for either a task force or legislative or EFSEC rulemaking. Chair Ross is conferring with Senator Spanel to make sure that the symposium does not interfere with any other siting review process. The one-day session could be planned for May, with a central location, perhaps Sea-Tac, allowing for broader participation.

Bills Granting Tax Breaks To Energy Facilities

(Deb Ross reporting)

Chair Ross reported that Senate Bill 6062 granting tax breaks to energy facilities was vetoed by Governor Locke. The veto was later overridden by the Senate. No action has been taken by the House of Representatives. The veto would remain in effect if the House does not act.

Endangered Species Act

(Jackie Brown-Miller reporting)

Jackie Brown-Miller, Assistant Attorney General briefed the Council regarding the Endangered Species Act (ESA), and the impact it would have on project reviews by EFSEC.

MS. Brown-Miller reviewed concepts surrounding the listing and designation of species, protection tiers, the designation of critical habitat, prohibited activities under Section 9 of the Act, exceptions to prohibitions, and consultation/jeopardy duties of federal agencies under Section 7. Ms. Brown-Miller concluded with examples from recent case law.

Council members and staff discussed various avenues to integrate the required ESA reviews into the EFSEC project review process.

Item 10: Council Affairs

Chair's Report

(Deb Ross reporting)

Chair Ross had no items to present.

Staff Report

(Allen Fiksdal reporting)

Mr. Fiksdal announced that EFSEC's Secretary, Diane Burnett, has accepted a position with the Washington State Insurance Commissioner, and will be leaving EFSEC on April 14, 2000. He thanked her for doing a great job and wished her success in her new position.

Item 11: Adjourn

The meeting adjourned at 3:05 p.m.