



STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL
PO Box 43172 • Olympia, Washington 98504-3172

September 9, 2008 Monthly Meeting Minutes

1. CALL TO ORDER

Chair Jim Luce called the September 9, 2008 monthly meeting to order at 905 Plum Street S.E., Room 301, at 1:32 p.m.

2. ROLL CALL

Council members present were:

Jim Luce	Chair
Dick Fryhling (via phone)	Community, Trade & Economic Development
Hedia Adelman (via phone)	Department of Ecology
Judy Wilson	Department of Natural Resources
Jeff Tayer	Department of Fish and Wildlife
Dick Byers (excused)	Utilities and Transportation Commission
Vern Eaton	Cowlitz County

Staff in attendance were:

Allen Fiksdal - EFSEC Manager, Jim LaSpina - EFS Specialist, Tammy Talburt - Administrative Assistant and Kyle Crews, AAG AGO.

Guests in attendance were:

Rob Smith - Chehalis Power, Rick Bradshaw - Chehalis Power, Todd Gatewood - Grays Harbor Energy, Mike Adams - Grays Harbor Energy, Scott Williams - Puget Sound Energy, Ron Barkelman - David Evans and Associates, Karen McGaffey - Perkins Coie, Mark Anderson - Community, Trade & Economic Development Energy Policy, Ted Beatty - Energy Northwest, Jack Baker - Energy Northwest, Tom Krueger - Energy Northwest, David Kobus - Energy Northwest, Robert Mack - City of Tacoma, Robert Kruse - Friends of Wildlife and Wind Power, Liz Thomas - K & L Gates, Joy Potter - Horizon Wind, Irina Makarow - HDR, Inc. and Tim McMahon - Stoel Rives.

Guests attending via phone:

Robert Nielson - Energy Northwest, Darrel Peebles - Attorney, Dave Bricklin - Friends of Wildlife and Wind Power, Danielle Dixon - Northwest Energy Coalition, and Jennifer Diaz - PSE Wild Horse.

3. ADOPTION OF PROPOSED AGENDA

The agenda was presented to the Council for amendments or additions; the agenda was approved as submitted.

4. MINUTES

Staff presented the August 12, 2008 monthly meeting minutes for the Council's approval.

Motion: Council member Wilson moved the Council approve the August 12, 2008 meeting minutes as presented. The motion was seconded by Council member Tayer. The motion was approved.

5. PROJECT UPDATES

Pacific Mountain Energy Center

<i>Project Update</i>	<i>Ted Beatty & Jack Baker Energy Northwest</i>
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Mr. Jack Baker, Vice President of Energy Business Services with Energy Northwest (ENW), reported to the Council that the Pacific Mountain Energy Center (PMEC) was being redesigned into the Kalama Energy project. Mr. Baker introduced project manager Mr. Ted Beatty, ENW. Mr. Beatty stated that ENW will be submitting an application amendment in October. The amendment will eliminate all the gasification facilities, leaving only a combined cycle power block, running exclusively on natural gas. The project will remain at approximately the same output of 680 megawatts. ENW is changing the name of the project to avoid confusion with the gasification plant. By the October Council meeting ENW hopes to restart the adjudication process by submitting a motion to lift the stay on the adjudicative proceeding. Mr. Beatty stated that the project will be able to meet the standards of RCW 80.80 as well as RCW 80.70. The size of the plant footprint is being reduced from approximately 90 acres to 16 acres. He noted that the portion of the site that included the railroad loop has been removed eliminating any impact to wetlands. Mr. Beatty said ENW will be submitting new National Pollutant Discharge Elimination System (NPDES) wastewater permit application as well as the Prevention of Significant Determination (PSD) application with the revised application for site certification.

