



STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

February 14, 2006 Final Monthly Meeting Minutes

1. CALL TO ORDER

Chair Jim Luce called the February 14, 2006 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:

Dick Fryhling	Community, Trade & Economic Development
Hedia Adelsman	Department of Ecology
Chris Towne	Department of Fish and Wildlife
Judy Wilson	Department of Natural Resources
Tim Sweeney	Utilities and Transportation Commission
Jim Luce	Chair
Patti Johnson (via phone)	Kittitas County Representative

Staff in attendance were:

Allen Fiksdal – EFSEC Manager, Mike Mills – Compliance Manager, Irina Makarow – Siting Manager, Mariah Laamb – Council Secretary, Ann Essko – Council Attorney

Guests in attendance were:

Joe Long & Tom Donovan – Grays Harbor Energy, Laura Schinnell – Energy Northwest, Curt Leigh – Dept. of Fish and Wildlife, Darryl Peeples & Joy Potter & Dana Peck – Horizon Wind Energy, Bob Beerbower – Grays Harbor County Commission, Joel Rett – Grays Harbor Public Development Authority

Guests attending via phone:

Mot Hedges – Energy Northwest, James Hurson & Darryl Piercy – Kittitas County, Karen McGaffey – Perkins Coie, Ed Garrett – Residents Opposed to Kittitas Turbines, Troy Gagliano – Northwest Renewable Resources

3. ADOPTION OF PROPOSED AGENDA

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

4. MINUTES

Staff presented the following minutes for approval: January 10, 2006 monthly meeting and February 2, 2006 special meeting. **Council member Judy Wilson moved to accept each set of minutes, Dick Fryhling seconded both motions. Council voted to approve the minutes. The motions passed unanimously.**

5. RULEMAKING – REVISIONS TO WAC 463-78

PUBLIC HEARING – 1:30 pm

<i>Public Hearing</i>	<i>Irina Makarow, EFSEC Staff</i>
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Chair Luce opened the Public Hearing for the Council to accept oral comments on the proposed revisions to EFSEC’s Air Rules, WAC 463-78. Ms. Makarow invited the public to make oral comments at that time. No one came forward to present any comments, nor were there any persons on the bridge-line wishing to make comments, therefore the hearing was closed.

<i>Consideration of and Adoption of Revisions to WAC 463-78, EFSEC’s Air Rules</i>	<i>Irina Makarow, EFSEC Staff</i>
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Ms. Makarow reviewed the background for this Council action. The purpose of the rule making is to make EFSEC’s air rules consistent with the federal Prevention of Significant Deterioration (PSD) and Ecology’s new source review (NSR) programs and to clarify procedures for appeals of air permits and source registration. Notice of the proposed rulemaking was made by publication in the Washington State Register, WSR 06-02, on January 18, 2006. The notice of the proposed rulemaking and the February 14, 2006 public comment meeting was posted to EFSEC’s website on December 22, 2005, and mailed to EFSEC’s Minutes and Agenda mailing list and Rulemaking mailing list by December 23, 2005.

Two comment letters were received on the proposed rules. They were from Roylene Cunningham, Environmental Protection Agency (EPA) Region 10, dated January 9, 2006; and David Bricklin, representing the Province of British Columbia, dated February 7, 2006. Ms. Makarow proceeded to review a proposed concise explanatory statement with the Council members. EPA had no further comments, but reiterated EPA’s “General Comments” which have been addressed in the proposed rule language issued for comment in the CR 102.

Mr. Bricklin’s first comment addressed EFSEC’s adoption of Ecology WAC 173-400-730, and requested that additional requirements be added for applications for PSD permit extensions. EFSEC staff explained that EFSEC does not have the authority to amend Ecology’s WAC 173-400-730. Adding a requirement to submit the application request 6 months prior to expiration is not supported by any applicable guidance or regulation being used by EFSEC in PSD permit extension processes. In order to retain clarity in its rule requirements, staff recommends that EFSEC also not adopt additional language regarding construction schedule at this time and that

the Council adopt 173-4000-730 WAC with the exception of 173-400-730 (4) as noted in WAC463-78-005.

Mr. Bricklin's second area of comments addressed EFSEC's adoption of WAC 173-400-740, and requested that additional language be included in the adoption. Ms. Makarow explained that EFSEC has adopted by reference the public notification requirements specifically meant to address the public involvement requirements of the federal PSD Program. It is therefore not appropriate to make the requested changes, as they would not reflect the requirements of the federal PSD program for which EFSEC has been delegated authority. EFSEC would continue to participate in notification activities as required by national and provincial/state agreements.

Mr. Bricklin requested that changes be made to the registration rules, WAC 463-78-100, to require information submittals earlier and to make the information submitted available to the public. Ms. Makarow explained that the proposed 90 day timeline will not hamper EFSEC's ability to maintain records of projected versus actual emissions for operations subject to this rule. Adding language to make records publicly available is also not necessary as records are available to the public as required by the Public Records Act, Chapter 42.17 RCW.

