



STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

May 10, 2005 Meeting Minutes

1. CALL TO ORDER

Chair Luce called the May 10, 2005 monthly meeting to order at 925 Plum Street S.E., Building 4, Room 308, at 1:30 p.m.

2. ROLL CALL

Council members present were:

Richard Fryhling	Department of Community, Trade and Economic Development
Hedia Adelsman	Department of Ecology
Chris Towne	Department of Fish and Wildlife
Tony Ifie	Department of Natural Resources
Tim Sweeney	Utilities and Transportation Commission
Jim Luce	Chair

A quorum was present to conduct business.

Staff in attendance were:

Allen Fiksdal – EFSEC Manager, Mike Mills – Compliance Manager, Irina Makarow – Siting Manager, Mariah Laamb – Council Secretary, Adam Torem – ALJ for Wild Horse project

Guests in attendance were:

Mark Anderson – Community, Trade and Economic Development, Lauri Vigue – Fish and Wildlife, Karen McGaffey – Attorney for Satsop CT Project, Tom Donovan & Joe Long – Invenergy, John Lane – Counsel for the Environment, Chris Taylor – Zilhka, Darrel Peeples – Attorney for Wild Horse project

Guests attending via phone:

Bill Kiel & Laura Schinnell – Energy Northwest, Doug Egan & Peter Pawlowski – Competitive Power Ventures, Debbie Strand – Economic Development Group of Kittitas County, Jim Hurson – Attorney for Kittitas County, Ed Garrot & Mike Robertson – Resident Opposed to Kittitas Turbines, Troy Gagliano – Renewable Northwest Projects, Lynn Albin – Dept. of Health, Jeff Slothower – Attorney for Steven Lathrop.

3. ADOPTION OF PROPOSED AGENDA

The agenda was presented to the Council for amendments or additions. Staff suggested moving item No. 9. – Contracts, to new item No. 5 and to eliminate the duplication of Wallula from the agenda. The agenda was accepted as amended.

4. MINUTES

The minutes from the March 15, 2005 Special Council meeting were presented for adoption. **Motion: To accept the minutes as proposed. Tony Ifie made the motion and Dick Fryhling seconded the motion. The minutes were approved unanimously.**

5. EFSEC COMPLIANCE MONITORING CONTRACTS

<i>FY 2006 Renewals</i>	<i>Mike Mills, EFSEC</i>
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Mr. Mills presented three interagency agreements for renewal to provide monitoring services at certified projects in FY 2006.

Department of Health – Division of Radiation Protection/Environmental Radiation Section provides Audit services as lead for radiological monitoring and sampling at the Columbia Generating Station (Columbia). Energy Northwest expressed concerns that costs have increased approximately 21% from the previous year’s contract. These increases are due to salary increases for health physicists and the COLA increase approved for all state employees for FY 2006. Also, the Department of Health is moving to new office space as their old facilities are being torn down and rent will double at the new location. The increases were characterized as fixed costs of doing business. Proposed budget for FY 2006 for Health – Audit is \$295,155.

Motion: Approve Health – Audit contract for \$295,155. Dick Fryhling made the motion and Tony Ifie seconded the motion. The motion was passed unanimously.

Department of Ecology – Nuclear Waste Program – Richland Office provides Audit services to include conducting quarterly audits for the Columbia and WNP-1/4 sites to assess compliance with certification and technical amendment requirements. Proposed budget for FY 2006 for Ecology – Audit not to exceed \$12, 600.

Motion: Approve Ecology – Audit contract for \$12,600. Dick Fryhling made the motion and Tony Ifie seconded the motion. Ecology representative Hedia Adelsman recused herself. The motion was passed unanimously.

Department of Fish & Wildlife – Audit/Mitigation provides technical aquatic, wildlife habitat, and terrestrial environmental monitoring services for certified projects and provides technical assistance in support of Chehalis Generation Facility – related Dillenbaugh Creek Mitigation Project; and the Council is consulting with the department on the -1/4 offsite environmental activity. The WNP-1 mitigation component was removed from the contract.