Wild Horse Wind Power Project

<i>Project Update</i>	<i>Jennifer Diaz, Puget Sound Energy</i>
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Ms. Jennifer Diaz, Puget Sound Energy (PSE) reported via phone that the Wild Horse Wind Power Project had an August Production of 58,144 MWh and a capacity factor of 34.2 %. The Solar Demonstration Project generated approximately 83,444 KWH over the past month. The next Technical Advisory Committee (TAC) meeting has been tentatively scheduled for November 4th. A draft agenda for that meeting will be circulated to TAC members in October. A full-site outage is scheduled for September 10, 2008 so raptor perch discouragers can be installed on five transmission line poles to help prevent potential predation of sage-grouse that may be in the area. The monthly Discharge Monitoring Report (DMR) was submitted to EFSEC and the DOE on September 4th. Wild Horse experienced two small rain storms in August that did not result in any stormwater discharge. The site remains in compliance with the stormwater permit. Hunting at Wild Horse began this year with the opening of bear and cougar season on August 1st. PSE is preparing for the opening of the general spike elk hunt on October 25th when we typically see nearly 600 hunters either passing through the wind farm or hunting on the wind farm. Increased security will be in place during this busy season. Over the past two months PSE has been aggressively treating weeds on-site including noxious weeds and "obnoxious" weeds, i.e. cheat grass, Russian thistle, mustards.

<i>SCA Amendment Request</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Allen Fiksdal, EFSEC Manager reported that the Council held a hearing on the proposed Site Certification Agreement (SCA) to add approximately 20 turbines to the project. On September 8, 2008 PSE provided responses to the comments from the hearing and additional information regarding the proposed expansion. Mr. Fiksdal said that staff hasn't had an opportunity to review the responses yet, but once that review is complete a tentative SEPA determination will be made. Mr. Fiksdal said that he will bring that tentative SEPA determination to the Council for their review.

Mr. Fiksdal noted that in the most recent submittal PSE has removed the furthest four turbines, which some of the comments from the hearing addressed. The overhead power lines to connect those four turbines to the rest of the project would be eliminated, along with a long section of road leading to those turbines.

Council member Jeff Tayer, Department of Fish and Wildlife (WDFW) updated the Council on the conservation easement that was briefly discussed at the Council's last meeting. Mr. Tayer and Mr. Williams of PSE have been working closely together on resolving the issues surrounding the easement. The draft document is currently being review by WDFW's real estate and legal section. Mr. Tayer anticipates that the legal department would have the review completed in the next week or possibly two. He noted that the easement allows the operations of the existing wind farm, the regulated grazing, recreational activities and some expansion of the solar project. The easement would prohibit everything else. Puget expressed a plan to include the lands of the expansion, if granted, in the easement. WDFW would hold the easement, with the conservation district having a role in the development of a baseline inventory and monitoring, developing a partnership of a non-profit. He noted that the conservation district is a local entity whose purpose is to manage natural resources, they do a lot of water quality work, fish passage work, and they are independent of any state or local agency. Mr. Tayer asked for clarification of the Council's role in the completion of the easement. Chair Luce noted that the Council doesn't actually have a formal role in the execution of the easement, but he would like to review the document prior to it being recorded.

Mr. Robert Kruse, Friends of Wildlife and Wind Power (FWWP) presented the Council with a letter stating concerns of FWWP about the conservation easement. Mr. Kruse presented five points of concern relating to voluntary commitments the Certificate holder had promised during EFSEC review of the project, and that FWWP feels are now not reflected in the latest draft of the conservation easement. Below are the points Mr. Kruse outlined in his letter:

Promised Protections	Proposed Protections
Preserve the conservation values of the "entire project area"	Only 40% (because applies only to fee lands)
Protect the Wind Energy Facility	Convert the Wind Energy Facility to a currently undefined alternative energy development including Solar, mining or drilling. Allows further road development. Expand the project 25%
Provide a 600 Acre Mitigation Parcel	Gone. Original Parcel unprotected. Alternate not identified
Fence and Protect the Springs	Gone. No protections provided
Conserve the lands in perpetuity	Gone, Allows partial condemnation under

Mr. Kruse noted that the proposed deviations from the SCA and other promised protections by Puget Sound Energy (PSE), WDFW and EFSEC, are not in the letter and the spirit of the SCA and Resolution XXX. He said that EFSEC would be condoning a violation of the SCA and watering down of its content by accepting an easement which does not meet its requirements for protections. EFSEC would become vulnerable as a result.

