

MINUTES
ENERGY FACILITY SITE EVALUATION
COUNCIL OF WASHINGTON

June 21, 2004 - Regular Meeting
925 Plum Street S.E., Building 4, Room 308
Olympia, Washington 1:30 p.m.

ITEM 1: CALL TO ORDER

CHAIR LUCE: The Washington State Energy Facility Site Evaluation Council meeting for Monday, June 21, 2004, will come to order. Clerk, call the roll, please.

ITEM 2: ROLL CALL

EFSEC Council Members

Community, Trade & Economic Development
Department of Natural Resources
Department of Utilities and Transportation
Chair
Kittitas County

(via phone) Richard Fryhling
Tony Ifie
Tim Sweeney
(via phone) Jim Luce
(via phone) Patti Johnson

MR. MILLS: There is a quorum.

OTHERS IN ATTENDANCE

EFSEC STAFF

Allen Fiksdal
Mariah Laamb
Julian Dewell, ALJ (via phone)

Irina Makarow
Mike Mills
Shaun Linse, Court Reporter

EFSEC GUESTS

Darrel Peeples – Kittitas Valley Wind Project
Cindy Custer – Bonneville Power
Administration
Clay White, Kittitas County (via phone)

Karen McGaffey – Perkins Coie (via phone)
John Lane – CFE for Kittitas Valley Wind
Power Project
Alan Harger – Transportation

ITEM 3: ADOPTION OF THE PROPOSED AGENDA

CHAIR LUCE: The proposed agenda is before the Councilmembers. Are there any additions or deletions? Hearing none, the agenda is adopted as proposed.

ITEM NO. 4: MINUTES

CHAIR LUCE: The minutes for May 17, 2004. Have Councilmembers had an opportunity to review the minutes for 2004, May 17?

MR. SWEENEY: Yes.

CHAIR LUCE: Is there a motion to adopt the minutes?

MR. SWEENEY: I move to adopt the minutes.

MR. IFIE: Second.

CHAIR LUCE: The question has been called for. All in favor say aye.

COUNCILMEMBERS: Aye.

CHAIR LUCE: The minutes are adopted. I assume that Councilmember Towne may have some administrative corrections.

MS. LAAMB: She has, and she informed me of that, so I will adjust them as necessary.

CHAIR LUCE: One point that Councilmember Towne talked to me about briefly -- and I think we've been pretty good on this, and I would ask Mike to do this. -- is when we have Councilmembers ask specific items to be followed up on, Mike, if you can make a little checklist, which I think you do, and then maybe type that out separately or somehow send it out as an email to members. I know that members are often interested in following up on things, and sometimes they get lost in the printed minutes which are excellent. But sometimes they are lengthy, and so I think just a separate little checklist would be helpful.

ITEM NO. 5: PROJECT UPDATES

<i>Kittitas Valley Wind Power Project Update</i>	<i>Irina Makarow, EFSEC</i>
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CHAIR LUCE: All right. We are now onto project updates. Project updates for and beginning with the Kittitas Valley Wind Power Project, Irina.

MS. MAKAROW: I have two items to update. First of all, on July 6 the parties are supposed to be getting a copy of their prefiled testimony to the Council. As soon as we receive that we will send it out to the Councilmembers. Then with respect to the Supplemental Draft EIS on the off-site alternatives analysis, EFSEC staff has received the bulk of the information that they need to prepare this document, and hopefully we'll be able to get it out by the end of June. As required by SEPA the document itself does have to go out for public comment, and there will be a written comment period. I think the Councilmembers will have to decide whether or not they want to hold a public comment hearing on that document. I'll talk with Ann Essko to determine if we actually need Council action on that decision, and, if so, we will bring it to you at the July 6 Council meeting.

CHAIR LUCE: Quick question. I just read the Wild Horse Wind Draft EIS which has an alternatives analysis in it.

MS. MAKAROW: Yes.

CHAIR LUCE: Does the alternatives analysis in that administrative Draft EIS look a lot like the Kittitas Valley Wind Power Project?

MS. MAKAROW: The substantive information is what we'll be using for the Kittitas Valley Draft EIS.

CHAIR LUCE: So the answer is yes.

MS. MAKAROW: Yes, formatted differently, and my own editorial changes to it.

CHAIR LUCE: So if I've read one, I have probably substantively read the other.

MS. MAKAROW: Possibly.

CHAIR LUCE: Possibly. All right. Well, I understand. Okay. Wild Horse Wind Power Project.

<i>Wild Horse Wind Power Project Update</i>
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<i>Irina Makarow, EFSEC</i>

MS. MAKAROW: Councilmembers have received the administrative review version of the Draft EIS. Your comments are due to me by Thursday noon, so that I can turn them around to Jones and Stokes. Again, we're attempting to get the published documents out on the street by the end of July, so that we can coordinate the comment meeting on that document while the Council is in Ellensburg. If you have questions about any of the analyses in that document, just give me a call or jot them down in an email, and I'll try to respond to them. Also at the time that we do issue the Draft EIS we'll also start more of the adjudicative process with the call for intervention and so on and so forth.