Motion: Approve Fish & Wildlife – Audit/Mitigation contract for \$14,565. Jim Luce made the motion and Hedia Adelsman seconded the motion. Fish & Wildlife representative Chris Towne recused herself. The motion was passed by unanimously.

6. WALLULA POWER PROJECT

<i>Site Certification Agreement (SCA) Termination Request</i>	<i>Mike Mills, EFSEC</i>
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Darrel Peeples, Attorney for the Wallula Power Project (Wallula or Project), introduced Doug Egan and Peter Pawlowski of Competitive Power Ventures (CPV), who attended the meeting via phone, and summarized the company's position on the reasons for requesting a termination of the SCA for the Project. He cited low demand for power and high costs for natural gas as determining factors and stated CPV has no intentions to build the Project. Mr. Peeples also stated his client, CPV, does not believe it owes any funds to the Council. Mr. Peeples stated the Council should direct any questions of a legal matter to him and direct any questions concerning the termination request to either Mr. Egan or Mr. Pawlowski.

Chair Luce reiterated EFSEC's position that CPV owes the Council the approximate sum of \$45,000 and that payment is expected for the outstanding amount. Mr. Peeples recommended negotiating a sum to be paid that would be acceptable to both parties. Chair Luce indicated the Council's willingness to continue discussions and stated he believes the sense of the Council is to maintain the SCA until the financial issue is resolved.

Motion: To leave the Wallula Power Project Site Certificate Agreement in place until such time that the financial issues are resolved. Chair Luce made the motion and Chris Towne seconded the motion. The motion was approved unanimously.

It was agreed that Mr. Peeples will meet with staff to discuss process and how to proceed, with discussions with Competitive Power Ventures to follow.

7. KITTITAS VALLEY WIND POWER PROJECT

<i>Project Status</i>	<i>Darrel Peeples, Counsel for Sagebrush Power Partners</i>
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Mr. Darrel Peeples and Mr. Chris Taylor, representing Sagebrush Power Partners LLC, presented a status report on the Kittitas Valley Wind Power Project.

Zilkha Renewable Energy has had its hands full with working on the Wild Horse Wind Power Project, and has had limited resources to direct towards the Kittitas Valley Project. Their attention is still focused on the Wild Horse Project, as they begin working on the site certification agreement requirements in anticipation of the Governor's approving the Project.

Mr. Taylor expressed that Zilkha Renewable Energy has all intentions to proceed with the Kittitas Valley Project. They have had preliminary discussion with Kittitas County regarding next steps that could be taken, and hope to turn their attention to the Kittitas Valley Project this summer. Zilkha wants to take a further look at all the comments that were submitted regarding the Kittitas Valley Project, and how the concerns expressed therein could be resolved. Mr. Taylor indicated that Zilkha hoped they could build on the work completed with Kittitas County on the Wild Horse Project to resolve issues associated with the Kittitas Valley Project.

<i>Hearing Schedule</i>	<i>Irina Makarow, EFSEC</i>
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Zilkha also expressed concern with continuity in EFSEC's adjudicative proceeding given the expected departure of Administrative Law Judge Torem from September through the end of 2005. Zilkha wants to maintain continuity in this case with Judge Torem, but rescheduling the hearings prior to September 2005 is an unrealistic target.

Mr. Taylor requested that the adjudicative hearings in this matter be reconvened in or shortly after January 2006 subject to the Council's and Judge Torem's schedule.

Judge Torem reminded the Council that Council action on this item was required at this meeting to delay and reconvene the hearings to early 2006. He recommended that Council staff contact other parties in this matter and determine their availability in March 2006 for hearings.

Councilmember Sweeney inquired whether a written request for continuance had been submitted to the Council. Judge Torem also suggested that monthly reports on Zilkha's coordination with the County would be helpful. Darrel Peoples responded that a first report submitted in September would be more appropriate.

