



STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

January 9, 2007 Monthly Meeting Minutes

1. CALL TO ORDER

Chair Jim Luce called the January 9, 2007 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
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	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, Stephen Posner – EFS Specialist, Mariah Laamb – Council Secretary, Tammy Talburt – Office Assistant, Kyle Crews – Assistant Attorney General

Guests in attendance were:

Darrel Peeples – Attorney for Horizon Wind, Liz Thomas – Kirkpatrick & Lockhart Preston Gates Ellis LLP, Scott Williams – Puget Sound Energy, Karen McGaffey – Perkins Coie, Tom Donovan – Grays Harbor Energy, Joe Long – Grays Harbor Energy, Tom White – Stark Investors, Donna Smith – Ecology, Bryan Neet – Ecology, Curt Leigh – Fish & Wildlife, Jim Thornton – Environment & Ecology

Guests attending via phone:

Mike Tribble – Counsel for the Environment, Robert Kruse – Friends of Wildlife and Wind, Laura Schinnell – Energy Northwest, Mot Hedges – Energy Northwest, Bernice Kasko – Energy Northwest, Tim McMahan – Horizon Wind, Jennifer Diaz – Horizon Wind, Jim Hurson – Kittitas County, Linda Schantz - Residents Opposed to Kittitas Turbines, Mark Warrensthal – Energy News Data Service

3. ADOPTION OF PROPOSED AGENDA

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

4. PROJECT UPDATES

Wild Horse Wind Power Project

<i>Notice of Violation</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported on the activities regarding the Notice of Violation issued by the Department of Ecology. On November 27, 2006, Ecology submitted a recommendation for a Notice of Violation for the Wild Horse Wind Power Project construction activities. It stated that Puget Sound Energy (PSE) failed to correctly install certain stormwater Best Management Practices (BMP’s) called for in the Stormwater Pollution Prevention Plan (SWPPP). Ecology noted that PSE has taken action to correct BMP design and placement throughout the site. This has resulted in compliance with the SWPPP as noted by Ecology inspectors during their most recent inspection. It appears that the violation caused no substantial danger to humans or the environment.

Ecology’s recommendation for a Notice of Violation enforcement action appears to meet the intent of EFSEC rule WAC 463-70-070 (3) - Notice of Incident. That rule states “Whenever the Council has probable cause to believe that any term or condition of a certificate agreement or permit has been violated, the Council may serve a notice of incident and request assurance of compliance upon the certificate holder. Within thirty days after service of the notice, the certificate holder shall provide the Council with a report of the incident and assurance of compliance, including appropriate measures to preclude a recurrence of the incident. The Council shall review the assurance of compliance. It may close out the matter by resolution or take such further action as it believes to be necessary.”

Based on Ecology’s recommendation, Council staff recommends that EFESC issue a Notice of Incident (NOI) and Request Assurance of Compliance to PSE under WAC 463-70-070 (3).

Council member Adelman requested a construction completion date from PSE’s Scott Williams. He stated that the plant went to commercial operation status on December 22, 2006, and there are a few construction activities still to complete, that won’t be finished until May of 2007 because of snow on the ground this winter.

Council member Tayer requested information on what the assurance of compliance would look like. Mr. Williams, PSE, provided a draft “Assurance of Compliance” letter stating the actions taken by the company to respond to EFSEC’s NOI and that they will work with EFSEC staff to finalize that document.

MOTION: Council member Judy Wilson moved and second by Council member Tim Sweeney, that the council approve the staff recommendation to issue a Notice of Incident (NOI) and Request for Assurance of Compliance to PSE. The motion passed.

<i>Site Certification Agreement Amendment Schedule</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal discussed with Council members the need for scheduling a public comment meeting for PSE's proposed Site Certification Agreement amendment. The amendment would allow the installation of an exempt well to provide bathroom and kitchen water for the Operations and Visitor Center. Copies of the request to install the well will be available for the public at the public meeting and they can make oral or written comments at the meeting. Discussion followed on whether to hold the meeting in Olympia or Kittitas County.

MOTION: Ms. Wilson moved and second by Ms. Adelsman to have the public comment meeting at the next monthly Council meeting, February 13, 2007, in Olympia, Washington. The motion passed.

Chair Luce stated that staff should contact Kittitas County to get information related to any possible health and safety issues associated with installation of the well.

Pacific Mountain Energy Center

<i>State Environmental Policy Act Scoping (SEPA) Report</i>	<i>Stephen Posner, EFSEC Staff</i>
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Mr. Posner reported that the final SEPA Scoping Report has been completed and copies have been distributed to the Council members and Energy Northwest for their review. The report was prepared by the Council's consultant, Ecology and Environment's (E&E). Mr. Jim Thornton, representing E & E, provided a summary of the SEPA issues highlighted in the report that will guide Energy Northwest's preparation of a draft environmental impact statement (DEIS) for EFSEC's review and issuance for public comment. Mr. Thornton highlighted significant environmental impacts that should be addressed in the DEIS. These included air emissions, liquefaction and flooding potential, water resources, wetland impacts, storage and disposal of hazardous wastes, and rail transportation congestion. Mr. Thornton also noted the importance for the DEIS to assess project alternatives and cumulative impacts.

Ms. Liz Thomas, attorney for the applicant, provided a brief summary on Energy Northwest's views of the requirements set forth in the SEPA statute and what was significant for inclusion in an Environmental Impact Statement (EIS). They prefer the most concise and brief document allowed by SEPA law.

