



STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

December 12, 2006 Monthly Meeting Minutes

1. CALL TO ORDER

Chair Jim Luce called the December 12, 2006 monthly meeting to order at 925 Plum Street S.E., Building 4, Room 308, at 1:33 p.m.

2. ROLL CALL

Council members present were:

Dick Fryhling	Community, Trade & Economic Development
Hedia Adelman	Department of Ecology
Jeff Tayer	Department of Fish and Wildlife
Judy Wilson	Department of Natural Resources
Tim Sweeney	Utilities and Transportation Commission
Patti Johnson (via phone)	Kittitas County Representative
Vern Eaton (via phone)	Cowlitz County Representative
Justin Erickson (via phone)	City of Kalama Representative
Jim Luce	Chair

Staff in attendance were:

Allen Fiksdal – EFSEC Manager, Mike Mills – Compliance Manager, Irina Makarow – Siting Manager, Stephen Posner – EFS Specialist, Tammy Talburt – Office Assistant, Kyle Crews – Assistant Attorney General

Guests in attendance were:

Thomas Donovan – Grays Harbor Energy, Darrel Peebles – Attorney, Tim McMahan – Stoel Rives, Bernice Kasko – Energy Northwest, Cindy Custer – Bonneville Power Administration

Guests attending via phone:

Mot Hedges - Energy Northwest, Katy Chaney –URS Corp

3. ADOPTION OF PROPOSED AGENDA

The agenda was presented to the Council for amendments or additions. The agenda was adopted as presented.

4. MINUTES

Staff presented the following minutes for approval: November 14, 2006 monthly meeting. **MOTION – Council member Dick Fryhling moved and second by Council member Hedia Adelsman, the November 14, 2006 minutes of the monthly meeting be approved. The motion passed.**

5. enXco – DESERT CLAIM PROJECT

<i>Public Information Meeting</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported that EFSEC sent out a press release on December 4, 2006, informing the public of the Desert Claim Wind Power project Application for Site Certification. The project is owned by enXco and consists of approximately 90 turbines, estimated to produce 180 megawatts of power. The project is located about eight miles northwest of Ellensburg. The Public Informational Meeting will be held on December 13, 2006, in Ellensburg at the Kittitas County Events Center starting at 6:30 pm. The meeting will be to inform residents about the project, describe the EFSEC review process, and hear initial public comments about the project.

6. PACIFIC MOUNTAIN ENERGY CENTER

<i>SEPA Scoping Report</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported that Energy & Environment, the Council's environmental consultant, is working on a SEPA scoping report to identify the issues to be addressed in an Environmental Impact Statement for the proposed Pacific Mountain Energy Center (PMEC) project. They expect to have it completed and ready for Council review prior to the next Council meeting in January 2007.

<i>Prevention of Significant Deterioration (PSD) Permit</i>	<i>Irina Makarow, EFSEC Staff</i>
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Ms. Makarow reported that Energy Northwest submitted an application for a PSD air emission permit for the PMEC project. EFSEC's consultant the Department of Ecology has reviewed the PSD permit application. After review of the PSD application, Ecology issued an incompleteness report. Energy Northwest has responded to Ecology's incompleteness report and Ecology is now reviewing their response.

<i>National Pollution Discharge Elimination System (NPDES) Permit</i>	<i>Irina Makarow, EFSEC Staff</i>
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EFSEC is working with the Department of Ecology to prepare a contract with Ecology to write the NPDES permit for the PMEC project. Ecology has had some questions regarding the

project and will work with staff to develop a scope of work to assist the Council with the NPDES permit and provide other technical services.

In a matter related to Land Use Consistency, Council member Fryhling had questions regarding county zoning and was concerned if these issues would be addressed when the Council reconvened the P MEC Land Use Hearing meeting.

Mr. Fiksdal stated that a letter was sent to Cowlitz County asking for clarification on zoning issues. He stated Cowlitz County and Energy Northwest will be meeting to discuss zoning questions and will send additional information on the outstanding issues. EFSEC is working with the City of Kalama and Cowlitz County to get the necessary clarifications, but has not received their responses to date.

Council member Adelsman asked if we might need to hold another Land Use Hearing in Cowlitz County. Mr. Fiksdal stated the Council could choose to do that or not. If the responses address the specific concerns, then it may not be necessary to hold the meeting in Cowlitz County, but at some time in the future the Council will need to reconvene for a land use decision.