With respect to the rules appeals procedures, Mr. Bricklin indicated that the rule would benefit by language clarifying which types of EFSEC actions would be subject to Administrative Procedure Act appeals, and which would trigger appeals of the governor's decision through RCW 80.50.140. Staff proposes that the language in all four subsections be clarified to indicate that permits associated with final decisions by the Governor pursuant to RCW 80.50.100 on applications for certification are appealable according to the requirements of RCW 80.50.140.

Finally, staff recommended that the Council not delay adoption of these rules as suggested by Mr. Bricklin. Current rulemaking initiated by Ecology may take many months prior to new rules being adopted.

During the Council's consideration of the proposed rule on permit appeals, Council members questioned EFSEC staff and EFSEC's assistant attorney general why the appeal of a permit that becomes effective pursuant to the governor's final action on an application for site certification be incorporated into the appeal procedure for the site certification agreement as a whole and whether other EFSEC rules already addressed this procedural issue. Counsel Essko explained that there were both legal and jurisdictional reasons to support the appeals process as proposed in the rule changes. Staff agreed to include a better explanation of these reasons in the concise explanatory statement.

MOTION: To adopt the staff recommendation for changes to EFSEC's air rules, Chapter 463-78 WAC, as described in the CR 102, issued for public comment. Hedia Adelman made the motion and Tim Sweeney seconded it. The Council voted and unanimously approved the motion.

The new rules changes will become effective on March 26, 2006.

6. SATSOP COMBUSTION TURBINE PROJECT

PUBLIC HEARING – 1:45 pm

<i>Public Hearing</i>	<i>Irina Makarow, EFSEC Staff</i>
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Chair Luce opened the Public Hearing for the Council to accept oral comments on the proposed extension of the Satsop Combustion Turbine Notice of Construction/Prevention of Significant Deterioration (NOC/PSD) air emission permit. Ms. Makarow invited the public to

make oral comments at that time. No one came forward to present any comments nor were there any person on the bridge-line wishing to make comments. Therefore, the hearing was closed.

Ms. Makarow had no other information to report on this project at this time.

7. PROJECT UPDATES

COLUMBIA GENERATING STATION

<i>Operations Summary</i>	<i>Mot Hedges, Energy Northwest</i>
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Mr. Hedges reported that Columbia is operating at 100 % power.

<i>NPDES Permit Renewal</i>	<i>Mike Mills, EFSEC Staff</i>
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Mr. Mills stated that the Department of Ecology permit writer had completed the draft National Pollutant Discharge Elimination System (NPDES) permit and fact sheet and provided them to Energy Northwest and EFSEC staff for review. Following that review, the Council will notice that permit for a 30-day public review period, to include holding a public comment hearing at either the March 14 or April 11, 2006 regular meetings. Final action on the permit could also be scheduled for that meeting.

WNP-1

<i>Site Restoration</i>	<i>Mike Mills, EFSEC Staff</i>
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Mr. Hedges indicated that Energy Northwest has completed all of the near-term site restoration work at the WNP-1/4 project site. In a letter dated January 16, 2006, Energy Northwest notified the Council that all of the near-term environmental, public health and safety restoration work had been completed at WNP-1/4 as required by EFSEC Resolution No. 302. A status report of both near-term and final restoration activities accompanied their letter. Mr. Mills stated that staff will work with Energy Northwest to bring their request that EFSEC formally acknowledge that the Resolution No. 302 requirements have been met before the Council for consideration at the March 14, 2006 monthly meeting.

<i>Off-site Environmental Mitigation</i>	<i>Mike Mills, EFSEC staff</i>
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Mr. Mills reported that Ron Hicks, Executive Director of the Hanford Reach Interpretive (Reach or Visitor) Center, had submitted a scope of work describing how EFSEC funds would be used for habitat protection and restoration at the project site. In approving a \$250,000 contingency grant to the Visitor Center, the Council had directed that those funds be used for habitat protection and restoration purposes. Staff was to negotiate the terms of a contract and scope of work with the Reach and bring the details back to the Council for concurrence. Mr. Hicks, in cooperation with the design/architect firm, developed a work plan that targets the use of EFSEC funds to preserve and restore the riparian area along the river bank and protect as a buffer area a large portion of the site between the river's edge and the Visitor Center facility. Mr. Mills indicated that staff had reviewed the Reach's proposal with the 1/4 Mitigation subcommittee and is recommending that the work plan is acceptable and that the Council proceed with executing the contract with the Reach. Discussion reiterated that the highest priority for use of EFSEC funds was to protect the riparian habitat; and that the grant was only for \$250,000, not the \$288,000 identified by the Reach.

MOTION: To adopt the staff recommendation to approve the statement of work proposed by the Reach and for staff to proceed with preparing and executing a \$250,000

contract with the Reach to support the preservation and restoration of the Reach Visitor Center project site. Dick Fryhling made the motion and Chris Towne seconded it. The motion passed unanimously.

