

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

May 17, 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, May 17, 2004, will come to order. 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

Chair

Richard Fryhling

Hedia Adelman

Chris Towne

Tony Ifie

Jim Luce

CHAIR LUCE: The Department of Utilities and Transportation representative is excused and may call in by phone later.

MR. MILLS: There is a quorum.

OTHERS IN ATTENDANCE

EFSEC STAFF AND COUNSEL

Allen Fiksdal

Ann Essko, AAG

Mike Mills

Shaun Linse, Court Reporter

EFSEC GUESTS

Bill LaBorde – Northwest Energy Coalition

Darrel Peeples – Kittitas Valley Wind Project

Mike Robertson – Intervenor for Kittitas Valley

Wind Power Project (via phone)

Cindy Custer – BPA

Alan Harger – Transportation

Jim Hurson, Kittitas County (via phone)

David Reich – Ecology

Karen McGaffey – Perkins Coie

John Lane – CFE for Kittitas Valley Wind

Power Project

Charles Carelli – Independent Contractor

Mark Anderson – CTED EP

Clay White, Kittitas County (via phone)

ITEM 3: ADOPTION OF THE PROPOSED AGENDA

CHAIR LUCE: Adoption of the proposed agenda. The Councilmembers have had an opportunity to review the proposed agenda. Are there any suggestions for additions or corrections or deletions?

MR. MILLS: Staff would propose that we delete the Satsop Combustion Turbine Project from No. 6. We won't be making that report today.

CHAIR LUCE: Thank you. Any other suggestions? So consider the proposed agenda as proposed without the Satsop CT Project update, as adopted.

ITEM NO. 4: MINUTES

CHAIR LUCE: We now have before us the minutes of April 5, 2004 and April 19, 2004, I believe. We also appear to have April 22, 2004.

MS. TOWNE: Two separate meetings.

CHAIR LUCE: Two separate meetings, right. Neither of which I attended, so I will be excusing myself from those, and do I see the other minutes here?

MS. TOWNE: No.

CHAIR LUCE: I don't see them.

MS. TOWNE: The April 5 and April 19 mentioned in the agenda are not in here, but I think they were sent earlier.

CHAIR LUCE: I thought we adopted them last time.

MR. FIKSDAL: I don't recall.

MR. MILLS: I wasn't at that meeting.

CHAIR LUCE: I believe they were adopted last time. Didn't we have these two last time?

MR. FIKSDAL: Let's skip the minutes here.

CHAIR LUCE: All right. There seems to be some confusion with respect to the minutes. We'll pass on the issue of the minutes. As a correction to the agenda we will delete minutes.

ITEM NO. 5: WILD HORSE WIND POWER PROJECT

<i>Waivers to Application for Site Certification</i>	<i>Allen Fiksdal, EFSEC Manager</i>
---	--

CHAIR LUCE: Wild Horse Wind Power Project, subbing for Irina Makarow as only he can, Allen Fiksdal.

MR. FIKSDAL: Thank you, Mr. Chairman. Irina is on vacation for the next two weeks and probably having a much better time than we are. For the Wild Horse Wind Power Project the Applicant is going to ask for a waiver to the application for site certification. We put this as an action item on the agenda; however, the applicant just left.

MR. MILLS: He's back.

MR. FIKSDAL: Do you want to speak to those, Darrel?

MR. PEEPLES: Yes. It's pretty much just housekeeping. Does everybody have a copy in front of them?

MS. TOWNE: Yes.

MR. PEEPLES: We went through and refer to the WACs that do not apply to wind power projects. I believe the Council waived those requirements on Kittitas Valley. I developed it, and Irina and I both reviewed them. I think Irina reviewed the letter before I filed it, and it covers those areas which should be waived. A particular note though is the waiver we request with regard to form. The application is submitted in two formats. One was a three-ring binder that went to the Council and several other people. My client had received some requests from other parties for a bound version, was not aware of the rule, didn't ask me about it, and so when they sent it out to many of the public it was sent out in bound form. We're asking for you to waive that one, and if anybody wishes a three-ring binder form, we'll get it to them. So is there any questions at all?

MR. FIKSDAL: Is that in addition to what you have in your paper?

MR. PEEPLES: No, that's there. I believe it's either the last or the second to the last request for waiver.

MS. TOWNE: It's Item 7 on his memorandum of May 14.

MR. FIKSDAL: There are two Councilmembers that are absent today, Patti Johnson who represents Kittitas County and Tim Sweeney who is also absent. I don't know the urgency of these waivers. If the Council thinks it would be better to have those members present, we may want to postpone this until another meeting, particularly until the member from Kittitas County is available.

CHAIR LUCE: I think that would be appropriate.

MR. PEEPLES: This is mainly housekeeping, so it's not a big deal. We wanted to make sure that we had everything tied together with regard to the application.

MR. FIKSDAL: So with the Council's indulgence, waiting until the other members are present to take action on this.

CHAIR LUCE: That will be the next meeting?

MR. FIKSDAL: I'm not sure. If they are present at the next meeting, that would be entirely appropriate.

CHAIR LUCE: That's fine. The sense of the Council on that? We will defer the action until the next meeting when both members are present.

MR. IFIE: Question. Why do we have to have all Councilmembers here to vote on this issue?

MR. FIKSDAL: You don't need to.

MR. IFIE: We've got a quorum.

MR. FIKSDAL: You don't need to. You have a quorum. I just think because this project is being followed closely in Kittitas County, I think it would be prudent to have the member of Kittitas County with the Council as they voted.

MR. IFIE: Okay. Thanks.

CHAIR LUCE: I think that's the primary reason. I think Mr. Sweeney's absence would be unfortunate but not a reason for delay, but I think that the Kittitas County representative should be present and have an opportunity to present her views.

MR. IFIE: Also the county representative doesn't vote; does she?

CHAIR LUCE: Yes, she does.

MR. IFIE: Oh, she votes.

MR. FIKSDAL: She is a voting member. With that, the next –

MR. HURSON: Can I interject? This is Jim Hurson, Kittitas County. I know Patti Johnson's role is different, but could I get a copy of whatever the requests are? Maybe they have been sent to us. I just don't remember getting them.

MR. FIKSDAL: Yes. For sure we'll send you a copy.

MR. HURSON: You can electronic email it in PDF if it's easier than mailing.

MR. FIKSDAL: Okay. Mr. Robertson, do you want a copy?

MR. ROBERTSON: Yes, please. PDF is fine.

Review Status	Allen Fiksdal, EFSEC Manager
----------------------	-------------------------------------

MR. FIKSDAL: All right. The next part was review of the status. I think in your packets you have a very goldenrod colored sheet, and I will just outline. This was prepared by Irina before she left, and for those on the phone I will just outline. The application review has been completed by Jones & Stokes and copies provided to the Council. The land use hearings staff and our Administrative Law Judge are working to bring conclusion of the land use hearing to action at the June 7 or June 21 Council meeting. A draft order and copy of all the comments and testimony received will be sent to you ahead of time to the Councilmembers. If the Council wants to return to Ellensburg to complete this process, they should let staff know immediately. But it's just a final vote. We hadn't planned on having that meeting in Ellensburg. We planned on having it at the Council meeting because we think it's probably going to be a very short procedural matter. But if you feel the need to go over to Ellensburg to do it, just let us know and we will arrange some transportation.

MS. ADELSMAN: Allen, I thought that we actually selected June 7, or am I wrong, on the calendar? The date is actually nailed down.

MR. FIKSDAL: June 7. So at your next Council meeting that's when it's scheduled. We will have to issue notice of that.

MS. TOWNE: Just for the record, since we are not allowing public comment, that having been concluded in Ellensburg, the act of deciding I think is more appropriately done here and saving some cost.

MR. FIKSDAL: So we will plan for your June 7 meeting to conclude the land use hearing. That's all for Wild Horse, Mr. Chairman.

CHAIR LUCE: Thank you.

ITEM NO. 6: PROJECT UPDATES

CHAIR LUCE: The next item is BP Cherry Point.

MR. FIKSDAL: Again, in your packets you have a summary for BP. Let's go to Kittitas Valley first.

CHAIR LUCE: All right. Excuse me.

Kittitas Valley Wind Power Project	Allen Fiksdal, EFSEC Manager
---	-------------------------------------

MR. FIKSDAL: The Kittitas Valley Supplemental Draft Environmental Impact Statement, that issuance has been delayed. We now are aiming for the issuance at the first to mid part of June for that Supplemental Draft Environmental Impact Statement.

MS. TOWNE: Mr. Fiksdal, what is the reason for the delay?

MR. FIKSDAL: It is that our consultants are in need of a little bit more time to get some additional information, and then Ms. Makarow is going to be out of town to review that submittal that they are getting.

MS. TOWNE: A good and sufficient reason.

MR. FIKSDAL: Thank you. The other item of note is that Applicant's prefiled testimony is due a week from today on May 24, and we will distribute that to Councilmembers as soon as it's

received in the office. For a reminder the parties' prefiled testimony is due on July 6 and all rebuttal will be due on July 27.

BP Cherry Point Project

Allen Fiksdal, EFSEC Manager

BP Cherry Point, the waste water permitting issues you have the information in here. We continue to work with our Ecology contractor to prepare the draft permit for the storm water discharges, and we are not quite certain when the schedule for it to come to the Council will be on that. I am done.

CHAIR LUCE: Chehalis is next. Mike.

MS. TOWNE: Well, wait a minute on BP.

CHAIR LUCE: There is applicant update on agreement.

MR. FIKSDAL: Oh, right. No updates have been received so far. Karen, do you want to give us an update?

MS. McGAFFEY: With respect to the settlement?

