

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

September 20, 2004 Meeting
925 Plum Street S.E., Building 4, Room 308
Olympia, Washington 1:30 p.m.

ITEM NO. 1: CALL TO ORDER

CHAIR LUCE: The Washington State Facility Site Evaluation Council meeting for Monday, September 20, 2004, will come to order. The clerk will call the roll.

ITEM NO. 2: ROLL CALL

EFSEC Council Members

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

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

MR. FIKSDAL: The Chair is present and there is a quorum.

OTHERS IN ATTENDANCE

EFSEC STAFF AND COUNSEL

Allen Fiksdal
Ann Essko, AAG
Shaun Linse, Court Reporter

Irina Makarow
Mariah Laamb

EFSEC GUESTS

Charles Carelli – Independent Contractor for EFSEC
John Lane – Counsel for the Environment
Darrel Peoples – Attorney for Kittitas & Wild Horse Projects
Jim Hurson – Dep. Prosecutor for Kittitas County (via phone)
Bill LaBorde – Northwest Energy Coalition (via phone)
Alan Harger – DOT

David Bricklin – Attorney with Bricklin, Newman, Dold (via phone)
Mark Anderson – CTED Energy Policy
Troy Gagliano – Renewable Northwest Project (via phone)
Karen McGaffey – Attorney with Perkins Coie (via phone)
Cindy Custer – BPA

ITEM NO. 3: ADOPTION OF THE PROPOSED AGENDA

CHAIR LUCE: The first item on the agenda is the adoption of the proposed agenda. Have Councilmembers had an opportunity to review the agenda, and are there any proposed changes, additions? Hearing none, the agenda is approved as proposed.

ITEM NO. 4: MINUTES

CHAIR LUCE: The next item on the agenda is the adoption of the minutes for August 2 and August 10, 2004. Have Councilmembers had an opportunity to review the minutes for August 2 and August 10? Councilmembers are moving their heads and let the record show moving their heads in a vertical position as opposed to horizontal. Do I have a motion?

MR. SWEENEY: I move to approve the minutes.

MR. IFIE: Second.

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

COUNCILMEMBERS: Aye.

CHAIR LUCE: The minutes are approved.

ITEM NO. 5: PROJECT UPDATES

CHAIR LUCE: The next item on the agenda is project updates. Project updates, Irina, starting with Kittitas.

<i>Kittitas Valley Wind Power Project</i>	<i>Irina Makarow, EFSEC</i>
--	------------------------------------

MS. MAKAROW: I have two items, three items to update. First of all, our esteemed Assistant Attorney General defended the Council admirably in the court case before the Kittitas County Superior Court. If any of the Councilmembers want a copy of her final brief, just let us know and we'll get one to you. For travel arrangements for next week we expect to be finalizing those by Wednesday this week, so please stay tuned. If you do get emails from Mariah, please respond even if you are in agreement, so that we know that everybody is on track. Finally, the comment period on the Draft SEIS closed on Monday the 13th of September, and those comments that were received were distributed to Councilmembers and to the parties. That is all I have for Kittitas Valley.

MS. TOWNE: Irina, could you mail those comments to me, please.

MS. MAKAROW: In Seattle?

MS. TOWNE: Yes.

MS. MAKAROW: Yes, they were all mailed to everybody, so they will be in your mailbox, Chris.

MS. TOWNE: Thank you.

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

MS. MAKAROW: For Wild Horse the comment period on the Draft EIS closed, and we did receive quite a large number of comments, and those were also distributed to the Council. The period for submitting petitions for intervention also closed. We received four petitions for intervention from Kittitas County, The Economic Development Group of Kittitas County, F. Steven Lathrop, and Friends of Wildlife and Wind Power. Copies of those have been distributed

to the Council and we are set for the first prehearing conference on September 30 at 9:00 a.m. in Ellensburg, which has been noticed to the petitioners, where the Applicant will be responding to those petitions orally, and the Council will be making a decision on intervention. Mr. Peeples, do you have any updates with regard to the Applicant working out the land use inconsistencies with the County?

MR. PEEPLES: Yes, just briefly. We are continuing to work with the County, and I think there has been progress and just right now it looks like we'll probably more than likely come back and ask for another extension of time for preemption. We asked for a text amendment, filed for a text amendment with the County that went before the planning commission for the comprehensive plan amendment, and it was denied.