CHAIR LUCE: For Councilmembers who want to offer comments one at a time, I have been advised by staff that comments should be offered in their entirety which is appropriate.

MS. MAKAROW: Thank you.

CHAIR LUCE: That's a little private joke.

MR. SWEENEY: It must be.

CHAIR LUCE: I was dragging them in one at a time, and Irina appropriately told me to come back when you've read the entire Draft Administrative EIS; don't be dragging these dogs in here one at a time. So anyway I will go back to my home office and read the entire document. And it was very diplomatic. BP Cherry Point Power Project.

<i>BP Cherry Point Project Update</i>
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<i>Irina Makarow, EFSEC</i>

MS. MAKAROW: Maybe we can ask Karen McGaffey to update the Council on the status of the settlement agreement with the County.

MS. McGAFFEY: Yes. Thank you, Irina. During your last Council meeting, I reported that we were hopeful of having a settlement agreement in front of the Whatcom County Council for their meeting last week. Needless to say we did not make that deadline in time to do that. But we are still hopeful that we will have an agreement that we can present to the County Council at their next meeting, which is the 29th of this month, and then that we can present to you all soon thereafter. We've got a meeting scheduled on Thursday morning of this week to try and nail down the final outstanding issues.

MR. FIKSDAL: Karen, what day did you say the County Council is going to meet?

MS. McGAFFEY: They meet on the 29th.

MR. FIKSDAL: Okay. Thanks.

CHAIR LUCE: Karen, I'm going to ask the Council after the 29th, and then we will add a couple of weeks just because, that if there's not real movement to get a signed agreement, that the Council needs to consider whether we go back into hearing and conclude this matter.

MS. McGAFFEY: I think that makes sense. I think that would be a good message to deliver to both parties. I know no one from the County is on the phone for this meeting.

MR. WHITE: This is Clay White with Kittitas County. I'm on the line.

CHAIR LUCE: No, no. This is a separate issue, Clay.

MR. WHITE: Okay. Excuse me.

CHAIR LUCE: No, this is BP Cherry Point, Whatcom County. Julian, you're on the phone; aren't you?

JUDGE DEWELL: Yes.

CHAIR LUCE: I think we need to consider whether an action forcing device such as a letter to both parties advising them that unless this matter is settled within a reasonable time frame that the Council is considering going back into hearing to settle it and resolve it itself.

JUDGE DEWELL: I agree. I think that at one point we were ready to consider deliberations in connection with the land use questions, and we can certainly go back to that status of deliberation and see if there is any further hearings that are required in connection with that.

MR. FIKSDAL: I think at your next Council meeting in July you can decide what to do. Hopefully we will have the settlement agreement before us by then, and Whatcom County will have looked at it.

CHAIR LUCE: I would ask with Council's permission, Council Manager, Allen Fiksdal, to inform counsel for Whatcom County of the discussion that we've had here today, and that if there is no settlement agreement forthcoming from the County and the Applicant by July 29, that the Council will take into serious consideration going back into hearing to consider the land use questions, and, if appropriate, to resolve this matter through an adjudicative proceeding. It's been -- help me out. -- how many months?

MS. MAKAROW: Chairman, this is Irina Makarow from staff.

CHAIR LUCE: Yes.

MS. MAKAROW: I would though, however, just like to set the record straight that the Applicant and the County were originally looking at the middle of June for delivering that settlement agreement to the Council, so I think what happened is that earlier - a few months ago - they got to a conceptual agreement much more quickly than they thought they would have. So they're really not that far off the schedule that they had set originally.

CHAIR LUCE: I said serious consideration, not that we would go back into hearing. But we need some motivational encouragement maybe, to encourage a signed settlement. Sometimes settlements just slow down. The inertia takes over. Does the Council agree with that?

MR. IFIE: Agree.

MR. FIKSDAL: I will call Mr. Grant.

CHAIR LUCE: Thank you. Anything else with respect to BP?

MS. MAKAROW: Yes. The stormwater permit, the NPDES permit for storm water discharges I do expect to be able to get that out for public comment sometime next week, which means that we would schedule a public hearing either in Bellingham or in Blaine for the first week of August. Of course, if the settlement agreement does come to light, we will already have a space and time for that to hear those issues also.

CHAIR LUCE: And if it doesn't?

MS. MAKAROW: If it doesn't --

CHAIR LUCE: Then maybe we'll have an opportunity to do some other things.

MS. MAKAROW: That's right. We'll have the opportunity to visit Bellingham or Blaine again.

