

**MINUTES  
ENERGY FACILITY SITE EVALUATION  
COUNCIL OF WASHINGTON**

June 7, 2004 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 7, 2004, will come to order, and the clerk will call the roll, please.

**ITEM 2: ROLL CALL**

**EFSEC Council Members**

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

Richard Fryhling  
Hedia Adelman  
Chris Towne  
Tony Ifie  
Tim Sweeney  
(via phone) Jim Luce  
(via phone) Patti Johnson

CHAIR LUCE: The Chair is present. I note the absence of Utilities and Transportation Member, Tim Sweeney. Do we know whether he is to be expected or not?

MS. LAAMB: I have not heard either way.

CHAIR LUCE: You have not heard one way or the other. All right.

MR. MILLS: I note there is a quorum.

**OTHERS IN ATTENDANCE**

**EFSEC STAFF AND COUNSEL**

Mike Mills  
Mariah Laamb  
Julian Dewell, ALJ (via phone)  
Shaun Linse, Court Reporter

Irina Makarow  
Adam Torem, ALJ  
Ann Essko, AAG

**EFSEC GUESTS**

Darrel Peoples – Kittitas Valley Wind Project  
Mike Robertson – Intervenor for Kittitas Valley  
Wind Power Project (via phone)  
Cindy Custer – BPA  
John Brank, BPA

Karen McGaffey – Perkins Coie (via phone)  
John Lane – CFE for Kittitas Valley Wind  
Power Project  
Charles Carelli – Independent Contractor  
Kimberly St. Hilaire, BPA (via phone)

Jim Hurson, Kittitas County (via phone)  
David Bricklin, Attorney for British Columbia  
(via phone)  
Chris Taylor, Zilkha (via phone)  
Scott Williams, PSE  
Alan Harger – Transportation

Clay White, Kittitas County (via phone)  
Tom Hiester, BPA (via phone)  
Mot Hedges, Energy Northwest  
Kim Laur, PSE

### **ITEM 3: ADOPTION OF THE PROPOSED AGENDA**

CHAIR LUCE: The first item for the Council is the adoption of the proposed agenda. Have Councilmembers had an opportunity to review the agenda? Are there any additions or requested deletions, changes to the agenda? The Chair will note that the Councilmember for the Utilities and Transportation Commission, Mr. Sweeney, has joined us. Mr. Sweeney, have you changes to the proposed agenda?

MR. SWEENEY: No, I don't. Thank you.

CHAIR LUCE: All right. The agenda as proposed is adopted.

### **ITEM 4: MINUTES**

CHAIR LUCE: The next item for action is the minutes for April 5 and April 19 and May 3. Have Councilmembers had an opportunity to review the minutes for those three days? I am taking silence as acceptance that you had an opportunity.

MS. TOWNE: I have passed on to Mariah my editorial notes.

CHAIR LUCE: Other than editorial notes are there any substantive changes?

MR. IFIE: I passed some editorials.

CHAIR LUCE: Editorials will be passed on by Councilmember Ifie as well. Are there any substantive changes? Hearing none I would entertain a motion to adopt all three minutes.

MR. IFIE: I so move to approve them.

MS. ADELSMAN: I second.

CHAIR LUCE: We have a motion and a second. Call for the question. Question has been called for. All in favor say aye.

COUNCILMEMBERS: Aye.

### **ITEM NO. 5: WILD HORSE WIND POWER PROJECT**

<b>Reconvene Land Use Hearing</b>	<i>Jim Luce, EFSEC Chair</i>
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CHAIR LUCE: The next item on the agenda is the Wild Horse Wind project. We are running a little bit ahead of ourselves. That's slated for 1:45. Why don't we move down to project updates and start going through those at this point in time.

**ITEM NO. 6: PROJECT UPDATES**

<b>Kittitas Valley Wind Power Project</b>	<b>Irina Makarow, EFSEC</b>
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CHAIR LUCE: Project updates, information items. Kittitas Valley Wind Power Project, Irina, do you have an update for us?