7. BP CHERRY POINT

<i>Plan Review – Delegation of Authority</i>	<i>Stephen Posner, EFSEC Staff</i>
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Mr. Posner stated that staff is recommending that the Council delegate authority to the EFSEC Manager to approve or deny plans presented by the certificate holder for the construction of the BP Cherry Point Cogeneration Facility (Cogeneration Project). These plans are related to construction activities and are required to be reviewed by EFSEC and other county and state agencies prior to BP's announced construction start date of March-April 2007. Staff recommends the delegation of authority to the EFSEC Manager to approve or deny all submitted construction plans, except the Initial Site Restoration Plan. This process is the same as was done for other projects, i.e., the Chehalis Generation Facility, Satsop Combustion Turbine, and Wild Horse Wind projects.

MOTION: Council member Dick Fryhling moved and second by Council member Tim Sweeney, that council approve the staff recommendation that the EFSEC Manager have authority to approve or deny Cogeneration Project construction plans, except the Initial Site Restoration Plan. The motion passed.

<i>Request for Site Certification Agreement Amendment</i>	<i>Irina Makarow, EFSEC Staff</i>
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In a letter sent to EFSEC on November 21, 2006, BP West Coast Products (BP) requested a change in the areas designated to be used for laydown during construction of the Cherry Point Cogeneration Project. BP needs to move the Refinery offices and would like to build in the location identified as Laydown Area 2 for the Cogeneration Project permitted by EFSEC in 2004. Because the area is now under the Cogeneration Project Site Certification Agreement (SCA), an amendment to the SCA is necessary.

In its letter requesting the SCA amendment, BP states that the proposed amendment request is consistent with, the intention of the original SCA; applicable laws and rules; and the public health, safety, and welfare.

Council member Fryhling asked why the Refinery Offices need to be moved. Ms. Makarow replied there have been new standards set and the move pertains to safety on the Refinery site.

<i>Prevention of Significant Deterioration(PSD) Permit Amendment Request</i>	<i>Irina Makarow, EFSEC Staff</i>
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After review by EFSEC’s consultant the Department of Ecology, the request to amend the Cogeneration Project PSD permit is now being reviewed by the Environmental Protection Agency, Region 10 staff. When their comments are received, then the proposed PSD Permit Amendment can be sent out for public comment.

8. PROJECT UPDATES

Kittitas Valley Wind Power Project

<i>Project Update</i>	<i>Irina Makarow, EFSEC Staff</i>
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Ms. Makarow reported that the Council is continuing deliberations this month to develop its recommendation to the Governor on the Kittitas Valley Wind Power project. A progress report will be provided at the next Council meeting in January 2007.

Wild Horse Wind Power Project

<i>Notice of Violation</i>	<i>Stephen Posner and Irina Makarow, EFSEC Staff</i>
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Mr. Posner reported that the Department of Ecology (Ecology) has sent a letter to the Council providing a Recommendation for Notice of Violation (NOV) associated with Construction Stormwater Discharges from Wild Horse Wind Power Project Construction Activities. Staff recommends that the Council review the documents, and that Ecology and Puget Sound Energy (PSE) be invited to the January 9, 2007 EFSEC meeting for discussion of the NOV and possible enforcement action. Mr. Darrel Peeples, representing Scott Williams of PSE, stated that he was unclear on what the process would be for taking an enforcement action. He added that all the issues cited in the NOV have been resolved and, because this involves check dams, which are part art, part engineering and part science, and there is no set way to build them, how can the way they were built be wrong.

Mr. Peeples continued that his client, PSE, has a good relationship with Ecology and EFSEC and they want it to continue that way. PSE is very serious about continuing the relationship and wants to make sure that the Council understands their position that there were no discharges that would warrant enforcement action.

Chair Luce said that the Council is aware that there were problems with stormwater at the Wild Horse site, but the Council doesn’t have any comments at this time.

Council member Adelsman wanted to know if there have been other violations since this NOV was issued.

Mr. Posner replied that it is his understanding that the check dams were not constructed properly and did not adequately prevent erosion and sedimentation.

Mr. Peeples restated PSE’s position that there no discharges to state waters, and it was even stated in the Council’s October 11, 2006 minutes that there were no discharges. Mr. Peeples stated that he is concerned that the Council will come back with a fine on his client when it isn’t clear what the process is. He added that his client responded in a timely manner to the Ecology NOV and that he is unclear on what more needs to happen to avoid a possible fine.

Council member Sweeney asked that PSE provide the Council with a copy of their response.