Mr. Dave Bricklin, Counsel for FWFP, stated his concern about the mitigation parcel becoming a part of the conservation easement. He said that the easement process has affectively eliminated the mitigation parcel. Friends of Wildlife and Wind Power are very concerned that the parcel has disappeared and has not been replaced. He suggested that some other form of mitigation needs to be offered in place of the mitigation parcel. The original application proposed that the easement include the entire site and the draft easement only addresses 60% of the project. He said the Council needs to review the easement and assure that the intent of the original project proposed is addressed.

Chair Luce assured Mr. Bricklin and Mr. Kruse that the Council will review the easement before it is recorded. The Council has heard the concerns of FWFP and will take them into consideration when reviewing the document.

Following a break in the meeting for a public hearing on proposed EFSEC rulemaking, Mr. Scott Williams, PSE, responded to comments from Mr. Kruse and Mr. Bricklin on the conservation easement. Mr. Williams assured the Council that all the concerns addressed by Mr. Kruse are responded to in the response to comments that PSE presented to staff on September 8, 2008. He said PSE provided Mr. Kruse with a copy of the response to comments in the morning of September 9, 2008. The issue of the 600 acre mitigation parcel is especially troubling to Mr. Williams. The SCA required that a covenant be placed on that property, which runs with the land and is placed on the land. Mr. Williams noted the conservation easement has nothing to do with that 600 acre parcel. All of the requirements that go along with the mitigation parcel are required if grazing occurs on the property. The parcel was fenced when the grazing occurred this year. The only reason the letter of the SCA wasn't enforced is because the CRM group with the affirmation of the Technical Advisory Committee (TAC) both of whom are served on by Mr. Kruse, asked PSE to do temporary fencing rather than permanent fencing because of the impacts permanent fencing is thought to have on wildlife. Mr. Williams said it is false that the 600 acre parcel is not intact and that PSE is somehow not fulfilling the requirements of the SCA. Mr. Williams on behalf of PSE asked the Council to read and take to heart the response to comments that PSE has provided on the conservation easement. Mr. Williams noted that the Council is presiding over a model, not only wind development, but another kind of development, where the certificate holder is performing in excess of the requirements of the SCA resulting in a better site than if the certificate holder only complied with the letter of the SCA. Mr. Williams felt that the Council, staff and WDFW are responsible for the climate that resulted in providing what Mr. Williams and other believe is a better site. He said that taking things that are being done voluntarily and making them obligatory endangers the kind of situation in which the certificate holder volunteers to perform at a higher standard for the betterment of the site, not just because the SCA requires it.

Council member Tayer requested clarification whether the 600 acre parcel and the fencing is part of the SCA, not a requirement of the conservation easement. Chair Luce confirmed that the 600 acre mitigation parcel is required by the SCA.

RULE MAKING PUBLIC HEARING

Proposed Chapter 463-61 WAC - Electric Transmission Facilities	<i>Jim Luce, Chair</i>
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The hearing transcript will be available. No public comments were offered.

Kittitas Valley Wind Power Project

Update	<i>Joy Potter, Horizon Wind Irina Makarow, HDR Inc,</i>
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Ms. Irina Makarow, HDR Inc., reported to the Council on the Initial Site Restoration Plan for the Kittitas Valley Wind Power Project (KV). Ms. Makarow stated that as required by Council regulations and by the Site Certification Agreement (SCA), the Initial Site Restoration Plan must be submitted and approved by the council prior to the beginning of site preparation activities. A draft of the plan was submitted to EFSEC staff for review, and comments were received back from Mr. La Spina on August 22, 2008. The plan was revised to address all of Mr. La Spina’s comments, and was re-submitted on August 29. Issues addressed in the plan include, the options considered by the Certificate Holder for decommissioning, the scope and timing of the decommissioning, the funding and surety mechanisms that are required to assure sufficient funds being available for decommissioning activities to take place. The plan also includes the mitigation measures that would be anticipated to be applicable to decommissioning activities.

