

MINUTES

STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

July 9, 2001 – Regular Meeting

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

Item 1: Call to Order

Acting Chair Jenene Fenton called the meeting to order at 1:30 p.m. A quorum was present.

Item 2: Roll Call

EFSEC Council Members

Community, Trade & Economic Development	Heather Ballash
Department of Fish & Wildlife	Jenene Fenton
Department of Natural Resources	Tony Ifie
Utilities and Transportation Commission	Dick Byers

EFSEC Staff and Counsel

Allen Fiksdal	Irina Makarow
Mike Mills	Mariah Laamb
Robert Fallis, AAG, EFSEC	

Guests

Steve Bates, Chehalis Power	Brian Carpenter, REBOUND
J. Newman	Mary Barrett, CFE, SE2
John Arbuckle, Energy Northwest	Bill Staeger, Jones & Stokes
Tony Usibelli, OTED	Karen McGaffey, Perkins Coie
Ron Lavigne, AAG-CFE	Mike Sotak, Duke Energy
Bill Frymire, AAG-WDFW	Cindy Custer, BPA

Item 3: Approval of Minutes – June 18, 2001

Acting Chair Fenton deferred approval of the June 18, 2001 minutes until the next Council meeting, as there are additional comments, which Council members want inserted into the minutes, prior to adoption.

Item 4: Adoption of Proposed Agenda

The agenda was adopted with the following two changes. Under Item 6, Sumas Energy 2, Ecology-Wetlands/401 Permit Contract is listed as an action item -it will only be an information item. Also, Item 11, Other, will include an opportunity for public comments.

Item 5: Rulemaking

<i>Rulemaking Investigation</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported on the status of the rulemaking process. The Council filed a CR 101, Preproposal Statement of Inquiry, regarding EFSEC rules, with the Code Reviser's Office on June 19, 2001. Staff then sent a notice to all interested persons on our database about the rules review and the opportunity for the public to receive more information about the process and provide written comments. Attached to the notice was a copy of the CR 101 with additional details on the intention of the review and a white paper prepared by outgoing EFSEC Chair Deb Ross that describes her views on possible issues and the scope of the rulemaking.

To date, 38 individuals or organizations have asked to receive informational mailings relating to the rulemaking process.

Item 6: Sumas Energy 2

<i>Second Revised Application</i>	<i>Irina Makarow, EFSEC Staff</i>
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Ms. Makarow reported that the Second Revised Application for the Sumas Energy 2 (SE2) Project was received on June 29, 2001, and was distributed to Council members, Parties to the adjudication and other interested persons. The first pre-hearing conference has been scheduled for July 16, 2001, with a second pre-hearing conference to be scheduled in early August. The Council will confirm the August pre-hearing conference date at the July 16th hearing.

<i>Ecology-Wetland/401 Permit Contract</i>	<i>Irina Makarow, EFSEC Staff</i>
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Ms. Makarow reported that EFSEC and Ecology staff are discussing renewal of the contract with Ecology's "401 Team" to provide Wetlands/401 Certification review for the SE2 project. More discussion is needed between EFSEC and Ecology staff to determine how Ecology can provide resources to complete this work. If agreement is reached, a special Council meeting would be called to consider approval of the contract.

Mr. Byers asked if the stipulations that were entered into during the original adjudication will be brought into the record for the Second Revised Application. Ms. Makarow and Ms. Fenton responded that the record from the original adjudicative proceedings will be brought into the new adjudicative proceedings, including the stipulations previously entered into as they may continue to apply to changes in the Second Revised Application.

Ms. Makarow informed the Council that EFSEC staff will hold a public informational open house tentatively scheduled for mid-August in Whatcom County. The purpose of the meeting is to assist the public in understanding the changes being proposed to the project, the review process that will be conducted by the Council, and future opportunities for public participation.

Item 7: Chehalis Generation Facility

<i>PSD Air Permit Appeal</i>	<i>Irina Makarow, EFSEC Staff</i>
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Ms. Makarow reported that the Environmental Appeals Board (EAB) has requested that the Environmental Protection Agency's Office of General Counsel submit a brief regarding the requirements for re-analysis of Best Available Control Technology (BACT) when existing Prevention of Significant Deterioration (PSD) permits are revised as opposed to extended. Ms. Makarow and Mr. Fallis are preparing EFSEC's administrative record in response to Rebound's appeal of the Chehalis Generation Facility PSD permit to the EAB.