MR. FIKSDAL: Yes.

MS. McGAFFEY: Work continues to be done pursuant to the settlement, and I think both Whatcom County and BP remain optimistic that that work will be resolved, and they'll reach a settlement within the next few weeks.

MR. FIKSDAL: So that the June time frame is pretty much still on schedule.

MS. McGAFFEY: Yes. I actually hope that we'll have something to the Council before mid June, which is the time line we have, but I can't give you a specific date at this point.

MR. FIKSDAL: Okay.

Chehalis Generation Facility

Mike Mills, EFSEC

CHAIR LUCE: All right. Mike, anything on Chehalis?

MR. MILLS: For the Chehalis Generation Facility, I spoke with Duncan McCaig, plant manager, this morning. This will cover activities over the last month. About four weeks ago they conducted comprehensive noise tests during start-up. They were generally pleased with the results but did notice some exceedance of limits at the site boundaries, so they're continuing to look at other ways to improve and reduce the noise impact at the site boundaries. About two weeks ago they conducted the first planned outage for the plant. It was successful in looking at equipment and inspecting warranty items. There were no safety issues. That was a planned ten-day outage. They completed it in seven days and generally pleased with that effort. As soon as they went out of the outage they were called upon to start running the plant, and they've currently been on line for ten days running at full power at 520 megawatts.

CHAIR LUCE: Okay.

MR. MILLS: That's all I have on Chehalis.

Columbia Generating Station

Mike Mills, EFSEC

CHAIR LUCE: Columbia Generating Station.

MR. MILLS: Just a brief report. Columbia is operating at 100 percent power. It's been on line for 319 days.

CHAIR LUCE: And last, WNP-1.

WNP-1

Mike Mills, EFSEC

MR. MILLS: WNP-1. We had an opportunity to meet with Jeff Taylor several weeks ago who works for the Department of Fish and Wildlife. He's their Yakima office regional manager. He's leading the negotiations with Mr. McWhorter on possible acquisition of his ranch which is a large piece of property in Benton County. I spoke with him again today, and they've scheduled an appraisal of the property for this week, and they will have a report due by the end of the

month. I think the Department and all of us that have been involved in the discussions are pretty optimistic that this might actually happen, so Jeff committed that when the appraisal report is done he will get back to staff, and we will report back to the Council.

CHAIR LUCE: Great. I particularly want to thank the committee, Hedia, Chris, and our esteemed leader, Richard Fryhling from Walla Walla, who is on the ground and up close and personal to the McWhorter ranch, for all your help in putting this together so far. So hopefully we will close this deal before the summer is through.

MR. MILLS: I also want to report that the City of Richland has responded to our request for additional information, and I will share that letter with the Councilmembers, and I'm hopeful that I can meet with the Parks Department during the next week to try to get a little more information on their proposal and their needs for the possible Badger Mountain acquisition.

CHAIR LUCE: Thanks.

ITEM NO. 7: EFSEC CONTRACTS - FY 2005 RENEWALS

CHAIR LUCE: Now we have a lot of EFSEC contract 2005 renewals.

MR. MILLS: Yes.

CHAIR LUCE: Breaking down by department, Ecology and Fish and Wildlife. Reminding Councilmembers from Ecology and Fish and Wildlife that you don't vote on your agency contracts. So you want to start with the task orders.

<i>Ecology</i>	<i>Mike Mills, EFSEC</i>
----------------	--------------------------

MR. MILLS: I will start with the Department of Ecology.

MS. TOWNE: Just for clarification, the header says Contract Renewal Continued.

MR. MILLS: That's because this is part of the earlier document that I sent to you describing the compliance monitoring program and the contracts that you considered at the April 17 meeting. This is a continuation of that report.

MS. TOWNE: Thank you.

MR. MILLS: You will recall that we have a master agreement with the Department of Ecology. We brought all of our contracts under that master agreement, and staff will present proposals today to renew those contracts for fiscal year 2005 under the master agreement. Each work effort is assigned under a task order, and I will just briefly speak to those.

Task Order No. 2 involves state waste water discharge permit work for BP Cherry Point. You will note that this was a \$23,000 contract during fiscal years '03 and '04. For FY 2005 we're proposing that it be a \$10,000 contract. It's expected that the work on the permit will be finished, but just as a contingency we think there's a chance it will continue into 2005, and we would like to keep the Department retained. Jim, do you want me just to run through these? We've typically voted on them individually.

MR. FIKSDAL: By department.

CHAIR LUCE: By department would make sense.

MR. MILLS: **Task Order No. 3** is a contract with the Department of Ecology air permitting program. We're proposing a \$31,000 contract. That's down from \$50,000 in fiscal year 2004. I've listed each individual project and the proposed dollar amounts. They're generally consistent with a continuation of current level funding. We do expect for Chehalis, Satsop, Sumas, and Wallula that we'll be working on PSD permit modifications during the next year. For BP Cherry Point there would be a PSD permit as part of the application that's presently under consideration.

We've deleted Starbuck from this year's contract. It was basically just to be a place holder for the fiscal year 2004 funding. We've not heard from the company. We feel if they did approach us, we would just come back to the Council and present an entire budget. So, again, for air permitting we're proposing a \$31,000 contract.

Task Order No. 4 is a contract with the Kennewick office for the two Energy Northwest sites, the Columbia Generating Station and the WNP-1/4 sites. The program is based on a quarterly audit approach, and they have an environmental auditor assigned out of the Kennewick office that works on both Columbia environmental matters and also any WNP-1 site restoration / environmental matters that come before us. You will see that the funding there is pretty consistent with what it was last year.

Task Order No. 5 involves the current review of the Kittitas Valley Project, and we would propose again that the funding level be the same. That work involves storm-water discharge, general application review, a wetlands 401 certification, and some EIS review. That would be an ongoing contract.

Task Order No. 6 is the work that David Reich is doing on the Small Business Environmental Impact Statement (SBEIS). I'd call this a contingency fund. If there's any work or any response needed on comments that are received as part of the Council's rule making effort, David and staff from Ecology that have worked on the SBEIS would be available to continue and help assist the Council in that effort. So that's a quick summary of the work that the Department of Ecology is doing under the five task orders, and staff would recommend that the Council approve those at the funding levels that are recommended.

MR. FIKSDAL: These amounts that we see here under 2005, those are possible amounts. Those aren't automatic monies that go to the Department of Ecology. It's just in case we need their help that we have something on the books, so that they can charge against that; is that correct?

MR. MILLS: Each of the contracts is billed only for work that's done, and we have current activity that's going on under almost all of the projects, and we get billed quarterly for the work that they do. I view this as a not to exceed amount, and we've brought amendments where they have approached the dollar amount. If we have to amend it and increase the funding, then that would be brought back to the Council to do that.

CHAIR LUCE: Thank you. Councilmembers have questions? Is there a motion to approve Ecology Task Orders 2, 3, 4, 5, and 6?

MR. FRYHLING: I so move.

CHAIR LUCE: Is there a second?

MS. TOWNE: Second.

CHAIR LUCE: Discussion? Call for the question? All in favor?

COUNCILMEMBERS: Aye.

CHAIR LUCE: Noting that Councilmember Adelsman from Ecology has abstained, the motion passes unanimously.

MR. MILLS: Continuing on?

CHAIR LUCE: Yes.

<i>Fish and Wildlife</i>	<i>Mike Mills, EFSEC</i>
---------------------------------	---------------------------------

MR. MILLS: Fish and Wildlife. Hold on just a minute. I actually have two separate contracts with the Department of Fish and Wildlife. I only typed out one of them. I will make a copy of the other proposal. The first contract is called **Audit/Mitigation**. This provides for work from staff from the major mitigation section. Lauri Vigue is the lead biologist that does work on behalf of the Council at approved projects. For Columbia Generating Station, Sumas 2, Wallula,

Satsop Combustion Turbine Project and Chehalis you will see that the range of funding proposed for next year is between \$1,900 and \$3,100. These estimates are down from the past. Again, I think I'd call the levels last year were contingency, and we're not spending anywhere near that level, so Lauri has redone the budget and brought the figures down. The Audit subtotal is \$12,331, and that's spread between the five projects as listed. I've also listed WNP-1 mitigation, the 3.5 million that was approved as part of the four-party agreement between the state, Bonneville, Energy Northwest, and USDOE Richland. It appears that money will not be spent before June 30, even though again we're moving forward. If the Council and the Department of Fish and Wildlife determine that that money would best be used by the Department in the acquisition, this would allow that to happen under this contract. It's a way for the Council to transfer money to the department to allow an acquisition to happen. The total request or total proposed budget is \$3,512,331. That's down just a bit from last year because, again, as I explained the audit totals have come down. So staff would recommend that the Council approve the contract with the Department of Fish and Wildlife for Audit and Mitigation for \$3,512,331.

MS. TOWNE: Mr. Mills.

MR. MILLS: Yes.

MS. TOWNE: I will be recusing myself from the vote, but just for probably other people's information as well, Sumas 2 and Wallula, what is there to audit or to mitigate?

MR. MILLS: We don't have any current activities for those two projects, but, again, I'm more comfortable if we have the Department on call if there are issues and those are active site certification agreements. We've had several. There was an ownership issue that came up. It didn't involve the Department of Fish and Wildlife, but there are general certification matters that do come up. Some initial plans might be triggered during this period, so it gives us the ability to call upon the Department to provide a service without having to come back and do a contract. So we try to list a complete range of projects and identify a minimum budget. Hedia.

MS. ADELSMAN: Related to that, you said 2004. This is not the expenditure. Do you know what you have expended so far or they have expended for some of this?

MR. MILLS: I know that, yes, but I would have to go find my papers. I would be perfectly happy to follow up with that information.