The KV SCA is rather specific regarding the requirements for decommissioning. As described in Section 1.0, the only option available to the Certificate Holder is to remove project facilities and re-seed disturbed areas when the project is terminated. The SCA requires the decommissioning activities to begin within 1 year of project termination. The time needed to perform the activities would be specified in the detailed site restoration plan submitted within 90 days from when the certificate holder notifies EFSEC of the termination of the project. The scope of decommissioning is also specified in the SCA - removal of turbines, removal of foundations to a depth of 3 feet, removal of access roads and overhead cables except for those that property owners wish to keep. The certificate holder can chose any one of three types of funding or surety mechanism to ensure funds are available to perform decommissioning.

The plan addresses the major issues reasonably known to the Certificate Holder at this time. A detailed Site Restoration Plan is required to be submitted once the project is terminated, and that plan will contain a description of all of the decommission elements and the applicable mitigation measures.

EFSEC staff recommended that the Council approve the Initial Site Restoration Plan. Mr. La Spina reported that the Stormwater Prevention Plan (SWPPS) Notice was published in the Ellensburg newspaper beginning September 9, 2008 and will appear again on September 16, 2008. The 30-day public comment period would begin on September 16, 2008 and end on October 16, 2008.

Motion: Council member Adelsman moved that the Council approve the Kittitas Valley Wind Power Project Initial Site Restoration Plan as presented. The motion was seconded by Council member Fryhling. The motion was approved.

Columbia Generating Station

<i>Project Update</i>	<i>Robert Nielson, Energy Northwest</i>
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Mr. Robert Nielson reported to the Council that the Columbia Generating Station is operating at 100% Power on the 17th day on line. Permanent repairs to the Reactor and Turbine Building siding damaged by high winds continues with scaffolding (mast climbers) erection. Beginning August 17, 2008, the main entrance to CGS was closed for pavement resurfacing and road widening. Traffic has been rerouted through Gate 1-8 near the Industrial Development Complex. Construction work is on-schedule and due to be completed this month. On Thursday, August 21, 2008, a fluid leak in the Digital Electro-Hydraulic system caused an automatic shutdown of the Columbia Generating Station. There were no safety or human performance issues. The leak resulted in a release inside the Turbine Building of approximately 55 gallons of Fyrquel, a hydraulic fluid used in the system. The material was cleaned up and repairs completed, and the Reactor was brought back to 100% power on Monday, August 25, 2008. A root cause evaluation is being performed, from which corrective actions will be developed. An Emergency Preparedness Exercise is being conducted today through tomorrow (September 9-10, 2008). The exercise involves federal, state, and local emergency response organizations and is being evaluated by the NRC and FEMA.

In addition, Mr. Nielson reported that Ecology is working with Energy Northwest to close the October 4, 2007 Administrative Order #5143 for the Columbia Generating Station. A close-out inspection has been scheduled for September 23, 2008. EPA also plans to participate. Mr. Fiksdal reported that Mr. Stephen Posner and Mr. Mike Mills are at the Emergency Preparedness Exercise.

Satsop Combustion Turbine Project

<i>Project Update</i>	<i>Todd Gatewood, Grays Harbor Energy</i>
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Mr. Todd Gatewood, Grays Harbor Energy reported that there were no accidents or injuries in the month of August. Satsop staff has been conducting the 7 day drift tests on all 3 opacity monitors. A weekly outfall sample revealed exceedances for chlorides. Satsop staff has not yet determined the cause of the exceedances.

