

**MINUTES**

STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

**August 14, 2000 – Regular Meeting**

Rowe Six Conference Center – Building 1  
4224 6<sup>th</sup> Avenue SE  
Lacey, Washington

**Item 1: Call to Order**

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

**Item 2: Roll Call**

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| <b>Chair</b>   | Deborah Ross    |
| <b>Department of Agriculture</b>                                     | Daniel Jemelka  |
| <b>Department of Community, Trade<br/>&amp; Economic Development</b> | Heather Ballash |
| <b>Department of Ecology</b>   | Charles Carelli |
| <b>Department of Fish &amp; Wildlife</b>                             | Jenene Fenton   |
| <b>Department of Health</b>  | Ellen Haars     |
| <b>Military Department</b>   | Diane Offord    |
| <b>Department of Natural Resources</b>                               | Gayle Rothrock  |
| <b>Department of Transportation</b>                                  | Gary Ray        |
| <b>Utilities and Transportation Commission</b>                       | Dick Byers      |

**Others in Attendance**

**EFSEC Staff**

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| Allen Fiksdal | Irina Makarow |
| Mike Mills    | Mariah Laamb  |

**Guests**

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| Bill Frymire, Attorney General's Office                                     | Karen McGaffey, Perkins Coie  |
| Tony Usibelli, CTED-Energy Policy   | Mike Elmer, NPE               |
| Dave Warren, CTED-Energy Policy   | Darrel Peeples, Wallula       |
| Grant Bailey, Jones and Stokes Associates, Inc.                             | Cindy Custer, BPA             |
| Bill Staeger, Jones and Stokes Associates, Inc.                             | Bill Kiel, Energy Northwest   |
| Mary Barrett, Attorney General's Office,<br>Counsel for the Environment-SE2 | Dave Larkin, Energy Northwest |

**Item 3: Approval of Minutes – July 10, 2000**

The Council approved the draft minutes of the July 10, 2000 meeting as presented.

**Item 4: Adoption of Proposed Agenda**

The Council approved the agenda as submitted.

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

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| <i>Status Report</i> | <i>Allen Fiksdal reporting</i> |
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Allen Fiksdal reported that the adjudicative hearings ended on Friday, August 4. The applicant is to submit a post-hearing brief, followed by the interveners’ response, and the applicant's reply.

The draft PSD permit remains an outstanding issue. Our contractor, Ecology's Air Quality Program, has submitted a draft permit for review to EPA and EFSEC. Comments are expected back from EPA by the end of the week. Staff hopes to have a draft permit issued for notice by August 18<sup>th</sup>. Staff is working on hearing scheduling and issuance of a public notice.

The Council's 700-person mailing list will receive a notice letting them know the draft permit is available for comment. It will also be placed on our website and Council members will receive a copy for their information.

**Item 6: Chehalis Generation Facility**

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| <i>Status Report</i> | <i>Irina Makarow reporting</i> |
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Irina Makarow reported that EFSEC staff met with EPA on July 18 to further investigate information available regarding the commencement of construction decision EFSEC made with regards to the Chehalis Generation Facility in December 1999. EPA stated that they will require additional information from Chehalis Power to make their decision. EPA has sent a letter requesting this data from Chehalis Power, and are currently considering their response. EPA's decision will help to determine if a new Best Available Control Technology (BACT) analysis will be required.

**Item 7: Energy Northwest Columbia Generating Station, WNP-1/4, and Satsop Combustion Turbine (CT) Project**

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| <i>Columbia Generating Station Operations</i> | <i>Bill Kiel reporting</i> |
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Mr. Kiel reported on the automatic shutdown that occurred at the Columbia Generating Station (Columbia) on June 26 after 245 days of continuous operation. The shutdown was caused by a wire rubbing against a conduit causing an electrical short in a transformer monitoring unit in the outside transformer yard. The plant restarted on July 4, with the outage lasting eight days.