MS. MAKAROW: Yes, I do. We received the applicant's prefiled testimony on May 24, and that has been distributed to all the Councilmembers. The next step will be the prefiled testimony of the other parties at the beginning of July. With respect to the Draft EIS for this project, staff has made some progress in determining when the supplemental Draft EIS addressing off-site alternatives will be issued, and we expect that to be ready for issuance probably at the end of June or the beginning of July.

CHAIR LUCE: Thank you very much.

<b>BP Cherry Point Project</b>	<b>Irina Makarow, EFSEC</b>
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MS. MAKAROW: And that is all I have for Kittitas Valley. With respect to BP Cherry Point, I understand that Karen McGaffey is on the line, and she is going to be giving us an update with regards to the settlement agreement that's being worked out between the County and the Applicant.

MS. McGAFFEY: Hi, this is Karen. As far as the status of the settlement, we're still working closely with Whatcom County, and we're hoping to have an agreement that we can present to the County Council at their meeting on Tuesday, the 15th. And if we have got everyone's signature, we then would be filing with the Council shortly thereafter.

CHAIR LUCE: Thank you, Karen. On a scale of one to ten being hopeful, real hopeful being ten and one being sort of hopeful maybe, where are you?

MS. McGAFFEY: You know, I would say we're at kind of the eight range. We're waiting to get some reaction from the County's technical folks. We are fairly confident that that's going to go well, but I still haven't heard back from them yet.

CHAIR LUCE: Okay. We're going to come back for questions from the Councilmembers and perhaps from Judge Torem here in a minute with respect to Kittitas Valley. We're going to run through the rest of the project updates here. Sumas Energy 2.

MS. MAKAROW: Well, actually, Chair Luce, before we move on from BP Cherry Point, with respect to the issuance of the NPDES permit for public comment with regards to the storm water discharges, Councilmembers might remember that when our permit writer was responding to comments on the state waste discharge permit that was issued for public comment already she determined that the storm water conditions were indeed federally regulated, and that they would have to be covered by an NPDES permit. We've made some advances in pulling that NPDES permit together, and if the Applicant does get a settlement agreement by mid June, I think it would be pretty easy to coordinate getting that permit out for public comment and holding a hearing on the permit on the land use issues which would have to be reopened and on the adjudicative proceedings which would have to be opened all at the same time in Whatcom County.

CHAIR LUCE: Did you hear that, Judge Dewell?

JUDGE DEWELL: Yes.

MS. MAKAROW: And Karen McGaffey.

JUDGE DEWELL: Do you have any idea, Irina, when that might take place?

MS. MAKAROW: It would probably be -- well, if the settlement agreement comes from the Applicant around mid June, it would be approximately 30 days after we receive the settlement agreement. So mid July or end of July.

JUDGE DEWELL: Okay.

<b>Sumas Energy 2</b>	<b><i>Irina Makarow, EFSEC</i></b>
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MS. MAKAROW: Sumas Energy 2, this item is on the agenda because the certificate holder has submitted a request to extend their PSD-NOC permit, and I believe all the Councilmembers have received that request. Our permit writer at Ecology for this project, Bernard Brady, is going to be determining whether that application is complete, and we've already notified the federal agencies that are involved in the review, the Federal Land Managers, EPA. We've notified Canadian governmental agencies that we received this application, as well as the Counsel for the Environment, and Whatcom County. That is all that I have to report for Sumas Energy 2.

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

MR. MILLS: Just a brief report. The plant has been down the last several weeks due to market conditions. They're continuing to work on noise improvements, particularly with certain piping and valves with a goal to continue to try and reduce the noise at the site boundary. They're continuing to look at various pieces of the plant equipment and systems and continue to find things that they think that they can make improvements to.

<b>Columbia Generating Station</b>	<b><i>Mott Hedges, Energy Northwest</i></b>
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CHAIR LUCE: Columbia Generating Station, is that going to take a while?

MR. MILLS: I believe the operational report will be short.

MR. HEDGES: I can do Columbia.

MR. MILLS: WNP-1 will take a while.

CHAIR LUCE: Let's do Columbia then.

MR. HEDGES: Columbia is on line at 100 percent power, and we've been on line now 340 days.

CHAIR LUCE: Great.