EFSEC Manager Allen Fiksdal stated that Ecology has made a recommendation and at this time this is just information for the Council to consider, and there would need to be prior notice

before the Council would act on this matter. It was noted that a meeting has been set up for staff and Ecology to discuss the NOV with PSE.

Chair Luce encouraged PSE to work with staff and Ecology and sort it all out for the next month's meeting.

<i>Construction Progress Report</i>	<i>Darrel Peeples, Puget Sound Energy</i>
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Mr. Peeples reported that construction of the Wild Horse Project will be substantially completed by the end of this week or next, and that PSE and its contractors would like to meeting with EFSEC staff on the 13th of December to review project status. Ms. Makarow stated that EFSEC didn't have a member of staff available to attend the meeting on the 13th and if EFSEC needed to be there, they would need to reschedule.

<i>Site Certification Agreement Amendment</i>	<i>Darrel Peeples, Puget Sound Energy</i>
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Mr. Peeples stated that PSE is requesting an amendment to the Wild Horse Site Certification Agreement (SCA) to allow for the installation of an exempt well to serve the Operations/Visitors Center (O/V Center). The well is necessary because the onsite potable water tanks approved in the SCA for the O/V Center don't meet Department of Health standards for a public water system. PSE is requesting that the SCA be amended to allow for the installation of the well and water system to serve the O/V Center in accordance with applicable state and local requirements for new domestic wells. Mr. Fiksdal stated that a schedule for acting upon PSE's request will be set at the next Council meeting.

Mr. Peeples informed the Council that PSE is also considering a 4th amendment to the Wild Horse SCA to use part of the project site for a small solar facility. The proposed facility would be located in the area of the first rock quarry over approximately five acres.

Chair Luce asked if this should be a new application or an amendment to the Wild Horse SCA. Mr. Peeples responded that in his opinion it should be a technical amendment, because the proposed well uses a very small portion of the existing site. Council member Hedia Adelman inquired as to the expected kilovolt size of the proposed solar facility. Mr. Peeples said it was very small, and having to file a new application might discourage PSE from pursuing the project for economic reasons. Chair Luce suggested that EFSEC staff and counsel work with PSE to determine the appropriate procedural steps.

Columbia Generating Station

<i>Operational Status</i>	<i>Mot Hedges, Energy Northwest</i>
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Columbia has been operating at 100 percent power for 34 consecutive days. Mr. Mike Mills reported that he will be on site at Columbia Generating Station for a quarterly audit tomorrow, December 13, 2006.

WNP-1

<i>Offsite Mitigation Update</i>	<i>Mike Mills, EFSEC Staff</i>
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Mr. Mills presented an update of the funding options being considered to acquire the 60-acre Michel/Solbrock (Michel) parcel in the Amon Creek Basin. Referring to an update prepared by The Trust for Public Land (TPL) that is negotiating with the property owner, Mr. Mills noted that the property has an Appraised Fair Market Value of \$1,520,000, and that the seller and TPL have both agreed to reduce that amount to \$1,320,000, which equates to approximately \$21,925 per acre. Mr. Mills continued with a summary of the two funding alternatives being considered.

Funding Alternative A would commit EFSEC's \$1,025,000 and Department of Transportation's (DOT) \$75,000 for a total of \$1,100,000 to the acquisition. The balance, \$220,000, would come from the City of Richland, subject to City Council approval. With city funding, this is the preferred alternative of TPL and EFSEC staff, as all of the partners' needs are met: EFSEC completes all of its mitigation; DOT gets a 1 acre mitigation credit; and the City of Richland receives a public amenity and a road right-of-way to address future traffic congestion. The City also gets the benefit of a dedicated volunteer group, Tapteal Greenway Association (TGA) that will solicit stewardship funding (approximately \$50,000) to manage the property. This alternative also allows DOT to pursue another piece of property in the basin area that has high wetlands value and will provide the other two mitigation credits that they need to fulfill their SR240 mitigation requirement.

Funding Alternative B (should the City not be able to partner on this project) would provide the \$1,025,000 committed by EFSEC and an increased contribution from DOT up to \$295,000. The road right-of-way sought by the City of Richland would be eliminated under this funding strategy. This approach will provide EFSEC and DOT with all of their required mitigation, subject to Ecology approval of the mitigation credits. The City of Richland would benefit from a public nature preserve without management obligation, but would not be acquiring title to the property that would ensure the road right-of-way that the city may need at some point in the future to address traffic congestion in the area.