Mr. Gatewood said to date the plant has generated approximately 429,661 MWh. The unit operated for 25 days in August for 293,664 MWh resulting in a 64% capacity factor for the month of August.

There have been more complaints from the neighbors concerning noise generated by the facility. There are two primary complaints at this time. Mr. Gatewood stated the Satsop has hired Cascade Environmental to come and take noise readings. Cascade Environmental is the same company that took sound readings in 2001 and 2007 before the plant started running, enabling noise samples to be taken in the same places as previous tests. Readings were taken on September 5 and 6 on the site and on some surrounding properties. Mr. Gatewood expects to get the report from the testing towards the end of September.

Chehalis Generation Facility

Project Update

Rob Smith, Chehalis Power

Mr. Rob Smith reported that Chehalis Power has been operating for more than 2,150 days without a Lost Time Accident. Chehalis Power maintains an effective safety program through a behavioral-based approach. The program has been strengthened through individual safety declarations and specific safety targets tied to bonuses.

There have been no stormwater exceedances in the past year, and the site remains in excellent shape. There are currently two vacancies for operators and the plant maintains a current staff of 17 personnel.

The plant dispatch for August was approximately 100%. Public concern regarding the plant noise has greatly diminished in the past two years and Chehalis Power has had no complaints with noise in over a year. Facility staff continues to conduct routine daily noise tests on-site and weekly off-site per our agreement with EFSEC.

The sale to PacifiCorp continues to progress. Regulatory approval has been obtained, all current site personnel have signed the PacifiCorp offer letters, a PacifiCorp Integration Manager has been assigned to assist with a smooth transition, and the sale is expected to close on September 15, 2008.

CO₂ Mitigation

Allen Fiksdal, EFSEC Manager

Mr. Fiksdal reminded the Council of Council Order No. 836 and the Council approval of the transfer to PacifiCorp. As part of the agreement to transfer, Mr. Fiksdal cited Council Order No. 836 page 3, subsection 5 (b) where “PacifiCorp shall provide \$1.5 million in funding for greenhouse gas mitigation projects. EFSEC staff and PacifiCorp representatives will work together to identify potential mitigation projects and will consult with Washington agencies including the Department of Ecology, the Department of Fish and Wildlife, the Department of Natural Resources and the Department of Community Trade and Economic Development.”

The Order continued to provide that “EFSEC staff and PacifiCorp representatives will evaluate potential projects and based on the recommendations of EFSEC staff and PacifiCorp, the Council will make final decisions selecting projects to be funded from the \$1.5 million...” Council member Wilson asked if that meant that the agencies would be allowed to apply for the funds or what exactly will the staff be consulting with the agencies about. Chair Luce reported that during discussions with PacifiCorp that the projects are located around the area of Chehalis, that the agencies mentioned would be consulted on the proposed mitigation projects. Ms. Karen McGaffey, PacifiCorp representative, stated that in the discussions with Chair Luce and Mr. Fiksdal that PacifiCorp wanted to be directly involved in the process. She noted that PacifiCorp has specialists in this line of work and have already been working with many of the state agencies on potential projects. With respect to the role of state agencies what PacifiCorp understood was that the agencies might have a project that they had in mind that needed funding or that the agency had identified but third party was going to implement, but the list of potential projects wouldn't be limited to ones offered by the state agencies. A Request for Proposal (RFP) would be a desirable solution to identifying projects for mitigation. What makes sense from PacifiCorp's point of view is that the specialists meet with staff and work on a process that would bring forth some projects that PacifiCorp could recommend to the Council.

Council member Tayer suggested that the process of sub-committee as in the WNP ¼ mitigation project might be a good approach. Council member Wilson stated there has been

a lot of confusion on what the expectation of the agencies will be and what the process will look like. Clarity about whether or not the state agencies can apply for an RFP would be helpful. She said that if the agency can apply great, and if they can't then what will the agency's role be.