MS. ADELSMAN: Is it close to the numbers that you have for '05 or is it even lower?

MR. MILLS: It's lower. It's much lower than the '04 approved budget.

MS. ADELSMAN: For Sumas and Wallula, was there any expenditure last year? I mean this fiscal year, the one that's going to be over in June.

MR. MILLS: Without looking at their billings, I'm a little reluctant to answer. I don't believe there was, but I will get that information to the Council following the meeting.

MS. ADELSMAN: So unlike the stuff we talked about for Ecology, some of this is just contingency.

MR. MILLS: It's contingency. It allows us to tap their staff if a compliance matter comes up.

MS. ADELSMAN: If needed. Okay.

CHAIR LUCE: Other questions? Hearing no more questions from Council, do we have a motion to approve?

MR. IFIE: I move that the Council approve the contract review for Washington State Department of Fish and Wildlife.

CHAIR LUCE: That's Audit and Mitigation, right?

MR. MILLS: Right.

MR. FRYHLING: I will second that.

CHAIR LUCE: We have a motion and a second. Question?

MS. ADELSMAN: Just one last question. I'm sorry. I should have asked before. Have we made up our mind that actually the 3.5 is going to go to Fish and Wildlife?

CHAIR LUCE: We have decided that we have 3.5 million dollars to allocate in our discretion. We are working closely with Fish and Wildlife.

MS. ADELSMAN: Okay. So this is in the eventuality that we decide to use them.

CHAIR LUCE: Right. Is that a fair statement, Mike?

MR. MILLS: Yes, it is.

CHAIR LUCE: Call for the question? In all favor say aye.

COUNCILMEMBERS: Aye.

CHAIR LUCE: All right. A unanimous vote with Councilmember Towne abstaining. Next, Mike.

MR. MILLS: The next item will be the handout that Allen just passed out under Fish and Wildlife **Technical Reviews** about halfway down the page. We also have a contract with the Department to provide technical assistance to the Council on projects that are in the application phase and also for some limited rule making activity. We are proposing for the BP Cherry Point Project that they be provided a budget of \$5,000 to continue providing technical support in reviewing the application and any project materials. For the Kittitas Valley and Wild Horse projects a budget of \$7,500 for each is proposed and then a small rule making allowance if they would need to support the Council in any rule making work or simply review the proposed rule making that's moving forward with the Council right now. So the total for those activities would be \$22,000 for fiscal year 2005, and we would propose that the Council approve and renew this contract at that amount.

CHAIR LUCE: Are these items likewise high and also contingent? That is, they're not assured unless we draw actually on the services.

MR. MILLS: Unless they provide the service they don't get paid.

MS. ADELSMAN: So let me ask a question. When the rule is out there on the web and say everybody can review it, including the various agencies, and we are asking them to review it, does Fish and Wildlife charge for them to review the rule or they could charge us?

MR. MILLS: They could charge us, yes.

MS. ADELSMAN: Are they the only other agency that's doing that?

MR. MILLS: I believe that's true, yes. We entered into this when the Council first went into the rule making effort with the Krogh-Leonard report because they were providing a significant amount of technical support in the wetlands area, and this contract has continued throughout the rule making activity.

MS. ADELSMAN: I just have a little concern about that. I don't know how big it is, but we have people reviewing the rules and we're not charging. We feel it's a service that we are providing as part of our making sure that rules are consistent with what we're doing, so I'm kind of -- it's interesting to see another agency wanting to charge.

CHAIR LUCE: It is. Any other questions? Any other discussion?

MR. IFIE: How do we move forward on what Councilmember Hedia just brought up?

CHAIR LUCE: Well, I'd have to go back and reconstruct the record when we signed this contract which we can do if we want to, but I think there was a substantial amount of expertise that the Council requested from Fish and Wildlife. But I would say they would not be able to provide that expertise absent some compensation for their staff; that they simply didn't have the

staff to do it, so we agreed to it. Now should we have agreed to it? I don't know. That was a year and a half or two years ago, but that's my recollection at that point in time.

MS. ADELSMAN: It's a continuation of an existing contract, so that's fine.

CHAIR LUCE: Right.

MS. ADELSMAN: I was proposing that as a –

CHAIR LUCE: Whether we would do that in the future, I don't know. But when we're faced with a situation, if you recall, where an agency simply didn't have the staff, and they wouldn't provide us the expertise that we needed, and so the question is what are you going to do? Do you want to just make it up in dream land or do you want to pay for services rendered? And you could either get the services rendered outside of the agency which would be one way to do it, or you could get it from the people who actually would end up making the decisions inside the agency. And we decided as I recall that it would be more prudent to get the information from the people who were writing the policies at DFW who in fact we're going to end up making the decisions.

MS. ADELSMAN: I'm not saying that we go back to the contract. I just raised it as something that's unique in this case.

MR. MILLS: What I would like to propose because I also had some questions about this, I would recommend that the Council approve the amount that we've put forward, and staff will work with David Mudd who is my contact on this. We will try to set some parameters to the work that they do, and we'll specify that in the contract. So, again, I would view this as a “not to exceed” contingency, and staff will define the work that they're going to do under that activity.

CHAIR LUCE: If they do any work at all.

MR. MILLS: If they do any work at all, and we'll certainly have that as an option.

MS. ADELSMAN: I'm satisfied with that.

MR. MILLS: All right. Thank you.

CHAIR LUCE: Call for the question? All in favor say aye.

COUNCILMEMBERS: Aye.

CHAIR LUCE: Let it be noted the unanimous approval with the exception of Councilmember Towne who abstains. Washington State Patrol is next.

MR. FIKSDAL: I just want to mention this is for the next fiscal year, and I think there's going to be very little work on rules for the next fiscal year, so I don't think it will be very much.

CHAIR LUCE: Hopefully.

MR. FIKSDAL: Mike and I will work with the agency. I think for just normal review of anybody's rules that should be not something that we should be paying for. We'll look back at the contract, and I think most of the work was for working up the development of the rules.

MS. McGAFFEY: I have a question. It seems to me unusual to be authorizing contracts related to rule making activities when as I understand the Council is going to be requesting general funds on that. I mean I guess from my client's perspective, who is paying for that rule making contract for Fish and Wildlife if in fact the services are rendered?

CHAIR LUCE: I appreciate your comments. Thank you. Washington State Patrol.

<i>Washington State Patrol</i>	<i>Mike Mills, EFSEC</i>
---------------------------------------	---------------------------------

MR. MILLS: We have a small contract with Washington State Patrol Fire Protection Bureau. They provide an annual fire inspection at the Columbia Generating Station and the WNP-1 facilities. The funding has been constant for the last three to four years. We're proposing \$1,500 for each site for a total contract of \$3,000, and we would recommend that the Council approve that contract.

CHAIR LUCE: Council discussion? Questions? Comments? Do I have a motion? Is anybody precluded from voting?

MR. MILLS: No.

CHAIR LUCE: Everyone can vote on this.

MR. FRYHLING: I move that we adopt the budget.

MS. TOWNE: Second.

CHAIR LUCE: All in favor say aye.

COUNCILMEMBERS: Aye.

<i>Southwest Clean Air Agency</i>	<i>Mike Mills, EFSEC</i>
-----------------------------------	--------------------------

CHAIR LUCE: Southwest Clean Air Agency.

MR. MILLS: We have a memorandum of understanding with the Southwest Clean Air Agency. They provide **air permitting service in support of the Chehalis Generation Facility**, and staff would propose that that contract be continued through the next fiscal year. They will be working on the air operating permit application that we received last week, and they're providing assistance in reviewing air related documents at the Chehalis project. The current contract is for \$30,457, and we propose that funding level be continued for the next fiscal year.

MR. FRYHLING: Let me just ask a question here. Is that money generated out of the facilities that are in the Southwest Clean Air Agency, in that area? Is this from Chehalis and from Duke?

MR. MILLS: This money comes from Chehalis Power. The work is all support work for the Chehalis air permits.

MR. FRYHLING: Not the other clients and applications we have before us. It's purely out of Chehalis.

MR. MILLS: It comes strictly from Chehalis and the work they do in support of that project.

MR. FRYHLING: And will they also at some time continue the development of Duke's project?

MR. MILLS: We would have a separate contract if the Phase 2 project went forward.

MR. FIKSDAL: Only in completion of the project.

MR. MILLS: Actually we would start with the Department of Ecology on the Phase 2 project because they do the Prevention of Significant Deterioration and the Notice of Construction (PSD/NOC) permits. Southwest is helping with an operating facility, but our PSD/NOC writers are with the Department of Ecology Air Quality Program, and that's under Task Order No. 3, and that's were Satsop Project 2 would fall.

MS. ADELSMAN: So the \$5,000 on Chehalis and under Task Order 3 that's not for monitoring. Is that for the –

MR. MILLS: That's for the services of Alan Newman and Bob Burmark from the air quality program to support in the PSD and Notice of Construction permits.

MS. ADELSMAN: And this is for monitoring.

MR. FIKSDAL: This is actual on-site monitoring.

MR. MILLS: This is monitoring plus we're providing assistance on the Title V air operating permit, which is different than the PSD and NOC.

MR. FIKSDAL: The Southwest Clean Air Authority is our on-site person that goes up there and does on-site monitoring.

MR. FRYHLING: I move we approve that item.

CHAIR LUCE: Do I have a second?

MR. IFIE: Second.

CHAIR LUCE: Call for the question? Question is called for. All in favor say aye.

COUNCILMEMBERS: Aye.

MS. ADELSMAN: I just have a suggestion for in the future.

CHAIR LUCE: Yes.