MR. HEDGES: And as a side note electrical generation has really been up quite a bit; and about a week and a half ago we made our annual tax payments for generation of almost 2.6 million dollars for the amount of electricity we generated last year.

CHAIR LUCE: Well received by the counties.

MR. HEDGES: And the state.

MR. MILLS: I believe there's a press release on that in your packets.

CHAIR LUCE: Question, Irina. When is the tentative hearing date for Kittitas Valley, the middle of August?

MS. MAKAROW: Currently, yes. No, the last two weeks of August.

CHAIR LUCE: The last two weeks of August.

MS. MAKAROW: I think it's a little more than tentative. Unless the Council decides to change those dates everything is pointing at those two weeks.

CHAIR LUCE: That's what I understood. Okay.

MS. ADELSMAN: Do you remember the dates?

MS. TOWNE: The 16th through the 30th.

CHAIR LUCE: Do Councilmembers have any questions regarding Kittitas Valley Wind, BP Cherry Point, Sumas Energy 2, Chehalis Generation or Columbia Generating Station?

MS. TOWNE: Just one scheduling. Since we're starting on the 16th, when do we have our regular meeting? Do we move it or cancel it?

MS. MAKAROW: It would be one or the other. We'll have to figure out what other items need to be acted on by the Council around that time of the month, and staff will make that decision and notify you probably at the end of July.

MR. MILLS: Yes.

CHAIR LUCE: I thought I saw here perhaps some discussion of a possible special meeting with the rules on July 12 or something on that order.

MS. MAKAROW: It was actually at a Council meeting on July 6.

CHAIR LUCE: Okay. All right.

MS. ADELSMAN: That's a workshop; is it not?

MS. MAKAROW: No, it's a public hearing.

CHAIR LUCE: All right.

MS. MAKAROW: I was going to introduce that under EFSEC rules.

CHAIR LUCE: All right. We'll hold that.

#### **ITEM NO. 7 EFSEC CONTRACT - FY 2004 AMENDMENT**

MR. MILLS: I think we can take the contract amendment.

CHAIR LUCE: All right, Mike. Let's do that contract amendment now.

MR. MILLS: In your packets you have a letter from the Department of Health dated May 20 from Leo Wainhouse who's the manager of the Nuclear Safety Section. He's requesting an additional \$7,000 for their interagency agreement for this year. That money is needed to cover increased costs related to a new position that the Department created of Eastern Regional Manager and costs associated with moving into a new office in the City of Richland. We had tried to offset these costs, but the Department, as he explains in his letter, has not been able to absorb all of that increase, so he's asking for an additional \$7,000. Staff would support their request and ask that the Council approve an amendment to the Department of Health Emergency Preparedness fiscal year '04 contract for an additional \$7,000.

CHAIR LUCE: This is within the scope of the contract?

MR. MILLS: This is within the scope of the contract, and we believe the costs will be absorbed by underruns in a couple of the other emergency preparedness contracts, so it won't be new money. It will be money that is already approved.

CHAIR LUCE: Questions from Council?

MS. ADELSMAN: Did you say '04?

MR. MILLS: Fiscal year '04, yes.

MS. ADELSMAN: Which is the one that we're finishing.

MR. MILLS: This year, yes.

MS. ADELSMAN: So it's really money that they've already spent. The seven thousand, now is it money that we already spent that we're reimbursing them?

MR. MILLS: No, it's money that they need to get to cover all their costs through June 30.

CHAIR LUCE: Questions from Council other than the question? All right. Do we have a motion to allow this to go forward?

MR. IFIE: I move that the Council approve the increase of \$7,000 to the Department of Health contracts.

CHAIR LUCE: Second?

MR. FRYHLING: Second.

CHAIR LUCE: Call for the question.

MR. SWEENEY: Question.

CHAIR LUCE: Question called for. All in favor say aye.

COUNCILMEMBERS: Aye.

CHAIR LUCE: Okay. Thank you. That's been approved. Yes, you have a question regarding Kittitas County, Judge Torem.