The Council discussed what would be the best document to prepare to address both the need for brevity, as well as having complete information, and what has been provided for in this type of document in the past and what the public would expect.

Chair Luce stated that a subcommittee would be formed to discuss this matter further and see if a new procedure or a policy was in order.

WNP-1 – Offsite Mitigation

<i>Amon Creek Project Approval</i>	<i>Mike Mills, EFSEC Staff</i>
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Mr. Mills updated the Council on funding the Amon Creek project. At the last Council meeting, staff had reviewed two alternatives for funding to acquire the 60-acre Michel/Solbrock parcel. This acquisition would allow the project to be completed and EFSEC funding to be completely spent from the 4-party agreement signed in December 2003.

In Alternative A, EFSEC, Department of Transportation and City of Richland would each commit funds, with the property to be owned by the City of Richland and managed by the Tapteal Greenway Association. EFSEC and DOT would hold covenants/deed restrictions on the property.

In Alternative B, EFSEC and DOT would provide funding, should the City not be able to partner on this project. This approach provides DOT with all of their required wetlands mitigation, with approval from Ecology, and Tapteal Greenway, with Board approval, would hold and manage the property as a nature preserve.

EFSEC staff recommend Alternative A, as it provides the most benefit for the involved groups.

MOTION: Ms. Wilson moved and second by Mr. Fryhling, to approve Alternative A funding as staff recommends. This alternative commits \$1,025,000 of EFSEC funds to acquire the Michel/Solbrock parcel in the Amon Creek Basin. The motion passed.

Kittitas Valley Wind Power Project

<i>Project Update</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported that the Council is continuing to develop its recommendation to the Governor and it is anticipated that EFSEC would announce its decision around the end of February 2007.

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 62 consecutive days.

Satsop CT Project

<i>Project Status</i>	<i>Tom Donovan, Grays Harbor Energy</i>
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Mr. Donovan introduced Mr. Tom White, of Stark Investments. Stark Investments is a large private investor in Invenergy, the owner of the Satsop Combustion Turbine project. Stark Investments is the signator on the letter of credit received last month that insures that there will be site restoration funds in the event the project is not completed.

Next, Mr. Donovan informed the Council that a deal to resume construction of the Satsop CT Project was near completion. Grays Harbor Energy expects to have a letter to the Council announcing resumption of construction by the next Council meeting. Mr. Donovan added that an aggressive schedule is planned with construction to be completed April 2008.

Desert Claim

<i>Project Update</i>	<i>Stephen Posner, EFSEC Staff</i>
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Mr. Posner reported on the Desert Claim project. A public meeting was held on December 13, 2006 in Ellensburg, Washington. Forty nine people attended the meeting and 28 comments have been received so far. The public comment period remains open until January 13, 2007.

EFSEC signed a contract with Golder & Associates on December 27, 2006, to review the Environmental Impact Statement (EIS), which Kittitas County prepared when Desert Claim proceeded through the county process. The project has changed since it was submitted to the County for review. Golder will prepare a report and a recommendation on the applicability of the final EIS to the current project. It is anticipated that an addendum to the EIS or a supplemental EIS will be necessary.

Council members asked when the Land Use hearing was to be scheduled on this project. Staff informed the Council there is no specific time frame in which the hearing must take place, and so staff will try to coordinate the meeting, if possible, with other compatible meetings in the Ellensburg area.

BP Cherry Point Cogeneration Project

<i>Project Status</i>	<i>Stephen Posner, EFSEC Staff</i>
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Mr. Posner updated the Council on activities at the BP Cherry Point Cogeneration Project. BP recently requested approval for a change in the areas to be used for lay down during construction. This request was submitted by BP as a request to amend the Site Certification Agreement (SCA). EFSEC staff has determined this request may not be appropriate as the SCA does not specifically address lay down areas. Instead, the NPDES application, which does identify lay down areas and is referenced in the Site Certification Agreement, will need to be amended. Since EFSEC rules do not address this type of change, staff is working with Ecology and BP to determine how to make this change in compliance with state and federal requirements. Once that is determined, staff will bring the matter back to the Council for consideration.

A number of construction plans have been submitted by BP and are being reviewed by EFSEC and our contractors. During the past few weeks, BP began testing at the cogeneration site to determine pile driving criteria, soil conditions and profiles.

5. RULEMAKING

<i>Mercury Rulemaking</i>	<i>Jim Luce, Chair</i>
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Mr. Luce reported the January 10, 2007 meeting was cancelled. The next meeting is scheduled for January 31, 2007.

<i>Other Administrative Rules</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal will place the rules that were discussed at the Council's December 2006 meeting on the EFSEC website and send copies out to stakeholders and others for preliminary review. Mr. Fiksdal anticipates that final issuance for public comment on these rules that cover state preemption, SEPA and amending a site certification agreement, will occur this coming spring.

6. CHAIR'S REPORT

Chair Luce reported he will provide testimony to the House Technology, Energy and Communications Committee on three bills of interest concerning EFSEC. They are HB 1037, HB 1038 and HB 1061.

7. OTHER

Mr. Fiksdal provided the Council with the latest breakdown of charges for non-direct administrative costs for the new quarter, starting January 1, 2007. The percentages of non-direct charges to each project are determined by the percentage of direct work done during the past

quarter by EFSEC's technical staff on specific projects. These percentages are recalculated each quarter.

8. ADJOURN

The meeting was adjourned at 3:00 pm