



STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

March 13, 2007 Monthly Meeting Minutes

**1. CALL TO ORDER**

Chair Jim Luce called the March 13, 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:**

Jim Luce	EFSEC Chair
Dick Fryhling	Community, Trade & Economic Development
Hedia Adelsman	Department of Ecology
Jeff Tayer	Department of Fish and Wildlife
Judy Wilson (via phone)	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

**Staff in attendance were:**

Allen Fiksdal – EFSEC Manager, Mike Mills – Compliance Manager, Tammy Talburt – Administrative Secretary, 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, David Steeb – Desert Claim, Mark Anderson – CTED Energy Policy, Katy Chaney – URS Corp. Laura Schinnell – Energy Northwest, Trent Enzsol – BP Cherry Point, Steve Berry – BP Cherry Point, Lehman Holder - Sierra Club, Roger Cole – Sierra Club, Barbara Scardigli – Sierra Club, Ron Marshall – Cowlitz County, Mike Wojtowitz – Cowlitz County, Kirk Deal – PAC NW Council Carpenters, Phil Dines – Longview/Kelso Building Trades, Rob Smith – Chehalis Power, Duncan McCaig – Chehalis Power, Brett Vanderheuvell – The Columbia River Keepers, Charlene Andrade – WDFW, and Greg Richards – DNR.

**Guests attending via phone:**

Jennifer Elias – Counsel for the Environment, Mot Hedges – Energy Northwest, Jim Hurson – Kittitas County, Ed Garrett - Residents Opposed to Kittitas Turbines, Darryl Piercy – Kittitas County, and Dan Kirchner.

**3. ADOPTION OF PROPOSED AGENDA**

The agenda was presented to the Council for amendments or additions. The agenda was adopted with one change – WNP-1 Offsite Mitigation was moved to the first item and Satsop CT Project was moved to be the last project update.

**4. MINUTES**

Staff presented the following minutes for approval: February 13, 2007 regular meeting. Mr. Tayer had some edits to the verbiage of the ice throw issue on Wild Horse.

**MOTION – Mr. Fryhling made a motion, seconded by Ms. Adelman, that the minutes for February 13, 2007 regular meeting be approved as corrected. Council members Wilson and Luce abstained, the motion passed.**

**5. PROJECT UPDATES**

**WNP-1 – Offsite Mitigation**

<i>Amon Creek Project Approval</i>	<i>Mike Mills, EFSEC Staff</i>
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Mr. Mills informed the Council that with the assistance of Ms. Wilson immediately following last month’s meeting, staff was able to secure the services of the Department of Natural Resources (DNR) Appraisal Office to conduct a review of The Trust for Public Land’s appraisal of the Amon Creek property. DNR Chief Appraiser Greg Richards was introduced and he provided a brief summary of the results of their review. Mr. Richards reported that a desk review of the appraisal of the “Richland 60 Acres East of Leslie Road” was performed to “Yellow Book” federal standards, and based upon an analysis of the data and calculations presented; the DNR appraiser determined that the appraisal and value conclusion were acceptable. Mr. Tayer thanked Mr. Mills and Ms. Wilson for their efforts in getting DNR to conduct the review.

**MOTION: Mr. Fryhling made a motion, seconded by Mr. Tayer, that the Council accept the appraisal report and that staff proceed to execute the Amon Creek Property and Tapteal contracts. The motion passed.**

Mr. Mills stated that staff was working with the The Trust for Public Land (TPL) to get the Council’s contribution to the Amon Creek Property acquisition into the escrow account by the March 22 closing date. The total purchase price is \$1,320,000, with EFSEC contributing \$1,025,000; the Department of Transportation \$75,000; the City of Richland \$180,000; and Tapteal \$40,000. Mr. Mills noted that the \$13,500 grant to Tapteal for stewardship activities had been approved at the February meeting, contingent to the appraisal review being completed, and staff expected to finalize that contract by the end of the month. He added that Tapteal is hosting a celebration at the site on Saturday, March 31, and he and Council members Fryhling and Tayer will be attending.