MS. ADELSMAN: Any possibility, Mike, that you could take say Cherry Point and put all the contracts under one of those headings, so we know for every facility what type of contract?

MR. MILLS: Yes.

MS. ADELSMAN: I mean we could do it manually like Chehalis, all the contracts for Chehalis.

MR. MILLS: I'll provide that information when I provide the funding, the expenditure information to you by project.

MS. ADELSMAN: Okay. Instead of agency only but by facility. Thanks.

MR. FIKSDAL: It's easier by agency because that's what the contracts are approved for.

MS. ADELSMAN: Well, I know, but eventually for tracking.

MR. MILLS: But for today's review this was the format.

MS. ADELSMAN: That's fine.

MR. MILLS: Yes, we'll do that.

MS. ADELSMAN: Thanks.

CHAIR LUCE: The next item on the agenda is the -- sorry. Go ahead.

MR. IFIE: I have some questions relating to the compliance monitoring program. This is one of the better opportunities that we have to look at the compliance monitoring program. It seems to me that as the work load is going to be increasing or not increasing -- the work load for the application processing will be decreasing in the future which will give the agency, give EFSEC more time to look into compliance. I was wondering if there's room for EFSEC, for the Council to exercise more, to be more assertive in the compliance monitoring area that we're paying the price. It appears that the focus of the Council has been application processing, and we are so caught up with that part of the activities of EFSEC that this portion has kind of been just second tier. But as the application process is to be reduced in the future I was wondering is there anymore that the Council can be doing in this area that will help to strengthen the compliance monitoring portion? I guess I just want to mention that we open this up for discussion for talking about the compliance monitoring.

CHAIR LUCE: I'm going to let you take that.

MR. FIKSDAL: I'll start. I think the Council can simply do what we wish. I think you're right that the Council may have the ability to take more interest in the compliance monitoring. I think it would be good for the Council, particularly those that haven't been to some of these projects, go visit the projects, and have more of an explanation of exactly what the compliance monitoring program is at that individual site and what's entailed. It's again up to the Council to decide. If they are interested in that, we can sure provide that information and detail more and have the agencies in to describe what they do and how they do it. It depends how much time you want to spend on it.

MR. IFIE: I was looking at the report that Mike put together, and I'm looking at different contracts that we just approved. I'm thinking what are the deliverables? What do we get out of these contracts? What reports do they provide to the Council? In other words, the Council should show more interest in these contracts instead of just approving them. What is the next step one can take? Is the Council's approval in the compliance monitoring limited to just approving the contracts? So we've approved contracts today, then a year later you come back again for more approval. What happens between now and the next approval period? Are there reports that come from some of these contracts? Do they produce something? I'm just curious what else can be done. Maybe there isn't anything else that can be done.

MS. TOWNE: Mr. Chairman, it seems like the place you would get at it would be through the contract with SWCAA. What do we tell them to do? Presumably we tell them to make sure that the permittee is following the Clean Air Act and Ecology and SWCAA regulations. I don't think we ever want to take on the role of ascertaining compliance because we lack the equipment and the expertise. I say this after six years on the Pollution Board hearing air cases. I don't want to go there. But it would probably be appropriate to inquire as to the nature of the contract and then periodically have staff tell us whether in their judgment the contractor is meeting the terms and conditions.

CHAIR LUCE: I think that's sort of along the lines of what I've been thinking, and maybe what the Council had discussed previously. There's a delineation in my mind between policy decisions which the Council is appropriately able to make and day-to-day oversight and compliance monitoring which is staff's responsibility. I think the policy determinations are made through the contracts and Council's ability to understand the contracts, and then we delegate to staff the authority to Allen and to Mike to go and get it done. And then we have periodic meetings with staff to see how well they're doing. To me that's the sort of right delineation of responsibility, and we've talked about this before. So personally speaking, I don't want to get too much -- you know, there's an old expression. You get your elbows up to your onions. I'm not going to go there with respect to -- that's a political expression, you know. I'm not going there with respect to compliance monitoring. I mean, first of all, there's a lot of technical work to compliance monitoring which I wouldn't understand to begin with. Mike understands it. He's worked with it for years and has a good working relationship. Allen understands it. I do want to understand the policy implications of the contracts. That's important for me to understand. Beyond that I want to be kept abreast of what's going on and whether it's going well or not on a regular basis, maybe on a quarterly basis. That's the extent of my interest.

MS. ADELSMAN: I don't believe I heard -- I think I heard right, Tony. I don't think you're talking about the day to day. I think I share the same thing with you, and maybe some of it is I just need to get into some of these contracts and understand better. But I see the dollars, and I see two agencies, and I see relating to a project. And maybe because some of us are new, we haven't been with this project. Some of these projects were approved many years ago. It may be really good to either at a Council meeting or maybe small group that we understand a little bit more what do these contracts give us and how does it relate to what we do in general. It's not that we want to go out there and do the day-to-day. There's more than the \$5,000 behind that.

CHAIR LUCE: Didn't Mike have a similar discussion with Tony? Didn't you and Mike spend some time on this before?

MR. IFIE: Yes. I'm not proposing that we should go try to do our day-to-day compliance monitoring. All I'm asking for is we go over the issues of these contracts in detail to figure out what does EFSEC require from some of these contracts. There's somewhere that goes over what the work is. If it's like one is related to a project, a specific project and you say, Okay. Ecology Task Order No. 3 will be working on air permitting and it goes through the list of what the projects are. Those aren't specific. You can't see the results come out through the approval of this project. But there are some ways, very generic. For instance, under the audit function of Ecology with respect to Columbia and WNP-1 and 4, it says conducts quarterly audits of Columbia and WNP-1 and 4. So it says compliance. So it's a quarterly inspection that is done. What happens as a result of that inspection? Do we get a report that says everything is going fine or nothing is going fine? That is not the day-to-day activities. That is a quarterly activity. The question is I haven't seen those kind of reports in my three years or three and a half years of

being in EFSEC, and I'm curious. Maybe I'm missing something or is that something we should be getting into or not? Maybe that is not even an area that we should worry about.

MR. MILLS: We do get quarterly reports from the Department of Ecology, and I have them. We've typically not shared them. There's nothing to hide. I would be perfectly happy to share the reports that we do get.

MR. IFIE: I was using that as an example.

MR. MILLS: Well, that's a good example. We do conduct a quarterly audit. The contracts are all set up for approved projects by a table of contents that follows the site certification agreement conditions that each of the departments has an interest and expertise in. And so if I showed you the scope of work from any of the contracts that's what you'd see. You'd see a listing for Ecology. It would list waste water discharge, erosion control, sanitary waste, landfill and waste management spill control, aquatic testing, dangerous waste, and any other general environmental conditions or situations that we need them to look at. Again, I'm perfectly willing to provide that information. It just takes time, and we haven't made that a priority.

MR. FIKSDAL: If there's an issue or if something has happened, we will bring it to the Council in most cases. It's kind of no news is good news in this department or not specific to Ecology, but in the compliance monitoring is things are going okay. The agencies report to us. If there's an issue, then if we can't resolve it, then we will bring it to the Council for resolution.

MR. MILLS: I think the other example is we're reactive in a number of instances where Columbia identifies an issue or a problem like they had 19 million gallons of water that they needed to dispose of. We worked with our contractors, the Department of Ecology and the Department of Fish and Wildlife, and you will recall we came up with a solution that worked. And we brought those people here before you over several months. You approved a resolution based upon their recommendations and staff's work, and I think that's typically where you have seen the face to face with the inspectors that are doing the work. When we have an issue that requires Council action or a Council response, we try to bring the people to you, so that you can see them, you can ask them questions, and hopefully take an action that resolves the problem or an issue that needs to be addressed.

MR. IFIE: Maybe I'll ask another question. Mike, you mentioned earlier that with respect to the contract with Fish and Wildlife you were going to meet with them to limit the activity or kind of talks about what would be involved in the charge for the \$2,000 that was listed.

MR. MILLS: My comment was specific to the rule making line item.

MR. IFIE: With respect to rule making. So it appears that there is a contract, a detailed contract that specifies a bunch of details, more than we have here.

MR. MILLS: Yes, there is.

MR. IFIE: Is it possible for us to see that kind of a contract? I would be interested to see, you know, talking about policy level interests to see what it is we're approving actually. Because what I see here is just these are highlights. So I was wondering is it possible to see what the contract is going to actually be?

MR. MILLS: That's possible. I will be working on the contracts with each of the agencies that you've approved the contract for over the next month, and we'll execute those contracts. And I would be happy to provide copies or a package to all Councilmembers when they're done.

MR. FIKSDAL: The main thing maybe we'll just provide them the scope of work. You don't have to see the body of it.

MR. MILLS: It's not that big. We could pull out the scope and the budget. I think that would give you the information that you need.

MR. IFIE: That would be the best step for me to at least understand what it is that we're approving.

MR. FIKSDAL: Most contracts have scope, budget, and general terms and conditions, and a whole bunch of stuff.

MR. IFIE: I'm more interested in the specific language that listed what we just approved. That way if there is some -- so I think that's a first step.

MR. FIKSDAL: Let me ask does the whole Council want to see this? Do we send it to the whole Council, or is it a couple members would be more interested than others? Do you want to have it as an agenda item at a Council meeting? How do you want to see and talk about it?

MR. MILLS: I recommend we just put a notebook together for all the Councilmembers and let them look at it. And then if they have questions, we can schedule a session at a regular Council meeting or one on one in Hedia and Chris's case with your agency representatives that do the work.

CHAIR LUCE: As far as specific contract language, I would tend to defer to legal counsel if there are legal questions involved.

MR. IFIE: I'm talking more about the scope of work.