MS. MAKAROW: Thank you. That is all that I have to report on Kittitas Valley and Wild Horse Wind. Are there any questions?

MS. ADELSMAN: I'd just ask a question on the text amendment, I was going to ask --

CHAIR LUCE: Go ahead and ask the question.

MS. ADELSMAN: What is the text amendment? Is this making changes in the comprehensive plan for that?

MR. PEEPLES: We had suggested that the County adopt an ordinance like Walla Walla County did for Wallula, so that if EFSEC approved the project, we would be considered consistent with the land use plans. And as a result of that the County felt that we needed to also ask for a comprehensive plan amendment, so that's what that was about.

MS. ADELSMAN: Okay.

CHAIR LUCE: One more question, Darrel. On the one hand you're requesting another extension. That suggests that you still have a reasonable basis for assuming that you can resolve issues with the County.

MR. PEEPLES: That is correct. We will have a bigger, a considerably more detailed update after the beginning of this week for you.

CHAIR LUCE: Okay. That's all I wanted to ask.

MR. HURSON: This is Jim Hurson.

CHAIR LUCE: Yes, Mr. Hurson.

MR. HURSON: Just for clarification, the planning commission -- I wasn't there -- but the planning commission is just an advisory board. So I guess their recommendation is that it not be approved, but, of course, that's just an advisory opinion to the commissioners.

CHAIR LUCE: Thank you, Mr. Hurson. The next item on the agenda is BP.

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

MS. MAKAROW: Just a quick reminder with regard to the special Council meeting this Friday, September 24, in Bellingham. Mariah has made travel plans, and she's sent those around. If there are any problems with those, please get back to Mariah as soon as possible. This is a special Council meeting for the Council to act on the applications for the BP Cherry Point Project.

CHAIR LUCE: My recollection is the plane is leaving in the afternoon.

MS. ADELSMAN: 12:45?

MS. LAAMB: Yes, about 12:45.

CHAIR LUCE: Thank you.

<i>Sumas Energy 2</i>	<i>Irina Makarow, EFSEC</i>
------------------------------	------------------------------------

MS. MAKAROW: For Sumas Energy 2, just a quick update to let you know that on Friday we did issue the Draft PSD permit extension amendment for public comment. You will all be

receiving copies of those documents in the mail, and we have a public hearing set for Thursday, October 28 in the evening in Everson, and I believe Mariah is in the process of finalizing those travel plans. We will be working with State Patrol to fly in and fly out that same night.

MS. ADELSMAN: I'm sorry. Say again the date.

MS. MAKAROW: Thursday, October 28, in the evening.

<i>Columbia Generating Station</i>

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

CHAIR LUCE: WNP-1.

MR. FIKSDAL: Mr. Mills isn't here, and I'll take over. WNP-1 is at 100 percent power. It's been on line for 29 days.

CHAIR LUCE: Great. Chehalis Generating Facility.

MR. FIKSDAL: Well, let me back up a bit.

CHAIR LUCE: Oh, sorry.

<i>WNP-1/4</i>

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

MR. FIKSDAL: That's Columbia Generating Station. WNP-1 staff has worked out a visit, a site visit to WNP 1 and 4 for October 26. It is a Tuesday, two days prior to the Everson hearing for the Sumas PSD. So we are making arrangements also to fly over to Pasco on October 26. We would leave in the morning, and we would have a site visit to see the activity that's going on at WNP 1 and 4 site restoration. Also there is a time scheduled for the Council to meet with Vic Parrish, the Chief Executive Officer of Energy Northwest and his management team, and we'll return that same afternoon.

MS. TOWNE: Allen, I have a tentative field trip marked on the 25th. Is that the 26th in lieu of that?

MR. FIKSDAL: Yes.

MS. TOWNE: Okay.

MR. FIKSDAL: We had a few different dates that we were working on, and it turned out that Mr. Parrish was only available on the 26th.

MS. TOWNE: Thank you.

MS. ADELSMAN: So we would be back in the evening?

MR. FIKSDAL: Yes. We'll fly over there in the morning, have the tour, meet with Mr. Parrish, and then fly back in the late afternoon.

<i>Chehalis Generation Facility</i>
--

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

CHAIR LUCE: Now Chehalis.

MR. FIKSDAL: Now Chehalis. I have nothing to report.