Mr. Mills provided a brief update on the other projects that had been awarded WNP-1/4 mitigation funds.

For the Skookumchuck Conservation Project, the Phase I acquisition of 5,144 acres in Kittitas County was completed on February 1, 2006 and the property is now in the ownership of the state Department of Fish and Wildlife. Along with EFSEC’s grant of \$1.3 million, the department contributed \$500,000 towards the \$1.8 million purchase price. Fish and Wildlife, in cooperation with The Trust for Public Land and other interested parties, will now focus on acquiring other properties in the project that would result in over 17,500 acres being preserved for habitat conservation and public recreation purposes. It was noted that the Phase I purchase provides connectivity between existing wildlife recreation areas owned by the department.

For the Hofer Dam Fish Passage Project, staff was notified that the project received a \$512,000 grant from the Salmon Recovery Funding Board that along with EFSEC’s \$400,000 contribution, will allow the project to go to construction this summer. Council member Hedia Adelman added that this project is also targeted to receive other substantial funding to improve the fish passage structures and irrigation pumps and piping.

For the Confederated Tribes of the Umatilla Indian Reservation / Washington State University joint effort to conduct the Shrub-Steppe Experimental Field Station /Ecological Demonstration Project, the contract has been fully executed and staff expects work to begin in the very near future.

Mr. Mills reported that discussions are continuing with all of the organizations involved in the Tapteal Greenway Association Amon Creek Basin Project, located in the City of Richland. A conference call is scheduled for March 8 to update all parties on the status of mitigation related activities and discussions with property owners.

WILD HORSE WIND POWER PROJECT

<i>Construction Activities</i>	<i>Irina Makarow, EFSEC Staff</i>
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Ms. Makarow summarized the Council’s recent trip to Ellensburg to conduct a public meeting and to act on the second amendment to the Wild Horse Site Certification Agreement. On February 2, the Council approved the changes (realignment of part of the on-site transmission line and relocation of the maintenance facilities).

With respect to on-going construction, the wet winter weather has required some re-adjustments of stormwater controls, but PSE and its subcontractors are performing the work necessary to comply with their construction stormwater permits.

Finally, Ms. Makarow has been participating in meetings organized by PSE and state agencies regarding a conservation easement for the project site and a managed grazing program for the wider project area.

KITTITAS VALLEY WIND POWER PROJECT

<i>Land-Use Consistency Update</i>	<i>Irina Makarow, EFSEC Staff</i>
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Mr. Peeples first introduced Dana Peck, new project manager for the Kittitas Valley project, replacing Chris Taylor. Prior to working for Horizon Wind Energy, Mr. Peck worked for Klickitat County.

Mr. Peeples updated the Council on the status of the land-use consistency process with Kittitas County, referring to his letter to EFSEC, dated February 13, 2006. The Kittitas County

Planning Commission has conducted hearings in January and early February. The Board of County Commissioners had not yet scheduled their hearing dates. Mr. Hurson notified the Council that the Planning Commission had only made final their decision the previous night. To his knowledge, the County Commissioners had set February 21 as a formal hearing date, with testimony starting the first full week of March, with a decision by the week of March 13. Mr. Peeples continued that given this schedule, the mid-March EFSEC hearing dates would be difficult to meet.

Therefore, Mr. Peeples recommended that the EFSEC hearings be continued until July 2006, to allow time for all County processes to be completed. Ms. Makarow confirmed that if the hearings are not held in March, Administrative Law Judge Adam Torem next availability would be July 2006.

The Council acknowledged the Applicant's and the County's update on this issue. The decision to reschedule the EFSEC hearings would be made at a pre-hearing conference. Ms. Makarow indicated that she would be asking Council members for their availability for the next week or so in order to hold a pre-hearing conference on the scheduling matter.

CHEHALIS GENERATION FACILITY

<i>Prevention of Significant Deterioration (PSD) and Title V Permit Updates</i>	<i>Irina Makarow, EFSEC</i>
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Ms. Makarow is working on the draft of the PSD and Title V air permits and they will be brought before the Council for review soon.

8. CHAIR'S REPORT

Chair Luce noted there are two bills directly related to EFSEC this session and that they are both moving. SHB 2402 – Expedited Processing and ESHB 1020 – Transmission Siting have passed the House and there will be a hearing in the Senate Water, Energy & Environment Committee on February 15, 2006 at 1:30 pm. Chair Luce also noted that HB 2401 Interstate Compact – Transmission Siting may create an interstate task force to deal with transmission siting issues. Also, the House Appropriations Committee will be meeting soon to decide on the \$25,000 EFSEC needs to complete its Carbon Dioxide rule making. Chair Luce plans to keep the Council updated on these bills as they progress thru the Legislature.

9. OTHER

No additional items were discussed at the meeting.

10. ADJOURN

The meeting was adjourned by Chair Jim Luce at 2:28 pm.