MS. ADELSMAN: The scope of work.

CHAIR LUCE: The scope of work is fine.

MR. IFIE: I'm sorry if I wasn't clear. Just the scope of work.

MS. ADELSMAN: We don't need to get into the other stuff then.

CHAIR LUCE: That would be fine, and then take a look at it, and if you have questions, enough questions we will schedule an item on the agenda.

MS. ADELSMAN: I have access to Ecology, and you have access to Fish and Wildlife, but Tony doesn't have access to either one of the two.

MR. IFIE: Then I would like to request for an agenda item or official meeting to follow up on this discussion that I just brought up.

MR. FIKSDAL: About compliance monitoring, more of the details on what the agencies are doing and how they do it?

MR. IFIE: Yes. I would like to have some time about compliance monitoring not in the sense necessarily to day-to-day compliance but to expose myself to more about what is going on in that area. I won't know any policy issues, but I would know what's going on. So it seems to me opening it up would be good.

MR. FIKSDAL: There's a couple ways to do that. We could one time a month bring in one of the agencies to explain what they do and how they do it, or we can have you go out on a quarterly monitoring, quarterly audit with Mike.

MR. IFIE: That's a day-to-day one. I agree with Jim about staying away from that.

MR. FIKSDAL: It depends on your level of interest.

MR. IFIE: I'm very interested, but I don't have that much time to do everything.

MR. MILLS: What might be possible, and we've done this though not recently, we do schedule site visits, and we do have some new members. As I'm putting together the notebook we'll talk to the companies and look at your schedule and see if we can't get some site visits. It's possible we could combine an Eastern Washington, perhaps Kittitas County projects, with a trip over to the Hanford site to look at the Energy Northwest Projects.

MR. FIKSDAL: Or we can look at it and maybe ask those people in the report what they have done and have them respond to it.

MR. MILLS: And how they do it.

MR. FIKSDAL: We'll work on it. We'll work with you, Tony, and see if we can schedule something that meets your needs.

CHAIR LUCE: Anything else on compliance monitoring? Okay. Are we ready to move onto the next agenda item?

ITEM NO. 8: EFSEC RULES

<i>Rules Review Discussion</i>	<i>Allen Fiksdal, EFSEC Manager</i>
--------------------------------	-------------------------------------

CHAIR LUCE: EFSEC rules, and I'm going to ask Allen to handle this discussion following up on from our last Council meeting.

MR. FIKSDAL: At our last Council meeting there was a discussion about the need for energy standard and also some other discussions on the rules. We have a pink sheet of paper that we handed out to you, and I think members of the audience also have it. I think what we came up with was summarized on this sheet, and because we hadn't noticed an action item, and this depends on what you consider an action. This is an action of the Council saying, yes, this is how we want to go forward on the rules. So we've noted this as an action item. It's not an adoption of the rule as such, but it's a determination of how to go forward from here. In the last meeting the Council decided or at least discussed at quite some length the need for energy standards, and I think the consensus was that the one that we had in the new chapter on standards, the need for energy rule, was not appropriate in that standard. And it wasn't a standard in that it would be better to delete that need for energy standard from the standards chapter and change the policy section a bit. What we have before you would be an amendment or a change to Section 463-14-020, the need for energy, and I think we proposed to add in that title, "need for energy facilities," to better represent what the statute says and leave the section as is but then add this one, two, and three that came from another section that we had proposed for the standards which was environmental, esthetics.

CHAIR LUCE: It actually came from 463-64-070 which when we looked at it really wasn't a standard either. It reads environmental, esthetics, and other benefits, and it talks specifically about intent and policy. So we moved that which was a standard, which was in the standard section but was not a standard, back into the policy section. And so in the pink sheet that's what you see at the top. So we've deleted the need for power because need for power really isn't part of the statutory language. Need for energy facilities is. Then we instead of having the one, two, three, we added the one, two, three as specified there out of the 070 which was in the standard section.

MS. ADELSMAN: Is that statutory language too, Allen?

CHAIR LUCE: Yes.

MS. ADELSMAN: So we're just moving it.

MR. FIKSDAL: Right. It came out of the statute as part of the intent.

CHAIR LUCE: It's verbatim.

MS. TOWNE: If I may pick a small nit, 020(3) the statute says providing abundant power at reasonable cost.

CHAIR LUCE: At reasonable cost?

MS. TOWNE: Correct.

CHAIR LUCE: You can pick at that all day. We will delete the A.

MS. TOWNE: I'm trying for clarity.

CHAIR LUCE: Okay. Go ahead.

MR. FIKSDAL: So that's changed. You see on the back of the sheet that we've deleted the need for power and the environmental, esthetics, and other benefits we've deleted from our proposal. The other discussion was the Council overhead cost, and I think there was general consensus on this last meeting that that proposed rule would be deleted. So we have done that in this second paragraph under new section. It would have been 463-14-090. That will be taken out. Then back to kind of the need for energy facilities there's a proposal to add a new section to Chapter 42 which is the applications for site certification chapter and add a new section after 010 Purpose. I assume it would be 020, but we don't know until the Code Reviser actually assigns the numbers. So the new section, proposed new section is WAC 463-42-XXX which would read: Council recognizes pressing need for energy facilities. RCW 80.50.010 requires the Council to "recognize the pressing need for increased energy facilities", which is directly out of the statute. For that reason the applications for site certification that comply with the standards set forth in this chapter need not demonstrate a need for the energy facility. Essentially that is a direction to the applicants in preparing their applications that they don't have to put in information that demonstrates the need for the energy facility.

CHAIR LUCE: I believe Tony had a suggestion. Tony, you had a suggestion?

MR. IFIE: Right. My suggestion which was brought to my attention by Ann actually was that we take out in the middle of the second sentence that section, take out the part that says that comply with the standards set forth in this chapter.

CHAIR LUCE: It's only this chapter referring to the application not the title.

MR. FIKSDAL: So if that is the case that second sentence would read: For that reason, applications for site certification need not demonstrate a need for the energy facility.

MR. IFIE: Right.

MR. FIKSDAL: If that is what the Council thinks is appropriate, we will go forward with this piece of paper.

CHAIR LUCE: I have one other point which I think we've talked about but didn't get in, and that was in the Purpose section of 463-64 WAC which is construction and operation standards for energy facilities. That is in your pink sheet. The Purpose section, second sentence says: This Chapter sets forth performance standards and mitigation requirements specific to and then it had a bunch of stuff. The need for power strike that and also environmental, esthetic, and other benefits strike that because we've changed that. So it would read: This chapter sets forth performance standards and mitigation requirements specific to seismicity, noise limits, fish and wildlife, wetlands, water quality, and air quality associated with site certification for the construction and operation of energy facilities under the jurisdiction of the Council and then just reads as is the rest of the way.

MR. FIKSDAL: Because those are deleted. You're deleting these two sections, then we would change the preamble to represent that.

CHAIR LUCE: Right.

MS. ADELSMAN: That's fine.

MR. FIKSDAL: The next item we discovered that in the green sheets in which you all had and what we sent to the Code Reviser which is the pink sheets, a big pile of pink sheets that I don't know some of you may have gotten. We had inadvertently left out a chapter, and it was going to be a new chapter called term of site certification agreement. I think you have a white piece of paper before you that has the proposed chapter. We don't know what number. It says Chapter 463-XX term of site certification agreement, and they would be all new sections. Actually some

of these sections are parts of old sections that are in the rules, the current rules. This chapter would give direction to the Council and others about the term of site certification agreement and more broadly defines that and what that means. So we have in this piece of paper that you have there are several underlines and strikeouts. Those underlines and strikeouts were those changes suggested by Ann Essko, and I would open it up for discussion for the Council whether they think these are appropriate and whether you want to go forward with this new chapter or not.

MS. TOWNE: My only question was on 080. This is on the top of Page 3. We used to say to verify environmental conditions, regulatory requirements, or appropriate technology, and she's added a lot of stuff which seems to get to the same point. I just want to make sure I was reading it correctly.

MS. ESSKO: The problem I was trying to address was in 070 you have a list of things that the applicant has to tell you about having to do with changed conditions, and there's a number of things that were in the original rule, and then I added a few that just seem to be kind of common sense things that I thought you would want them to address with you. My concern was that in 080 it tells the Council it can hire an independent consultant to review things, and because the things that it can review looked different than the things that the applicant has to report on, I wanted to make sure that they were mirror images. So whatever you decide the list you want in 070, 080 ought to be the same just so it's clear between you and the applicant that your independent consultant can look at those same things.

MS. ADELSMAN: Right.

CHAIR LUCE: Okay. Any questions from the Council? There are a number of parentheticals at least in my draft. Do we want to walk through the parentheticals and make sure we understand what's going on with those? The first parenthetical that I found was on 463-050, "required by the site certification agreement to the Council at least ninety days prior to start of construction." The parenthetical I assume this is what is meant by required. Ann, can you explain your parenthetical.

MS. ESSKO: Sure. You bet. The original language says, "A certificate holder shall provide required plans and specifications to the council at least 90 days prior to start of the construction," and I am assuming that means plans and specifications required by the site certification agreement. But it wasn't clear to me.

CHAIR LUCE: Right. Yes.

MS. ESSKO: I note that there were some words missing in that where it says prior to start of construction. I assume prior to the start of construction.

CHAIR LUCE: Right.

MS. ESSKO: I assumed Chris would have caught that.

CHAIR LUCE: Probably several times over. The next parenthetical in 060, Reporting Changes in site or project conditions - first five years. "If construction is planned to start after 18 months" [from when?] I assume it's from issuance of the site certification agreement.

MS. ADELSMAN: Yes.