Chair Luce remarked that with these two funding actions the Council had committed the full \$3.5 million of WNP-1/4 offsite mitigation funds to deserving projects that resulted in setting

aside and preserving many acres for wildlife habitat, open space, and for the public benefit. He expressed his thanks to Energy Northwest for providing the mitigation funds through the site restoration settlement to support the six projects that received funding.

Ms. Adelman said it would be nice for staff to prepare a notice or press release identifying where the mitigation funds were spent. Council members thanked Mr. Mills for all his hard work on this project.

**Columbia Generating Station**

<i>Operational Status</i>	<i>Mot Hedges, Energy Northwest</i>
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Mr. Hedges reported that Columbia has been operating at 100% power for 125 consecutive days. The plant is preparing for its 24-month refueling outage that will start on May 12 and is scheduled to last 38 days. The plant’s power output is decreasing as fuel is being used up, and the coast down coincides with the spring flush of the hydro system.

<i>EMD Military Contract</i>	<i>Mike Mills, Staff</i>
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Mr. Mills requested that the Council approve the renewal of its contract with the Military Department, Emergency Management Division (EMD), to provide funding for EMD and six (6) counties to perform Columbia-related offsite emergency preparedness activities for the two-year period FYs 2008 and 2009. EMD is the lead offsite planning agency and the following six counties: Adams, Benton, Franklin, Grant, Walla Walla, and Yakima, are located within the 10 and 50-mile planning zones, and are responsible for maintaining plans and procedures to support the Columbia Emergency Plan. Total contract funding is proposed not to exceed \$725,454 for FY 2008 and \$753,152 for FY 2009.

**MOTION: Mr. Fryhling made a motion, seconded by Ms. Adelman, that the Council approve the renewal of the Council’s contract with the Military Department/Emergency Management Division to provide funding to EMD and six (6) counties to perform Columbia Generating Station-related emergency preparedness activities for FYs 2008 and 2009, not to exceed the amounts specified above. The Motion passed unanimously**

**Wild Horse Wind Power Project**

<i>Request for SCA Amendment</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported on that on March 2, 2007, Puget Sound Energy (PSE), the certificate holder for the Wild Horse Wind Farm requested an amendment to the Site Certification Agreement to allow PSE to install a 500-kilowatt (kW) solar demonstration facility in a previously disturbed area(s) within the boundary of the Wild Horse Site.

Mr. Scott Williams, PSE and Mr. Darrel Peebles, Attorney for PSE, summarized the request, noting that this would be the largest solar facility in the state. The Wild Horse site is considered to be perfect for this project – it is sunny and it can be co-located with the wind farm, which will be helpful in learning how to integrate the two technologies. It was noted that there is a great deal of interest in the solar community for this project. PSE’s proposal is to install the project at two sites, with about 450 kw located within the old Quarry #1 site, and the remaining 50 kw to be built adjacent to the Operations/Visitor Center (Center), for the purpose of providing energy to that facility. PSE expects construction to start in the summer and be completed by the end of the year.

Mr. Fiksdal advised the Council that a public hearing is required before action can be taken on an amendment request. He suggested that the hearing could be scheduled for the Council meeting next month, or if the preference was to hold it in Ellensburg, it could probably occur in the near future when the Council is expected to be in the area for other business. Chair Luce recommended that the hearing be held in Ellensburg the next time that the Council will be there. Council members supported having the meeting in the local community. Chair Luce questioned if there was a timeline for completing action on the request. Mr. Fiksdal responded that there was not, but the public hearing would have to be held before they could act. He also noted that a SEPA Checklist had been prepared and submitted with the amendment request and concluded that the proposed project would not cause a great deal of disturbance to the Wild Horse site.

Chair Luce asked if the county representatives on the phone had any comments. Mr. James Hurson stated that he hadn't seen the proposal yet, therefore he wouldn't comment on it at this time other than to say that he would have to check to see if it wasn't already an outright permitted use in the county, and if that was the case, was it necessary to amend the SCA. Mr. Fiksdal stated that the Wild Horse project was approved by the state and the site is under the jurisdiction of the Council. The solar facility was not included in the SCA; therefore, it is necessary to amend the SCA to allow such an activity to occur on the site. In his opinion, it is appropriate to amend the SCA to include the proposed solar facility.