CHAIR LUCE: Great. Does that make sense, Judge Dewell?

JUDGE DEWELL: How is that?

CHAIR LUCE: We're talking about having the stormwater permit -- I'm sorry, Irina -- July?

JUDGE DEWELL: I heard that.

MR. FIKSDAL: August.

MS. MAKAROW: First week of August.

CHAIR LUCE: August. Okay. Anything else on BP Cherry Point?

MS. MAKAROW: No, that is all.

CHAIR LUCE: That's it, Pete, on BP.

JUDGE DEWELL: Okay. I'll back out.

CHAIR LUCE: Hey, nice article in the paper.

JUDGE DEWELL: Oh, yes. Thanks.

CHAIR LUCE: Yes. For those of you who aren't aware there was a nice article in the paper about Pete breaking trail when he's not holding the gavel.

<i>Satsop CT – PSD Permit</i>	
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	<i>Irina Makarow, EFSEC</i>
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CHAIR LUCE: Satsop CT PSD Permit.

MS. MAKAROW: I will take this item over for Mike.

MR. MILLS: Thank you.

MS. MAKAROW: The draft permit has been finalized by our Ecology contractor, and Region 10 EPA has also given their nod of approval. So in the next couple of days I will be able to issue the draft permit for public comment, and we'll be coordinating the public comment hearing on that permit with our August 2 Council meeting.

CHAIR LUCE: Good. Is that it?

MS. MAKAROW: That is it.

<i>Chehalis Generation Facility</i>	
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	<i>Mike Mills, EFSEC</i>
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CHAIR LUCE: Chehalis Generation Facility.

MR. MILLS: Just a brief status report. I spoke with Duncan McCaig this morning. The plant has been down for several weeks due to economic conditions. They anticipate starting up tomorrow, and they're going to use that as another opportunity to test some of the noise improvements that they're continuing to make at the plant. He feels they still have some work to do. They're not satisfied that they're seeing the kind of results they would like at the site boundaries, so they're continuing to address manufacturer and vendor recommended improvements. We have one other item related to Chehalis, and Irina is going to speak briefly to that.

MS. MAKAROW: In your handouts today, and for those of you who are on the phone you will be getting those by mail, there is a letter requesting Council concurrence on equipment upgrades they are considering. Late last week, Chehalis Generation advised us of possible upgrades to some of the turbine blades that have been made available to them by GE that would improve their efficiency without increasing emissions. So we did receive the letter notifying the Council of this proposed change to their facility, and it is currently under review by our Ecology contractors to determine if any of the Prevention of Significant Deterioration or Notice Of Construction (PSD/NOC) air permit conditions would need to be changed. If no changes are required, then a simple staff letter to Chehalis is sufficient to allow them to proceed with this. If changes are required, then there will be more process, and the Council would be included in that approval process. If you have any questions about the request, don't hesitate to give me or Mike a call.

CHAIR LUCE: Great. That's it for Chehalis?

MR. MILLS: Yes.

<i>Columbia Generating Station</i>	
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	<i>Mike Mills, EFSEC</i>
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CHAIR LUCE: The Columbia Generating Station.

MR. MILLS: Just a brief report. The plant is operating at 100 percent power, and they've been on line for 354 consecutive days.

CHAIR LUCE: WNP-1.

MR. MILLS: I'd report that I spoke with Jeff Taylor with the Department of Fish and Wildlife this morning, and the appraisal has been completed and reviewed by the Department. They

anticipate that they will approach the property owner in the next several weeks to try to pin down a purchase and sale agreement.

CHAIR LUCE: That's good.

MR. MILLS: We had talked at the last Council meeting about a possible site visit. Mariah has polled the members, and it looks like the middle of September is the time frame that will probably work best for us to visit the 1 and 4 sites and perhaps include some activity at the Columbia Generating Station also.

CHAIR LUCE: Okay.

MR. MILLS: I'll follow up with members on that to provide additional information to find out if they're available for sure.

CHAIR LUCE: Right.

ITEM NO. 6: EFSEC RULES

<i>Rules Update</i>	<i>Irina Makarow, EFSEC</i>
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CHAIR LUCE: EFSEC rules update. Actually I should ask whether the 102 has been published or is in the process?

MS. MAKAROW: It's going to be taken to the code reviser on this Wednesday before noon, and it will be published in the July 21 register. We are planning to hold the public comment hearing on August 10, which is a Tuesday. So that would be noticed as a special meeting. It would be noticed at the time that the CR 102 is published in the state register.