JUDGE TOREM: This is Judge Adam Torem, and I want to direct the question both to Irina Makarow, and since Darrel Peeples is here for the Applicant that means a question for you as well. Discovery was set to begin. We had a process in the last order for requests to be sent in and formal discovery then ruled upon later in the week. I have not been notified of any requests. Mr. Peeples, you're shaking your head. You haven't received anything?

MR. PEEPLES: No formal requests at all.

JUDGE TOREM: I know that hearing testimony was only filed for the Applicant two weeks ago. Have you had any questions even informally as to the discovery or making your witnesses available yet?

MR. PEEPLES: No questions formal or informal.

JUDGE TOREM: Ms. Makarow, the Council is that the same, the Council has heard nothing else?

MS. MAKAROW: EFSEC staff has heard nothing with regards to the discovery requests from any of the parties.

JUDGE TOREM: And I know, Mr. Hurson, you're on the line. Do you have discovery requests that you want to give us a chance to know are coming down the pipeline formal or informal on this matter?

MR. HURSON: Jim Hurson, Kittitas County. We haven't had a chance to make any formal choices on that yet. We are still trying to review the information that we received.

JUDGE TOREM: Okay. Thanks. That's the only questions I had on KV.

## **WILD HORSE WIND POWER PROJECT – PUBLIC HEARING**

<b>Reconvene Land Use Hearing</b>	<i>Irina Makarow, EFSEC</i>
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CHAIR LUCE: Thank you. I think it's now 1:45 or 30 seconds to 1:45. I believe that the Council will now suspend the current Council meeting, to reopen that meeting after the conclusion of another matter that we have before us, and that is the reinitiation of the reconvening of the land use hearing on the Wild Horse Wind project. So at this point in time I'm going to turn the process over to Judge Adam Torem who will be presiding over that reconvened land use hearing.

(Land use hearing reconvened and held from 1:45 p.m. to 2:30 p.m.)

CHAIR LUCE: We will now resume the agenda for the regular meeting of the EFSEC Council for Monday, June 7, 2004. The next item on the agenda is the WNP-1 project report.

**CONTINUATION OF ITEM NO. 5: WILD HORSE WIND POWER PROJECT**

<b>Waiver to Application for Site Certification</b>	<i>Irina Makarow, EFSEC</i>
<p>MS. MAKAROW: Excuse me, Chair. There were some other Wild Horse related actions.</p> <p>CHAIR LUCE: Other Wild Horse actions. All right.</p> <p>MS. MAKAROW: That were outside the scope of the land use hearing.</p> <p>CHAIR LUCE: All right. Let's do those then.</p> <p>MS. MAKAROW: On the agenda we have the waivers to the application for site certification. In your packets you have a copy of a May 13 letter from the Applicant to the Council requesting that certain requirements of WAC 463-42 be waived because they do not apply to a wind power project. This letter is being circulated to all the Councilmembers, and I think the requests are pretty self-explanatory. Staff's recommendation is that this request for all of these waivers be approved. That would be the information that is indicated by the Applicant that is not in the application and is not required for further review of this application.</p> <p>MS. TOWNE: You need a motion for that?</p> <p>CHAIR LUCE: Do we have a motion?</p> <p>MS. TOWNE: Yes.</p> <p>CHAIR LUCE: Do we have a second?</p> <p>MR. FRYHLING: Second.</p> <p>CHAIR LUCE: Call for the question.</p> <p>MR. FRYHLING: Question.</p> <p>CHAIR LUCE: The question has been called for. All in favor say aye.</p> <p>COUNCILMEMBERS: Aye.</p> <p>CHAIR LUCE: Unanimous, waived.</p>	