Mr. Peoples stated that there were two issues that needed to be considered – the Council's SCA amendment process and compliance with county zoning. It is PSE's position that the proposed solar facility is an activity that would come under the SCA, and that the proposed solar demonstration is a permitted use as a "Minor alternative energy facility" in the Kittitas County Zoning Code.

Discussion resumed on when to hold the public hearing in Ellensburg. It was decided that the Council would tentatively schedule holding a public meeting on PSE's amendment request in Ellensburg on Tuesday, March 27, beginning at 4:00 p.m. That is the day that they have selected to hold a special meeting in Ellensburg to announce the decision on the Kittitas Valley project. Ms. Adelman pointed out that time should be allowed if the Council was prepared to make a decision on the request following the hearing. If not, action could be taken at the April monthly meeting. Mr. Sweeney requested that since the Council was going to be in over in Ellensburg it would be great to get a look at the proposed solar project sites, along with seeing the completed project. Staff was directed to work on the arrangements for the 27<sup>th</sup>.

**Kittitas Valley Wind Power Project**

<i>Project Update</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported that the order setting out the Council's recommendation to the Governor on the Kittitas Valley Wind Power Project is in the final stages of preparation. He announced that the Council would hold a special meeting in Ellensburg on Tuesday, March 27, 2007 at 7:00 pm. That meeting will be held at the Kittitas County Fairgrounds, where a room has been reserved.

**At 2:02 p.m., CHAIR Luce recessed the monthly meeting to reconvene the Pacific Mountain Energy Center Land Use Hearing. Administrative Law Judge Adam Torem presided.**

Please see the transcript that was prepared for the specific details of the hearing.

**CHAIR Luce called the monthly EFSEC meeting back to order at 3:40 pm, Ms. Wilson was no longer participating via phone.**

### **Wild Horse Wind Power Project**

<i>Project Status</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal stated that Ecology and EFSEC staff continue to have concerns about how PSE is controlling the spring run-off on the Wild Horse site. He said there was a meeting at the site last week, and while it was acknowledged that PSE is addressing the heavy runoff from snowmelt with Best Management Practices (BMPs), the expectation is that PSE will continue to pay very close attention to controlling runoff at the site. Mr. Peeples assured the Council that PSE is aware of what needs to be done and is working to see that appropriate BMPs are in place. In response to Ms. Adelsman question if they have someone qualified on site, Mr. Peeples stated that Ms. Jennifer Diaz, along with three certified technicians are on-site daily. Mr. Fiksdal said that Ecology will be increasing its monitoring and visits to the site.

### **Pacific Mountain Energy Center**

<i>Project Status</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported that the Preliminary Draft Environmental Impact Statement for the PMEC project was ready for the Council to review. E & E and Chris Towne have been asked to look at the document. Work is continuing on the Prevention of Significant Deterioration air permit and it should be available for review in late March or early April.

### **Desert Claim Wind Power Project**

<i>SEPA Determination</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal stated that he had reviewed the recommendations made by Golder and Associates, and with input from members, had made a threshold determination on how the Council could proceed to meet its State Environmental Policy Act (SEPA) requirements related to the Desert Claim Application for Site Certification. He indicated that there was support to adopt the Final Environmental Impact Statement (FEIS) prepared by Kittitas County and to issue a Supplemental EIS to address any new issues not covered in the FEIS. As the SEPA Responsible Official for EFSEC, he will issue a notice announcing his determination to adopt the county FEIS document and that a Supplemental EIS be prepared.