MS. ESSKO: Okay.

CHAIR LUCE: Then going on, or any time during the first five years after the effective date of the blah-blah-blah at six months prior to blah-blah shall report to the council any substantial change from the site certification agreement has occurred in project design. Then the parenthetical was don't you also want to know about changes in relevant off-site environmental conditions that were issues in the hearing?

MS. TOWNE: You can't determine who will move in next door.

MS. ESSKO: Yes, exactly.

CHAIR LUCE: That's a good question. I would leave it to the Council's discretion at that point in time. I could see circumstances where you want to know it and you wouldn't want to know it; where it would be important and where it wouldn't be important.

MR. FIKSDAL: I don't think you want to get into having a whole new EIS done. How do you capture it?

MS. ESSKO: This is the whole trigger that an applicant has to tell you. So you can say it's different between having an applicant tell you about site environmental conditions versus project-related environmental conditions. I'm not even sure either of those ways of stating it is correct, but you want to be clear with them. Do you want them just to tell you about what's on the four corners of the site or do you want them to tell you something else?

CHAIR LUCE: Let me just say I consider the site and the project to be synonymous. I mean the project is put on the site, so the project in my way of thinking I suppose you consider it one and the same. But the project would be the combined cycle gas turbine sitting on the larger site, but it would not be the project. It wouldn't be what's going on 20 acres removed down the road in Farmer John's swamp. That would be interesting. Maybe Farmer John drained his swamp, and it wiped out a population of threatened mud turtles, but that doesn't seem to me particularly germane to anything that's gone on in the project site. So when I read project and site conditions that's what I read it to, specific project and the specific site.

MS. ESSKO: But what if Farmer John's 20 miles away site was an issue at the adjudicative proceeding?

CHAIR LUCE: Why was it an issue at the adjudicative proceeding? What was the issue?

MR. FIKSDAL: It's hard to say. There's so many different types of issues going on.

CHAIR LUCE: That's why in a sense I would leave it to staff's -- first of all, the obligation is upon the holder of the site certificate to report.

MR. FIKSDAL: There would be other issues I could see. You can speculate. There's a lot of speculation. If you had a pipeline that wasn't built and someone wanted to build it five years later, and there's several spotted owls three or four miles away, and now there's some reason to believe that there may be some impact how would that knowledge get to the Council? That's what you're getting at.

MS. ESSKO: That's what I'm getting at. If you go tell the applicant all you have to report on are the four corners of the project site, then they're not going to know that you're expecting them to tell you about things that were dealt with in the EIS or the adjudicative proceeding that were central to the issues of the site certification agreement.

MS. TOWNE: I would argue that the language that protects us is project related, which you added, Ann.

MR. FIKSDAL: That's going to be enough?

MS. TOWNE: Yes. Because that doesn't say in situ, it's project related. We looked at herons off site in BP.

MR. FIKSDAL: I wouldn't speak about an application that's active.

MS. TOWNE: Well, let's talk about our spotted owls. If they're a half mile from the site and feed somewhere we talked about in the EIS, and if that condition changed, there is ten more of them or they all went away, it's a project-related environmental condition; therefore, a plain reasoning would say yes.

CHAIR LUCE: Gee, I could argue it could be or it couldn't be. It would depend upon the circumstances, and I would hate to try and define project related. We could be here forever.

MS. TOWNE: Right. But it's open-ended enough.

CHAIR LUCE: Right. I'm just saying we don't want to try and define project related. We could be here a long time trying to define project related, so I like the language as it's written. I can live with that.

MS. ADELSMAN: I was going to say why don't we deal with it with mitigation? You know, look at some mitigation proposals. Some of them are beyond the site but may be within the project related or they may be off site. Don't we want them to report on any condition that would impact future mitigation?

CHAIR LUCE: On anything?

MS. ADELSMAN: You could qualify what's appropriate to whatever is relevant.

MR. FIKSDAL: A lot of this is going to be up to the discretion of the Council at that time.

CHAIR LUCE: That's what I'm trying to get to.

MR. FIKSDAL: So I guess I like the project related, and the Council is going to have to make some determination at the time what is and what isn't. I guess the issue that I see here is how do you get information that either wasn't part of the adjudicative proceeding, isn't, you know, part of the site certification agreement or may be new environmentally? There's no comfortable way I don't think in a rule to talk about, you know, potential future environmental issues that may arise and to whom and how severe.

CHAIR LUCE: But the Applicant is going to come to the Council with this information, and the Council staff does and the Councilmembers may be gone from that particular application, but Council staff will probably have some continuity of history.

MR. FIKSDAL: Well, --

MS. ADELSMAN: Maybe not.

CHAIR LUCE: The point is that's your reliance.

MS. ADELSMAN: Well, the idea of rules is to have in the rules as much certainty as possible so an applicant or future Councilmembers could see things without having -- and I agree that there is a lot of discretion, but at least project related for me it's broader than the site. I think the way we define the site is narrower than really project related.

CHAIR LUCE: Are we comfortable with the language as it's written, project related or not?

MS. TOWNE: Yes.

MS. ADELSMAN: Yes, in my opinion.

MS. TOWNE: If you want to clarify that first parenthetical from when, you try this. If construction is planned to start after 18 months or before the end of the first five years after the effective date of the site certification agreement. That means the trigger is the site certification agreement date, and it would then apply to both 18 months and five years.

MS. ESSKO: Read that again.

MR. FIKSDAL: When I was writing it down that was the intent.

MS. TOWNE: I think that makes it more clear.

MR. FIKSDAL: I had it down a hundred different ways.

MR. IFIE: Quick question. My question to you, if you get a chance to look at the longest sentence, to see if there's a way to break it up. It's very long. It's one of the longest sentences I've ever seen.

MS. TOWNE: In 060?

MR. IFIE: I would want to break it up. That would be so helpful.

MS. TOWNE: You're right. It is rather wordy.

CHAIR LUCE: Go onto Google and type long sentence if you want to see a long sentence.

MR. IFIE: I don't have to hear it.

MS. TOWNE: All right. I will talk to Allen.

MS. ADELSMAN: We will delegate that to Allen and Chris.

CHAIR LUCE: So we are resolved with 060 parentheticals. Let's go to 070 parentheticals. You want to walk us through it, Ann?

MS. ESSKO: Sure. It originally says that after five years from the issuance of the SCA the applicant has to let you know six months prior to their start of construction about changes in the application and environmental documents, whether conditions in the application and environmental documents are still valid and applicable. My first suggestion changes the addition of a few other things to trigger, so that they would have to let you know not only about changes in the application and environmental documents but also about changes in the Council's recommendation to the governor and the site certification agreement and regulatory permits because it seemed to me those were sort of crucial decision making documents that the Council had issued. So if there were changes in any of those things that's what the applicant would have to let you know about. I posed two questions related to that. One is when you say that the changes whether the documents are still valid and applicable, I thought you might want to think about what you think valid and applicable means. And also you asked the applicant to identify any needed changes, and I wasn't clear about what you were telling the applicant to do.

CHAIR LUCE: To the site certificate.

MR. FIKSDAL: Boy, or the application or –

CHAIR LUCE: If you leave it open-ended.

MS. TOWNE: I'll give you an example. The feds are now going to introduce new diesel emission regulations, and let's say there's some operating equipment involving diesel, and they will now be subjected to some particulate, 90 percent lower particulate emissions. That wasn't true at the time they got their site certificate. It is now, but they haven't built it. So when they do build it, they're probably going to be subject to the new diesel rule, federal rule; therefore, that's a new thingamabob. I think that's how I read it.

MR. FIKSDAL: I think that with the word valid put in because in some cases the PSD may have been expired so whether it's valid doesn't exist. I guess we could wordsmith that. Some of the permits that were issued may not still be valid or they either expired or conditions have changed, so that one should be changed. Applicable I think is only to that project. I think that's a bad term.

MS. TOWNE: I want to go back up to 060. There's one other little thing. I wasn't sure what you meant, Allen, in your drafting. It's on line something or other. The certificate holder shall report to the Council if any substantial changes occur. I didn't know whether you meant if or whether. Do we want all of them to report and then tell us if? You can read it either way. If I'm the applicant, I can look over the list and say, no, nothing has happened, so I won't report, or did you mean everybody reports and says, yes, something has changed or, no, nothing has changed? Take your pick.

MR. FIKSDAL: Actually this gets to the difference between 060 and 070.

MS. TOWNE: Right.

MR. FIKSDAL: What's the difference in reporting, you know, three to five years, after five years? And I think the three to five years or the first five years shouldn't be in my opinion shouldn't be quite as severe as the second five years. I mean five years isn't a whole lot of time. I think I was trying to say if there are changes, then the applicant needs to report to the Council. I think if there are changes after the five years the applicant needs to or the certificate holder I

should say needs to report pretty substantially more information about the existing conditions and any changes not only in environmental conditions but the project itself. I don't know if the words capture that or not, but that was my sense of those two sections.

MS. ESSKO: Would you then want to make 060 and 070 almost mirror images? That 060 says if and 070 says whether, and you're getting in both cases they're reporting about changes. That way they don't try to figure out what valid and applicable means.

MR. FIKSDAL: If that conveys the difference, yes. I mean I don't have any –

MS. TOWNE: Go back up to 060. The actionable item is certificate holder shall report –

MR. FIKSDAL: Right.

MS. TOWNE: -- in the first five years. Maybe it should be the applicant shall determine whether there have been any changes. If there have been significant changes, it shall report. I mean those are two separate thoughts. When you go back down below 070 maybe he has to report. That way you could separate it and have two different standards.