CHAIR LUCE: All right. Short report. Any Councilmember questions regarding any of those projects that have not been previously asked?

MS. TOWNE: Is there any update, Allen, on the mitigation on 1 and 4?

MR. FIKSDAL: The actual on-site mitigation?

MS. TOWNE: No, the land acquisition.

MR. FIKSDAL: I think Mr. Luce may have something.

CHAIR LUCE: I can give you a brief report. As you're aware the discussions with the McWhorter Ranch owner have not progressed further, and we won't know for perhaps another week to ten days whether there's a realistic chance of that happening. In the meantime, the property that we have been discussing with the City of Richland and Benton County, on Badger Mountain is ongoing. Benton County, City of Richland and Friends of Badger Mountain have been meeting and will be meeting together here in the next ten days and are going to come back

to us with a status update. My understanding is that while no contract has actually been signed, the Trust for Public Lands, which is basically going to purchase this property if they can from the willing seller, will purchase a chunk of the property with these funds that they have available and take an option on the balance of the mountain and then work to secure the funding that's necessary to complete the purchase of the rest of the mountain as soon as possible. So that's all I know right now. I personally hope that maybe it's going to be a one-day field trip over to WNP-1. I'm hoping that myself and Dick Fryhling and committee members may go over a day in advance, if it's a one-day trip, and meet with representatives of the City and Benton County and Friends and see how things are progressing. I kind of feel the need to sit down and look people in the eyes and talk about this more than just talking about it on the phone.

MS. TOWNE: Jim, when you say that TPL would buy one piece and then get an option on a second piece and look for funding for it, would that be where the EFSEC mitigation money would come in?

CHAIR LUCE: Well, not only EFSEC's mitigation money, but the Friends of Badger Mountain I think are waiting until actually something has actually been bought before they kick off their major fund raising effort in the Tri-Cities.

MS. TOWNE: The second question. Is it TPL's intent to acquire chunk no. 1 and then turn it over to Benton County?

CHAIR LUCE: Chris, I don't know all the details. I haven't seen the actual purchase contract. I do know that Benton County has indicated -- and I think I got this right, Benton County or the City of Richland. I believe it's Benton County. At least at the park commission level and staff level have indicated to me their willingness to cover O & M on this project, but I haven't seen the paper. That's why I want to sit down and talk to people face-to-face.

MS. TOWNE: Thank you.

CHAIR LUCE: Yes. That's it.

ITEM NO. 6: EFSEC RULES

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

CHAIR LUCE: The next item, EFSEC rules. Allen, do you have a report on that?

MR. FIKSDAL: You recall that at our last meeting Mr. Carelli went over briefly his work that he has done and he asked Councilmembers to look at that and get comments back to Mr. Carelli. I know that some Councilmembers have done that already. In the time between the last meeting and this meeting I sent out some possible changes to language in the rules based on some of the suggestions that Mr. Carelli had. I heard back from a couple Councilmembers on those changes and some possible other questions. I think now I would leave it to the Councilmembers to say anything that they might want to say regarding this whole endeavor. I think the ultimate plan is to have a special meeting relatively soon after October 10 for the Council to issue the CR 103 which is the order of adoption. Prior to issuing that CR 103 I have to get in any changes that are going to be made to these rules into Order Typing Service at the Code Reviser, so that the Council can have a complete final copy of the rules before they issue the CR 103. So if there are any changes that need to be made to the rules, we need to have that done quickly, so that I can get this into Order Typing Service.

CHAIR LUCE: As I've signaled to you by email I'm supportive of the changes that you've recommended be made. So that will be the extent of my remarks here. I know Mr. Ifie had several questions, and I think, Tony, if you want to expand on those, or not.

MR. IFIE: Well, the comments I had you already responded to most of them, actually all of them. Basically the comments I had were in response to the email that Allen sent out, and on most of the questions Allen was able to respond to them. But there are two of them where Allen said he was going to consult with Ann Essko, our AAG, so I'll let Allen comment on those.