<b>Review Status</b>	<i>Irina Makarow, EFSEC</i>
<p>MS. MAKAROW: Thank you. And the final point for Wild Horse is a quick status. The administrative Draft EIS is going to be coming to the Council for review in the middle of June, so it's just in a couple of weeks here, and we promised one week to our contractor, Jones &amp; Stokes, to get our comments back to them. So we would appreciate it if we can keep that deadline. That would allow us to issue the Draft EIS sometime in the second half of July, and that would coordinate very well with holding a public comment hearing while the Council is already in Ellensburg. So one of the evenings during the two weeks, probably during the second week, the Council will take comment on the Draft EIS for the Wild Horse project.</p> <p>CHAIR LUCE: Okay.</p> <p>MS. MAKAROW: Finally, typically when we've already found the application to be complete and the Council granted all waivers, it's a time that intervention can start on a project. I have spoken with Mr. Peoples and he has indicated to me that the Applicant does not wish to seek the Council's starting a process of staged intervention with early intervention and late intervention. They feel that if we open intervention at the time the Draft EIS is issued for comment that would suit their schedule just fine.</p> <p>MR. PEEPLES: Essentially it just would be about a month apart. It would be maybe three weeks' difference, Irina.</p> <p>MS. MAKAROW: That's correct.</p> <p>MR. PEEPLES: To me opening it for staged intervention, when you're only talking three weeks, it would be confusing for everybody. One of the purposes that we're trying to go with the way we did the format of the application was to eliminate that issue; isn't that right? That's what</p>	

we've talked about, one thing we're trying to eliminate is that stage of intervention. But if the Council wants to do it, that's fine with me. I don't have any real druthers on that.

MS. MAKAROW: I think staff would recommend that the Council have single intervention that starts when the Draft EIS is issued. So probably beginning of July we'll have a better grasp of what the dates are.

CHAIR LUCE: It sounds reasonable. Is Council in favor of that?

MS. ADELSMAN: Yes.

MR. FRYHLING: Yes.

CHAIR LUCE: Just for the record, the Council have all moved their heads in a vertical fashion.

MS. MAKAROW: That is all I have for Wild Horse.

## CONTINUATION OF ITEM NO. 6: PROJECT UPDATES

<b>WNP – 1</b>	<i>Mike Mills, EFSEC</i>
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CHAIR LUCE: All right. I guess WNP-1 is up now.

MR. MILLS: Yes, WNP-1 is up.

MR. HEDGES: Okay. I wanted to provide a progress report on the near-term restoration work for WNP-1 and 4. EFSEC Resolution No. 302 was approved, agreed upon in mid-December, and I guess active progress is just now starting to occur. Everybody has a handout on this. It should be in front of them. I've got some bullets on the first page as we have a new site manager for 1 and 4. That is Doug Culver. His background is more in construction and restoration. He's heading up these projects. We have 24 buildings and structures on site identified for removal. These buildings have been inspected for hazardous materials, and I'm told that a request for bids for removal of these buildings should have been issued on Thursday. I did not check and verify that, but that should have gone out. At WNP-1, all the fire protection lines have been drained as part of the agreement, and they're working on trying to prepare a scope of work, and that's in development. Requests for bids for the work on WNP-1 should be going out soon. At WNP-4 we've actually started work filling in some of the pits as required for the near-term restoration. Also some of the concrete slabs are starting to be removed. I have also attached Attachment C from the EFSEC resolution. One of the things that's a little different now that we're actually starting into it is on the third page. It actually says Page 8 of 17. On the containment for WNP-4, the near term plan talked about cleaning up the interior and making safe access paths for potential reuse. I think we finally got people to realize that the WNP-4 containment probably has no reuse potential, and what we would like to do is actually move towards more or less final restoration on this. What we would like to do is essentially fill containment with dirt and pour a concrete slab on it. Filling containment with dirt would allow us to safely get to the scaffolding that's there and remove it. Right now removing the scaffolding as it currently exists would be a very expensive project and probably presents some safety challenges. I've taken some pictures and put them in the back of this. If you want to turn to the pictures, it might be a little easier for those people who have not been there. The first picture is one that was taken about three weeks ago of the WNP-4 containment, and you can see all the wooden scaffolding up around the top, and we've just started to move some dirt. The first four pictures are from three weeks ago. There is a close up that you can see how the containment is built and the gaps in there. And in between the two walls is about a 40-foot drop. It's about 15 feet, 40 feet down that's all open, and it makes it difficult to safely get at the scaffolding. The third picture is inside the second

cylinder where we have all of the major openings in there, so there's a lot of openings that go down about 40 feet. We would like to just build a dirt ramp up there to take trucks up and start filling it with dirt. Then once we get it filled with dirt, then we would pour the concrete slab on it, which would essentially close off the containment structure.