Mr. Hurson, representing Kittitas County, indicated that he had not yet consulted with the County Board of Commissioners regarding further work with the applicant. In his opinion, the Applicant's outstanding request for preemption was an obstacle to further consultation between the Applicant and the County. He requested that the Applicant withdraw the request for preemption and submit an Application to the County to go through the County review process. Councilmember discussion ensued regarding the status of the preemption request and how withdrawal could impact the decision-making record that has been developed to date in this matter.

Mr. Peoples argued that the preemption request would be de-facto suspended if consultation between the Applicant and the County continued. Maintaining the request for preemption was not inconsistent with going through the County review process.

Following discussion among Councilmembers, Chair Luce summarized the Council's needs with respect to action on the Applicant's request to delay the hearings in this matter until early 2006. The Council requested that the applicant submit in writing a request for continuance of the hearings, with status reports on a 30-day cycle, with the first report due in September 2005; withdrawal of exhibits, and testimony in the record on the issue of Preemption should be avoided; and finally, Council staff requires the leeway to continue working on this project to conduct tasks as needed.

Judge Torem requested that the Applicant address in the request what actions the Applicant wishes to take with respect to the request for preemption, with language mutually agreeable to Kittitas County, to show good faith in proceeding with new discussions with the County.

Counsel for the Environment, John Lane, indicated he had no concerns with respect to continuance of the hearings. However, he asked how the Council would consider changed circumstances over time, and his resulting need to amend or supplement his prefiled testimony.

Judge Torem indicated that this and other concerns could be dealt with at a Prehearing conference to be scheduled in August, prior to his departure. The council could set dates for the continued hearings, and could entertain CFE's concern with supplementation of the record, though not lightly because of further responses and submittals that would be required by intervenors and parties to this matter. Judge Torem reiterated his request that Council staff proceed with querying the parties for dates to hold a Prehearing conference in August 2005, and dates to reconvene the hearings in March 2006.

Motion: To continue the adjudicative hearings in this matter to March 2006 provided the Applicant submits a written request for continuance that also addresses status of the request for preemption, and submits progress reports starting in September 2005. Chair Luce made the motion, Mr. Sweeney seconded the motion. The motion was approved unanimously.

8. WILD HORSE WIND POWER PROJECT

<i>Special Meeting to Adopt FEIS – May 16, 2005</i>

<i>Irina Makarow, EFSEC</i>

A special Council meeting has been called to consider the adoption of the Final Environmental Impact Statement for the Wild Horse Wind Power Project. The meeting will take place on Monday, May 16, 2005 at the EFSEC offices at Washington State University Cooperative Extension Building, 925 Plum Street, conference room 308, starting at 1:30 pm.

9. PROJECT UPDATES

Columbia Generating Station

<i>Operations</i>

<i>Mike Mills, EFSEC</i>

Mr. Kiel reported that Columbia is shut down for the scheduled 35-day R-17 refueling and maintenance outage and is expected to restart around mid June.

WNP-1

<i>Offsite Environmental Mitigation</i>

<i>Mike Mills, EFSEC</i>

Mr. Mills reported that staff is continuing to work with Benton County to finalize the contract that will allow the Council to transfer funds for the Badger Mountain acquisition. Mr. Mills and councilmember Dick Fryhling are also continuing to work with Benton County staff to review possible additional projects in the county.

Chehalis Generation Facility

<i>Operations</i>

<i>Mike Mills, EFSEC</i>

Councilmembers and staff toured the Chehalis Generation Facility earlier in the day and found it very informative. It was characterized by many as an excellent briefing by Chehalis Generation Facility staff to the Council.

Satsop Combustion Turbine Project

<i>Site Certification Agreement (SCA) Transfer</i>
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<i>Mike Mills, EFSEC</i>

Mr. Mills introduced Tom Donovan, Invenergy Services Project Director, who is responsible for day-to-day management of the Grays Harbor Energy LLC Project. He also introduced Joe Long, Operations and Maintenance manager for the project.