<i>Project Update</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported that Desert Claim had filed a "Motion For Determination That Desert Claim Has Satisfied WAC 463-28-030(1)," dated March 5, 2007, requesting that the Council make a formal determination that it has made "all reasonable efforts to resolve the noncompliance" with local land use requirements, for purposes of satisfying the WAC cited, and therefore, may proceed to file a written request for preemption. By Order No. 825, dated March 7, 2007, EFSEC found that the project was not consistent with local land use plans and zoning ordinances and directed Desert Claim to make all reasonable efforts to work with Kittitas County to resolve the existing land use consistencies in the application. In their motion, Desert Claim states that it has made all reasonable efforts to obtain the necessary approvals from the county, but were unsuccessful in getting those approvals, and should now be permitted to move forward through the Council's siting process without further delay.

Following discussion, the Council determined that it would take public comment on Desert Claim's motion through March 30, 2007, and schedule this matter for discussion and possible action at its April 10, 2007 monthly meeting.

**BP Cherry Point Cogeneration Project**

<i>PSD Public Hearing April 3, 2007</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported that the Council has scheduled a public hearing for Tuesday, April 3, 2007, in Blaine, Washington, to accept public comment on the proposed Draft Notice of Construction/Draft Prevention of Significant Deterioration (PSD) air permit for the BP Cherry Point project. He noted that attendance at the hearing is optional for members as a transcript will be available for review.

<i>Project Status</i>	<i>Steve Berry, BP</i>
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Mr. Berry referred members to a March 2, 2007 letter from BP notifying the Council that initial site preparation work at the BP Cherry Point project is being delayed from this spring to January 2008. Mr. Berry indicated that the delay to early 2008 would provide additional time to complete engineering designs; confirm the availability and cost of long-lead time equipment; receive approval of plans before site preparation work starts; and further refine project costs and schedules. He indicated that the delay would push the start of commercial operations back to the second half of 2010.

**Chehalis Generation Facility**

<i>Project Status</i>	<i>Duncan McCaig, Chehalis Power</i>
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Mr. McCaig provided a summary from the December 2006- March 2007 Quarterly Report on activities at the Chehalis Generation Facility. He stated that Chehalis Power continues to maintain a strong safety program that has gone more than 1600 days without a time lost accident. There are no environmental incidents to report and there were no Stormwater exceedances during 2006. Continued monitoring of wastewater indicates that there were no zinc exceedances during the past two years and recent air tests should show that all parameters are well within permit limits.

Mr. McCaig reported that Plant Engineer Kaye Emmons had taken a job at a plant in Mexico and Rob Smith, who had been an operator/technician at the plant for four years, would be replacing her. Mr. Smith was introduced.

Since the transformer fire last year, operations and maintenance activities focused on modifying the electrical busses to have half the plant in operations during an unexpected high-demand event on July 24; and installing a temporary 500 kilovolts (kV) transformer, which enabled the plant to return to full output in August to help meet the higher summer and fall demands. They are scheduled to install a new transformer during this year's May-June outage and plan to store the temporary unit onsite for possible use in the future. The plant will also have an outage in mid-April to perform maintenance activities.

Mr. McCaig stated that public concern regarding plant noise has greatly diminished during the past two years and has been limited to two neighbors. In the past six months they received only one phone call and that was during startup, the time when calls generally come in, usually due to an equipment malfunction. The plant is continuing to conduct daily noise tests when in operations, and believes it may now be appropriate to modify the noise testing program

to focus on startup noise, since there doesn't seem to be a problem during normal operations. They are continuing to make other equipment upgrades as part of their noise mitigation program that should further reduce startup noise that should be completed by the end of the year.

**Satsop CT Project**

<i>Project Status</i>	<i>Tom Donovan, Grays Harbor Energy</i>
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Mr. Donovan informed the Council that construction activities at the Satsop CT Project are going well and they are a little bit ahead of schedule. He referred members to page 2 of the March 12, 2007 quarterly report where several items related to heavy rains at the site were reported. On February 14, heavy rains caused the C-1 pond and while no discharge to the Chehalis River was observed, turbidity samples were taken and the overflow was within acceptable limits. Mr. Donavon added that approximately 2,400 tons of ballast rock had placed at the site to control turbidity in the Stormwater discharge to the C-1 pond. He stated that several minor oil spills had occurred and been cleaned up and contractors had been reminded of their obligation to prevent oil leakage and to remove leaking equipment from the site.