MR. SWEENEY: Are you suggesting you're going to fill this entire thing with dirt?

MR. HEDGES: Yes. It's a lot of dirt.

MR. SWEENEY: Yes.

CHAIR LUCE: So no biomass facility?

MR. HEDGES: Not for this building.

CHAIR LUCE: I just heard that proposed at one time.

MR. HEDGES: Yes, I think they finally got people to realize that it would just be cheaper to build something and start from scratch than try to recover this. The fourth picture is kind of a side view, and the reason I showed that is because you can see some of the pits outside of containment, that go down quite a ways. We've actually started to fill these, and there's a picture of that later on. The fifth picture again is a containment shot that was taken at the end of last week. We've actually raised the dirt level and are still continuing to build the ramp. The very last picture shows the pits from the fourth picture have been filled in. So we moved a lot of dirt and still have a lot of dirt left to move. There's a couple of other pits on site that we need to fill in, but we are starting to make progress on the near-term restoration for Sites 1 and 4. I guess I can take any questions that anybody has on what we're doing.

MR. SWEENEY: Where are you getting all the dirt?

MR. HEDGES: When they actually built the 1 and 4 facilities, they went down 60 feet and removed all that dirt and brought in backfill. We took that dirt and landscaped it around. So the level within the site has been raised about four to five feet, and we're just taking that dirt back up and putting it back in here below this building. This building goes down below grade about 30 feet. The building itself there's 18 feet of concrete, of just unrebarred concrete, down below that. There's some compact dirt down below that, specialized dirt that was brought in for that. So all the dirt that was removed out has been spread around the site and we're now going to take that back up and put it back in the building.

CHAIR LUCE: Great.

MR. HEDGES: I can come back periodically with progress reports or Mike had talked about a site visit, so I don't know whether the Council is looking at that.

MR. MILLS: There's some interest in getting the Council over to see the 1 and 4 sites, so we will try to coordinate that depending on the Councilmembers' schedules.

MR. HEDGES: Irina had talked about wanting to see our wind farm. So if you want to see our wind farm, you can make that a long day and see both sites.

MR. MILLS: There's certainly interest in doing that, Mot.

CHAIR LUCE: Thank you very much.

MR. FRYHLING: It's good to see progress out there.

MR. HEDGES: I guess that's some progress.

CHAIR LUCE: The next item on the agenda is EFSEC rules and discussion.

MR. MILLS: Jim, concerning the offsite environmental mitigation for 1 and 4.

CHAIR LUCE: Yes. Oh, good.

MR. MILLS: I spoke with Jeff Taylor today. Jeff's the regional manager with the Department of Fish and Wildlife, and he reported that they're making progress with the property owner regarding the large parcel in Benton County, and the appraisal was finished at the end of the

month and is presently being reviewed by the Department's real estate staff. It's possible that an offer could be made I would think in the two- to four-week time frame on that property, if everything proceeds as it appears. Staff will continue to work with Councilmembers and the Department in making sure that we're ready if that acquisition opportunity presents itself. I also had an opportunity to meet with the City of Richland Parks Department concerning the Badger Mountain parcel and have a package of information available that I'll share with you.

CHAIR LUCE: Particularly with the subcommittee.

MR. MILLS: Yes, that's all I have on that.

## ITEM NO. 8: EFSEC RULES

<b>Rules Review Discussion</b>	<b><i>Irina Makarow, EFSEC</i></b>
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CHAIR LUCE: Great. Now are we on the EFSEC rules?

MR. MILLS: That would be fine.

CHAIR LUCE: Irina, you've got that one?

MS. MAKAROW: Sure. We can do that. Why don't we start with the easy one, which are the air rules. In the back of your packets you've got a copy of the CR 102 that was filed with the Code Reviser on May 18, and that indicates that we had a proposed rule making change for our air rules. It also sets a deadline for comment which is July 6, as well as a hearing date which is also July 6, and that hearing will be held at our Council meeting. Also included with that is a public hearing notice. I have been coordinating with the Department of Ecology, and, again, one of the main goals of getting our air rules up to date was to be able to participate in an update of Washington State's implementation plan, and this public hearing is required by federal law prior to a submittal to EPA Region 10 of the updated implementation plan. So it kind of goes hand in hand with what our rule making is all about. That is also going to be held at the July 6 Council meeting.