MR. FIKSDAL: The impetus of these two sections were several site certification agreements that have been issued, and they had conditions similar to this; although, they didn't have it in two sections. It's just one paragraph in the site certification agreement. So I was trying to convey two different ideas. Again, I don't know if I have done that accurately. I think Karen or Darrel, as well as Chuck, do you have some thoughts to that? Karen, do you have any thoughts to that?

MS. McGAFFEY: I guess I have two thoughts about it. My first one is a clarification or a question I guess. My assumption was that these provisions would only be applying to future site certification agreements.

MR. FIKSDAL: Right.

MS. McGAFFEY: I think that's not clear on this document, and probably since it's in a different chapter than it's stated and stuff, there probably needs to be a provision saying this only applies to future because while many of these provisions are similar to what you see in other site certification agreements they're not identical. So I think you want to make it clear that you're not purporting to change other site certification agreements.

MR. FIKSDAL: But isn't the case of existing site certification agreements they are essentially contracts? You can't go back and change it, so by default.

MS. McGAFFEY: I think that's true, but I think it would be worthwhile to add a provision that makes that clear, so there's not some misunderstanding that people think you're trying to. It should just be clear to do, but I agree with you that I would not think they would apply. I'm not even sure they could apply. Secondly, with respect to the point we were just on about distinction between before five years and after five years, I'm not sure the language that's here conveys the idea, Allen, which you described of a less rigorous condition within five years. I mean the way I look at these even if you make the if and whether distinction that we have been discussing, before five years you would have to do a pretty serious evaluation of what the environmental conditions are, and then you have the date if you came to the conclusion that, no, there have been absolutely no change and didn't have to report anything. But it seems to me that in prior site certification agreements in the discussions we've had about this issue for the past couple of years there has been this idea that within the first five years absent needing to come to the Council to seek an amendment for the SCA you're pretty much free to go whereas in the five- to ten-year time frame there's some obligation to provide the Council with updated information and kind of have a look-over. So I don't have the language to offer up at this moment, but my sense is the language that is here doesn't really capture that distinction.

CHAIR LUCE: Could I offer as a suggestion that the Council manager and Councilmembers know what the intent is. We're not going to be able to wordsmith this one to the ground I don't think here in the next 10, 15 minutes, so what I would suggest is that Chris and Ann and Allen do the wordsmithing, and that we circulate this one by email, and that we'll pass judgment on it in that manner. The intent of the Council will be as described by Allen with a lower threshold in the first five years and a substantially more vigorous threshold in the next five years. Rather than postpone this until the June 7 meeting, we will have a sense of the Council on how we wish to proceed, and then we'll ask for an email from Allen after he consults with Ann Essko and Chris as to how we go forward from there. Does that make sense?

MR. FIKSDAL: Darrel, did you have a comment?

MR. PEEPLES: Yes, I've got a couple comments, especially on this one. You've got to understand, jumping on with Karen, I'm going to say our clients are going to be out getting financing. There's going to be just some incredibly hellish due diligence going on, and with this language here that's going to be interpreted to the worst case, upon the worst case, upon the worst case I mean forever. And I think what you have done with this language to a certain extent has made it an 18-month certificate because it's going to make it I think real hard or could make it very hard to get financing. They're going to require an incredible amount of work to show there are no I mean and it's going to go far above the requirements which the lenders will put on as a result of this, far greater than any of you guys intended. That's the first point. The second point it says the applicant will come back. This is assuming we've gone through a contested case hearing on that. What about the intervenors? Are they going to have a chance to come back and then challenge this and get it going again? I mean that's just a question. And when you combine that with I think the amount of due diligence that the applicant is going to get hit with I think it could create some real problems.

CHAIR LUCE: I think that's why it says the certificate holder.

MR. PEEPLES: I realize what it says, you know. But then are we just going to trust the certificate holder? You know, what about the Counsel for the Environment? You know, I mean is the Counsel for the Environment going to come back in? So anyway I think that's a real problem especially when it comes to trying to get financing.

CHAIR LUCE: This is the system we already have in effect already.

MR. FIKSDAL: Not exactly.

MR. PEEPLES: For the first five years. The way I understand it when you go to that second five years it's thorough. You're going to have to go out, and it's going to be pretty thorough.

MR. FIKSDAL: Let me put it this way. Do we need this first five-year section at all or is the second five years the only thing that's needed in the rules?

CHAIR LUCE: The PSD is going to expire before that.

MR. FIKSDAL: Yes, 18 months.

CHAIR LUCE: So you're going to have to go back to get that anyway.

MR. FRYHLING: This is in reply to a discussion we had a year ago, and some of us were somewhat pushing this. And then we moved away from this, and the first five years was basically more in keeping with what Karen and Darrel are saying that they don't want to be affected the first five years. But I know some of us were pushing more of what you have there in that section there because we felt we wanted to have more control. But I thought we moved off of that at one point.

CHAIR LUCE: I'm okay with just going to the second five years.

MR. FRYHLING: Because I was one of the people that was looking at this Section 060 that this is what I thought we should do, but after much discussion I was convinced that we probably didn't need the first five years.

MS. ADELSMAN: What happens if changes happen in the first five years? Don't we want to know before waiting any longer? Because you have 080 that's the review of the changes, and then you're taking and doing something about that.

MR. FIKSDAL: Well, I mean, again, a lot of assumptions and speculation is what some of this was. We did discuss this for the last two years. I think what we need to do again is to look at what the existing site certification agreements said and make sure that this is more parallel with what the existing site certification agreements are, so that you use that as the model. I think I may have gone a little further than the existing SCA, so I think between maybe Chris and Ann and Hedia we'll look at whether 060 is needed. Maybe we'll start off and look at what the conditions are in the site certification agreements. We may just copy that order precisely.

MR. PEEPLES: Again, my concern is what's the bank going to do when they look at this? They're going to try to jack up the interest rate and everything else.

MR. FIKSDAL: The hard part about any rule is you write something with an intent, but later all your different scenarios didn't cover the actual reality.

MR. PEEPLES: I've got another comment with regard to the need. Now the words in there is need not demonstrate. Then the question I have is what's the Council going to do when the applicant is trying to polish the apple? It says need not and it says shall not introduce, so it says need not. Are you going to let the applicant polish the apple and say we need this power? On the other hand, if the applicant doesn't put that in the case, are you going to allow intervenors to come in and say you don't need the power?

MR. FIKSDAL: I think it's going to be up to the Council to decide what the issues are for the adjudicative proceeding, and I think the policy part of the law is going to be their guidance where it says there's an increasing demand for energy facilities.

MR. PEEPLES: Okay. What that's going to do is when Karen and I are writing an application do we not put it in and then maybe then take a hit from the intervenors or do you preemptively put it in? I don't expect an answer about it, but we still have that problem here. I like the rule. I'm not opposed to it, but you still have that problem here.

CHAIR LUCE: Okay. We are going to have a little subcommittee now, and we're going to have a subcommittee that's grown somewhat until it grows to a quorum and then we're going to have a special meeting, and I don't want that. So the subcommittee will be Hedia, Chris, and Allen advised by legal counsel, Ann. They will come up with something on 060. The first question is do we still need it given the fact that we have PSD permits and NPDES? There are a whole number of issues that have occurred in the first five years. If we do need it, what should it look like and how should it distinguish itself from 070 given the fact that it's a lower threshold? I think everyone agrees that the second five years will be the higher threshold. Let's see if we can do that in the next couple of days and get that out to all Councilmembers, so we can get finalized on this. So we can get all of this great package including, and I should have raised this earlier, anybody who has gone through all these pink sheets like Chris has and made all the spelling changes and grammatical changes and other things. The nonsubstantive I would call it but still important to Allen, so we can get it back to the Code Reviser, so we can keep our schedule which has slipped far too much already.

MS. ADELSMAN: We're relying on Chris to catch all those.

MR. FIKSDAL: Well, actually she has given me some, so we have a quite a few.

MS. ADELSMAN: So in the next couple days Mike or somebody will go through all the conditions and give us a sample.

MR. FIKSDAL: I will do that.

CHAIR LUCE: So do we have other rules?

MR. FIKSDAL: We don't have other rules, but I think we need to discuss there was that email from David Mudd from Fish and Wildlife.

MS. ADELSMAN: I need to leave soon for a budget meeting.

MR. FIKSDAL: Basically I don't recall if every Councilmember got a copy of this.

MS. TOWNE: I think Mariah sent it to everybody.

MR. FIKSDAL: There were several parts that Mr. Mudd has discussed that I think that the Council needs to at least consider. In WAC 463-30-050, he is concerned that the change in the language would not allow Councilmembers to communicate with employees of the represented agency which is in conflict with the current operating procedure with at least some members of the agency that are contracted for EFSEC for Fish and Wildlife issues. I think in reviewing that rule I think it is clear enough. The rule is clear enough so that his concerns are met. It isn't absolutely specific, but the APA does not allow the Councilmember as a decider to work with those members of the agency that are involved in any adjudication if they are a part of the adjudicative proceeding, so I think that was clear. There is a comment in Chapter 42 which is application for site certification Subpart A that a number of locations there are notifications that the applicant will be responsible for various fees; however, there isn't anything in the rule that would state they would be responsible for all mitigation costs until we receive the bondings. I don't think that is a -- I can foresee where the applicant may not be responsible for all mitigation costs. There could be some other funds that are available that were contributed by towns and counties or some other organization, so I don't think that should be there. I think that it's still clear in the rules and I think through the adjudicative proceeding what the applicant is going to be responsible for as far as mitigation goes and what those fees are. There is another comment by Mr. Mudd about in previous drafts of rules there was discussion of abandonment of a site. I think we have rules or a proposed rule that talks about suspension of construction and site restoration, decommissioning, but there's no mention or use of the word abandonment, and that is one thing that I think we need to look at the rule. And so I will take a look at the specifics and get back to the Councilmembers if I think there needs to be a change or not. I think there is a comment that Mr. Mudd had that in the rule in Chapter 42 there's a section on an applicant following Department of Fish and Wildlife's policies for wind issues, but there's no mention for following the policies for other wildlife directions or policies that Fish and Wildlife has.