In June, Energy Northwest paid generation taxes totaling \$2.15 million to 37 separate jurisdictions. The tax is based on a 1.6 percent tax on the wholesale value of electricity supplied to the Bonneville Power Administration (BPA). The tax was distributed as follows: the state general fund got \$80,516; the state school fund received half of the remainder - \$966,196; and the state distributed the remainder to jurisdictions within a 35-mile radius of the plant, based on

their population. Of those funds, counties got 22 percent; cities received 23 percent; fire districts got 3 percent; and library districts shared the final 2 percent.

The U.S. Department of Energy (USDOE) is continuing to sample ground water wells around the Columbia site to confirm the location and source of high levels of tritium observed earlier in the year at a well located near the 618-11 waste burial ground just west of the plant. USDOE testing showed that there weren't high readings at the other well sites, thus confirming that the extent of the plume was fairly limited. Phase 2 testing, to further identify the source of the tritium, is underway, to include resampling all existing wells and adding new monitoring wells. That testing will take a few months to complete with sample results expected to be available at the end of the year. USDOE will then determine what the next steps will be.

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| <i>Dry Cask Storage</i> | <i>Dave Larkin and Rich Heath reporting</i> |
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Mr. Larkin provided an overview of the Dry Cask Storage Facility proposed by Energy Northwest to store spent reactor fuel at the Columbia site. His briefing included details on the design of the Independent Spent Fuel Storage Installation (ISFSI) that they have purchased - the Holtec Hi-Storm Cask System. Mr. Larkin also covered the construction and operational impacts of the storage facility and the key schedule milestones that need to be completed to meet an early 2002 cask loading date. He also described the U.S. Nuclear Regulatory Commission (NRC) requirements that must be met to receive federal certification to construct and operate an ISFSI site.

EFSEC Counsel Rich Heath provided an overview of the analysis that he has been conducting on the role(s) of the state and federal Nuclear Regulatory Commission (NRC) in regulating the construction and operation of spent fuel storage facilities. Mr. Heath indicated that after looking at the NRC regulations and a recent court case in Maine, he had concluded that the federal statutes and rules preempt state jurisdiction over these facilities as long as licensees meet applicable standards. The decision in the Maine Yankee case, while reaffirming NRC's jurisdiction over dry cask storage systems, did recognize a role for states, but did not specify what that might be. Consistent with those understandings, the Council's review has focused on those aspects of Energy Northwest's proposal that are specific to the state's interests and its rules for amending Site Certification Agreements. He noted that the EFSEC manager, pursuant to the State Environmental Policy Act (SEPA), issued a Mitigated Determination of Non-Significance that cited two mitigating conditions: the dry cask site should be incorporated into the plant's Radiological Environmental Monitoring Program (REMP); and Emergency Plans should be amended to recognize the potential for accidental releases from the facility. Mr. Heath also felt that construction effects could be monitored as well.

Mr. Fiksdal stated that two comment letters from state agencies had been received on the SEPA determination. One was from the Department of Health indicating that the site be monitored and that they would work with the Council in following dry cask activities. The other was from the Military Department noting that the dry cask system should be incorporated into state and local emergency plans. The comment period closed July 21<sup>st</sup>.

In response to a question from Chair Ross on whether the proposed amendment would be a technical amendment or an action that the Governor would have to review, Mr. Heath responded that the Council could process this request as a technical amendment if it was determined not to have significant environmental impacts. He added that the two comment letters received to date would support the finding that the proposed dry cask facility would have no detrimental effect on the environment and the Council could approve this by resolution as a technical amendment. Chair Ross pointed out that the Council has to hold a public hearing on any amendment request and could defer a decision on whether to proceed with a technical amendment until after a hearing was held. She recommended that the Council hold a hearing in the Tri-Cities area on September 6<sup>th</sup>. If the findings continued to support a technical amendment, the Council could act on the amendment request at its regular September meeting. Staff will proceed with plans to schedule and notice an evening hearing on September 6 at the Trude Recreation Agricultural Center (TRAC) in Pasco.

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| <i>WNP 1/4 Site Restoration</i> | <i>Mike Mills reporting</i> |
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**WNP-1/4 Feasibility Review:**

Mr. Mills reported that copies of the Benton Redevelopment Initiative’s (BRI) "WNP-1/4 Feasibility Review" had been handed out to Council members. This report will assist BRI evaluate possible reuse options for the 1/4 site.