CHAIR LUCE: Note for the Council. We've had two formal and one informal request for an opportunity to comment at the 102 hearing. The informal request is from Northwest Energy Coalition, and I'm advised they're interested in raising the same issues they've raised previously. We've made some changes there, and that was with respect to the Need for Power conditions and with the term of the certificate - ten years. As I understand it, they will say ten years is too long, and there should be no mention of need for power whatsoever. So I think it's the same position that they took last time. If you remember, we took Need for Power out of the standard provisions and stuck it back in the project application section. So those are the two issues that I've been told informally that they intend to raise. Whether they actually raise them, I'm not sure. The other comment that we received, and I haven't read it yet, is from Renewables Northwest. They are a wind renewables organization that's very active in the wind area, and they've sent in a comment and requested an opportunity to comment publicly. I advised them that the appropriate time to do that would be in the 102 hearing. So that's all I know of for now. If we have our public meeting, hearing on August 10 and if we take no action to revise the rules at that point in time, then if my memory serves me right, it's either late October or early November that the rules will become final.

MR. FIKSDAL: We have to file a CR 103.

CHAIR LUCE: Right, CR 103.

MR. FIKSDAL: Then I think it's 31 days after filing.

CHAIR LUCE: Anything else on the rules?

MR. FIKSDAL: No.

CHAIR LUCE: By the way welcome back, Allen.

MR. FIKSDAL: Yes.

MR. IFIE: How was your trip? I will talk to you later.

MR. FIKSDAL: I've got some photos here.

ITEM NO. 7: WORK/VACATION SCHEDULE

<i>Schedule Update</i>	<i>Mariah Laamb, EFSEC</i>
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CHAIR LUCE: Work/Vacation schedule, summer schedule review, Mariah Laamb.

MS. LAAMB: You have a beige-tan sheet in front of you. It is a compilation of the basic four summer months, June, July, August, September. This was originally put together to try to understand people's schedules with all that's going on. So I took information from all the Council and staff on vacations, as well as the projects and what is happening, and put this in a day-to-day kind of schedule, so you can see what's going on with as much information that we currently had. I did not put a date on it. I will do that in a future update. 6/18 is when I printed this, which was last Friday. It highlights Council meetings, any of the adjudications or prehearing meetings; and any of the basic critical meetings that staff and Councilmembers will be attending. So if there's more information here that will help us determine when we're scheduling things, and you want to let me know, I'd keep that and probably update it if there's anything significant at each Council meeting to let you know what's going on.

CHAIR LUCE: Okay.

ITEM NO. 8: OTHER

CHAIR LUCE: All right. Anything else under other? I have one thing. Any other Councilmembers have anything under other? My other is we received a letter which is in your packets from the Northwest Independent Power Producers Coalition (NIPPC) dated June 16, 2004 questioning -- actually this is an ongoing discussion we are having with NIPPC regarding the Council expenditures and billing practices. In previous discussions we've had with NIPPC, the question as I recall has been focused on what we were going to do regarding billing and Council expenditures in the next biennium. Not all people will recall it probably in exactly that way. The answer to that question has been that we've been looking at a policy, and that last week we submitted a request for State General Funds totaling \$140,000 for FY 2006 (and \$110,000 for FY 2007)-- I think it's approximately nine percent of our budget. -- to CTED, as an initiative in the OFM budget development process. So we're looking to get state general funding without acknowledging the legal position that the NIPPC members continue to articulate. But we are going to seek that general funding. The recent NIPPC letter suggests that we should seek funding currently for this year's expenditures, and I've committed to Mr. Kahn, the NIPPC executive director, that I will seek that from CTED and the Governor's office. I will make a good faith effort to request funding from CTED and the Governor's office. I'm not sure whether they have such funds available. Mr. Kahn has further requested that we schedule a meeting with him and/or his organization in the near future, and we will do that at the appropriate time. We are also going to schedule in the near future -- and I wish Ann was here today, but as soon as she's feeling better, she's out ill today, -- an executive session for the Council to discuss these issues because I think it's important that we all have a good discussion of these issues. So Allen will work that up, and if we could do that maybe next week.

MR. FIKSDAL: The meeting?

CHAIR LUCE: The meeting next week. I think sooner rather than later would be very helpful. So any questions from Councilmembers?

MR. IFIE: This is Tony Ifie. I'm wondering for the executive session does this need to be noticed? Will it be noticed?

CHAIR LUCE: It will be noticed, and we will notice it as soon as we can get a date from Ann and Allen.

MR. FIKSDAL: It's the same as a special meeting and it needs to be noticed 24 hours in advance.

MR. IFIE: In 24 hours?

MR. FIKSDAL: That's the official requirement, preferably it would be longer than that. The Councilmembers need to have 24 hours and any of the press that have asked for that type of information.

MR. IFIE: Thank you.

CHAIR LUCE: Any comments from the members of the public? All right. Any other comments from Councilmembers?

ITEM NO. 8: ADJOURN

CHAIR LUCE: Going once, twice, thrice, adjourned.
(Council meeting adjourned at 2:00 p.m.)