MR. FIKSDAL: One concerns 463-06-150. It was a section on review of denial. This is for requesting a public records or public records request, and there is a comment whether the term should be changed from "review of denials" to "denial of an inspection." And the comment was and I think it was Chuck's recommendation that the word "inspection" be replaced by a "records request." I'll read the email that Ann sent me back. It says Chuck's language is probably clearer, but the stated wording is the quote from the statute, RCW 42.17.320. To avoid someone trying to argue that a denial of records request is different from a denial of inspection, I'd go with the language from the statute. So her recommendation is to stick with the language as it is because it reflects what was said in the statute. Although the records request may be clearer, it just keeps it in conjunction with the statute. So my recommendation would be to keep it as it is.

The second one was 463-30-050, and this had to do with trying to describe what the relationships of EFSEC's contractors are in an adjudicative proceeding. We had the main comment from the Department of Fish and Wildlife that they think the rule could be clearer. Ann's response to that was that it is possible we could make it more clear, but it's going to take some time and effort on her part that she didn't have at this time. She suggested that we essentially go with it as it is, and that if the Council feels that it does need further work to put it on the list of rules that might be looked at in the not too distant future. I'm in agreement with her. I think the rule isn't crystal clear, but I think that is an issue that would be hard to be crystal clear, and the rule language is as good as we can get to date, and I don't suggest changing it. If the Council wants to revisit that issue, then I think there is more than ample opportunity in the near future.

MS. ADELSMAN: Has there been a problem in the past?

MR. FIKSDAL: It isn't crystal clear in all circumstances. I know we have in the past and actually currently had questions about contracting and our consultants and the role of our consultants in the adjudicative proceeding. I think this rule helps from what we have currently, but I don't know if it's the end-all in verbiage.

MS. ADELSMAN: Okay.

MR. FIKSDAL: Those were the only two that I mentioned.

MR. IFIE: One more question.

CHAIR LUCE: Sure.

MR. IFIE: Do we have a list of rules that we proposed that we are reviewing in the future; that EFSEC is proposing to review in the future?

MR. FIKSDAL: I don't think there is a distinct list. I think Mr. Carelli has in his document listed some of the ones that we may want to look at in the future, but I don't think there -- you have listed the documents. But I think once the Council wants to do that, we can prepare a list that would have a distinct list of those rules.

MR. IFIE: Because I recall when doing some of the rules that Jim's opinion at that time was that we shouldn't do the ones that would take so much time; that we won't be able to deliver the product prior to, you know. I mean, in other words, he didn't want to drag it out for a long time. He wanted us to finish the ones we could do in the foreseeable future. So this might be a good

time to look forward and consider the ones that might need to be looked at on a long-term basis. It doesn't have to be tomorrow.

MR. FIKSDAL: I think one of those rules that the Council didn't or decided not to work on was the request for preemption, so we can add that. We can prepare a list.

MS. ADELSMAN: I think the preemption one we decided to put aside. I think there's some stuff that are kind of like substantive things that we may want to consider in the future.

MR. FIKSDAL: We can prepare a list. I'll work on it to try to get a list to you before too long.

MS. ADELSMAN: You ready to go back again and start over?

MR. IFIE: No, no, no.

MR. FIKSDAL: I think there's very few.

CHAIR LUCE: There is an issue of financial resources as well because we have to get some money out of the legislature to do this.

MR. IFIE: We can get the money from Ecology.

MR. FIKSDAL: DNR. One of the issues that the Council has asked about and keeps looking at is because there are some suggested changes to what was issued in the CR 102 in your packet, there's a pink sheet that is the APA Guidelines for changing rules or modifying the rule. And there's essentially three tests, that is 34.05.340(2)(a)(b)(c), and it says if you're going to change the rules substantively, then you need to go out with a new CR 102. And this is the test to figure out if there are substantive changes. Well, 2 says, "The following factors shall be considered in determining whether an adopted rule is substantially different from the proposed rule on which it is based: (a) The extent to which a reasonable person affected by the adopted rule would have understood that the published proposed rule would affect his or her interests; (b) The extent to which the subject of the adopted rule or the issues determined in it are substantially different from the subject or issues involved in the published proposed rule; and (c) The extent to which the effects of the adopted rule differ from the effects of the published proposed rule." Then you go onto 3, and it essentially says if you change anything you have to give notice that there was change, and that any person that disagrees with or thinks the changes are substantive have 60 days, I believe, to file something with the agency. So the changes that I sent you I think meet these tests. I don't think there are substantive changes that would change the intent of the rules, and I think for most people, its clarification comments for particularly what we saw on whether the rule affected existing certificates and site certification agreements. I think that was always inferred, and we just added language to make sure that it was clear that they didn't affect the existing site certificates and applicants.