MS. TOWNE: He cited specifically to guidelines for mitigation for any project, wind or not, from '99 or something like that and gave us a citation. And just as we cite to Ecology's wetlands standards with a date it's a similar thing that he would like us to do there. It seems not unreasonable.

MR. FIKSDAL: Does the Council think it's appropriate that we cite those types of mitigation policies that the applicant should look at those and consider those policies in addition to just the wind?

MS. ADELSMAN: We are not making it mandatory.

MS. TOWNE: A guideline isn't a reg, but still if you're going to get by Fish and Wildlife presumably it would be prudent to look at them and follow them.

MR. FIKSDAL: There is one other issue that he had brought up. It's under the site restoration and preservation whether there should be some mention of including a provision for retaining

and protecting mitigation sites which are required for the on-site impacts. In other words, if the application or the site certification requires some ongoing mitigation project should we have something in the rule that says those mitigations should or shall continue after site restoration? But, you know, how long after site restoration? Is it forever? My concern with putting something like that in a rule is the specifics are going to be played out in the site certification agreement. I think the site certification agreement should be the basis for determining how long mitigation should go on after site restoration, plus there's going to have to be a site restoration plan submitted and the Council can determine what the conditions should be for ongoing mitigation. So I don't believe, my personal belief is I don't think this should be a condition in the rule that says that will continue or it should be more.

MS. TOWNE: The legal question is once restoration has occurred to previous conditions is there a nexus for requiring ongoing mitigation absent an impact that gave rise to the mitigation?

MS. ADELSMAN: Say we had them buy wetland, 20 acres of wetlands somewhere, and that wetland needs to be maintained somehow for it to function as a wetland, and the project is abandoned, don't we want to at least review to see whether they need to continue?

MR. FIKSDAL: I think that's part of this abandonment. The terms of that we need to look at.

MS. TOWNE: This is the condition where it's been restored thirty years ago, no longer operating, equipment is hauled away, site is restored. Do you still have a fiscal responsibility for that?

MS. ADELSMAN: That's not how it's worded there. Maybe I'm not reading it. I didn't read it as restoration.

MR. FIKSDAL: In the site restoration and preservation that's the section he was specifically citing. He says the specific language if the site is not proposed to be restored including provisions to retaining and protecting mitigation sites which were required mitigation for on-site impacts. It doesn't seem to be worded very good anyway. I guess my sense is I don't believe that the rules should say that it should be ongoing something. I think the point of a site termination plan and site restoration plan should cover those types of activities, and the Council can consider those when that plan is submitted for final site restoration. And a site determination if the Council at that time decides there needs to be ongoing mitigation, I think that's the time to do it.

MS. ADELSMAN: Maybe it would be good to do in the site restoration and preservation section we should at least look and review mitigation. There may be other mitigation sites that we ask them to mitigate, to review those and to see whether they should be retained maybe independent of what you're doing on the site restoration.

CHAIR LUCE: Well, why don't we leave it to the site certification agreement because none of us can foresee that. That's crystal balling so far out in the future, and we have control over the site certification agreement, and we have control over the site restoration. We're talking about sites that none of us can even conceive of now. So I would say as long as the Council has the discretion, which it does have, to deal with it, then let's let the future Council deal with it as they want and feel appropriate at that time and under those circumstances. I'm not going to try to second guess the Council of the future on that issue. As long as they have the discretion they will use their judgment.

MS. TOWNE: The rule is not the appropriate forum to address this. A site-specific, project-specific SCA is the appropriate place for that.

CHAIR LUCE: And the site restoration agreement.

MS. ADELSMAN: It still says if the site is not proposed to be restored.

CHAIR LUCE: I understand.

MR. FIKSDAL: At the time the Council can decide what needs to happen.

MS. ADELSMAN: Okay.

MR. FIKSDAL: I think that covers all of Mr. Mudd's comments.

CHAIR LUCE: Do we have a sense of the Council then? We have discussed all the different changes in terms of need for power which is gone now, need for energy facilities. The Council's discretion is retained. The need for energy facilities is moved to the site application section. The esthetic business is now back in the policy section. Everything that we have discussed so far including the ten years after or the ten-year site certificate.

MR. FIKSDAL: Which is one of my favorites.

CHAIR LUCE: I know. The ten years after that's been delegated to a committee. Do we have a sense then assuming that we go forward with what the committee recommends on the ten years after that we can ask Allen to go ahead and move this to the Code Reviser?

MS. TOWNE: Yes. Yes.

CHAIR LUCE: Thank you. Okay. And the next item is the rule revisions.

CR 102 – Air Rules Revisions

Allen Fiksdal, EFSEC Manager

MR. FIKSDAL: Air rule revisions. We are not done.

MS. TOWNE: Allen, can you tell us who filed the request for hearing?

MR. FIKSDAL: No, I can't. We received two. Specifically we received two requests. I can't tell you the people. They were individuals that I don't believe were part of any organized group. There were specific individuals that felt that air emissions are of such importance they deserve to have a hearing.

MS. TOWNE: So generically.

MR. FIKSDAL: Generically.

MS. TOWNE: So this isn't tied to any project.

MR. FIKSDAL: No, it's not specific at all. Again, we filed for expedited processing and anybody who requested a hearing under the APA you have to go back and issue the CR 102 and schedule a hearing. We will do that, and I think the hearing is scheduled in here somewhere. Irina left me a note. It's at your next Council meeting or the next one for that, so we have filed this. I guess we are asking for your approval to file the CR 102, schedule a hearing to be held July 6. That's a different one.

MS. ESSKO: Here it is. Oh, that is not it.

MR. FIKSDAL: Oh, that's CR 102. I guess it is July 6. That will be your first Council meeting in July for that hearing on the CR 102. Essentially it's to adopt the Ecology air rules, so that we're up to date with Ecology and other air issuing authorities across the state.

MS. TOWNE: It would be very helpful if we are going through that exercise to have staff give us a three-minute primer on the interrelationship of EFSEC and Ecology and EPA as to air rules. What is our role? What is our responsibility? What is our latitude? Because I think we have some significant constraints, and rather than an idle exercise in public involvement, we should know what does the law say and what is our latitude to maneuver within the law.

MR. FIKSDAL: We'll have Irina and Ann.

MS. ESSKO: Oh, thank you.

MS. TOWNE: Three minutes.

MR. FIKSDAL: We're all trying to understand that actually.

MS. TOWNE: Well, I think all of us need that education.

MR. FIKSDAL: Oh, yes. Our authority under air rules and who does what and how come. The other –

ITEM NO. 9: EFSEC OPERATIONS

<i>Update</i>	<i>Allen Fiksdal, EFSEC Manager</i>
---------------	-------------------------------------

CHAIR LUCE: EFSEC operations.

MR. FIKSDAL: Operations update. We haven't done that yet? I've been looking at the question if you recall we tried to develop or I tried to develop a policy. There was some discussion of that last time. I haven't proceeded hardly any further into that. I discussed some issues with Councilmember Ifie. He would like to have a discussion about some of the legalities of that, and I talked to the Assistant Attorney General. And the question was whether we could go into executive session and discuss some of those legal issues. And with Ann's guidance we will look at that, and if there is a chance to do that, we may want to schedule an executive session in the future to discuss those issues. It's my understanding that if we are going to go into executive session, so it does have to be part of the agenda with a notice that we are going to go into executive session and what the subject of that executive session would be. So if that is the case, we will schedule that and we will have a small committee that's going to look at some of the issues, Tony Ifie, Tim Sweeney, myself, and Ann and Jim will look at some of this before we schedule any executive session if that's the case.

CHAIR LUCE: I guess the only thing I would add is we've listened very carefully to what the different parties have said on this issue, and there's a legal issue here. The state auditor made an issue. She didn't make an issue. She stated what the state auditor's office policy was in terms of making sure that you have a rational basis for whatever charges you were assessing and had those written down. And then we are, of course, working as we always do with the Office of Financial Management, so we are doing so against the backdrop of uncertainty and we will proceed at a pace and we will continue to meet our commitment to have this issue resolved by the time the budget process goes forward or by budget. Any questions?

MR. PEEPLES: Is Tim going to develop the breakout sheet under the budget issue?

MR. FIKSDAL: I don't know. I haven't talked to him. He mentioned it at the last meeting, and I haven't had a chance to discuss it with him.

CHAIR LUCE: He is unable to be here today, but he is talking about something like that.

MR. PEEPLES: I think some of the people that Karen and I are associated with would really like to sit down and help work out a solution. I'm just repeating that.

ITEM NO. 10: OTHER

CHAIR LUCE: Now Other.

MR. FIKSDAL: The only Other is again I want to reiterate that Irina is going to be gone for two weeks. She'll be back I believe it's June 1, and then I'm leaving on annual leave starting the 27th of May, and I will return on June 21.

MS. ESSKO: Good for you.

MR. FIKSDAL: I will be visiting out of the country.

CHAIR LUCE: You can leave your cell phone number.

MR. FIKSDAL: I will and my cell phone will be in my desk.
MR. IFIE: He will send us a postcard.
MS. TOWNE: May we adjourn?

ITEM NO. 11: ADJOURN

CHAIR LUCE: Adjourned.

(Whereupon, the council meeting adjourned at 3:28 p.m.)