**Lease to Tri-City Asset Reinvestment Company:**

Mr. Mills indicated that by letter dated July 27, Energy Northwest has requested authorization to lease building 205 on the WNP-1/4 site to Tri-City Asset Reinvestment Company. The company would use the warehouse building and adjacent outside laydown area to store and stage environmentally clean and radiation free Hanford-related surplus equipment for reuse. A draft lease containing the environmental protection conditions specified earlier by the Council was included with their request.

Discussion on the proposed lease focused on the Council’s continuing interest in not contaminating soil or groundwater from leakage or spills. Council member Chuck Carelli proposed language expressing the Council’s expectation for the proper storage, handling and disposition of dangerous or hazardous or radioactive material. These conditions would be incorporated into this and future lease agreements.

Chair Ross recommended that the Council approve the proposal lease provided Energy Northwest agree to abide by the additional conditions. She asked that the company add these conditions to their standard contract provisions. Energy Northwest was also urged to work with staff to look at a process for considering future lease requests.

**Motion:** It was moved and seconded to approve the lease with the Tri-City Asset Reinvestment Company subject to the additional "environmental protection" conditions being incorporated into the lease agreement.

**Action:** The motion passed unanimously.

**Item 8: Northwest Power Enterprises-Starbuck Power Project**

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| <i>Jones and Stokes Contract Amendment</i> | <i>Allen Fiksdal reporting</i> |
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Mike Elmer, Project Manager of Northwest Power Enterprises briefed the Council on the status of the project. NPE requested a Potential Site Study (PSS) in February for the Starbuck Power Project and after asking for a delay has now asked the Council to start the study.

NPE has met with the Columbia County Commissioners and Starbuck City Council to update them on the project's progress. BPA has completed their System Impact Study and the results indicated that the project could be integrated into their system with some necessary upgrades. The Facility Study Agreement is expected this week as well as the Environmental Review Reimbursable Agreement. The Facility Study will identify the equipment that will be required to connect the project to the grid. It will allow BPA to prepare a cost estimate, as well as determine which party will cover the costs of system or network improvements or integration.

NPE'S consultant, CH2M Hill, are exploring different avenues to install a monitoring station, to allow gathering of actual meteorological data at the site.

NPE is talking with a potential owner/operator, with a deal agreed in principal. A letter of intent is expected in 45 days.

Last Friday, Marlena Guhlke of CH2M Hill, Steve Strasser, NPE CEO/President, and Mike Elmer met with Jones and Stokes and Allen Fiksdal. The purpose of the meeting was to give JSA some information and background on what has been completed on the project as far as preliminary engineering, cultural resource studies and to kick-off the PSS.

Allen Fiksdal reported that the discussions dealt with the scope and results of the study, and how JSA and EFSEC would coordinate the study. In February the Council gave the Chair authority to amend the JSA contract for this study. Mr. Elmer is aware that the total amount of the study money would be required up front. NPE has submitted the \$10,000 filing fee. Staff and JSA are working on developing the exact scope of work for the study. The study is intended to allow time for scoping; for agencies to become involved in the process, and for public involvement; and to provide enough information for the applicant to submit a complete application. Mr. Fiksdal asked that Council reiterate their expectations for the results of the study to NPE.

Chair Ross handed out the proposed EFSEC application review process that the EFSEC SEPA committee developed last year. She proposed that Council take a new look at this, particularly in light of the joint legislative task force that is currently meeting and to determine if it makes sense. The Chair gave NPE an opportunity to comment and see if there were any show stoppers in this process.

Mike Elmer responded that the approach discussed with Grant, Allen and CH2M Hill sounded very positive. Having gone through the EFSEC process one other time, it was cumbersome at best and NPE would welcome any improvements.

Mike Elmer indicated that payment in full prior to starting the PSS was not a problem. He would have had a check if not for their comptroller being on vacation.