<i>Construction Activity</i>	<i>Mike Mills, EFSEC Staff</i>
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Mr. Steve Bates, from Tractebel Power provided an update on construction activities for the Chehalis Generation Facility. Site construction commenced May 1, 2001. The following activities were accomplished during this time frame.

- Installed silt fencing around perimeter of property.
- Completed construction of site roadways.
- The services building foundation was completed.
- Filling and grading of the site has been ongoing.
- The detention pond excavation has been completed.
- The temporary construction trailers are on site. Decking and stairs are under construction. Wiring of the trailers is continuing.
- Construction of the foundations for the raw water, demin water and the fuel storage tanks has begun.
- Construction of the site perimeter fence is ongoing.
- The security guard trailer has been installed and a temporary construction parking lot has been located at the entrance to the property.
- Construction of the site drainage ditches is continuing.

Mr. Bates also reported Mr. Mills is visiting the site weekly and that construction activities at the site are ahead of schedule and that working with EFSEC is going smoothly.

Item 8: Satsop Combustion Turbine Project

<i>PSD Permit Review-Status</i>	<i>Irina Makarow, EFSEC Staff</i>
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Ms. Makarow reported the proponents, Duke Energy Grays Harbor and Energy Northwest have submitted responses to EFSEC's Ecology contractor's information requests regarding the PSD permit application for the Satsop Combustion Turbine Project. EFSEC's Ecology contractor is now taking those responses into consideration. EFSEC staff anticipates that a draft PSD permit would be available around the beginning of August. When the draft permit has been issued, EFSEC will provide a 30-day public comment period to stakeholders and the public. At the end of the 30-day comment period, the Council will hold a public hearing, take into considerations all comments received, and then issue a final permit.

<i>Mitigation Planning for Satsop Natural Gas Pipeline</i>	<i>Mike Mills, EFSEC Staff reporting</i>
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Acting Chair Fenton queried the staff about receipt of a July 3, 2001, letter from the Department of Fish and Wildlife (WDFW) that was to have been sent to the Council regarding the issue of pipeline jurisdiction as it relates to the Satsop CT project. Mr. Fallis addressed, on behalf of EFSEC staff, the best method to bring this issue before the Council for future resolution. Ms. Fenton asked for a status report on this issue at the next Executive Committee meeting.

Mr. Frymire responded that the Department of Fish and Wildlife is participating in the Federal Energy Regulatory Commission (FERC) process in relationship to what FERC is requesting of Fish and Wildlife, because the Williams Pipeline is under FERC jurisdiction. Mr. Frymire indicated that a response from EFSEC to the above-mentioned WDFW letter is not necessary for WDFW to meet a deadline for their participation in the FERC review process.

Item 9: Energy Northwest, Columbia Generating Station & WNP-1/4

<i>Columbia Operations/Restart</i>	<i>John Arbuckle, Energy Northwest</i>
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Mr. Arbuckle presented the monthly update for Energy Northwest. The Columbia refueling and maintenance outage was completed on July 2, 2001, and the station is currently running at 100% power. At WNP-1, Energy Northwest's proposed Diesel Generator Project is on hold indefinitely, due to market conditions and a recent Federal Energy Regulatory Commission (FERC) ruling, which placed a price cap on sales of electricity.

Ms. Fenton thanked Mr. Arbuckle for the pictures and schematic drawing of the layout of the Columbia Generating Station and WNP-1/4 sites and the proposed location of future projects.

<i>Solar Facility at WNP-1</i>	<i>Mike Mills, EFSEC Staff</i>
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Mr. Mills provided a brief summary of Energy Northwest's request to install a solar power facility at the WNP-1 site. In a letter dated June 13, 2001, Energy Northwest requested Council review and approval of a 50-kilowatt solar electric demonstration facility to be located at WNP-1. The project is a partnership between Energy Northwest, U.S. Department of Energy (through the Bonneville Power Administration (BPA)), and the Bonneville Environmental Foundation. Mr. Mills indicated that he had been contacted by BPA-Generating Resources staff, who reaffirmed Bonneville's support for the project and feel it will be a good opportunity to demonstrate solar technology in this region.

In response to a question from member Dick Byers on whether the Council was setting a precedent in allowing activities (through leases) that weren't contemplated in the original WNP-1/4 Site Certification Agreement (SCA), Mr. Mills provided the following background. In early 1998, Energy Northwest first approached the Council about pursuing economic development activities at the 1/4 site. In considering whether reuse of the site was appropriate, the Council determined that while the leasing of facilities could be allowed, Energy Northwest and its lessees, would need to demonstrate that any activities, not specifically related to the purposes authorized in the 1/4 SCA, would not pose a threat to human health and safety. In a letter dated October 15, 1998, the Council advised Energy Northwest that any further leasing of

buildings/facilities at the WNP-1/4 site would require EFSEC review and approval, subject to the following criteria: 1) leases or guidelines should ensure that all pertinent regulations will be complied with; 2) the threat to human health and safety is minimal; and 3) activities at the site will not interfere in any way with site restoration. Mr. Mills explained that each request for reuse at the site is evaluated on its merits and against those guidelines.