Chair Luce suggested that the WNP process worked well, that the Council put out a RFP and to make sure that the RFP is broadly disseminated, including to local governments and municipalities and others that might be interested. He said that consultation with state agencies doesn't exclude state agencies from applying, nor does it give them a preference. He suggested that if an agency represented by a member on the sub-committee, then the member should recuse themselves from the decision on that project.

Council member Wilson stated that if a RFP was going to be sent out to local governments there needs to be some guidance because the local governments don't have the expertise to understand what a CO2 reduction looks like. It would help to have some ideas, besides the fact that no one really knows what this process costs. It would be helpful to define what kind of projects your looking for when the Council sends out the RFP.

Mr. Fiksdal said that once staff and PacifiCorp meet and come up with some guidelines, then staff will bring it back to the Council for further discussion and input from the Council. He doesn't see this process being completed in a months' time, but a longer process with more input from the council.

Council member Dick Fryhling reported that a former Council member from Department of Natural Resources (DNR) Tony Ifie, went to his agency and participated in a work group that worked on this process. In addition, the DNR has done quite a lot of work on mitigation projects and what they should look like.

Rule Making

<i>Greenhouse gases reporting</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reminded the Council that EFSEC that a CR 101 (Pre-proposal Statement of Inquiry) has been issued to start rulemaking for the reporting of greenhouse gasses as required by ESSHB 2815. He noted that the Department of Ecology was taking the lead on the greenhouse gas reporting and EFSEC staff would be working with Ecology for that rule development.

<i>Chapters 463-10, 43, 58, 60, & 62</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported that several existing regulations in Title 463 WAC need revision because they contain incorrect citations and other minor inconsistencies due to recent revisions to statues. Mr. Fiksdal filed a CR 101 on September 3, 2008 and noted that in Council member packets were suggested corrections and changes to Chapters 463-10, 43, 58, 60, and 62 WAC. He asked the Council members to review the corrections and make comments as needed.

<i>PSD/Expedited Rule Making</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Fiksdal reported he had prepared a CR 105 and is ready to file it with the Code Revisers Office. He noted there was a conversation between Department of Ecology (ECY) and U.S. Environmental Protection Agency (USEPA) about PSD issues. Currently the Council is only delegated partial authority for PSD permitting, whereas ECY has full authority. The reason EFSEC doesn't have full authority is because EFSEC hasn't adopted

Ecology's latest rules. The proposed expedited rule making would change the date of EFSEC's adoption of Chapter 173-400, Ecology's air rules regarding PSD. The proposed change would be to revise the date for adoption from March 1, 2005 to November 1, 2008. USEPA has indicated that once Ecology's latest rule has been adopted they will authorize the full delegation of PSD permitting to EFSEC. He noted the expedited rule making provides that the Council intends to adopt these rules, that the Council will not be holding a hearing, and if there are no comments within 45 days the Council will adopt the rules as stated.

Council member Wilson asked if the current PSD permitting process requires an applicant to file with Ecology also. Mr. Fiksdal said that the current process is that the applicant goes through a permitting process and EFSEC then issues the permit which is signed by the Chair, but the PSD permit must also be co-signed by the EPA. EPA doesn't have a separate process but just reviews the EFSEC process. Mr. Fiksdal noted that with full delegation there will be no need to go back to EPA for their signature. The Council directed Mr. Fiksdal to file the CR 105.

6. OTHER

Chair Luce said that he would like the Council to start considering development of new rules for alternative energy resources particularly wind and maybe solar. Council members noted several initiatives that were currently underway that were looking into similar issues and that it may be appropriate for EFSEC to wait until those concluded to begin its rule making. Chair Luce noted that formal rulemaking didn't need to begin but he'd like the members to start considering what issues might need to be pursued and that he'd prepare a list of the issues he thinks are worth consideration.

7. ADJOURN

The meeting was adjourned at 2:30 pm.