Allen Fiksdal reported that the preliminary estimate for the total cost of the study had been prepared with assistance from JSA. Staff and JSA are considering a phased approach. Further work is required to determine what the total cost will be for the full PSS process. The original amount could be used as a starting point to get JSA going for 4-5 months. Staff does not want to contract with JSA to provide services without having the funding available. If the scope of the JSA's work is modified, an additional contract amendment can be made. Phasing may also assist the applicant with review process changes that may result from the current review of EFSEC's regulatory jurisdiction.

Mr. Bailey outlined the three-stop process that would address Council's concerns with respect to the new SEPA oriented review process. First, JSA would generate a list of factors and criteria that the proponent would respond to in addressing the various WAC's in the application. This first document would in essence be a work plan, where requirements for assessing environmental impacts would be derived from comments from federal and state agencies, the public, and JSA's previous experience with EFSEC application review. Second, once the criteria document has been finalized, the proponent would prepare sections of the application for pre-review based on the guidelines that have been developed. The third and final step will focus on integrating State Environmental Policy Act (SEPA) and National Environmental Policy Act (NEPA) requirements into the information to be supplied in the application. This will insure that the information required to prepare SEPA/NEPA documents is readily available. Bill Staeger will be the JSA project manager for Starbuck. He previously worked on the Trans-Mountain and Northern Tier applications.

Chair Ross questioned Mr. Bailey about the far more extensive involvement of the state agencies, tribes, and public that Council was contemplating at the very beginning of the review process. Mr. Bailey responded that public and agency meetings will be organized at the state and federal level. Meetings will be set up with agencies that have any jurisdiction or authority in the absence of EFSEC over this type of project, and others which have comments on licenses or the EIS process. That certainly would include BPA, Department of Natural Resources (DNR) Ecology, Parks and Recreation, and any other agency that is interested. A formal scoping will be part of the process within the first 30-45 days. Towards the tail-end of the process, JSA will be submitting some of the information back to them and having them look at it so they are up to date on what is going to be in the application.

At the Council's request, Mike Elmer reviewed tribal consultation. CH2M Hill has done transects of the site to look for burial grounds. Two representatives from the tribes were present during the excavations. A final report was provided to the tribes. NPE will contact the 4 or 5 tribes in the upper Columbia that are interested in anything that is going on in that area. BPA's role will be very important due to the federal agency to sovereign tribe relationship, in the event the tribes would be hesitant to talk to EFSEC. If BPA needs an EIS, steps would be taken to make it a joint document.

Allen Fiksdal introduced a proposed contract amendment to set the funding level prior to assigning the task of conducting the Starbuck PSS to Jones and Stokes. OFM has suggested raising the limit of the contract to as much as \$1.5 million, because the Council may be expecting more requests for site studies. If that limit is reached before the termination of the contract, which is a year and a half from now, then the Council can solicit a new contractor. JSA is on a three-year contract with the Council. Mr. Fiksdal recommends that the Council amend the JSA contract with a cap not to exceed \$1.5 million dollars.

The proposed amendment does not assign any work to JSA. The Council has already given the Chair authority to enter into a task order for the Starbuck study and staff is working to figure out what the required level of funding will be for that task and get the money from NPE before the Chair authorizes that work.

By raising the ultimate contract amount, the Council can assign a new task to the JSA contract. When the task order is ready, it will come back to the Executive Committee, and then to the Council for consideration.

Chair Ross suggested a terminology change in the third paragraph. She suggested removal of the first three sentences and the three words “As a result”.

Mr. Fiksdal reviewed OFM contract filing rules. If the original contract amount of \$500,000 is increased by more than 50% than EFSEC must again get OFM approval. With this amendment each new task order can be processed without requiring OFM approval.

**Motion:** It was moved that the ultimate level for the Jones and Stokes contract be raised to \$1.5 million.

**Action:** The motion passed unanimously.

**Item 9: Newport Northwest-Wallula Project**

Allen Fiksdal reported that Newport Northwest has submitted the additional \$140,000 requested by the Council for the initiation of a Potential Site Study (PSS). Darrel Peebles reported that the proponent has already met with some state agencies on preliminary issues. Newport Northwest agrees with the integrated SEPA review process developed by the Council, but asks that the Council allow for flexibility to accommodate project specific issues. Mr. Peebles has begun a dialog with Jones and Stokes to develop the contents of the study.