MS. TOWNE: Allen, on that latter point, 463-62-010, you had initially sent out an email with modifications, minor modifications to several sections starting with 463-62-010, and then followed up some days later after some email exchanges with us with a revision to that revision. I just want to make sure we're dealing with the most recent edit on 010.

MR. FIKSDAL: That was 62-010?

MS. TOWNE: Yes, 463-62-010 and goes with the applicability of the new rules to SCAs.

MR. FIKSDAL: Right.

MS. ADELSMAN: It's 62, not 63.

MR. FIKSDAL: 463-62-010.

MS. ADELSMAN: Yes.

MR. FIKSDAL: The addition I think is the words. I don't believe they were changed. I think the problem is that the change, Chris, didn't come across very easily - what was stricken and changed in a couple of these. The words that I have is the additional sentence would be, "The

Council shall apply these rules to site certification agreements issued in connection with the applications filed after the effective date of this chapter. The regulations shall not apply to energy facilities for which the site certification agreements have been issued before the effective date of this chapter." Then those two sentences are added to two or three different sections throughout the rules.

MS. TOWNE: Right. But then I think I had raised the question what happens if the holder of an SCA proposes significant modifications that would require regulatory action, then which set of rules would apply?

MR. FIKSDAL: I believe that's covered elsewhere in the rules. I don't have --

MS. TOWNE: I may be looking at the wrong section then. I couldn't recall which section that applies to.

MS. ADELSMAN: I have a basic question. A big part of these rules are existing and have been in place for many, many years, and they applied to - really the amendments and a lot of the changes - they're not going to apply now to the existing rules.

CHAIR LUCE: Say that again.

MS. ADELSMAN: Because when you adopt a brand new rule, you could say this regulation shall not apply. In this case we're amending an existing regulation that has been in the books for years, and a big part of the existing language still applies to our business. So we can't really say that this rule shall not apply. So it's like we have no rules governing the existing.

MR. FIKSDAL: No, I think in most cases the existing site certification agreements are the documents that guide the certificated plants. They are contracts that the state has with the projects that have been approved. Those are the overriding conditions that the project has to meet whether the rules have changed or not.

MS. ADELSMAN: I agree with you, but say Kittitas, Wild Horse or someone right now we don't have yet a site certification agreement, if we did not amend the rules at all, the existing rules would apply to them. So for us to say this language shall apply to these rules only after, so which rules govern the existing pending project that we don't have site certification?

MR. FIKSDAL: For the applications they are governed by the current rules. When they applied they were essentially not grandfathered but whatever.

MS. ADELSMAN: No, I agree with you.

MR. FIKSDAL: The site certification hasn't been issued yet, so site certification if it's issued after the effective date of these rules will have to abide by these rules.

MS. TOWNE: If it's changed.

MR. FIKSDAL: If they've changed, correct.

MS. ADELSMAN: So the Council shall apply these rules to the site certification agreement in connection filed after. So what you're saying is it's not that these rules do not apply to the existing ones, but if we have an agreement in place, the agreement is really what governs.

MR. FIKSDAL: For existing site certification agreements, yes, if it covers that condition.

MR. PEEPLES: Allen, it's essentially the Doctrine of vesting. It's not something you agreed to. The Doctrine of vesting is what Allen is trying to refer to which is a legal doctrine that says that the rules and regulations and statutes -- not especially statutes -- rules and regulations that would apply to an application vest at the time of application to those regulations in existence at that time.

MS. ADELSMAN: And I agree with that. I think I may be not reading -- say if we had a site certification agreement right now, and if there's going to be any amendment. Unless the site

certification agreement has everything in it, if they come back and ask to amend something, we go to the existing rules; isn't it?

MR. FIKSDAL: I would think that if they're going to go through amendment that would vest into the rules existing at the time they filed for an amendment.

MS. TOWNE: Yes.

MS. ADELSMAN: Then I would say this regulation shall not apply. We're saying that the amendment to this regulation shall not apply.

MR. FIKSDAL: I think to cover everything --

MS. ADELSMAN: This regulation becomes this is it. It becomes --

MR. FIKSDAL: I don't think there's an issue here personally.

CHAIR LUCE: No.