<i>Construction Restart</i>	<i>Mike Mills, Staff</i>
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Mr. Mills reviewed a request from Grays Harbor Energy for clarification on the "Complete Project" provision of the Water Withdrawal Authorization, Attachment III, of the Satsop CT Project Site Certification Agreement. He reviewed a letter prepared by staff that proposed to extend the "Complete Project" date to March 24, 2010, five years from the date that ownership and control of the project was transferred to Grays Harbor Energy LLC and they became the certificate holder. Staff also considered whether this request would require amending the SCA and determined that the terms of the Water Withdrawal Authorization Development Schedule were not being revised, but were being clarified as applied to the current certificate holder.

**Chair Luce directed staff to issue the clarification letter to Grays Harbor Energy thereby extending the Water Withdrawal Authorization "Complete Project" date to March 24, 2010.**

**6. RULEMAKING**

<i>Chapters 463-28, 47, 66 Issuance of CR 102 &amp; Setting Hearing Schedule</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal informed the Council that staff was prepared to issue a CR 102 for proposed rulemaking involving three chapters of EFSEC administrative rules – Chapter 463-28 WAC State Preemption (All Subsections); Chapter 463-47 SEPA Rules (Subsections 060, 090, 110, and 140); and Chapter 463-66 Amending, Transferring, or Terminating a Site Certification Agreement (Subsections 040, 070, and 080). He stated that very few comments (3) had been received on the CR 101 that had been issued on the proposed rulemaking.

Mr. Mark Anderson, representing the CTED Energy Policy Division, presented comments on the proposed Chapter 463-28 rules on State Preemption. He indicated that they were proposing changes to draft language that would not require an applicant to "request preemption". It is their position that the entire EFSEC process is a preemption of local citing regulations and processes. They have provided staff with alternative language that does not address preemption, but offers what to do if the land use hearing finds the project to be in consistent with land use regulations. They are recommending that an applicant provide a report to the Council on the nature of the inconsistency, identify potential impacts, and suggest appropriate remedies. There was

conversation amongst the members to strike the “have to request” language from the proposed rules.

Mr. Fiksdal briefly summarized the changes being proposed to chapters 47 and 66.

Discussion followed on how many public comment hearings should be scheduled once the CR 102 is issued. Council members found holding two hearings – one in Olympia, probably at the May 9 EFSEC meeting; with the second to be held in Eastern Washington, with Yakima, Walla Walla and Ellensburg as possible sites. Mr. Fiksdal indicated he would need to look at the dates the State Register is issued to determine the public comment period.

Chair Luce directed staff to issue the CR102 with the changes discussed at today’s meeting, and to set two public hearing dates with one in Olympia, and a second hearing in Eastern Washington at a site to be determined.

<i>CO2 Draft Rules</i>	<i>Allen Fiksdal, Manager</i>
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Mr. Fiksdal reported that staff is prepared to issue the CR101 on the proposed CO2 Rules. The proposed rules would allow for adjustments to mitigation costs.

## **7. CHAIR’S REPORT**

<i>Legislation</i>	<i>Jim Luce, Chair</i>
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Chair Luce reviewed the status of three bills that the Council is following:

- SHB 1037- Transmission Siting: The bill has passed the house, but the Senate is considering changes that will be scheduled for a hearing in the very near future.
- SB 6001 – Carbon Dioxide (CO2) Mitigation – The bill has passed the Senate, but there are some issues involving jurisdiction that amendments are being prepared to address.
- SB 6007 – Pipeline Capacity – This bill has passed the senate, but the companion House bill was changed and the fiscal notes are not consistent.

## **8. OTHER**

Chair Luce announced that Administrative Law Judge Adam Torem has accepted a job at the Utilities and Transportation and will start there on April 16. The council thanked Judge Torem for his outstanding skills in presiding over several recent applications and noted that his abilities will be missed.

## **9. ADJOURN**

The meeting was adjourned at 4:49pm