Mr. Donovan reported on activities at the Satsop CT Project (Project) site since the transfer to Invenergy. He reported they employ a small construction labor workforce as there are some construction related activities required by the equipment manufacturers when machinery and equipment sits inactive prior to commissioning. General Electric inspected the gas turbines in April and found them to be in good condition. The heat recovery steam generator manufacturer will inspect during this month. Invenergy continues to post “no trespassing” signs and has a security service to watch over the facility when the site is unattended. They also are maintaining

relationships with the Grays Harbor Sheriff and Satsop Fire Departments. They continue to monitor, maintain and report on all of the Project's permits. The minimal amount of hazardous materials used are either properly stored or appropriately disposed of.

Their future plans for the project are actively seeking long-term power contracts. Washington's power market is proving challenging, with transmission restraints and the current resource planning reliance on wind power making higher cost natural gas fueled generation a less desirable resource. However, they continue to aggressively market the Project's long term capacity to interested parties. Their planning process considers and evaluates the full range of options, including site restoration to long-term lay-up to build out of Phase 1 in the near future. Nonetheless, they have received three proposals to complete the Project construction; they have received proposals for the equipment required to meet Air Permit Amendment 2 requirements; and they have received proposals to complete the building and concrete work. If market conditions permitted, they could move forward with completing the plant immediately, however, they will provide the Council a 30-day notice prior to moving out of a deferral mode.

Since approval of the SCA transfer, Invenergy has worked with Council staff to produce an SCA amendment reflecting the change in ownership; submitted the Initial Site Restoration Plan to reflect the change of ownership and incorporate WAC changes; submitted a draft of the Stand-by Trust agreement; and have updated the responsible officials list reflecting ownership change. Later this summer, they plan to submit another SCA amendment request to more accurately reflect the Project description, essentially removing the pipeline references, and they are in the process of updating the site environmental procedures.

Invenergy is concerned about the timing of the expiration of the air permit, and they have re-opened interconnection negotiations with BPA, with the possibility that they will need to update the NEPA review, which will take six months at a minimum. This will push the earliest commencement date up against the January 2006 air permit expiration date. They have until July to commence the work associated with the current open building permits; otherwise Grays Harbor County will terminate the permits and require new submittals that demonstrate design compliance with the IBC rather than the UBC. Also, the USGS gauging station has been vandalized again; USGS will propose "virtual" gauge information, which is available at 1-hour real-time on the Internet. They will forward the request to the Council in June.

Sumas Energy 2

<i>PSD Appeal</i>	<i>Irina Makarow, EFSEC</i>
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EFSEC responded to the PSD appeal before the Environmental Appeals Board (EAB) in Washington D.C. on the Sumas Energy 2 project and is waiting to hear the EAB's decision. The key issues listed in the appeal are startup and shutdown conditions and BACT.

BP Cherry Point

<i>PSD Appeal</i>	<i>Irina Makarow, EFSEC</i>
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EFSEC responded to the PSD appeal before the Environmental Appeals Board (EAB) in Washington D.C. on the BP Cherry Point project and is waiting to hear the EAB's decision. There were many issues listed by Ms. Cathy Cleveland, the appellant, and EFSEC staff have not heard of any further action required of EFSEC.

10. EFSEC LEGISLATION

Mr. Fiksdal reported there is only one bill that will impact EFSEC, HB 1000, Special Meeting Notice, which amends the requirement for notification of special meetings. The bill adds delivery of notice of special meetings by fax or electronic mail for those who agree to that type of notification.

Council discussed whether there would be a need to make a rule change concerning this bill. Staff confirmed it will be looking at the need for rule changes in the near future and agreed this bill might prompt a need for a rule change.

11. CHAIR'S REPORT

Chair Luce announced he is scheduling "listening meetings" with stakeholders to listen to their ideas on strategic planning for EFSEC for the next few years. He plans to share the information with the Council at a future meeting.

12. OTHER

Community, Trade and Economic Development (CTED) has notified its employees of fiscal year closing dates for the end of FY 05. Mr. Fiksdal reminded Council members to promptly provide agency expenses thru the month of June to EFSEC for payment.

13. ADJOURN

Chair Luce adjourned the meeting at 2:41 p.m.