MS. ADELSMAN: Maybe the way I read it. Because for me when you say these regulations, once you adopt them, then they become the existing regulations, and you say shall not apply to projects that have been here before the date of this.

CHAIR LUCE: Unless they come for a significant change in which case the regulations will apply.

MS. ADELSMAN: It doesn't say that in here.

CHAIR LUCE: That's because it says it elsewhere.

MS. ADELSMAN: Well, the applicability section normally would be a little bit clearer. If you think there's no problem, that's fine.

MR. FIKSDAL: I'm not concerned about that.

MS. ADELSMAN: Okay.

CHAIR LUCE: Other Councilmember questions?

MR. IFIE: What is the process for getting comments on the Concise Explanatory Statement? Does it go through you?

MR. FIKSDAL: I think if you have comments you can contact Chuck directly. I know that a couple Councilmembers and I have given Chuck our comments already, so however you want to get it to Chuck. I think the sooner the better because I'm sure Mr. Carelli is going to work very hard to get this completed by the second week in October, so that we can have it ready when you issue your CR 103.

MR. IFIE: I have my comments now. I was just wondering how to get it to him.

MR. FIKSDAL: Why don't you just talk to Mr. Carelli after the meeting.

MS. TOWNE: Will we have another chance to look at the package before we act on the CR 103?

MR. FIKSDAL: Mr. Carelli, do you want to step up here?

MR. CARELLI: I don't think Chris should get another bite at the apple.

MR. FIKSDAL: We haven't talked about it yet, Chris. I guess my thought was the Councilmembers would get in their comments, Chuck would get it to us, and the Council would take an action. I didn't think that you would probably have another chance; however, if that's what the Council wishes, it's up to you.

MS. TOWNE: I could live a long and happy life without looking at it again.

MR. CARELLI: I believe my schedule would allow me to have a final draft ready for the Council at its first meeting in October. I don't know what date that is.

MR. FIKSDAL: We may not have that meeting.

MS. ADELSMAN: I think personally I'm okay with having it finalized.

CHAIR LUCE: I'm also relying on Chris's and Allen's and I'm sure Tony's comments to have carried the day, and so I'll go with those comments.

MR. FIKSDAL: I think if Chuck can have it ready a little bit prior to the meeting, I think you will send it out to the Councilmembers, so at least you can review it and see if there's any ultimate fatal flaws that may need to be changed. I don't think we have to have an exact final document the day that you issue the CR 103. We just have to have it ready for filing after you adopt the CR 103.

CHAIR LUCE: I'm not aware of any and I wouldn't be aware of any legal obligation that says that on the date that you adopt the CR 103 you have to have the Concise Explanatory Statement completed. I would think it would have to be completed by the time the 30 days run. It's a document for the record.

MR. FIKSDAL: I think it's filed with JLARC.

CHAIR LUCE: JLARC?

MR. FIKSDAL: Joint Legislative Audit and Review Committee.

MS. ADELSMAN: Also with the 103, when you file the 103.

CHAIR LUCE: Then we will do it by then.

MR. FIKSDAL: So we'll try to get you an advanced copy prior to the meeting before you adopt the CR 103, and if there's anything special, then we can have Mr. Carelli change it quickly and file the documents when we're ready.

CHAIR LUCE: I want to just say I think you did a heck of a job getting it out in the time frame that you were asked to get it out in, and any time you rush a document out the door like that there's going to be a certain amount of things that need to be fixed. I think, Chuck, you probably have already done the super job that you always do in terms of fixing those things. So my vote of confidence is we just send it out final with the edits that you're making.

MR. CARELLI: Thank you. I have a couple of questions. I am not sure. I think maybe Allen could answer this. You sent out a recommended change for 463-64-040. This is the Governor shall, the Governor will.

MR. FIKSDAL: Yes.

MR. CARELLI: Did you also intend to make that change for 463-64-030? It's really the same thing. It says the Governor shall.

MR. FIKSDAL: Yes.

MR. CARELLI: I would make that change.

MR. FIKSDAL: That was a comment that Tony Ifie had, and I agreed that that should be changed, the Governor will take one of the following actions.

MR. CARELLI: The last time I was here I suggested a change to 463-72-050 that says the Council should consider revising this section to read, "when a project is terminated a detailed site restoration plan shall be prepared within 90 days," instead of the originally stated 30 days, and I don't know that there's been any resolve to that suggestion.