Based on its review of the solar energy facility and the environmental and safety assurances provided by Energy Northwest, and considering the expressed regional support for the demonstration project, EFSEC staff is recommending that the Council approve installation of the solar power facility at the WNP-1 site.

Tony Ifie made the following motion.

Motion: To approve the installation of the proposed solar power demonstration project at the WNP-1 site.

Heather Ballash seconded the motion.

Action: The motion passed unanimously.

Item 10: Petition for Declaratory Order on Everett Delta I and II

<i>Council Process for Disposition of Petition</i>	<i>Robert Fallis, EFSEC Counsel</i>
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Mr. Fallis reported on the process the Council will need to decide on in considering the Petition for a Declaratory Order (Petition) filed by FPL Energy, Inc., regarding the applicability of the site certification provisions of Chapter 80.50. RCW, to two thermal power plants in Everett, Washington. Mr. Fallis stated that under the Administrative Procedures Act (APA), within 30 days of the receipt of a petition, EFSEC needs to decide upon which process it will use to respond to or not respond to the petition. Following receipt of the petition dated June 13, 2001, EFSEC staff sent a request for comments on the process to persons involved with the Everett Delta I and II projects, and interested persons, including city and county officials. No comments were received.

Staff is recommending that the Council take action to declare its intent to issue a Declaratory Order no later than September 12, 2001, which is 90 days from the date of receipt of the Petition, which is the time period the APA sets for responding to petition requests. Mr. Fallis advised that an adjudicative hearing will not be required because if the Council believes it needs additional information from the petitioner in order to make a clear determination on the request, it can request that those materials be provided. The petition and any additional materials submitted will constitute the record for the Council making its determination.

Heather Ballash made the following motion.

Motion: To have staff notify the petitioner that the Council intends to respond to the Petition within the applicable time period, no later than September 12, 2001; and for staff to work with counsel Robert Fallis, to develop the Declaratory Order on Everett I and II.

Dick Byers seconded the motion.

Action: The motion passed unanimously.

Item 11: Other

<i>Application Fees</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal presented a draft memo to Council members regarding EFSEC fees and payment requirements for processing applications. Staff is suggesting some changes to our billing and fee collection procedures, consistent with applicable laws and rules. The proposed changes will also ensure that the Council is not in conflict with financial standards for not extending credit to private companies.

Mr. Fiksdal reviewed the proposed process. Prior to EFSEC initiating its review of an application, the applicant will need to make a deposit to the State Treasury, based on an estimate of one quarter's expenses and EFSEC will then draw against that deposit. Subsequent quarterly billings will bill the applicants for the amounts expended from their accounts during the previous quarter. This will allow EFSEC to have funds available for cash flow purposes, rather than billing and receiving payment after the expenses have occurred.

Discussion ensued on deposit requirements and the proposed process. EFSEC's statute requires an applicant to submit an initial deposit totaling \$45,000 with their Application for Site Certification. That deposit is intended to offset initial independent consultant and staff costs. Following receipt of an application, staff will prepare a proposed annual project budget for an applicant(s) to review and approve. At the same time, staff will request that an applicant deposit an amount equal to the highest quarter's estimated cost. The initial fee requirements were set by law in the 1970's, and by today's standards are inadequate. Staff will discuss this matter further with the Executive Committee, with the expectation that staff will draft a letter to current and potential applicants to advise them of the new deposit and billing procedures.

<i>Application Review Schedule</i>	<i>Irina Makarow, EFSEC Staff</i>
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Ms. Makarow provided an updated schedule for all the projects currently before EFSEC. Council members will be contacted directly or notified at the regular Council meetings as changes and additions are made to the schedule. The next Executive Committee meeting scheduled for 1:00 p.m. on July 16, 2001, will be held at Rowe Six instead of at the downtown location of 925 Plum Street. Since there is a pre-hearing conference on the morning of the 16th at Rowe Six, the Executive Committee will meet in the same location after lunch.

<i>Public Comments</i>	
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Acting Chair Fenton requested if there were any comments from the public. No comments were made.

Item 12: Adjourn

The meeting was adjourned at 2:05 p.m.