MS. TOWNE: Irina, this is perhaps a small nit to pick, but your memo of Friday, June 4, on the CR 102 for changes to 463-39 in the description of what we're doing says penalties for consistency Ecology regulations and state laws. I think you mean inconsistency. I read it and reread it. This is a white email.

MR. SWEENEY: That's the statement that's in the paragraph here.

MS. TOWNE: Okay. Do you see the last line?

MS. MAKAROW: Okay. I don't have that email, but I will.

MS. TOWNE: Is it on that sheet too?

MS. MAKAROW: So we want to clarify agency procedures for permit application form, source registration, and penalties for --

MS. TOWNE: For inconsistency.

MS. MAKAROW: Well, we want to clarify that they're consistent with Ecology regulations and state laws.

MS. TOWNE: Oh, oh, oh, oh. I thought it was penalties for inconsistency.

MS. MAKAROW: No, no, no. It's so that our penalties are consistent with those of Ecology and state laws.

MS. TOWNE: Gotcha. Misread it. Then the next line it has WAV. I don't know if that got picked up there too.

MS. MAKAROW: Probably not because this is the sheet that got -- well, the CR 102 has already been filed. So if you're referring to the email, that's just a typo. And it's too late. It's gone to too many people.

MS. TOWNE: Okay. Whatever.

MS. MAKAROW: All right. On to the rest of EFSEC rule making, Mike Mills asked me to pull together a package in a quick speaking sheet based on instructions left by Mr. Fiksdal. In your packet you have a version of the Small Business Economic Impact Statement which would be the version unless there are editorial changes. That would be submitted along with the CR 102 and will be published in the state register. I will note that it does not contain the appendices. The appendices will be available separately to people who are requesting through us because the State Register has a 30-page limit to be able to meet our time lines.

MS. TOWNE: I submitted comments on the draft. Would they have been incorporated or dealt with one way or the other?

MS. MAKAROW: Yes, those were incorporated. So any comments that Councilmembers did submit with regard to the document have been incorporated, and I have had a look at it, and it looks very good. David Reich did an excellent job.

MS. TOWNE: I would second that.

MS. MAKAROW: On the second bundle of sheets is the yellow set which is the edited version of site certification agreement, start of construction, expiration, and reporting. And these are the edits that I believe you discussed at your last Council meeting.

CHAIR LUCE: We've discussed them. I believe Allen and Ann have worked on them. We've had emails back and forth. I think Councilmembers have had a chance to review them.

MS. MAKAROW: Yes.

MS. ESSKO: There's still a typo in 080.

CHAIR LUCE: "To," yes, I noted that. Okay. So we need to strike the "to" on Line 3 in 463-080 from "does not to start" to "does not start".

MS. MAKAROW: Oh.

CHAIR LUCE: That was what my comment was going to be.

MS. MAKAROW: Now, this version has gone to the Code Reviser's office and has been retyped, so I will make sure that they get that change.

CHAIR LUCE: All right.

MS. MAKAROW: The other part of the --

MR. CARELLI: Question, please, if I could interrupt.

MS. MAKAROW: Yes.

MR. CARELLI: The version that you're using is the 526. I have two copies of this chapter. One is 524 and the other is 526. I was wondering which one I should use.

MS. MAKAROW: My understanding --

CHAIR LUCE: 526 is what I have.

MS. MAKAROW: My understanding is that 526 is the most recent version that's gone to OTS to get typed.

MR. CARELLI: Thank you.