Council members discussed the benefits and drawbacks of both alternatives and realized if Alternative A is chosen, the wetlands may not be protected because of the city's connector road running through the property. Members also questioned what they felt was a high price being asked for the land. With Alternative B, the road right-of-way would not be part of the project and DOT would receive the full three credits needed to meet its mitigation requirement.

Mr. Mills said that currently, the City of Richland has not committed funding to this project and has a Council meeting scheduled for December 20th to make a decision on whether to commit funding to the acquisition. Staff was directed to have DOT take a look at the appraisal report prior to the city's meeting to help assess the asking price compared to fair market value. The Council also asked that staff contact TPL to see if their option exercise could be extended beyond December 22nd.

Chair Luce noted that while the price appears to be high, the property is located in a highly developed area that has amenities with the park and wetlands nearby. He also noted that a lot of work has gone into pursuing the purchase of the Michel parcel over the past three years and he would not like to see the option expire. He added that the Council's interest was to protect the public trust in allocating the mitigation funds and that meant not paying more than fair market value.

Further discussion indicated the Council's preference for pursuing Alternative B, because without the city's connector road, the property would provide more environmental benefits and more protection of the wetlands and habitat area.

Mr. Mills stated that he would contact DOT and request an accelerated review of the Appraisal Report and ask TPL to contact Michel about extending the option. Chair Luce volunteered to write a letter to the City of Richland expressing the points discussed at today's meeting.

Satsop CT Project

<i>Project Status</i>	<i>Tom Donovan, Grays Harbor Energy</i>
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Mr. Tom Donovan reported that Bonneville Power Administration (BPA) completed its NEPA review and has tendered an interconnection agreement to transmit power from the Satsop CT Project. Grays Harbor Energy has received seven expressions of interest from parties looking at buying power from the project, but no viable firm financial offer has been made yet, therefore resumption of construction is still speculative.

Council member Adelsman inquired about a timeline for construction completion. Mr. Donovan estimated once construction begins again it will take approximately 15 months to complete the remaining construction. He also informed the Council that Grays Harbor Energy has renewed its Senior Water Rights with the Grays Harbor PDA. He added that USGS has bought new equipment costing approximately \$50,000 to upgrade the river monitoring gauge.

9. RULEMAKING

<i>Mercury Rulemaking</i>	<i>Irina Makarow, EFSEC Staff</i>
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Ms. Makarow referred members to a handout summarizing the Clean Air Mercury Rule (CAMR) that is presently being considered by the Council and the state Department of Ecology. The two agencies are developing rules to implement a state “joint” program to control mercury emissions from coal-fired power plants. The federal rules propose a national cap on mercury emissions, with each state being assigned a mercury emissions “budget.”

Discussion followed on the approach favored by Ecology for the state to adopt its own capped mercury rule and some of the issues raised by stakeholders. Members’ comments focused on the rules possible implication on the Pacific Mountain Energy Center application and new technology. Responses indicated that the proposed cap allocations could affect the ability to construct future plants.

EFSEC and Ecology plan to hold further meetings with stakeholders to discuss the rulemaking and are looking at a November 2007 adoption date.

<i>Administrative Rules</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported that there had been some small changes made to the draft rules for Chapters 463-28 State Preemption, from the last time the Council members saw them. The draft rule eliminates the conditions for applicants to work with local governments to solve land use inconsistency, but requires an applicant to make a request to EFSEC to go forward. EFSEC then would combine the land use inconsistency issue with the adjudicative proceeding.

For Chapter 463-47 SEPA, the draft changes are primarily to eliminate the requirement for the Final EIS to be issued after the adjudicative hearings and for the EFSEC Manager to approve SEPA documents.

For Chapter 463-66 Amending Transferring or Terminating a Site Certification Agreement, RCW 80.50 has no reference to a Governor’s approval of a Site Certification Agreement. The draft changes are to eliminate the Governor’s approval of amendments. Tim Sweeny noted that its about time we got this right. Chair Luce asked what is the process for these changes. Mr. Fiksdal said he would put the proposed changes up on the EFSEC website and send them to stakeholders prior to issuing a formal notice (CR 102) for public comment.

10. OTHER

Mr. Fiksdal announced that Ms. Cindy Custer is retiring in January 2007 from Bonneville Power Administration. She has been BPA's Washington State government liaison for the past 11 years. Rob Spado will take over her duties until a permanent replacement is named. EFSEC members thanked Cindy for her service during the past 11 years and congratulated her on her retirement.

11. ADJOURN

The meeting was adjourned at 3:36 p.m.