Chair Ross indicated that the Council believes a phased approach will allow the Council flexibility with respect to changing circumstances. Early involvement of all potential parties, including state agencies, environmental organizations, and local county authorities will assist in identifying significant issues. Chair Ross agreed the proponent should continue with all initial contacts.

The proponent has not yet contacted tribal organizations, focusing more on the scoping of issues in the first three months of the work on this project. Mr. Peeples indicated that the local tribes may be concerned with water and air issues.

The proponent has made a request to BPA for a transmission integration study. Work on the System Impact Study is in process.

Mr. Peeples explained that the site is owned by the Port and is industrially zoned. It is currently being farmed and is immediately adjacent to the feed lot and packing plant for Iowa Beef. A Boise Cascade plant is also located within a half mile of the project site. The land would be purchased from the Port.

**Item 10: Siting Task Force/Symposium**

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| <i>Update</i> | <i>Deb Ross reporting</i> |
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Chair Ross reported that the initial meeting of the Joint Legislative Task Force on Energy Facility Siting is scheduled for Thursday, August 24, at the Criminal Justice center in Burien. The purpose of the Task Force is to review state siting issues and develop recommendations for the Governor and Legislature to consider. The first meeting will take public comment on issues for the Task Force to address and members will clarify the scope of the review, establish a work plan, and form work groups. The Chair provided an overview of the Task Force membership and how interested persons can participate.

Chair Ross announced that the Council and Task Force will be co-hosting a two-day symposium on October 2 and 3. The first day will have speakers and panels provide information on the energy industry, the siting process and alternatives, and issues. The second day will be reserved for Task Force work group meetings.

**Item 11: Other**

**Executive Committee Membership:**

Chair Ross indicated that Jenene Fenton has accepted her invitation to join the Executive Committee. She added that at the end of the year, an open invitation will be sent to all members regarding future participation on the committee.

**Orca Natural Gas Pipeline Project:**

Allen Fiksdal reported that the ORCA sponsors have scheduled a series of eight public meetings to provide information on the proposed project. Chair Ross stated that she has been in contact with the Association of Counties to see if there is interest in having the Council brief local officials about what would happen if the project comes under state (EFSEC) or Federal (Federal Energy Regulatory Commission) jurisdiction. Counsel Rich Heath pointed out that the jurisdictional question is keyed to whether ORCA has contracts to ship the gas out of state or not.

Allen Fiksdal added the project would be under EFSEC jurisdiction unless the company can demonstrate that they have contracts for the transport of natural gas to interstate destinations.

**WNP-3/5 Satsop Combustion Turbine Project Site Certification Agreements SCA):**

Counsel Rich Heath reported that Wildlife Forever did not appeal the Thurston County Superior Court decision upholding the Council/Governor's decision to amend the Satsop SCA to terminate the WNP-3/5 nuclear projects.

**Department of Transportation Council Member:**

Gary Ray indicated that he will be withdrawing as the department's Council member in the near future. He indicated that he will continue to serve through the completion of the Chehalis and Sumas proceedings.

**Hanford Wildlife Mitigation:**

Jenene Fenton reported that the Department of Fish and Wildlife is evaluating the impacts of the June 2000 Wildfire on the Rattlesnake Slope Wildlife Mitigation Project. The mitigation project brought water to the site that was used to irrigate some of the land to help grow shrubs for wildlife habitat. The entire project site was burned and any restoration effort will need to be coordinated with both Energy Northwest and the Bonneville Power Administration. The department is looking at an adaptive management strategy that would establish shrub-steppe habitat as a restoration priority for the project. Fish and Wildlife would like to complete seeding this fall to take advantage of the normal precipitation pattern. Council staff will work with the Department and Energy Northwest on developing a habitat restoration plan.

**Item 12: Adjourn**

The meeting adjourned at 4:08 p.m.