MS. MAKAROW: So the piece that the Council does not see here is actually all of the revised rules that were sent into OTS to be put into rule making format for issuance with the CR 102. Those have all returned from OTS. So the job that is left there for staff is to actually go through those and make sure that all of the references between the rules are correct. And the Order Typing Service also now rearranged the various chapters, so that they follow the several part

organization that the Council wants. So basically if you look at the blue schedule, staff is recommending that the Council approve three things today. And if you can do that today, that will actually help us in meeting the schedule that has been established in the past by Mr. Fiksdal. The first is that you approve the revised version of the construction expiration and reporting WAC which is the yellow one with a change of the "to", remove the "to"; that you approve the issue of the short SBEIS version that will go out with the CR 102, and that you approve that EFSEC staff proceeds to issuing a CR 102 for publication in the July 21 register, which means it has to go to the Code Reviser's office by June 23 giving us the latitude to correct any typographical errors that we may still find in either the Small Business Economic Statement or the final revised rules as the Council has already approved. If you can do that for us today, then we can meet the schedule that Mr. Fiksdal has already established which would lead to EFSEC holding hearings somewhere between August 10 and August 13. That's the week prior to your trip to Ellensburg and would allow the rules to go into effect before the end of this year.

MS. ADELSMAN: Are we talking about one hearing; is that correct?

CHAIR LUCE: Yes.

MS. ADELSMAN: And then in Olympia.

CHAIR LUCE: Yes, during the regularly scheduled Council meeting.

MS. TOWNE: Wait a minute. It says 8/10 through 13.

MS. MAKAROW: It's one of those four days.

CHAIR LUCE: It says recommend special meeting.

MS. MAKAROW: Yes, because we are limited. The earliest we can hold the hearing is August 10, and that is unfortunately the week before the two weeks in Ellensburg, so that shortens us. We have a window to hold that hearing. We would pick the date depending on the availability for Councilmembers.

CHAIR LUCE: Okay.

MR. IFIE: What form of approval do we need?

CHAIR LUCE: Let's have a motion. Do we have a motion?

MR. IFIE: I have a motion.

CHAIR LUCE: Do we have a second?

MR. FRYHLING: Second.

CHAIR LUCE: Council discussion? Hearing no discussion, call for the question. Question has been called for. All in favor say aye.

COUNCILMEMBERS: Aye.

MS. MAKAROW: Thank you. Excellent.

CHAIR LUCE: Great.

MR. CARELLI: Question, please.

CHAIR LUCE: Mr. Carelli.

MR. CARELLI: I noted earlier a reference to a July 6 hearing date on rules. Was I mistaken?

MS. MAKAROW: That is for the air rules. So the air rules are on a separate track.

MR. CARELLI: Thank you.

## **ITEM NO. 9: OTHER**

CHAIR LUCE: I think we are now down to "Other."

MR. BRICKLIN: Excuse me. This is Dave Bricklin.

CHAIR LUCE: Yes, Dave.

MR. BRICKLIN: I'm sorry to interrupt. I thought I was following along waiting on the agenda for the information item on Sumas. I came in when you were doing the Land Use Hearing, so I thought it was supposed to follow that. But maybe I missed out. Is that the case?

CHAIR LUCE: Yes, you missed out. We had an information item on Sumas. Basically the information on Sumas is very brief. Irina, do you want to repeat?

MS. MAKAROW: Yes. We received the application to extend the NOC-PSD permit. It's being distributed to Councilmembers. It's being distributed to federal land managers, to Canadian agencies, and to the County, and the Counsel for the Environment. And in about one month the permit writer, Bernard Brady, will have a completeness determination, then it will go on with the rest of the public process for that permit.

MR. BRICKLIN: Will that public process be the same as an original application process or something short?

MS. MAKAROW: No, it will be the same. We will have the draft permit that will be issued for public comment, and we will take comments on it and respond to the comments. The Council will then determine whether they want to approve or not an extended permit, and then it would go to EPA.

MR. BRICKLIN: Great. You said that draft would be out in about a month?

MS. MAKAROW: No, the completeness determination will be ready in about a month, so Bernard Brady, our permit writer, will tell us if he's got all the information to draft the permit, and then I think it will probably take another four to six weeks after that.

MR. BRICKLIN: All right. Thank you. Sorry to interrupt.

CHAIR LUCE: No problem, Dave. We are now down to Other. Does anybody have anything under the subject of Other? Other going once, other going twice, Other is gone.

#### **ITEM NO. 10: ADJOURN**

CHAIR LUCE: The meeting is adjourned.

(Whereupon, the Council Meeting was concluded at 2:59 p.m.)