MS. TOWNE: I think Tony fixed that up in his edit.

MR. FIKSDAL: Yes, it has been resolved, and it would read 90.

MR. CARELLI: It should read 90.

MS. TOWNE: I think in your explanatory statement you picked it up, didn't you, Chuck?

MR. CARELLI: Well, I think I picked it up in part, but I didn't want to go too far not knowing what the Council action was going to be.

CHAIR LUCE: I think 90 is appropriate.

MR. CARELLI: I have Allen's comments and Chris's comments, and I will get something from Tony. Is there anything else?

MR. FIKSDAL: No, the only changes, and you've got mine or the copy of the changes to the wordage that we sent out. I sent it out to the Councilmembers. I think I sent that out to you; didn't I?

MR. CARELLI: Yes, I believe. I'm not sure I have the revised language to 62-010 and where that language is going to be placed.

MR. FIKSDAL: I'll give you copies of these things then.

MR. CARELLI: Okay.

MR. FIKSDAL: And we can go from there.

CHAIR LUCE: I think we probably need a motion to send this to the Code Reviser.

MR. FIKSDAL: No, that will be the action at that special meeting.

CHAIR LUCE: I'm just thinking about the materials you're going to send.

MR. FIKSDAL: Oh, no, you don't need one.

CHAIR LUCE: Okay. That's fine. If we don't need it, we don't need it.

MR. FIKSDAL: I will just send it to OTS to make sure we have a final copy of the rules.

CHAIR LUCE: All right. If we don't need one, we don't need one. Let the record reflect, however, that the Councilmembers are all in agreement to send it to OTS.

MR. FRYHLING: Yes, we are.

CHAIR LUCE: Heads once again are going vertically, not horizontally, except Mr. Sweeney's is going around and around in circles.

ITEM NO. 7: OTHER

CHAIR LUCE: The next item on the agenda is Other. Does anyone else have something for Other?

MR. FIKSDAL: The only Other that I would have is that in your packet is a copy of Chair Luce's testimony today at the Senate Natural Resources, Energy, and Water Committee, and Mr. Luce will be at the House tomorrow.

CHAIR LUCE: At the House, right, testifying on the regulatory barriers. I've changed that to regulatory barriers overcome based on our discussion we just had about rules. We did offer today, for those of you who may be interested, we were preceded by panel discussions from DNR about geoducks and how the state was very interested in aquaculture for geoducks. So I volunteered to the Chairman that if push came to shove - this was the critical state siting need, we volunteered to take on the siting of geoduck aquaculture. So I don't know if they'll call, but I've committed us to respond, if appropriate.

MR. FIKSDAL: I might say that the Chair of the Committee said that we'd probably have to fight DNR pretty hard to let them give up their authority.

MS. ADELSMAN: Too bad we couldn't buy land and plant geoduck on it.

MR. IFIE: Let the record reflect there is no comment from DNR.

MS. TOWNE: Mr. Chair, going back to the agenda item on the rules, I think it wouldn't hurt to look ahead a month or so and figure out how we will notify an eagerly awaiting world that we in fact have new rules and figure out how we're going to distribute them and thank all the people going back to the stakeholders group and the core planners report group and what have you, or if

the Governor's going to accept them from us with some flourish. Anyway, how do we get this news out to the waiting world?

CHAIR LUCE: Well, we could stand under the street light at midnight. I think it's a good idea. We should do it.

MS. ADELSMAN: With a news release and on the website.

CHAIR LUCE: We should do it. Let me put my thinking cap on, and maybe Mr. Sweeney who specializes in these matters for the UTC could put his thinking cap on too.

MS. TOWNE: Good.

CHAIR LUCE: It's only been three years. What the heck?

MS. TOWNE: I know.

CHAIR LUCE: Some people are talking about regulatory reform about how easy it should be. You couldn't have convinced me when I got the job, but I've become somewhat jaded about regulatory reform and how easy it is.

MS. TOWNE: At least you need to take some credit for getting it done in fine style.

CHAIR LUCE: Stay the course. I guess that's the word.

MS. TOWNE: Yes.

ITEM NO. 8: ADJOURN

CHAIR LUCE: Patience is a virtue. All right. That's it. Meeting is adjourned.

(Whereupon, the meeting was adjourned at 2:11 p.m.)